MODESTO CITY COUNCIL
RESOLUTION NO. 2008-001

Print

A RESOLUTION APPROVING THE 2007-2008 LEGISLATIVE PLATFORM FOR THE CITY OF MODESTO

WHEREAS, the City Manager's Office is tasked with maintaining a legislative program to provide Council with a more proactive approach for influencing policy and other governmental entities, and

WHEREAS, this document provides City staff with the needed direction to determine whether or not the City should support pending federal and state legislation, and

WHEREAS, this document is a living document and should be reviewed and amended annually, and

WHEREAS, representatives from the City Manager's Office, City Attorney's Office, City Clerk/Auditor's Office, Finance Department, Personnel Department, Public Works Department, Information Technology Department, Police Department, Parks, Recreation & Neighborhoods Department, Community and Economic Development Department, Fire Department, and the community recently reviewed the document and recommended that the 2006-2007 Legislative Platform be amended and adopted as the 2007-2008 Legislative Platform as set forth in an agenda report from City Manager, George W. Britton, to the Mayor and Council, dated December 10, 2007,

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Modesto hereby approves the 2007-2008 Legislative Platform as set forth in said agenda report from the City Manager to the Mayor and Council dated December 10, 2007, a copy of which is on file in the office of the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2008, 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:	Council members:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Council members:	None
ABSENT:	Council members:	None

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-002

A RESOLUTION APPOINTING MARIO LOPEZ TO THE PUBLIC EVENTS ADVISORY COMMITTEE

WHEREAS, on June 25, 2002, the Mayor and each Councilmember appointed one member to the Public Events Advisory Committee, and

WHEREAS, Councilmember Olsen's appointment, Cindy Powers, has resigned, and

WHEREAS, Councilmember Olsen has nominated MARIO LOPEZ to serve as a member of the Public Events Advisory Committee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby appoints MARIO LOPEZ to the Public Events Advisory Committee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January 2008, 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
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-003

A RESOLUTION APPOINTING 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, Councilmember Janice Keating has recommended KIRK STOCKHAM as her selection to the Community Qualities Forum.

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

SECTION 1. KIRK STOCKHAM is hereby appointed to the Community Qualities Forum with a term expiration of January 1, 2009.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Community Qualities Forum and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January 2008, 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, Acting, City Clerk

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-004

A RESOLUTION APPOINTING MILLIE STARR 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 11, 2007, and recommended appointment of MILLIE STARR, a northeast resident, to the Community Qualities Forum.

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

SECTION 1. MILLIE STARR, a northeast resident, is hereby appointed to the Community Qualities Forum with term expirations of January 1, 2011.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-005

A RESOLUTION APPOINTING CHRIS TYLER 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 11, 2007, and recommended appointment of CHRIS TYLER to the Planning Commission.

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

SECTION 1. CHRIS TYLER is hereby appointed to the Planning Commission with term expirations of January 1, 2012.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly 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 2nd day of January, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-006

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE HACIENDA DEL SOL UNIT NO. 2 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, Centex Homes, a Nevada General Partnership, is the subdivider of the HACIENDA DEL SOL UNIT NO. 2 SUBDIVISION ("SUBDIVISION"), and

WHEREAS, Centex Homes, a Nevada General Partnership, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $907,886.00 and $453,943.00, respectively, and

WHEREAS, Centex Homes, a Nevada General Partnership has filed a warranty bond in the amount of $90,788.60 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 to 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 $907,886.00 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the subdivision bond for labor and materials in the amount of $453,943.00 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee SUBDIVISION improvements in the amount of $90,788.60 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 2nd day of January, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-007

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE FALLING LEAF 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, William Lyon Homes, Inc., a California Corporation is the subdivider of the Falling Leaf Subdivision ("SUBDIVISION"), and

WHEREAS, William Lyon Homes, Inc., a California Corporation, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $6,622,029.34. and $3,311,014.67., respectively, and

WHEREAS, William Lyon Homes, Inc., a California Corporation has filed a warranty bond in the amount of $662,202.93 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 to 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 $6,622,029.34 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 $3,311,014.67 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 $662,202.93 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 2nd day of January, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-008

A RESOLUTION APPROVING AN AGREEMENT WITH FOREVER YOUNG SENIORS DANCE CLUB, INC. TO ACCEPT A $5,000 DONATION TO PROVIDE IMPROVEMENTS TO THE KITCHEN AT THE MODESTO SENIOR CITIZENS CENTER AND TO REAFFIRM USAGE RATES AT THE MODESTO SENIOR CITIZENS CENTER, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on August 14, 2007, by Resolution 2007-505, the City Council approved and updated the terms of usage at the Modesto Senior Citizens Center, and

WHEREAS, the Forever Young Seniors Dance Club, Inc. approached the City of Modesto with a request to enter into a long-term agreement, and

WHEREAS, Forever Young Seniors Dance Club, Inc. offered to contribute $5,000 in two payments of $2,500 each, to upgrade and improve the kitchen at the Modesto Senior Citizens Center, and

WHEREAS, in exchange for their contribution to the City of Modesto, the Forever Young Seniors Dance Club, Inc. would be granted the current $1.00 per hour rental rate at the Modesto Senior Citizens Center, until January 31, 2013, with an option to renew for another five years at that time, and

WHEREAS, the Safety and Communities Committee met on December 3, 2007, and supported staff's recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Agreement with Forever Young Seniors Dance Club, Inc. to accept a $5,000 donation to provide improvements to the kitchen at the Modesto Senior Citizens Center, and to reaffirm facility usage rates at the Modesto Senior Citizens Center.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of January, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-009

A RESOLUTION APPROVING THE IMPLEMENTATIN OF ANNUAL MEMBERSHIP CARDS FOR USE OF THE MADDUX YOUTH CENTER, BEGINNING FEBRUARY 1, 2008

WHEREAS, Maddux Youth Center, originally named L.J. Maddux Youth Recreation Center, was built in 1953 and a dedication/ribbon-cutting ceremony was held in February 1954, and

WHEREAS, the Maddux Youth Center was developed to be a place where young people in Modesto and its vicinity could enjoy recreational activities in a wholesome atmosphere, and

WHEREAS, the Maddux Youth Center was closed in May 2005 for renovation and expansion and was re-opened in June 2006, and

WHEREAS, the expansion project added approximately 6,125 square feet to the facility, including a 3,500 square foot Police Activities League (PAL) youth boxing facility, a multi-purpose room (for up to 50 persons), a computer classroom for eight students and instructor, a library with fireplace, a game room, new entry, additional restrooms, a kitchenette and support rooms, and

WHEREAS, with the new facility and program offerings, Maddux has seen an increase in activity and in participants and it is now more difficult for staff to monitor attendees and provide programming at the same time, and

WHEREAS, in an effort to improve the security of the facility and to provide a safe environment, Parks, Recreation and Neighborhoods Department staff proposes a membership program for all participants at the Maddux Youth Center, and

WHEREAS, cards will be issued to all participants annually, and appropriate records will be kept to discourage inappropriate behavior and to have a means for denying access to those

who have shown excessively inappropriate behavior or who, for legal reasons, should not be around children and youth, and

WHEREAS, the membership program will allow staff to: provide an additional security measure at the facility, collect demographic information on participants, maintain accurate attendance records, track times of high usage in order to properly schedule facility hours of operation and provide programs at appropriate times, monitor participants' special needs, and track disciplinary actions, i.e., suspensions placed on users who have not followed facility use policies, and

WHEREAS, each participant will fill out a membership application with name, address, and telephone number, a release of liability form, and provide appropriate identification in the form of a school or California state issued identification card, and

WHEREAS, this information will be entered into the CLASS Membership database and a photo ID card will be generated for the participant, and

WHEREAS, participants will scan their membership cards at the front door each time they enter or exit the facility, and

WHEREAS, staff will make exceptions and accommodate participants without cards, as appropriate, and

WHEREAS, the Safety and Communities Committee met on December 3, 2007, and supported staff's recommendation to implement membership cards,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the implementation of annual membership cards for use of Maddux Youth Center, beginning February 1, 2008.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of January, 2008, 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, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	Lopez
ABSENT:	Councilmembers:	None

Attest: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-010

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO FORMALLY SOLICIT REQUEST FOR PROPOSALS (RFP) FOR A MANAGED COMPETITION PROCESS FOR CUSTODIAL SERVICES FOR CITY-OWNED BUILDINGS CURRENTLY MAINTAINED BY THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, BUILDING AND PARKING SERVICES DIVISION

WHEREAS, the City of Modesto's Parks, Recreation and Neighborhoods Department, Building and Parking Services Division provides custodial services to most City-owned buildings, and

WHEREAS, funding for custodial services is provided by various City Funds to the City's Building Services Internal Service Fund, and

WHEREAS, over the past few years there has been a need to reduce budgetary costs including Internal Service Funding, and

WHEREAS, staff now desires to solicit Requests for Proposals (RFP) for a managed competition process for custodial services for buildings currently maintained by the Building and Parking Services Division of the City of Modesto, Parks, Recreation and Neighborhoods department, and

WHEREAS, the preeminent reason for seeking proposals from the private sector is to determine if such an action would indeed reduce costs associated with custodial services in City-owned buildings, and

WHEREAS, the Finance Committee met on November 26, 2007, and supported the recommendation to solicit RFP's for a managed competition process for custodial services, and

WHEREAS, Modesto Municipal Code 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, the issuance of a formal RFP for a managed competition process for custodial services will conform to Modesto Municipal Code Section 8-3.203,

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

SECTION 1. The City Clerk is hereby authorized to call for sealed proposals for a managed competition process for custodial services, to be opened in the office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed proposals in the time, form, and manner provided by law.

SECTION 2. After the sealed proposals are opened, they shall be tabulated and analyzed and a report submitted to Council.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of January, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-011

A RESOLUTION DIRECTING STAFF TO NEGOTIATE WITH MCEA AND MCMA RELATED TO THE POTENTIAL DISPLACEMENT OF FULL-TIME EMPLOYEES THAT MIGHT OCCUR AS A RESULT OF CONTRACTING OUT CUSTODIAL SERVICES

WHEREAS, the City of Modesto's Parks, Recreation and Neighborhoods Department, Building and Parking Services Division provides custodial services to most City-owned buildings, and

WEHREAS, staff now desires to solicit Requests for Proposals for a managed competition process for custodial services currently provided by the Building and Parking Services Division of the City of Modesto, Parks, Recreation and Neighborhoods Department, and

WHEREAS, the Memoranda of Understanding between the City and the Modesto City Employees Association (MCEA) and the Modesto Confidential and Management Association (MCMA) provide for negotiation when full-time employees face potential displacement, and

WHEREAS, the Finance Committee met on November 26, 2007, and supported the recommendation to solicit Requests for Proposals for a managed competition process for custodial services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby directs staff to negotiate with MCEA and MCMA related to the potential displacement of full-time employees that might occur as a result of contracting out custodial services.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of January, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-012

A RESOLUTION APPROVING A REQUEST FROM HABITAT FOR HUMANITY, STANISLAUS TO AMEND THE LOAN CONDITIONS FOR THE LAND ACQUISITION AGREEMENT WITH THE CITY OF MODESTO, AMENDING THE COMMUNITY HOUSING DEVELOPMENT ORGANIZATION SET-ASIDE AGREEMENT BETWEEN THE CITY OF MODESTO AND HABITAT FOR HUMANITY, STANISLAUS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENTS TO THE AGREEMENTS AND RELATED DOCUMENTS.

WHEREAS, on March 1, 2004, Habitat for Humanity, Stanislaus (Habitat) contacted the City of Modesto Parks, Recreation and Neighborhoods Department (PR&N) regarding a 1.85-acre parcel of property that the Habitat "Site Selection Committee" had found for sale, and

WHEREAS, Habitat was interested in pursuing the property due to the parcel's appropriate zoning and ideal location, and

WHEREAS, the parcel is zoned R-3, Medium High Density Residential and it is located at the end of Houser Lane in Southwest Modesto, north of Paradise Road, and is also located in a low-income census tract, and

WHEREAS, on April 6, 2004, by Resolution No. 2004-194, the City Council approved the allocation of $10,000 in FY 2004-2005 Community Housing Development Organization (CHDO) set-aside funds from the HOME Investment Partnership Program to Habitat, for the deposit required for the purchase of this property, and

WHEREAS, on September 7, 2004, by Resolution No. 2004-452, the City Council approved the CH&CDC recommendation to provide a loan of $640,000 in FY 2004-2005 funds to Habitat to purchase the 1.85-acre parcel, and

WHEREAS, on November 9, 2005, by Resolution 2005-556, the City Council approved an allocation of FY 2004-2005 CHDO set–aside funds in the amount of $206,372 for Habitat to assist them with the predevelopment activities of Hope Village, and

WHEREAS, on July 27, 2006, Habitat submitted a letter requesting a modification to the loan agreement, stating that although Habitat had met many of the deadlines outlined in the special conditions of the agreement, it would not be able to meet the deadline to complete the re-zoning and subdivision map by September 30, 2006, and

WHEREAS, since Habitat previously received funds for land acquisition to develop the Hope Village project, and thereafter CHDO set-aside funds were allocated specifically for predevelopment activities for Hope Village, an agreement for the CHDO set-aside funds was drafted based on the special conditions included in the land acquisition agreement, staff will need to amend the CHDO set-aside agreement as well in order to extend the loan agreement conditions, and

WHEREAS, the Citizens Housing and Community Development Committee met on September 8, 2006, and approved Habitat's request to modify the land acquisition agreement and staff's recommendation to amend the CHDO set-aside agreement between the City of Modesto and Habitat,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a request from Habitat to amend the loan conditions for the land acquisition agreement with the City of Modesto.

BE IT FURTHER RESOLVED that City Council hereby approves the CHDO Set-Aside Agreement between the City of Modesto and Habitat.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of January 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-013

A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008 ANNUAL OPERATING BUDGET TO REFLECT APPROVED CHANGES TO THE HOME INVESTMENT PARTNERSHIP PROGRAM.

WHEREAS, on March 1, 2004, Habitat for Humanity, Stanislaus (Habitat) contacted the City of Modesto Parks, Recreation and Neighborhoods Department (PR&N) regarding a 1.85-acre parcel of property that the Habitat "Site Selection Committee" had found for sale, and

WHEREAS, Habitat was interested in pursuing the property due to the parcel's appropriate zoning and ideal location, and

WHEREAS, the parcel is zoned R-3, Medium High Density Residential, and it is located at the end of Houser Lane in Southwest Modesto, north of Paradise Road, and is also located in a low-income census tract, and

WHEREAS, on April 6, 2004, by Resolution No. 2004-194, the City Council approved the allocation of $10,000 in FY 2004-2005 Community Housing Development Organization (CHDO) set-aside funds from the HOME Investment Partnership Program to Habitat, for the deposit required for the purchase of this property, and

WHEREAS, on September 7, 2004, by Resolution No. 2004-452, the City Council approved the CH&CDC recommendation to provide a loan of $640,000 in FY 2004-2005 funds to Habitat to purchase the 1.85-acre parcel, and

WHEREAS, on November 9, 2005, by Resolution 2005-556, the City Council approved an allocation of FY 2004-2005 CHDO set–aside funds in the amount of $206,372 for Habitat to assist them with the predevelopment activities of Hope Village, and

WHEREAS, on July 27, 2006, Habitat submitted a letter requesting a modification to the loan agreement, stating that although Habitat had met many of the deadlines outlined in the special conditions of the agreement, it would not be able to meet the deadline to complete the re-zoning and subdivision map by September 30, 2006, and

WHEREAS, since Habitat previously received funds for land acquisition to develop the Hope Village project, and thereafter CHDO set-aside funds were allocated specifically for predevelopment activities for Hope Village, an agreement for the CHDO set-aside funds was drafted based on the special conditions included in the land acquisition agreement, staff will need to amend the CHDO set-aside agreement as well in order to extend the loan agreement conditions, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on September 8, 2006, and approved Habitat's request to modify the land acquisition agreement and staff's recommendation to amend the CHDO set-aside agreement between the City of Modesto and Habitat,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 2007-2008 Annual Operating Budget to reflect approved changes to the HOME Investment Partnership Program as indicated in **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 special meeting of the Council of the City of Modesto held on the 2nd day of January 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-014

A RESOLUTION AMENDING RESOLUTION NO. 2007-554 TITLED "A RESOLUTION APPROVING AN APPLICATION FOR $200,000 IN FUNDING FROM THE HABITAT CONSERVATION FUND PROGRAM UNDER THE CALIFORNIA WILDLIFE PROTECTION ACT OF 1990 FOR THE CONSTRUCTION AND INSTALLATION OF 1,550 LINEAL FEET OF PEDESTRIAN TRAIL IN THE TUOLUMNE RIVER REGIONAL PARK, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT APPLICATION" TO ADD ADDITIONAL STATE REQUIRED LANGUAGE STATING THAT A MANAGEMENT PLAN WILL BE DEVELOPED FOR LAND ACQUIRED WITH THIS GRANT FUNDING

WHEREAS, the people of the State of California have enacted the California Wildlife Protection Act of 1990, which provides funds to the State of California for grants to local agencies to acquire, enhance, restore or develop facilities for public recreation and fish and wildlife habitat protection purposes, and

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility for the administration of the Habitat Conservation Fund ("HCF") Program, setting up necessary procedures governing Project Application under the HCF Program, and

WHEREAS, said procedures established by the State Department of Parks and Recreation require the City of Modesto to certify by resolution the approval of an application before submission of the application to the HCF Program, and

WHEREAS, the City has applied for $200,000 in funding under the HCF Program for the construction and installation of 1,550 lineal feet of pedestrian trail within the Tuolumne River Regional Park, and

WHEREAS, the proposed 1,550 lineal feet of pedestrian trail within the Tuolumne River Regional Park is consistent with the HCF Program grant project criteria, and

WHEREAS, the City 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. The City of Modesto approves the filing of an Application for the Habitat Conservation Fund Program, and

2. Certifies that the City has or will have available, prior to commencement of any work on the Project included in this Application, the required match and sufficient funds to complete the Project, and

3. Certifies that the City has or will have sufficient funds to operate and maintain the Project, and

4. Certifies that the City of Modesto shall prepare, with full public participation, a management plan for lands that have been acquired with HCF funds, which plan shall reasonably reduce possible conflicts with neighboring land use and landowners, including agriculturalists, and

5. Certifies that the City has reviewed, understands, and agrees to the General Provisions contained in the Contract shown in the Procedural Guide, and

6. Delegates the authority to the City Manager, or his designee, 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, and

7. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of January 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-015

A RESOLUTION AMENDING RESOLUTION NO. 2007-555 TITLED "A RESOLUTION APPROVING A GRANT APPLICATION FOR $150,000 IN FUNDING FROM THE FEDERAL RECREATIONAL TRAILS PROGRAM, FOR THE CONSTRUCTION AND INSTALLATION OF 2,850 LINEAL FEET OF BIKE/PEDESTRIAN TRAIL WITHIN THE PELANDALE/SNYDER BIKE TRAIL AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS" TO ADD STATE REQUIRED LANGUAGE STATING THAT THE PROJECT IS CONSISTENT WITH THE MODESTO URBAN AREA GENERAL PLAN

WHEREAS, the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users" provides funds to the State of California for grants for federal, state, local and non-profit organizations to acquire, develop and/or maintain motorized and non-motorized trail projects, and

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility for the administration of the program within the State, setting up necessary procedures governing project application under the program, and

WHEREAS, the procedures established by the State Department of Parks and Recreation require the applicant to certify by resolution approval of the application before submission of said application to the State, and

WHEREAS, the City has applied for grant funds in the amount of $150,000 from the Recreational Trails Program for 2,850 lineal feet of bike/pedestrian trail within the Pelandale/Snyder Bike Trail, and

WHEREAS, the proposed 2,850 lineal feet of bike/pedestrian trail within the Pelandale/Snyder Bike Trail is consistent with the Recreational Trails Program grant project criteria, and

WHEREAS, the City 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. The City of Modesto approves the filing of a grant application for the Recreational Trails Program, and

2. Certifies that the Project is consistent with the City of Modesto Urban Area General Plan, and

3. Certifies that the City 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 City 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, 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, and

6. Agrees to comply with all applicable federal, state and local laws, ordinances, rules, regulations and guidelines.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of January 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-016

A RESOLUTION APPOINTING VANTAGETRUST COMPANY AS SUCCESSOR TRUSTEE FOR THE CITY OF MODESTO'S SIDECAR IRA DEFERRED COMPENSATION PROGRAM

WHEREAS, the City of Modesto offers a deferred compensation program for its employees, and

WHEREAS, the International City Management Association Retirement Corporation (ICMA-RC) serves as the City's deferred compensation provider, and

WHEREAS, the City of Modesto has established the ICMA-RC Sidecar IRA Program, and

WHEREAS, the City of Modesto has been notified that the State Street Bank and Trust Company (successor by merger with Investors Bank & Trust Company) will resign as trustee of the Sidecar IRA effective as of January 1, 2008, and

WHEREAS, the City of Modesto desires to appoint the VantageTrust Company to serve as successor trustee of the Sidecar IRA, effective as of January 1, 2008.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby appoints VantageTrust Company to serve as successor trustee of the Sidecar IRA, effective as of January 1, 2008.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to take any and all actions required to implement the foregoing resolution.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of January 2008, 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, Acting City Clerk

APPROVED AS TO FORM

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-017

A RESOLUTION APPROVING AN AGREEMENT WITH MARK THOMAS & COMPANY, INC., FOR CONSTRUCTION SUPPORT SERVICES FOR THE DALE/KIERNAN INTERSECTION IMPROVEMENTS PROJECT, IN THE NOT-TO-EXCEED AMOUNT OF $140,210, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Caltrans, the City of Modesto, and Stanislaus County have been planning for the widening of Kiernan Avenue (State Route 219), and

WHEREAS, the project is needed to provide a means of keeping pace with the City's projected growth, and

WHEREAS, the City has entered into a Development Agreement with Kaiser Permanente for the development of the new Kaiser Foundation Hospital on Dale Road, south of Kiernan, and

WHEREAS, one of the mitigation measures in the Development Agreement is the development of the intersection of Dale Road and Kiernan Avenue, and

WHEREAS, Mark Thomas & Company, Inc., (Mark Thomas), under an agreement with Kaiser Permanente, has completed the plans and specifications for the Dale/Kiernan Intersection Improvements project, and

WHEREAS, upon completion of the design and right-of-way acquisition (performed by Caltrans), it is the City's responsibility to take over the construction phase of the project, and

WHEREAS, it is appropriate for the City to hire Mark Thomas to provide construction support services for the project, and

WHEREAS, the consultant will perform: 1) right-of-way support services; 2) design and bid preparation for a small City project that will relocate a 30" Modesto

Irrigation District line; 3) coordination with Caltrans; and 4) bid and construction assistance for the Dale/Kiernan Intersection Improvements project, and

WHEREAS, the Dale/Kiernan Intersection Improvements 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, since Mark Thomas prepared the plans and specifications for the Dale/Kiernan Intersection Improvements project, it was considered by City staff to be appropriate for the consultant to continue with the project by providing construction support services in an amount not to exceed $140,210, and

WHEREAS, a separate consultant will be hired to perform construction management services for the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Mark Thomas & Company, Inc., for construction support services for the Dale/Kiernan Intersection Improvements project in an amount not to exceed $140,210.

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 2nd day of January, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-018

A RESOLUTION APPROVING AN ADDITIONAL 60-DAY EXTENSION TO THE SIX-MONTH PROVISIONAL APPOINTMENT FOR DENNIS TURNER AS DEPUTY DIRECTOR OF OPERATIONS (WASTEWATER) THROUGH FEBRUARY 23, 2008.

WHEREAS, the Public Works Director appointed Fleet Manager Dennis Turner as the provisional Deputy Direction of Operations (Wastewater) on April 23, 2007 for six months, and

WHEREAS, the City Council, by Resolution No. 2007-685, approved a 60-day extension (October 23 through December 23) to the six-month provisional appointment on November 13, 2007, and

WHEREAS, the recruiting firm of Bob Murray and Associates was hired to handle the recruitment for the Deputy Director of Operations (Wastewater) position. Qualified applicants have been interviewed and a selection process is now nearing completion, and

WHEREAS, staff anticipates the vacancy will be filled by the end of January, 2008, provided there are no issues with the recruitment, and

WHEREAS, Dennis Turner has been in this provision position for eight months, and continuity of leadership is critical in this demanding role, and

WHEREAS, extending the provisional appointment for an additional 60 days through February 23, 2008 will allow an appropriate time to complete the selection process and provide a transitional period between the provisional and permanent appointments, and

WHEREAS, Personnel Rule 7.5(c) states, "A provisional appointment shall not exceed six months, except that the City Manager, with the approval of the City Council, may extend such period for not more than sixty days by any one action",

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an additional 60-day extension to the six-month provisional appointment for Dennis Turner as Deputy Director of Operations (Wastewater) through February 23, 2008.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of January, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-019

A RESOLUTION ACCEPTING THE WORK BY TEICHERT CONSTRUCTION FOR THE PROJECT TITLED "CONSTRUCTION OF LEFT-HAND TURN LANE EXTENSIONS ON BRIGGSMORE AVENUE AT MCHENRY AVENUE" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $124,294.10

WHEREAS, a report has been filed by the Public Works Director that the project titled "Construction of Left-Hand Turn Lane Extensions on Briggsmore Avenue at McHenry Avenue" has been completed by Teichert Construction, in accordance with the contract agreement dated March 27, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Construction of Left-Hand Turn Lane Extensions on Briggsmore Avenue at McHenry Avenue" 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 $124,294.10 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 2nd day of January 2008, 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, Acting City Clerk
(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-020

A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S AUTHORITY TO ISSUE CHANGE ORDERS ON THE "2006 ADA CURB RAMPS" PROJECT FROM $25,000.00 TO $27,715.00

WHEREAS, on March 27, 2006, by Resolution No. 2007-199, the City Council awarded a $175,936.00 contract to BDS Construction, Inc., to construct the "2006 ADA Curb Ramps" project, and

WHEREAS, the contractor started work on May 21, 2007, and

WHEREAS, additional work not included in the original bid needed to be added to the project to allow completion of the new ramps, and

WHEREAS, the cost of the extra work was estimated to be as high as $27,715.00, an amount which exceeded the Director's authority for the project as established by the Council's Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of $25,000.00,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director's authority to issue change orders on the project entitled "2006 ADA Curb Ramps" from $25,000.00 to $27,715.00.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of January, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-021

Print

A RESOLUTION ACCEPTING THE WORK BY BDS CONSTRUCTION, INC., FOR THE PROJECT TITLED "2006 ADA CURB RAMPS" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $203,651.00

WHEREAS, a report has been filed by the Public Works Director that the project titled "2006 ADA Curb Ramps" has been completed by BDS Construction, Inc., in accordance with the contract agreement dated March 27, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "2006 ADA Curb Ramps" is hereby accepted as complete from said contractor BDS 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 $203,651.00, 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 2nd day of January 2008, 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, Acting City Clerk
(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-022

A RESOLUTION DESIGNATING COUNCILMEMBER GARRAD MARSH 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 Garrad Marsh 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 2nd day of January, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-023

A RESOLUTION APPROVING AN ACQUISITION AND SHORTFALL AGREEMENT BETWEEN THE CITY OF MODESTO AND MINER JOAQUIN BUILDING CORPORATION FOR CONSTRUCTION OF IMPROVEMENTS ON THE EAST SIDE OF DALE ROAD BETWEEN PELANDALE AVENUE AND BANGS ROAD, WITH A MAXIMUM REIMBURSEMENT AMOUNT OF $543,843, AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT, AND FINDING THAT THE AGREEMENT IS WITHIN THE SCOPE OF THE PREVIOUSLY CERTIFIED MODESTO URBAN AREA GENERAL PLAN MASTER EIR (SCH NO. 1999082041)

WHEREAS, the City of Modesto desires to complete the core infrastructure needed to serve the Kiernan Business Park Specific Plan Area, and

WHEREAS, Miner Joaquin Building Corporation ("Developer") has agreed to install certain improvements on Dale Road (between Pelandale Avenue and Bangs Road), and

WHEREAS, the City Council has considered the proposed Acquisition and Shortfall Agreement ("Agreement") between City of Modesto and Developer, and

WHEREAS, said Agreement shall have a maximum reimbursement amount of $543,843, and

WHEREAS, the City Council has received and considered the Written Checklist, Environmental Assessment EA/C&ED 2006-51, which concludes that the Developer's project, including the improvements for which the Developer will be reimbursed under the proposed agreement, is within the scope of the previously certified Modesto Urban General Plan Master EIR (SCH No. 1999082041), and that pursuant to Sections 15168© and 15182 of the CEQA Guidelines, no new environmental review is required,

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

1. The proposed Acquisition and Shortfall Agreement between City of Modesto and Miner Joaquin Building Corporation ("Project")

conforms to the conditions previously imposed on the project by City Council Resolution 2006-706.

2. As per Section 15168c and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this Project is within the scope of the projects covered by the Modesto Urban Area General Plan Master EIR (SCH No. 1999082041).

3. 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.

4. 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.

5. 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.

6. The Written Checklist, Environmental Assessment EA/C&ED 2006-51, provide the substantial evidence to support findings 1-5, above.

BE IT FURTHER RESOLVED that the Acquisition and Shortfall Agreement between the City of Modesto and Miner Joaquin Building Corporation for construction of certain improvements on Dale Road is hereby approved.

BE IT FURTHER RESOLVED that the Interim 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 January, 2008, 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,
Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-024

A RESOLUTION AMENDING POLICIES AND PROCEDURES FOR FORMATION, ANNEXATION, AND ADMINISTRATION OF MELLO-ROOS COMMUNITY FACILITIES DISTRICTS CREATED PURSUANT TO THE PROVISIONS OF THE MELLO-ROOS COMMUNITY FACILITIES ACT OF 1982

WHEREAS, on September 3, 1996, by Resolution No. 96-501, the City Council adopted "Policies and Procedures" for the creation and administration of Mello-Roos Community Facilities Districts, and

WHEREAS, by Resolution No. 96-545, adopted on October 8, 1996, the City Council made certain amendments to its "Policies and Procedures" for the creation and administration of Mello-Roos Community Facilities Districts, and

WHEREAS, by Resolution No. 98-164, adopted on March 24, 1998, the City Council made certain amendments to its "Policies and Procedures" for the creation and administration of Mello-Roos Community Facilities Districts, and

WHEREAS, by Resolution No. 98-186, adopted on April 7, 1998, the City Council made certain amendments to its "Policies and Procedures" for the creation and administration of Mello-Roos Community Facilities Districts, and

WHEREAS, by Resolution No. 98-483, adopted on September 8, 1998, the City Council made certain amendments to its "Policies and Procedures" for the creation and administration of Mello-Roos Community Facilities Districts, and

WHEREAS, by Resolution No. 99-405, adopted August 10, 1999, the City Council made certain amendments to its "Policies and Procedures" for the creation and administration of Mello-Roos Community Facilities Districts, and

WHEREAS, by Resolution No. 99-500, adopted October 5, 1999, the City Council made certain amendments to its "Policies and Procedures" for the creation and administration of Mello-Roos Community Facilities Districts, and

WHEREAS, by Resolution No. 2002-39, adopted on January 22, 2002, the City Council transferred the CFD administration function from the City Clerk and the City Attorney to the City Manager, and by the same Resolution the City Council made certain amendments to its Policies and Procedures for the creation and administration of Mello-Roos Community Facilities Districts, and

WHEREAS, by Resolution No. 2004-172, adopted April 6, 2004, the City Council made certain amendments to its "Policies and Procedures" for the creation and administration of Mello-Roos Community Facilities Districts, and

WHEREAS, by Resolution No. 2006-307, adopted on June 22, 2004, the City Council made certain amendment to its "Polices and Procedures" for the creation and administration of Mello-Roos Community Facilities Districts, and

WHEREAS, The City Council desires to further amend the City's Policies and Procedures for formation and administration of Mello-Roos Community Facilities Districts,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that its "Policies and Procedures" relating to the application for, creation of and administration of Mello-Roos Community Facilities Districts, formerly adopted and amended by this Council, be further amended as set forth below:

That Section 2 Definitions be amended to read as follows:

q) District Administrator. A subgroup of the CFD Formation Group

composed of the City Manager or his designee. The District Administrator shall have the power to retain and consult with an outside consultant experienced in administering established CFDs in order to assure such administration is in accordance with City ordinances, resolutions, these Policies and Procedures as amended, and applicable law. The District Administrator shall also have the power to appoint an Acting District Administrator to serve in his or her absence.

That Section 3 Application Process be amended to read as follows:

1) Bidding Process.

i) In retaining construction contractors for work which is reimbursable by a City of Modesto CFD and where the construction costs of the Acquisition and Shortfall Agreement (or other similar agreement) with the CFD are less than $300,000.00, the developer shall abide by the following bid process:

1) The developer shall provide three (3) competitive bids. If the developer desires to award to a contractor other than the low bidder, a written request must be submitted to the District Engineer. The District Engineer may allow this if the developer can provide adequate justification

2) The developer shall insure that all contractors and subcontractors are licensed in accordance with sections 7000 through 7145 inclusive, of the California Business and Professions Code and maintain adequate insurance for any work or services performed.

3) In accordance with California Labor Code section 1770, developer shall require the payment of prevailing wages based on the rates determined by the California Director of Industrial Relations. Unless otherwise directed by the District Engineer, Developer's construction schedule shall provide adequate time for completion of the work such that no holiday or overtime labor shall be required. The CFD shall not reimburse developer for any labor costs which exceed the normal and customary straight time rates as described in the City of Modesto General Provisions, Section 4.19, for the work performed unless the District Engineer authorizes the

use of overtime or legal holiday time, in advance and in writing.

4) The District Engineer shall retain the right to be in attendance to inspect all bids and change orders. Any extra work or charges during construction for which reimbursement is sought shall be justified and documented. Except in the case of an emergency, any such charges shall be approved by the District Engineer in advance and in writing. In the case of an emergency, any such charges may be authorized by the District Engineer if the developer provides adequate justification that an emergency existed and that the extra work or charges incurred were reasonable. Said justification shall be provided within a reasonable time after the emergency ends and prior to reimbursement for any such charges.

5) No permits shall be issued and no work shall commence until the developer and the District Administrator have executed an Acquisition and Shortfall Agreement for the improvements to be constructed.

6) The developer shall maintain certified payroll records for all labor costs incurred on all CFD reimbursable work for a minimum period of four (4) years from the issuance of the Notice of Completion. Said payroll records shall be made available to the CFD or any state regulatory agency for review, audit, inspection or copying upon request.

7) Developer shall indemnify and hold the City and the CFD harmless for ensuring that the project is bid and constructed in accordance with City and CFD standards, and in compliance with all applicable local, state and federal laws. Developer shall also indemnify and hold the City and the CFD harmless for any damages, claims or actions arising out of said construction activities in a form approved by the City Attorney and the Risk Manager.

8) Developer may be reimbursed for design costs incurred prior to the execution of an Acquisition and Shortfall Agreement for completed and accepted, CFD-funded facilities as determined and approved by the CFD

Administrator and the CFD Engineer.

ii) In retaining construction contractors for work which is reimbursable by a City of Modesto CF and where the construction costs of the Acquisition and Shortfall Agreement (or other similar agreement) with the CFD are $300,000.00 or greater, the developer shall abide by the following bid process:

1) Using a bid package approved by the City, the developer shall advertise for bids in the appropriate newspapers and periodicals, including but not limited to the local Builders Exchange and the Modesto Bee. Bid opening shall be no sooner than 7 days after the initial publication.

2) The bid package shall include, and be based upon, improvement plans as stamped approved by the City Engineer or his or her designee ("City Engineer"), and the Community Facilities District Engineer or his or her designee ("District Engineer"). The bid package may not contain any alterations, deviations or exceptions to the improvement plans, unless the alteration, deviation or exception is approved in writing by the District Engineer and is advertised for a reasonable period prior to the bid opening.

3) The developer shall only accept bids using a bid proposal form approved by the City. The developer shall ensure that copies of the form are made available to prospective bidders at a local business office located within Stanislaus County during reasonable business hours throughout the bid advertising period. Contractors interested in submitting sealed bids for the project will be directed to do so on the approved form and at a specific date and time (e.g., at 9 a.m. on February 1, 2004, at the developer's place of business) . At this specified time, the District Engineer may be in attendance to receive the bid packages.

4) The bid packages will be opened immediately after the close of the specified time period. The bid opening shall be open to the public and may be in the presence of the District Engineer. All bids will be publicly announced at the bid opening. The developer will then

begin the process of executing a contract with the lowest responsible bidder.

If the developer desires to award to a contractor other than the low bidder, a written request must be submitted to the District Engineer. The District Engineer may allow this if the developer can provide adequate justification

5) The developer shall insure that all contractors and subcontractors are licensed in accordance with sections 7000 through 7145 inclusive, of the California Business and Professions Code and maintain adequate insurance for any work or services performed.

6) In accordance with California Labor Code section 1770, developer shall require the payment of prevailing wages based on the rates determined by the California Director of Industrial Relations. Unless otherwise directed by the District Engineer, Developer's construction schedule shall provide adequate time for completion of the work such that no holiday or overtime labor shall be required. The CFD shall not reimburse developer for any labor costs which exceed the normal and customary straight time rates as described in the City of Modesto General Provisions, Section 4.19, for the work performed unless the District Engineer authorizes the use of overtime or legal holiday time, in advance and in writing.

7) The District Engineer shall retain the right to be in attendance to receive the bid package, or to inspect all bids and change orders. Any extra work or charges during construction for which reimbursement is sought shall be justified and documented. Except in the case of an emergency, any such charges shall be approved by the District Engineer in advance and in writing. In the case of an emergency, any such charges may be authorized by the District Engineer if the developer provides adequate justification that an emergency existed and that the extra work or charges incurred were reasonable. Said justification shall be provided within a reasonable time after the emergency ends and prior to reimbursement for any such charges.

8) No permits shall be issued and no work shall commence until the developer and the District Administrator have executed an Acquisition and Shortfall Agreement for the improvements to be constructed.

9) The developer shall maintain certified payroll records for all labor costs incurred on all CFD reimbursable work for a minimum period of four (4) years from the issuance of the Notice of Completion. Said payroll records shall be made available to the CFD or any state regulatory agency for review, audit, inspection or copying upon request.

10) Developer shall indemnify and hold the City and the CFD harmless for ensuring that the project is bid and constructed in accordance with City and CFD standards, and in compliance with all applicable local, state and federal laws. Developer shall also indemnify and hold the City and the CFD harmless for any damages, claims or actions arising out of said construction activities in a form approved by the City Attorney and the Risk Manager.

11) Developer may be reimbursed for design costs incurred prior to the execution of an Acquisition and Shortfall Agreement for completed and accepted, CFD-funded facilities as determined and approved by the CFD Administrator and the CFD Engineer.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of January, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-025

A RESOLUTION APPROVING AN AMENDMENT TO THE SCHOOL IMPACT MITIGATION AGREEMENT BY AND BETWEEN THE CITY OF MODESTO, THE BUILDING INDUSTRY ASSOCIATION OF CENTRAL CALIFORNIA, AND THE SYLVAN UNION SCHOOL DISTRICT AND THE MODESTO HIGH SCHOOL DISTRICT AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT

WHEREAS, on November 15, 1994, the City of Modesto, the Building Industry Association of Central California, and the Sylvan Union School District and the Modesto High School District entered into a School Impact Mitigation Agreement ("Agreement"), and

WHEREAS, one issue addressed in the Agreement is the funding and construction of a pedestrian overcrossing ("Overcrossing") on Sylvan Avenue, and

WHEREAS, the Agreement provided that the City would construct the Overcrossing and the City and Modesto High School District ("MHSD") would each be responsible for 50% of the cost, with one-half of the MHSD contribution due at the time of construction, and

WHEREAS, the other one-half of MHSD's contribution would be provided from revenue generated from the development of Village Three, and

WHEREAS, MHSD has agreed to pay its' entire share of the Overcrossing at the time of construction if it receives a 5% discount on its' share of the cost of the Overcrossing, bringing the total contribution of the Overcrossing to 45% for MHSD and 55% for the City, and

WHEREAS, The City and MHSD desire to memorialize this understanding in a document entitled Amendment to the School Impact Mitigation Agreement

("Amendment"), and

WHEREAS, on October 8, 2007, the Modesto City Schools Board of Education, acting on behalf of the Sylvan Union School District and MHSD, approved the Amendment, and

WHEREAS, on November 13, 2007, the Sylvan Union School District approved the Amendment, and

WHEREAS, on December 11, 2007, the Building Industry Association of Central California ("BIA"), approved the Amendment

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendment to the School Impact Mitigation Agreement by and between the City of Modesto, the Building Industry Association of Central California, the Sylvan Union School District and the Modesto High School District.

BE IT FURTHER RESOLVED that the Interim 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 8th day of January, 2008 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,
Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-026

A RESOLUTION GRANTING A ONE-TIME EXCEPTION TO THE VILLAGE ONE SPECIFIC PLAN TO PERMIT CONSTRUCTION OF 3,000 SQ FT STORAGE WAREHOUSE AT 3348 CLAUS ROAD AND NOT REQUIRE PARCEL TO FORM OR ANNEX TO THE VILLAGE ONE CFD

WHEREAS, Government Code Section 65450 et. seq. permits cities and counties to adopt specific plans for the systematic implementation of the General Plan and to provide for a greater level of detail in planning sites or areas of special interest or value, and

WHEREAS, on October 16, 1990, the City Council by Resolution No. 90-828A adopted the Village One Specific Plan, to guide the development of 1,780 acres located in northeast Modesto, and

WHEREAS, Joe Bairos Construction ("Applicant") contacted the City to construct a 3,000 sq. ft. storage warehouse at 3348 Claus Road ("Parcel"), and

WHEREAS, said Parcel resides within the Village One Specific Plan Area, Precise Plan Area 35i (commonly known as the "industrial triangle"), and

WHEREAS, the Village One Specific Plan states that no precise plan, final map, final development plan, building permit or other development entitlement for currently unvested property shall be consistent with this Specific Plan until and unless the affected parcel is required to form or annex to the Village One CFD, and

WHEREAS, the Village One Specific Plan does allow City to defer the requirement to form or annex to the Village One CFD if it meets the following criteria:

1) Residential properties of less than ten acres, until there is a land division, addition of any dwelling unit or change of

use, or

2) The existing commercial properties in Precise Plan Area No. 2....unless there is a change of use, physical expansion of the existing buildings, construction of new buildings, or division of property, and

WHEREAS, since Applicant does not meet above-referenced deferral criteria, Staff recommends Council approve a one-time exception to the Village One Specific Plan for the following reasons:

1) Applicant does not trigger the need for preparation of a Precise Plan,
2) It is unreasonable to require Applicant to annex Parcel to the Village One CFD and pay a one-time special facilities tax in excess of $100,000 in order to construct a warehouse valued at $95,000, and
3) The existing business 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 Village One 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 Village One Specific Plan requiring formation or annexation into the Village One CFD.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of January, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-027

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF ROCK CRUSHING SERVICES FOR THE PUBLIC WORKS DEPARTMENT, STORMWATER COLLECTIONS DIVISION, TO CALIFORNIA ROCK CRUSHERS CORP., RIPON, CA, AND AUTHORIZING THE PURCHASING MANAGER 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 ANNUAL TOTAL COST OF $178,500

WHEREAS, the City of Modesto's Stormwater Collections crews maintain 11,000 plus rockwells throughout the storm drainage system, and

WHEREAS, as a result, crews generate and stockpile approximately 12,000 – 15,000 tons of used 1½" drain rock and 5,000 cubic yards of soil and concrete debris at the Primary Treatment Plant, and

WHEREAS, extensive testing and analytical reports indicate that this material can be recycled and used for road base, and

WHEREAS, on July 3, 2007, the City Council by Resolution No. 2007-403 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of rock crushing services for the Public Works Department, Stormwater Collections Division, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, and

WHEREAS, on August 31, 2007, the Purchasing Division issued Request for Bid No. 0708-01 for the furnishing of rock crushing services to thirteen (13) prospective bidders, four (4) of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on September 12, 2007, a bidders conference was held, two (2) companies were in attendance, and

WHEREAS, on October 2, 2007, RFB's were formally opened in the City Clerk's office. Of the thirteen (13) prospective bidders, two (2) companies chose to respond, and

WHEREAS, based on being deemed the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the furnishing of rock crushing services for the Public Works Department, Stormwater Collections Division, to California Rock Crushers Corp., Ripon, CA, and authorizing the Purchasing Manager 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 annual cost of $178,500, 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 rock crushing services for the Public Works Department, Stormwater Collections Division, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in account number 6280-480-5312-0235 for the furnishing of rock crushing services in FY 08/09,

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 rock crushing services for the Public Works Department, Stormwater Collections Division, to California Rock Crushers Corp., Ripon, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager 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 annual total cost of $178,500.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of January, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-028

A RESOLUTION APPROVING A SIXTY (60) DAY EXTENSION TO A SIX MONTH PROVISIONAL APPOINTMENT FOR JEANETTE MAURER AS ADMINISTRATIVE ANALYST/TECHNOLOGY SOLUTIONS ANALYST

WHEREAS, the Information Technology Department has a vacant Administrative Analyst/Technology Solutions Analyst position, and

WHEREAS, Jeanette Maurer was provisionally appointed as Administrative Analyst/Technology Solutions Analyst on July 24, 2007, and

WHEREAS, the Information Technology Department desires to extend the provisional appointment of Jeanette Maurer for sixty (60) days until a successful candidate can be hired in the capacity of Administrative Analyst/Technology Solutions Analyst, and

WHEREAS, Modesto Personnel Rule 7.5 (c) requires Council approval if a provisional appointment is to exceed the six-month period authorized by said rule, and

WHEREAS, staff is requesting that the City Council approve a sixty (60) day extension to this provisional appointment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that a sixty (60) day extension to the six-month provisional appointment of Jeanette Maurer to the position of Administrative Analyst/Technology Solutions Analyst is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of January, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-029

A RESOLUTION AMENDING THE FY 07-08 OPERATING BUDGET TO ESTIMATE $1,816,098 IN 1170-320-3259-3512, HOME CARRYOVER FUNDS AND TO APPROPRIATE SAID FUNDS TO 1170-320-3259-0497, DIRECT LOANS, TO FULLY FUND THE VILLAGE ONE TOWN CENTER PROJECT

WHEREAS, in Fiscal Year 2002-2003, the City of Modesto allocated $245,000 to the Housing Authority of Stanislaus County (Housing Authority) to fund project pre-development costs for the Village One Town Center Project, and

WHEREAS, the City pledged 80% of that year's HOME funds for the construction of this project, and

WHEREAS, on October 26, 2004, by Resolution No. 2004-564, the City Council approved an additional allocation of $1,030,791 from Fiscal Year 2004-2005 HOME funds to the Housing Authority for the development of the Village One multi-family housing project, and

WHEREAS, on February 5, 2007, Bill Fagan, Executive Director for the Housing Authority, submitted a letter to the City of Modesto Parks, Recreation and Neighborhoods Department (PRND) requesting additional HOME funds for the Village One Town Center Project, and

WHEREAS, on May 22, 2007, by Resolution No. 2007-299, the City Council approved a loan agreement with the Housing Authority for the Village One Town Center Project, and

WHEREAS, on May 22, 2007, by Resolution No. 2007-300, the City Council amended the FY 06-07 operating budget to appropriate $785,307 in FY 05-06 HOME

Entitlement Funds from 1170-800-8000-8003, HOME Fund Reserve, to 1170-320-3259-0497, Direct Loans, to fully fund the Village One Town Center Project, and

WHEREAS, $1,816,098 in HOME Carryover Funds now needs to be estimated and appropriated in order to make payment to the Housing Authority, and

WHEREAS this funding is available as HOME Fund Carryover, 1170-320-3259-3512, and

WHEREAS, the Citizens Housing and Community Development Committee met on March 5, 2007, and March 27, 2007, and supported staff's recommendation to allocate funding to the Housing Authority for the Village One Town Center Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the FY 07-08 operating budget to estimate $1,816,098 in 1170-320-3259-3512,HOME Entitlement Carryover Funds, and appropriate said funds to 1170-320-3259-0497, Direct Loans, to fully fund the Village One Town Center project.

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 8th day of January, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-030

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE A FORMAL REQUEST FOR BIDS (RFB) FOR THE LEASE/PURCHASE OF A JOHN DEERE WHEEL LOADER, WITH PREVENTIVE MAINTENANCE, FOR A TOTAL ESTIMATED COST OF $202,430

WHEREAS, the City of Modesto's Parks, Recreation and Neighborhoods Department, Solid Waste Division, operates the City of Modesto's Compost Facility (Facility) at 7011 Jennings Road, and

WHEREAS, the Facility currently has two (2) John Deere 644J wheel loaders which are used to load the grinder, load finished compost into the power screen, shape windrows, load trucks with finished product, and move materials around on the site, and

WHEREAS, the loaders play a critical role in the City's composting operation as they are used in almost every aspect of the composting process, and

WHEREAS, due to the constant operation of these units performing multiple tasks at various locations on the 51 acre site, it has been necessary to rent a loader when one of the units is undergoing repairs, and

WHEREAS, staff has determined that to improve the efficiency of these operations, a third loader is needed, and

WHEREAS, funds were budgeted for the lease/purchase of a new loader in the 2007-2008 Compost Facility operating budget, and

WHEREAS, Modesto Municipal Code 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, a formal bid process for the lease/purchase of a John Deere Wheel Loader, with preventive maintenance, for the Facility will conform to Modesto Municipal Code Section 8-3.203,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Manager is hereby authorized to issue a formal Request for Bids for the lease/purchase of a John Deere Wheel Loader, with preventive maintenance, for a total estimated cost of $202,430.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of January, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-031

A RESOLUTION APPROVING A CONTRACT FOR THE TRANSFER OF CANINE "BASS" BY ITS HANDLER, OFFICER DWIGHT MILLER, TO THE CITY OF MODESTO POLICE DEPARTMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, Police Officer Dwight Miller was recently appointed to the Modesto Police Department Canine Unit, and

WHEREAS, Officer Dwight Miller owns a 13-month old German Shepherd named "Bass" and

WHEREAS, Officer Dwight Miller would like to donate "Bass" to the City, for use as a police canine, and

WHEREAS, Officer Dwight Miller agrees to relinquish all rights, title and ownership interest in "Bass", and

WHEREAS, if Officer Dwight Miller chooses to separate from the City or from the canine unit prior to the three-year time period, City shall retain ownership of "Bass", and

WHEREAS, the ownership of "Bass" will revert to Officer Dwight Miller if Officer Dwight Miller separates from the City or the canine unit after fulfilling a minimum of three years as a canine handler for the City, and Officer Dwight Miller has executed the Modesto Police Department Canine Transfer Contract attached as **Exhibit A,** and

WHEREAS, the Safety and Communities Committee considered this item at its December 3, 2007, meeting and recommended forwarding this item to the full Council for its consideration, and

WHEREAS, the City will assume all liability for risk and dangers relating to City's ownership of "Bass", 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 the Modesto Police Department's Canine Transfer Contract between the City of Modesto and Office Dwight Miller.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of January, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A

MODESTO POLICE DEPARTMENT CANINE TRANSFER CONTRACT

This AGREEMENT, made and entered into in the City of Modesto, State of California, this ___ day of _____, **20**__, by and between the City of Modesto, a municipal corporation of the State of California, hereinafter referred to as "CITY", and Dwight Miller, canine handler for the Modesto Police Department, hereinafter referred to as "HANDLER".

Facts:

Dwight Miller was appointed to the canine unit as a HANDLER in November 2007. He donated his 13-month-old German Shepard named "Bass" to the CITY, for use as a police canine by HANDLER. HANDLER relinquished his ownership to work the canine for the CITY.

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 "Bass". *HANDLER* was previously the assigned canine handler for "Bass".

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

"Bass", 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 _____.

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 "Bass" for at least eighteen (18) months prior to any sale of the aforementioned retired police canine.

4. The retired police canine "Bass" 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. _____ adopted by the City Council of the City of Modesto on the _____ day of _____, 200_.

NEW OWNER

_____

Dwight Miller, Handler

CITY OF MODESTO

_____

GEORGE W. BRITTON, City Manager

ATTEST:

By_____

STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By_____

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-032

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR PROPOSALS (RFP) FOR THE PURCHASE AND INSTALLATION OF A SECURITY CAMERA SYSTEM TO BE INSTALLED IN THE DOWNTOWN AREA, WHICH IS LOCATED WITHIN THE REDEVELOPMENT PROJECT AREA FOR AN AMOUNT NOT TO EXCEED $400,000 AND TO BE REIMBURSED BY THE REDEVELOPMENT AGENCY.

WHEREAS, Modesto's Downtown area has realized a tremendous growth over the past seven years, and

WHEREAS, this redevelopment success brings with it both economic boom and security concerns, and

WHEREAS, in order to protect this grown Downtown economy one of the tools will be to install a security camera system, and

WHEREAS, the security cameras will allow the Police Department the ability to expand their view of the changing pedestrian and vehicular environment while maximizing staff resources, and

WHEREAS, the closed caption video monitoring system will deploy a series of ten (10) cameras and will feed a signal back to a centralized monitoring center, and

WHEREAS, the selected vendor will provide on-call service support 24 hours per day, 365 days per year, and

WHEREAS, the Redevelopment Agency will reimburse the City of Modesto for all expenses up to a maximum amount of $400,000, and

WHEREAS, the City and the vendor agree that the Redevelopment Agency does not assume any liability imposed upon the City and/or the selected vendor or any of their officers, agents or employees for injury, including legal damages, caused by a negligent

or wrongful act or omission occurring in the performance of the purchase, installation, operation and/or maintenance of the security camera system, and

WHEREAS, the Modesto Redevelopment Agency approved at its December 12, 2007 meeting, the funding reimbursement between the Redevelopment Agency and the City of Modesto for the purchase and installation of a security camera system for use within the Redevelopment Project Area,

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 Proposals (RFP) for the purchase and installation of a security camera system to be installed in the Downtown Area, which is located within the Redevelopment Project Area for an amount not to exceed $400,000 and to be reimbursed by the Redevelopment Agency.

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

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized to call for public competitive sealed proposals for the purchase of a security camera system to be opened in the Office of the City Clerk, 1010 Tenth Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed proposals in the time, form, and manner provided by law.

BE IT FURTHER RESOLVED that after the sealed proposals are opened they will be tabulated and analyzed by the Purchasing Division and the Modesto Police Department and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of January, 2008, 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
Acting City Clerk
(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-033

A RESOLUTION AMENDING THE FY 07-08 OPERATING BUDGET TO REFLECT THE PURCHASE AND INSTALLATION OF A SECURITY CAMERA SYSTEM IN THE DOWNTOWN AREA (WHICH IS LOCATED WITHIN THE REDEVELOPMENT PROJECT AREA); AND THE REIMBURSEMENT FROM THE REDEVELOPMENT AGENCY FOR AN AMOUNT NOT TO EXCEED $400,000

WHEREAS, Modesto's Downtown area has realized a tremendous growth over the past seven years, and

WHEREAS, this redevelopment success brings with it both economic boom and security concerns, and

WHEREAS, in order to protect this grown Downtown economy one of the tools will be to install a security camera system, and

WHEREAS, the security cameras will allow the Police Department the ability to expand their view of the changing pedestrian and vehicular environment while maximizing staff resources, and

WHEREAS, the closed caption video monitoring system will deploy a series of ten (10) cameras and will feed a signal back to a centralized monitoring center, and

WHEREAS, the selected vendor will provide on-call service support 24 hours per day, 365 days per year, and

WHEREAS, the Redevelopment Agency will reimburse the City of Modesto for all expenses up to a maximum amount of $400,000, and

WHEREAS, the City and the vendor agree that the Redevelopment Agency does not assume any liability imposed upon the City and/or the selected vendor or any of their officers, agents or employees for injury, including legal damages, caused by a negligent

or wrongful act or omission occurring in the performance of the purchase, installation, operation and/or maintenance of the security camera system, and

WHEREAS, the Modesto Redevelopment Agency approved at its December 12, 2007 meeting, the funding reimbursement between the Redevelopment Agency and the City of Modesto for the purchase and installation of a security camera system for use within the Redevelopment Project Area, and

WHEREAS, the Fiscal Year 2007/2008 Operating Budget will be amended as indicated:

	Expense:		
To:	0100-190-1961-5XXX	$400,000	Downtown Security Cameras
	Transfer In:		
From:	0100-700-7000-9908	$400,000	RDA Reimbursement

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the funding reimbursement between the Redevelopment Agency and the City of Modesto for the purchase and installation of a security camera system to be installed in the Downtown area which is located within the Redevelopment Project Area,

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 8th day of January, 2008, 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
Acting City Clerk
(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-034

A RESOLUTION AMENDING THE FY 2007/08 BUDGET TO RECOGNIZE $88,530 IN GRANT FUNDING FROM THE FEDERAL TRANSIT ADMINISTRATION GRANT Y487, AND APPROPRIATING OFFSETTING EXPENSES OF $88,530 INTO ACCOUNT NO. 6510-165-1678-5946.

WHEREAS, the City Council, by Resolution 2007-714, authorized the purchase of five (5) new urban transit buses, and

WHEREAS, staff must first retrofit the five (5) existing buses as required by the State of California Air Resources Board (CARB) Amendment 20231.1. This Amendment requires that one existing piece of equipment be retrofit with a diesel particulate filter system for every new piece of equipment put into service, and

WHEREAS, this CARB requirement benefits the public by reducing emissions in the environment and working towards improving air quality, and

WHEREAS, the City received grant funding for the retrofit of the existing buses from the Federal Transit Administration Grant Y487, and

WHEREAS, it is necessary to amend the FY 2007/08 budget to recognize the $88,530 in grant funds and to appropriate offsetting expenses of $88,530 into Account No. 6510-165-168-5946 for the purchase of these CARB mandated filters,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the FY2007/08 Budget to recognize $88,530 in grant funding from the Federal Transit Administration Grant Y487, and appropriating offsetting expenses of $88,530 into Account No. 6510-165-1678-5946.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of January, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-035

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE SOLE BRAND PROCUREMENT OF FIVE (5) CLEAIRE "LONGVIEW" EMISSION REDUCTION CATALYST/DIESEL PARTICULATE FILTER SYSTEMS, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER TO THE LOWEST RESPONSIVE AND RESPONSIBLE BIDDER FOR A TOTAL ESTIMATED COST OF $80,000.

WHEREAS, City Council, by Resolution 2007-714, authorized the purchase of five (5) new urban transit buses, and

WHEREAS, staff must first retrofit the five (5) existing buses as required by the State of California Air Resources Board (CARB) Amendment 20231.1. This Amendment requires that one existing piece of equipment be retrofit with a diesel particulate filter system for every new piece of equipment put into service, and

WHEREAS, this CARB requirement benefits the public by reducing emissions in the environment and working towards improving air quality, and

WHEREAS, the City received grant funding for the retrofitting of the existing buses from the Federal Transit Administration Grant Y487, and

WHEREAS, Cleaire "Longview" emission reduction catalyst/diesel particulate filter system is the only system approved by CARB for transit buses; therefore a sole source procurement is necessary, and

WHEREAS, funds are budgeted in Account No. 6510-165-1678-5946 for this purchase,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue formal bids for a sole brand procurement of five (5) Cleaire "Longview" emission reduction catalyst/diesel particulate filter systems.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order to the lowest responsive and responsible bidder for a total estimated cost of $80,000.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of January, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-036

A RESOLUTION APPROVING A THIRD AMENDMENT TO THE AGREEMENT WITH WOOD RODGERS, INC., FOR ADDITIONAL DESIGN SERVICES IN THE AMOUNT OF $66,500, FOR WORK NOT INCLUDED IN THE ORIGINAL AGREEMENT, AND FOR REIMBURSABLE EXPENSES FOR THE PROJECT TITLED "PELANDALE AVENUE – DALE ROAD TO MCHENRY AVENUE," AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE THIRD AMENDMENT TO THE AGREEMENT

WHEREAS, the widening of Pelandale Avenue to full six-lane expressway status is scheduled to commence in Fiscal Year 2008, and

WHEREAS, the roadway improvements will convert Pelandale Avenue to full Expressway status with three (3) new westbound lanes and two (2) new eastbound lanes from Dale Road to McHenry Avenue, and

WHEREAS, within the project limits of the Pelandale Avenue widening project, additional design and engineering analysis are necessary and associated with adjacent land development projects (specific plans) and/or project alternatives along Pelandale Avenue proposed by the City Planning Department, and

WHEREAS, the City plans to construct a stormflow lift station in the Project detention basin to better handle storm water runoff, and

WHEREAS, the City has evaluated the cost and time benefit of providing the aforementioned extra work, and

WHEREAS, a Third Amendment to the Agreement with Wood Rodgers, Inc., for additional design services for the 6-lane widening of the Pelandale Avenue – Dale Road to McHenry Avenue Project is necessary in order to facilitate the aforementioned design and construction of the required extra work,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Third Amendment to Agreement between the City of Modesto and Wood Rodgers, Inc., for additional design services in the amount of $66,500, for work not included in the original Agreement, and for reimbursable expenses for the project titled "Pelandale Avenue – Dale Road to McHenry Avenue."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of January, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-037

A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE THIRD AMENDMENT TO THE AGREEMENT WITH WOOD RODGERS, INC., BY TRANSFERRING $66,500 BY DECREASING OBJECT 6050 CONTINGENCY WITHIN CIP ACCOUNT 1410-430-H461 (6-LANES DALE TO MCHENRY-SECONDARY) AND REAPPROPRIATING THE SAME AMOUNT TO OBJECT 6010 ENGINEERING/DESIGN/ADMINISTRATION WITHIN THE SAME CIP ACCOUNT 1410-430-H461 (6-LANES DALE TO MCHENRY-SECONDARY) TO PERFORM THE REQUIRED DESIGN SERVICES TO COMPLETE THE 6-LANE WIDENING OF THE PELANDALE AVENUE– DALE ROAD TO MCHENRY AVENUE PROJECT

WHEREAS, certain budgetary transactions are necessary to fully fund the Third Amendment to Agreement with Wood Rodgers, Inc., for additional design services in the amount of $66,500, for work not included in the original Agreement, and for reimbursable expenses for the project titled "Pelandale Avenue – Dale Road to McHenry Avenue," and

WHEREAS, to fully fund the Third Amendment to Agreement and cover additional design costs the current Capital Improvement Program budget must be amended by transferring $66,500 by decreasing Object 6050 Contingency within CIP Account 1410-430-H461 (6-Lanes Dale to McHenry-Secondary) and reappropriating the same amount to Object 6010 Engineering/Design/Administration within the same CIP Account 1410-430-H461 (6-Lanes Dale to McHenry-Secondary) to perform the required design services to complete the project titled "Pelandale Avenue 6-Lane Widening– Dale Road to McHenry Avenue,"

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds as set forth herein to fully fund the Third Amendment to Agreement with Wood Rodgers, Inc., for additional design services in the amount of $66,500, for work not included in the original Agreement, and for

reimbursable expenses for the project titled "Pelandale Avenue – Dale Road to McHenry Avenue."

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of January, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-038

A RESOLUTION ACCEPTING THE WORK BY TEICHERT CONSTRUCTION FOR THE PROJECT TITLED "CONSTRUCT ADDITIONAL PARKING LOT AT AIRPORT PASSENGER TERMINAL" AS COMPLETE, AUTHORIZING THE ACTING CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $626,281.50

WHEREAS, a report has been filed by the Public Works Director that the project titled "Construct Additional Parking Lot at Airport Passenger Terminal" has been completed by Teichert Construction, in accordance with the contract agreement dated May 8, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Construct Additional Parking Lot at Airport Passenger Terminal" is hereby accepted as complete from said contractor Teichert Construction, that the Acting City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $626,281.50 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of January 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-039

A RESOLUTION APPROVING AN AGREEMENT WITH JONES & STOKES ASSOCIATES, INC., FOR ENVIRONMENTAL REVIEW WORK RELATED TO THE UPDATING OF THE WATER SYSTEM ENGINEER'S REPORT PROJECT, FOR A NOT-TO-EXCEED AMOUNT OF $160,255, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on October 23, 2007, by Resolution No. 2007-614, Council approved an Agreement with West Yost Associates for professional engineering services to develop an updated Engineer's Report for a Water Rate and Connection Fee Update Study, in the not-to exceed amount of $381,938, and

WHEREAS, the Agreement was for the updating of the 2004 Water System Engineer's Report (Engineer's Report), in preparation for an upcoming water utility rate and capacity charge study (an up-to-date Engineer's Report is the essential supporting document), and

WHEREAS, the Engineer's Report is currently underway by the aforementioned Consultant and is approximately 30% complete, however, the water utility rate and capacity charge study has not yet started, and

WHEREAS, since the Engineer's Report will identify a number of Capital Improvement Projects (CIPs) associated with providing reliable water service to existing rate payers and future users, identifying and mitigating any potential impacts those CIPs might have on the environment is required under the California Environmental Quality Act (CEQA), and

WHEREAS, using a professional consulting firm already familiar with the City's water system will enable this work to be completed in a timely manner, and

WHEREAS, in order to take full advantage of past experiences and the breadth of knowledge certain consultants have obtained while working for the City, it is proposed

that Jones & Stokes Associates, Inc. (J&S), the firm who is updating the General Plan's Master Environmental Impact Report and working on the Storm Drainage Master Plan's environmental review documentation, be hired to complete the environmental review work for updating the Water System Engineer's Report, and

WHEREAS, the updated Engineer's Report will present the proposed improvements needed to provide and maintain reliable water service to existing and future customers (over both a 5-year and 20-year horizon), their associated cost estimates, and their allocations (existing rate payers vs. future users) under two parallel analyses, and

WHEREAS, the first will be with full participation by the City in Turlock Irrigation District's (TID's) Regional Surface Water Supply Project (RSWSP), and the second is without participation (both alternatives stop prior to construction), and

WHEREAS, this will provide Council with the most technical and financial information to make an informed decision with regard to the RSWSP, and

WHEREAS, of significant importance related to the RSWSP is TID's schedule that requires the City to decide if it will continue its participation (i.e. by making the necessary financial commitments) to the project on or around November 1, 2008 (120-days after the construction bids are forwarded to the City by TID), and

WHEREAS, the City does not currently have the staffing levels or expertise to complete this environmental review work in a timely manner, and

WHEREAS, using professional consulting services will enable this work to be completed in the allotted time frame, and

WHEREAS, J&S is on the City's pre-qualified list for providing environmental review services, they have a clear understanding of the City's environmental challenges, they can complete this task in the short time frame available, and City staff is familiar

with the high quality of their work, therefore, it was considered by City staff to be appropriate for J&S to perform the environmental review work for the project by providing environmental review services in an amount not to exceed $160,255,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Jones & Stokes Associates, Inc., for Environmental Review work related to the Updating of the Water System Engineer's Report Project, for a not-to-exceed amount of $160,255.

BE IT FURTHER RESOLVED that the Interim 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 January, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-040

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS - TIER 1 ORANGEBURG TRANSMISSION MAIN PROJECT, ACCEPTING THE BID AND APPROVING A $3,286,700.00 CONTRACT WITH MOZINGO CONSTRUCTION, INC., FOR THE PROJECT TITLED, "DOWNSTREAM WATER SYSTEM IMPROVEMENTS - TIER 1 ORANGEBURG TRANSMISSION MAIN," AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the "Downstream Water System Improvements - Tier 1 Orangeburg Transmission Main" project, and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "Downstream Water System Improvements - Tier 1 Orangeburg Transmission Main" project were opened at 11:00 a.m. on December 14, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $3,286,700.00 received from Mozingo Construction, Inc., be accepted as the lowest responsible bid and the contract be awarded to Mozingo 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 project titled "Downstream Water System Improvements - Tier 1 Orangeburg Transmission Main," and accepts the bid of Mozingo Construction, Inc., in the amount $3,286,700.00, and hereby awards Mozingo Construction, Inc., the contract.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of January 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-041

A RESOLUTION APPOINTING ERNIE FOOTE TO THE PUBLIC EVENTS ADVISORY COMMITTEE

WHEREAS, on June 25, 2002, the Mayor and each Councilmember appointed one member to the Public Events Advisory Committee, and

WHEREAS, Councilmember Lopez's was recently elected, and

WHEREAS, Councilmember Lopez has nominated ERNIE FOOTE for reappointment to serve as a member of the Public Events Advisory Committee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby reappoints ERNIE FOOTE to the Public Events Advisory Committee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of January, 2008, 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, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-042

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 17, 2008, the Planning Commission recommended KENT NEWSWANDER 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. KENT NEWSWANDER, as representative of the Planning Commission, is hereby appointed to the Citizens Redevelopment Advisory Commission with a term expiration of January 1, 2009.

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 22nd day of January, 2008, 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, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:
_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-043

A RESOLUTION APPOINTING 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 17, 2007 and recommended appointment 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 appointed to the Board of Zoning Adjustment with a term expiration of January 1, 2009.

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 22nd day of January, 2008, 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, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

_____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-044

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 17, 2007, the Planning Commission recommended JOHN SANDERS 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. JOHN SANDERS, as representative of the Planning Commission, is hereby appointed to the Citizens Housing & Community Development Committee with a term expiration of January 1, 2009.

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 22nd day of January, 2008, 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, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:
Susana Alcala Wood, City Attorney

012208/CMO/EPuckett

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-045

A RESOLUTION ADOPTING THE AMENDED JOINT POWERS AGREEMENT ESTABLISHING THE STANISLAUS COUNCIL OF GOVERNMENTS, AND AUTHORIZING THE MAYOR TO SIGN THE AMENDED AGREEMENT.

WHEREAS, the Stanislaus Council of Governments (StanCOG) is a joint powers agency formed pursuant to Government Code 6500 et seq., and

WHEREAS, StanCOG was created by a Joint Powers Agreement originally entered into on May 11, 1971 and last amended on June 5, 2001, and

WHEREAS, the member agencies of StanCOG are the County of Stanislaus and all of the incorporated cities within Stanislaus County, which includes the cities of Ceres, Hughson, Modesto, Newman, Oakdale, Patterson, Riverbank, Turlock, and Waterford, and

WHEREAS, on December 12, 2007, the StanCOG Policy Board approved amendments to its Joint Powers Agreement and requested all member agencies to approve the amended Joint Powers Agreement, and

WHEREAS, the StanCOG Joint Powers Agreement provides that the Agreement may be amended by approval of seventy-five percent (75%) of its member agencies representing seventy-five percent (75%) of the population of the County of Stanislaus as determined by the most recent Decennial Census,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amended Joint Powers Agreement Establishing the Stanislaus Council of Governments as approved by the StanCOG Policy Board on December 12, 2008.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to sign the Amended Joint Powers Agreement Establishing the Stanislaus Council of Governments.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of January, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-046

A RESOLUTION APPROVING A PUBLIC IMPROVEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND TEMPERATE ENTERPRISES, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Temperate Enterprises, LLC, a California Limited Liability Company, represents Philip Layman, the owners of approximately 1.87 acres of real property, located on the northeast corner of Temperate and Mercy Avenues ("Property"), and

WHEREAS, Temperate Enterprises, a California Limited Liability Company, Philip Layman represents the owners of the parcel, and

WHEREAS, Temperate Enterprises, LLC, a California Limited Liability Company, filed an application for annexation requesting annexation of approximately 1.87 acres to the City of Modesto. The subject site is located in a county island that lies in the Baseline Developed Area, as described in the Urban Area General Plan, and

WHEREAS, on June 4, 2007, the Planning Commission adopted Resolution No. 2007-22, entitled "A Resolution Recommending To The City Council Adoption of A Resolution of Application to the Stanislaus Local Agency Formation Commission to Annex Approximately 1.87 Acres of Property Located on the northeast corner of Temperate and Mercy Avenues (Owner Initiated – Uninhabited)," and

WHEREAS, Finding and Determination No. 7 of Resolution No. 2007-22 requires that prior to the annexation application being approved by the City Council, an improvement agreement between the applicant and the City shall be executed and that the agreement shall stipulate whether or not development occurs, the applicant or developer

shall provide all street dedications, and improvements shall be constructed along the frontage(s) of the Property to City standards within five years after annexation or prior to recordation of the Final Map, whichever occurs first, with a possible extension of five years for financial hardship,

WHEREAS, Temperate Enterprises, LLC, a California Limited Liability Company has executed a Public Improvement Agreement for its parcel, and

WHEREAS, the Public Improvement Agreement complies with Finding and Determination No. 7 of Resolution No. 2007-22,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Public Improvement Agreement between the City of Modesto and Temperate Enterprises, LLC, a California Limited Liability Company.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of January, 2008, 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, Acting City Clerk

APROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Amended on 4/1/08
By Resolution
2008-165

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-047

A RESOLUTION APPROVING THE FINAL MAP OF 1000 BRIGHTON FOR CONDOMINIUM PURPOSES IN THE PLANNED DEVELOPED ZONE, P-D (264), AREA OF THE CITY OF MODESTO AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE A SUBDIVISION AGREEMENT WITH MSB BRIGHTON, LLC

WHEREAS, MSB BRIGHTON, LLC ("Subdivider"), is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 2.418 acres, known as 1000 Brighton for Condominium Purposes ("SUBDIVISION"), in the Planned Developed Zone P-D(264) Area, and

WHEREAS, MSB BRIGHTON, LLC is proposing to develop a subdivision, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 1st day of May, 2006, 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 streets and easements as shown thereon within the boundaries of said tract be accepted on behalf of the public for public use; and that the City Clerk be authorized to certify the map of said tract on behalf of the City of Modesto after the fees and deposits required by the Modesto Municipal Code in amounts determined by the City Engineer have been paid and after Subdivider

has furnished a guarantee security, as set forth in Section 4-4.605 of the Modesto Municipal Code. Said security shall be in form acceptable to the City Attorney and in the amount required by the City Engineer.

BE IT FURTHER RESOLVED that the Interim City Manager, or his designee, is hereby authorized to execute the agreement with MSB BRIGHTON, LLC, A California Limited Liability Company as required by Section 4-4.604(c) of the Modesto Municipal Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of January, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-048

A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE PURCHASE OF AN IN-CAR VIDEO SYSTEM FOR THE MODESTO POLICE DEPARTMENT TO DELL INC., ROUND ROCK, TX, FOR AN ESTIMATED TOTAL COST OF $135,618, AND AUTHORIZE THE PURCHASING MANAGER TO ISSUE A PURCHASE AGREEMENT.

WHEREAS, many municipalities and other government agencies across the United States have implemented in-car video surveillance programs, including the City of Ripon, and

WHEREAS, based on the success of these deployments, the Modesto Police Department expressed a growing interest in the benefits of an in-car video program, and

WHEREAS, members of the Modesto Police Department, Information Technology Department and Purchasing Division collaborated on a detailed RFI process resulting in responses from several interested vendors. The review committee reviewed the responses, on-site visits were conducted, and reference checks were made, and

WHEREAS, the cameras will be mounted inside the vehicles and have the capability of monitoring forward of the patrol vehicle, with an approximate 140° of pan view, and the rear seat of the patrol vehicle, and

WHEREAS, the purpose of these cameras will be to support City efforts to provide a safe public environment, to document suspected criminal activity, used as an assessment tool and training aide by field training officers and police recruits, and

WHEREAS, on May 22, 2007, Council approved Resolution No. 2007-305 authorizing the Purchasing Manager to formally issue Request for Proposals (RFP) for the purchase of an in-car video system for the Modesto Police Department, and

WHEREAS, on July 20, 2007, the Purchasing Division issued RFP No. 0708-02 for the purchase of an in-car video system to forty (40) prospective proposers, six (6) of which were local companies, posted the proposal on the City's web site, and formally advertised as required by law, and

WHEREAS, on August 28, 2007, RFP's were formally opened in the City Clerk's office. Of the forty (40) prospective proposers, eight (8) companies choose to respond, and

WHEREAS, based on being ranked highest in total evaluation criteria, the evaluation committee recommends award of proposal and contract to Dell Inc., Round Rock, TX, for an estimated total cost of $135,618, 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 of an in-car video system for the Modesto Police Department to Dell Inc., Round Rock, TX, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in accounts 0400-190-2922-5401 and 0400-190-2923-5013 for the purchase of an in-car video system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal and contract for the purchase of an in-car video system for the Modesto Police Department to Dell Inc., Round Rock, TX, for an estimated total cost of $135,618.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of January, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-049

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACTS FOR THE FURNISHING OF BULK FUELS AND LUBRICANTS FOR USE CITYWIDE TO TWO (2) COMPANIES, BOYETT PETROLEUM, MODESTO, CA AND GENERAL PETROLEUM CORP., MODESTO, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE ANNUAL PURCHASE AGREEMENTS 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 TOTAL COST OF $1,671,994

WHEREAS, the Public Works Department, Fleet Services Division, and the Fire Department maintain storage tanks for bulk fuels, which are used to fuel buses and fire apparatus, and

WHEREAS, additionally, these departments maintain a stock of lubricants that are used in the maintenance of the City's fleet, and

WHEREAS, the Public Works Department, Wastewater Division and Water Division use red dye #2 diesel fuel to fuel non-public roadway diesel powered equipment, and standby diesel powered generators that supply backup power to municipal potable water wells, and

WHEREAS, bulk fuels and lubricants used at these facilities are purchased on an as-needed basis throughout the year from annual purchase agreements. Annual agreements take advantage of economies of scale, by combining department volumes for long-term procurement commitments with various suppliers, and

WHEREAS, on June 5, 2007, the City Council by Resolution No. 2007-321, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of bulk fuel and lubricants for use Citywide, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, and

WHEREAS, on October 1, 2007, the Purchasing Division issued Request for Bid No. 0708-06 for the furnishing of bulk fuels and lubricants to twenty-six (26) prospective bidders, five (5) of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on October 11, 2007, a bidder's conference was held, five (5) companies were in attendance, and

WHEREAS, on November 6, 2007, RFB's were formally opened in the City Clerk's office. Of the twenty-six (26) prospective bidders, six (6) companies chose to respond, and

WHEREAS, per the RFB specifications, bidders are required to submit two (2) signed original bid documents. One company submitted only one signed original bid document. The bid submittal was deemed non-responsive and non-responsible by City staff and received no consideration, and

WHEREAS, based on being deemed the lowest responsive and responsible bids, City staff recommends the award of bid and contracts for the furnishing of bulk fuels and lubricants for use Citywide to two (2) companies, Boyett Petroleum, Modesto, CA and General Petroleum Corp., Modesto, CA, and authorizing the Purchasing Manager to issue annual purchase agreements 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 total cost of $1,671,994, and

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

to be formally bid. The award of bid and contracts for the furnishing of bulk fuels and lubricants for use Citywide, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in account number 0330 for the furnishing of bulk fuels and lubricants in FY 2007/2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contracts for the furnishing of bulk fuels and lubricants for use Citywide to two companies, Boyett Petroleum, Modesto, CA and General Petroleum Corp., Modesto, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue annual purchase agreements 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 total cost of $1,671,994.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of January, 2008, 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, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-050

A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR ENTERPRISE RESOURCE PLANNING PROFESSIONAL SERVICES TO GARTNER, INC., FOR THE APPROXIMATE AMOUNT OF $316,000, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE TO EXECUTE THE CONTRACT.

WHEREAS, the Information Technology Department and Finance Department are seeking to obtain Enterprise Resource Planning Professional Services, and

WHEREAS, on May 2, 2006, by Resolution No. 2006-263A, the City Council authorized a request to formally solicit Request for Proposals (RFP) for Enterprise Resource Planning (ERP) Professional Services, and

WHEREAS, the Information Technology Department and the Finance Department have evaluated vendor proposals, and

WHEREAS, Gartner, Inc., was deemed the be the lowest responsive and responsible bidder, and

WHEREAS, funds for the procurement of Enterprise Resource Planning services are held in the Information Technology Investment Fund,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal and contract for Enterprise Resource Planning Professional Services to Gartner, Inc., for the approximate amount of $316,000.

BE IT FURTHER RESOLVED that the Interim City Manager, or his designee, is hereby authorized to execute the contract for Enterprise Resource Planning Professional Services with Gartner, Inc.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of January, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-051

A RESOLUTION AMENDING THE FY 2007-2008 OPERATING BUDGET TO TRANSFER $316,000 FROM ACCOUNT 7131-800-8000 TO ACCOUNT 7130-070-0742-0235 TO FUND ENTERPRISE RESOURCE PLANNING PROFESSIONAL SERVICES.

WHEREAS, the Information Technology Department and Finance Department are seeking to obtain Enterprise Resource Planning Professional Services, and

WHEREAS, on May 2, 2006, by Resolution No. 2006-263A, the City Council authorized a request to formally solicit Request for Proposals (RFP) for Enterprise Resource Planning (ERP) Professional Services, and

WHEREAS, the Information Technology Department and the Finance Department evaluated vendor proposals, and

WHEREAS, Gartner, Inc. was deemed to be the lowest responsive and responsible bidder, and

WHEREAS, funds for the procurement of Enterprise Resource Planning services are held in the Information Technology Investment Fund,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Fiscal Year 2007-2008 Operating Budget to transfer $316,000 from account 7131-800-8000 to account 7130-070-0742-0235 to fund Enterprise Resource Planning 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 22nd day of January, 2008, 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, ACTING CITY CLERK

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

AMENDED on June 10, 2008 By Resolution 2008-335

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-052

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2007-447 TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES ADDING ADMINISTRATIVE SERVICES TECHNICIAN I (CONFIDENTIAL) AT SALARY RANGE 415 AND ADDING ADMINISTRATIVE SERVICES TECHNICIAN II (CONFIDENTIAL) AT SALARY RANGE 419

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2007-447, which approved the Class Range Table for Represented Management and Confidential Non-Sworn Classes,

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2007-447. Exhibit "A" entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective July 24, 2007", attached to Resolution No. 2007-447, 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 January 22, 2008," which is attached hereto and made a part hereof as though set forth in full herein. Said amended **Exhibit "A"** adds the classification of Administrative Services Technician I (Confidential) at Salary Range 415 ($3231- $3937) and the classification of Administrative Services Technician II (Confidential) at Salary Range 419 ($3567-$4346 per month) to the Class Range Table.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 22, 2008.

AMENDED

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 22nd day of January, 2008, 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, Acting 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 January 22, 2008

RANGE	TITLE
403	
407	Administrative Clerk II (Confidential) Administrative Office Assistant II (Confidential)
408	
409	
410	
411	Administrative Office Assistant III (Confidential) Police Clerk II (Confidential)
412	
413	Administrative Technician (Confidential)
414	
415	**Administrative Services Technician I (Confidential)** Senior Administrative Office Assistant (Confidential) Secretary
416	
417	
418	Legal Secretary Systems Technician I
419	**Administrative Services Technician II (Confidential)** Public Information Technician (Confidential) Workers' Compensation Claims Assistant
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (Represented) Legal Services Technician

RANGE	TITLE
421	
422	Office Supervisor Utility Dispatch Supervisor Workers' Compensation Claims Examiner I Systems Technician II
423	Custodian Supervisor Parking Services Supervisor
424	Assistant Planner Buyer Police Facilities Coordinator
425	Administrative Analyst I
426	Police Civilian Supervisor Stores Manager Supervising Animal Control Officer Systems Technician III
427	Assistant City Clerk/Auditor Workers' Compensation Claims Examiner II
428	Accountant II (Represented) Senior Buyer
429	
430	Associate Planner Community Services Supervisor Events Coordinator Senior Crime Analyst Software Analyst I
431	Administrative Analyst II Assistant Risk Manager Budget Analyst I Personnel Analyst Recycling Program Coordinator

RANGE	TITLE
432	Communications Specialist
	Compost Facility Supervisor
	Customer Services Supervisor
	Junior Civil Engineer
	Junior Traffic Engineer
	Neighborhood Preservation Supervisor
	Operations and Maintenance Supervisor
	Parks Project Coordinator
	Recreation Supervisor II
	Senior Accountant
	Water Quality Control Maintenance Supervisor
433	Organizational Development Specialist
434	Budget Analyst II
	Environmental Laboratory Supervisor
	Operations Supervisor
	Regulatory Compliance Supervisor
	SCADA Supervisor
	Senior Community Development Program Specialist
	Senior Housing Rehabilitation Specialist
	Software Analyst II
	Supervising Accountant
	Systems Engineer I
435	Business Analyst
	Cultural Services Manager
	Emergency Medical Services Coordinator
	Integrated Waste Specialist
	Management Analyst
	Rate and Fee Analyst
	Senior Personnel Analyst
	Weed and Seed Program Coordinator
436	Assistant Civil Engineer
	Assistant Traffic Engineer
	Electrical Supervisor
	Senior Planner
437	

RANGE	TITLE
438	Budget Officer
	Events Supervisor
	Housing Program Supervisor
	Land Surveyor
	Property Agent
	Public Safety Business Services Analyst
	Senior Business Analyst
	Software Analyst III
	Systems Engineer II
439	Administrative Services Officer
	Community Facilities Districts Administrative Officer
440	Transportation Planner
	Water Quality Control Operations Supervisor
441	Airport Manager
	Building Maintenance Superintendent
	Fleet Manager
	Housing and Urban Development Manager
	Parks Operations Superintendent
	Parks Planning and Development Manager
	Purchasing Manager
	Recreation Program Manager
	Streets Superintendent
	Urban Forestry Superintendent
	Wastewater Collections Superintendent
442	Customer Services Division Manager
	Manager of Budget and Financial Analysis
	Software Analyst IV
	Supervising Construction Inspector
	Systems Engineer III
443	Associate Civil Engineer
	Associate Traffic Engineer

RANGE	TITLE
444	Principal Planner Solid Waste Program Manager Supervising Building Inspector Transit Manager
445	Accounting Division Manager
446	Deputy Chief Building Official Information Technology Unit Manager Wastewater Treatment Plant Manager
447	Business Development Division Manager Planning Division Manager Water Superintendent
448	
449	
450	Chief Building Official Senior Civil Engineer Traffic Engineer
451	
452	
453	
455	

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2008-053

A RESOLUTION ACCEPTING AN/PVS-14 NIGHT VISION KIT EQUIPMENT FROM THE 2007 COMMERCIAL EQUIPMENT DIRECT ASSISTANCE PROGRAM (CEDAP) FUNDED BY THE U.S. DEPARTMENT OF HOMELAND SECURITY, FEDERAL EMERGENCY MANAGEMENT AGENCY, NATIONAL PREPAREDNESS DIRECTORATE, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS

WHEREAS, the Modesto Police Department submitted an application to the 2007 Commercial Equipment Direct Assistance Program (CEDAP) funded by the U.S. Department of Homeland Security, Federal Emergency Management Agency, National Preparedness Directorate, for AN/PVS-14 Night Vision Kit equipment, and

WHEREAS, the AN/PVS-14 Night Vision Kit equipment is very versatile and will allow all Stanislaus County law enforcement agencies, Highway Patrol, Sheriff's Office, Fire Departments, and the California State University police to help resolve and avert many crises, and

WHEREAS, this equipment will be used to enhance regional response and mutual aid, and

WHEREAS, acceptance of this equipment enhances Healthy and Safe Strategic Action Plan, H.1.B.8., which calls for obtaining public service grants/funding, and

WHEREAS, the AN/PVS-14 Night Vision Kit equipment is valued at approximately $3,717, with no local match required of the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the AN/PVS-14 Night Vision Kit equipment from the 2007 Commercial Equipment Direct Assistance Program (CEDAP) funded by the U.S. Department of Homeland Security, Federal Emergency Management Agency, National Preparedness Directorate.

BE IT FURTHER RESOLVED that the Interim 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 22nd day of January, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2008-054

A RESOLUTION ACCEPTING WIRELESS VIDEO EQUIPMENT FROM THE OFFICE OF NATIONAL DRUG CONTROL POLICY (ONDCP) COUNTERDRUG TECHNOLOGY ASSESSMENT CENTER'S 2007 TECHNOLOGY TRANSFER PROGRAM, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS

WHEREAS, the Modesto Police Department submitted an application to the Counterdrug Technology Assessment Center's Technology Transfer Program from the Office of National Drug Control Policy (ONDCP), for Wireless Video equipment, and

WHEREAS, the Wireless Video equipment will allow the Modesto Narcotics Enforcement Team (MNET) the capability of recording staged drug purchasing transactions to convict drug dealers, and

WHEREAS, this equipment will also be used to protect the undercover officer if the position should become compromised, and

WHEREAS, acceptance of this equipment enhances Healthy and Safe Strategic Action Plan, H.1.B.8., which calls for obtaining public service grants/funding, and

WHEREAS, the total Wireless Video equipment is valued at approximately $20,570 with no local match required of the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Wireless Video equipment from the Office of National Drug Control Policy (ONDCP) Counterdrug Technology Assessment Center's 2007 Technology Transfer Program.

BE IT FURTHER RESOLVED that the Interim 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 22nd day of January, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-055

Print

A RESOLUTION ACCEPTING THE WORK BY INTERMOUNTAIN SLURRY SEAL, INC., FOR THE PROJECT TITLED "2007 CAPE SEALS" AS COMPLETE, AUTHORIZING THE ACTING CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING $655,978.26

WHEREAS, a report has been filed by the Public Works Director that the project titled "2007 Cape Seals" has been completed by Intermountain Slurry Seal, Inc., in accordance with the contract agreement dated April 3, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "2007 Cape Seals" is hereby accepted as complete from said contractor Intermountain Slurry Seal, Inc., that the Acting City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder, and that payment of amounts totaling $655,978.26, 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 22nd day of January 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-056

A RESOLUTION APPROVING A THIRD 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 $39,745.00, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE THIRD AMENDMENT TO THE 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, it was determined that additional services would be needed from Geological Technics, Inc. to allow final closure of the contamination site, and

WHEREAS, staff recommends execution of a Third 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 Third 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 $39,745.00.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Third 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 22nd day of January, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-057

A RESOLUTION AMENDING THE FY 07-08 OPERATING AND CAPITAL IMPROVEMENT PROGRAM BUDGET TO DECREASE THE WATER CONTINGENCY, ACCOUNT NUMBER 6100-800-8000-8003, BY $45,000.00 AND TO INCREASE THE MODESTO SYSTEM IMPROVEMENTS – SECONDARY CONSTRUCTION, ACCOUNT NUMBER 6180-480-W615, BY $45,000.00, IN ORDER TO FULLY FUND THE THIRD AMENDMENT TO THE AGREEMENT WITH GEOLOGICAL TECHNICS, INC. AS SHOWN IN "EXHIBIT A" AND ADDITIONAL DESIGN AND CONSTRUCTION ADMINISTRATION STAFF CHARGES NEEDED FOR PROJECT COMPLETION.

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

WHEREAS, funds were not included in the current budget to pay for additional services associated with soil and groundwater contamination at the Police Headquarters

Facility at 10th and "G" Streets, including additional design and construction administration staff charges, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 07-08 Operating and Capital Improvement Program budget to decrease the Water Contingency, Account Number 6100-800-8000-8003, by $45,000.00 and to increase the Modesto System Improvements – Secondary Construction, Account Number 6180-480-W615, by $45,000.00, in order to fully fund the Third Amendment to the Agreement with Geological Technics, Inc. as shown in **"Exhibit A"** and additional design and construction administration staff charges needed for project completion.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of January, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

THIRD AMENDMENT TO AGREEMENT FOR ENVIRONMENTAL CONSULTANT SERVICES

This Third Amendment to Agreement for Environmental Consultant Services is made with reference to the agreement between the CITY OF MODESTO ("City") and GEOLOGICAL TECHNICS, INC., a California corporation ("Consultant"), entered into by the parties on the 12th day of April 2004, hereinafter referred to as "Original Agreement".

This Third Amendment to the Original Agreement is made with regard to the following recitals:

A. Paragraph no. 8 "**AMENDMENTS**" on page 5 of the Original Agreement acknowledges the parties understand it may become desirable or necessary for the City or Consultant to modify the Agreement, and any such modification must be in a writing signed by both parties.

B. Paragraph no. 3 "**COMPENSATION**" on page 2 of the Original Agreement for Environmental Consultant Services specifies the sum of $23,020.00 as the total compensation Consultant agrees to accept for performing all services and furnishing all staffing and materials for the project as well as performance by Consultant of all of its duties and obligations required in the Original Agreement.

C. On September 8, 2005, the parties amended the Original Agreement and the new compensation to Consultant was not to exceed $25,120.00.

D. On May 9, 2006, the parties amended the Original Agreement and the new compensation to Consultant was not to exceed $44,978.00.

E. On or about November 19, 2007, Consultant submitted to the City a budget augmentation for additional tasks requested by the City to be added to the Original Agreement for the completion of additional environmental work to allow closure of the

monitoring well testing site at the City's Police Headquarters Facility at 10th and "G" Streets that was established due to the soil and groundwater contamination discovered during construction of the original building project.

F. Attached hereto as Exhibit "3-A" and incorporated herein by this reference is Consultant's proposal that notes the additional work that is needed due to regulator requirements as including the performance of a "Preliminary Endangerment Assessment" and preparation of the resulting report.

G. The aforementioned exhibit also includes a fee schedule for each additional task associated with this amendment.

H. The additional tasks to be performed by Consultant result in increased costs as follows:

1. Project Preparation – opinion of cost $3,760.00;
2. Project Management – opinion of cost $1,665.00;
3. Interim Site Work – opinion of cost $9,860.00;
4. Groundwater Monitoring – opinion of cost $1,215.00;
5. Laboratory Analyses – opinion of cost $2,105.00; and
6. Data Analysis and Reporting – opinion of cost $21,140.00

I. The aforementioned additional tasks increase the amount of the Original Agreement by $39,745.00 for a total contract amount not to exceed $84,723.00.

J. The parties to the Original Agreement, the Amendment to Agreement, the Second Amendment to Agreement and this Third Amendment to Agreement now understand and agree that it is necessary to modify paragraph no. 1 entitled "**SCOPE OF SERVICES**" on page 2 of the Original Agreement.

K. The parties to the Original Agreement, the Amendment to Agreement for Consultant Services, the Second Amendment to Agreement and this Third Amendment to Agreement now understand and agree it is necessary to modify paragraph no. 3 entitled "**COMPENSATION**" on page 2 of the Original Agreement.

L. The parties to the Original Agreement, the Amendment to Agreement, the Second Amendment to Agreement and this Third Amendment to Agreement further understand and agree the Original Agreement is modified solely by the modifications contained in the Amendment to Agreement, the Second Amendment to Agreement and this Third Amendment to Agreement and in no other way whatsoever.

NOW, THEREFORE, in consideration of this Third Amendment to Agreement, and the mutual promises, covenants, and stipulations contained in the Original Agreement for Consultant Services, the Amendment to Agreement, the Second Amendment to Agreement and this Third Amendment to Agreement, the parties agree as follows:

1. The parties agree that each of the recitals set out above is factually true and correct.

2. Paragraph no. 1 entitled "**SCOPE OF SERVICES**" on page 2 of the Original Agreement shall be deleted and parties agree to and hereby do substitute the following in its place:

SCOPE OF SERVICES

Consultant shall undertake and complete the preparation of the scope of work as set forth and described in the documents attached to the Original Agreement and referred to therein as Exhibit "A" or "Project". In addition, Consultant shall undertake and complete the preparation of the scope of work as set forth and described in the documents attached to the

Amendment to Agreement for Consultant Services as Exhibit "1", in Exhibit "2-B" attached to the Second Amendment to Agreement for Environmental Consultant Services, and Exhibit "3-A" attached to the Third Amendment to Agreement for Environmental Consultant Services. The Consultant shall perform the services as described in the aforementioned Exhibits "A", "1", "2-B" and "3-A" in a manner compatible with the standards of its profession and shall produce a fully complete project acceptable to City. The aforementioned Exhibits "A", "1", "2-B" and "3-A" are incorporated herein by this reference.

3. Paragraph no. 3 entitled "**COMPENSATION**" on page 2 of the Original Agreement between the parties shall be deleted and the parties agree to and hereby do substitute the following in its place:

COMPENSATION

Consultant agrees to perform the work on a time and materials basis and to accept a sum not to exceed $84,723.00 as full remuneration for performing all services and furnishing all staffing and materials called for in Exhibit "A" to the Original Agreement, Exhibit "1" to the Amendment to Agreement for Consultant Services, Exhibits "2-A" and "2-B" to the Second Amendment to Agreement for Environmental Consultant Services, and Exhibit "3-A" in the Third Amendment to Agreement for Environmental Consultant Services, as well as for performance by Consultant of all duties and obligations under the Original Agreement and the Amendments.

The compensation shall be paid pursuant to and in the manner and at the time set forth below:

Professional services received by the City under the Original Agreement, the Amendment to Agreement for Consultant Services, the Second Amendment to Agreement for Environmental Consultant Services and this Third Amendment to Agreement for Environmental Consultant Services shall be paid for on a "time and materials" basis with a "not to exceed" amount, as called for in Exhibit "A" of the Original Agreement, Exhibit "1" of the Amendment to Agreement, Exhibits "2-A" and "2-B" of the Second Amendment to Agreement and Exhibit "3-A" of this Third Amendment to Agreement. Consultant shall submit monthly invoices to City identifying the work performed and its value as it is discussed in the aforementioned Exhibits "A", "1", "2-A', "2-b" and "3-A". City shall pay any undisputed amounts within thirty (30) days of receipt of Consultant's invoice. The final payment under the Original Agreement, the Amendment to Agreement, the Second Amendment to Agreement and this Third Amendment to Agreement will be paid by the City within thirty (30) days after Consultant completes, and City accepts, the reports. Consultant shall be responsible for the cost of supplying all documentation necessary to verify the monthly billings to the satisfaction of the City.

4. Except as herein amended or modified, the provisions of the Original Agreement are expressly reaffirmed and remain in full force and effect.

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Third Amendment to Agreement for Environmental Consultant Services in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. 2008-_____, adopted by the Council of the City of Modesto on the _____ day of _____, 2008, and GEOLOGICAL TECHNICS, INC. has caused this Third Amendment to Agreement for Environmental Consultant Services to be duly executed in duplicate.

CITY OF MODESTO,
a California municipal corporation

By: _____
JAMES E. NISKANEN,
Interim City Manager

ATTEST:

By: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:
SUSANA ALCALA WOOD, City Attorney

By: _____
ROLAND R. STEVENS
Assistant City Attorney

By: _____
MARY AKIN, Risk Manager

GEOLOGICAL TECHNICS, INC.
a California corporation*

By: Cher Kablanow Pres
Name Title

By: [signature] VP
Name Title

(SEAL)

Consultant's Federal ID #63-0099664

** 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. 2008-058

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE NEIGHBORHOOD PARKS SECURITY LIGHTING PROJECT, ACCEPTING THE BID AND APPROVING A $190,368.00 CONTRACT WITH TIM PAXIN'S PACIFIC EXCAVATION, INC. FOR THE PROJECT TITLED "NEIGHBORHOOD PARKS SECURITY LIGHTING," AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the "Neighborhood Parks Security Lighting" project and City staff recommends approval to the City Council, and

WHEREAS, the bids received for the project titled "Neighborhood Parks Security Lighting" were opened at 11:00 a.m. on December 18, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $190,368.00 received from Tim Paxin's Pacific Excavation, Inc. be accepted as the lowest responsible bid and the contract be awarded to Tim Paxin's Pacific Excavation, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the project titled "Neighborhood Parks Security Lighting," accepts the bid of Tim Paxin's Pacific Excavation, Inc. in the amount of $190,368.00, and awards Tim Paxin's Pacific Excavation, Inc. the contract titled "Neighborhood Parks Security Lighting."

BE IT FURTHER RESOLVED that the Interim City Manager, or his designee, is hereby authorized to execute the contract in the amount of $190,368.00 for the project titled "Neighborhood Parks Security Lighting."

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of January, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-059

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "MODESTO IRRIGATION DISTRICT - IRRIGATION LINE REPLACEMENT PROJECT," ACCEPTING THE BID AND APPROVING A $98,375 CONTRACT WITH CLYDE WHEELER PIPELINE, INC. FOR THE "MODESTO IRRIGATION DISTRICT – IRRIGATION LINE REPLACEMENT PROJECT," AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the project titled "Modesto Irrigation District – Irrigation Line Replacement Project" and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the project titled "Modesto Irrigation – Irrigation Line Replacement Project" were opened at 11:00 a.m. on January 8, 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 $98,375 received from Clyde Wheeler Pipeline, Inc. be accepted as the lowest responsible bid and the contract be awarded to Clyde Wheeler Pipeline, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the project titled "Modesto Irrigation District – Irrigation Line Replacement Project," accepts the bid of Clyde Wheeler Pipeline, Inc. in the amount of $98,375, and hereby awards Clyde Wheeler Pipeline, Inc. the contract titled "Modesto Irrigation District – Irrigation Line Replacement Project."

BE IT FURTHER RESOLVED that the Interim 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 January, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-060

A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE CONTRACT WITH CLYDE WHEELER PIPELINE, INC. BY TRANSFERRING $14,800 BY DECREASING OBJECT 6060 CONSTRUCTION ADMINISTRATION WITHIN CIP ACCOUNT 2370-430-H930 (DALE/KIERNAN INTERSECTION IMPROVEMENTS) AND REAPPROPRIATING THE SAME AMOUNT TO OBJECT 6050 CONTINGENCY WITHIN THE SAME CIP ACCOUNT 2370-430-H930 (DALE/KIERNAN INTERSECTION IMPROVEMENTS) TO PERFORM THE REQUIRED CONSTRUCTION SERVICES TO COMPLETE THE PROJECT TITLED "MODESTO IRRIGATION DISTRICT - IRRIGATION LINE REPLACEMENT PROJECT."

WHEREAS, certain budgetary transactions are necessary to fully fund the contract with Clyde Wheeler Pipeline, Inc. in the amount of $98,375, to perform the required construction services to complete the project titled "Modesto Irrigation District - Irrigation Line Replacement Project," and

WHEREAS, to fully fund the construction contract and cover contingency costs the current Capital Improvement Program budget must be amended by transferring $14,800 by decreasing Object 6060 Construction Administration within CIP Account 2370-430-H930 (Dale/Kiernan Intersection Improvements) and reappropriating the same amount to Object 6050 Contingency within the same CIP Account 2370-430-H930 (Dale/Kiernan Intersection Improvements) to perform the required construction, contingency and construction administration services to complete the project titled "Modesto Irrigation District - Irrigation Line Replacement Project,"

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds as set forth herein to fully fund the contract with Clyde Wheeler Pipeline, Inc. to perform the required construction services to

complete the project titled "Modesto Irrigation District - Irrigation Line Replacement Project."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of January, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-061

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE HIGHWAY PLANTING AND IRRIGATION STATE ROUTE 99 AT BRIGGSMORE AVENUE PROJECT, ACCEPTING THE BID AND APPROVING A $864,286.36 CONTRACT WITH ELITE LANDSCAPING, INC. FOR THE PROJECT TITLED "HIGHWAY PLANTING AND IRRIGATION STATE ROUTE 99 AT BRIGGSMORE AVENUE," AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the "Highway Planting and Irrigation State Route 99 at Briggsmore Avenue" project, and City staff recommends approval to the City Council, and

WHEREAS, the bids received for the "Highway Planting and Irrigation State Route 99 at Briggsmore Avenue" project were opened at 11:00 a.m. on November 20, 2007, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended that the bid of $864,286.36 received from Elite Landscaping, Inc. be accepted as the lowest responsible bid and the contract be awarded to Elite Landscaping, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the project titled "Highway Planting and Irrigation State Route 99 at Briggsmore Avenue," accepts the bid of Elite Landscaping, Inc. in the amount $864,286.36, and awards Elite Landscaping, Inc. the contract.

BE IT FURTHER RESOLVED that the Interim City Manager, or his designee, is hereby authorized to execute the contract in the amount of $864,286.36 for the project titled "Highway Planting and Irrigation State Route 99 at Briggsmore Avenue."

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of January 2008, 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
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-062

A RESOLUTION APPROVING A LINE ITEM BUDGET ADJUSTMENT TO: 1) DECREASE ACCOUNT #2300-310-A080-6040 BY $6,200.00; 2) DECREASE ACCOUNT #2300-310-A080-6050 BY $593.00; AND 3) INCREASE ACCOUNT #2300-310-A080-6060 BY $6,793.00, IN ORDER TO FULLY FUND THE SECOND AMENDMENT TO THE AGREEMENT WITH CALLANDER ASSOCIATES LANDSCAPE ARCHITECTURE, INC.

WHEREAS, the Public Works Director has recommended that the bid of $864,286.36 from Elite landscaping, Inc. for the project titled "Highway Planting and Irrigation State Route 99 at Briggsmore Avenue," be accepted as the lowest responsible bid, and the contract be awarded to Elite Landscaping, Inc., and

WHEREAS, monies for this project will be funded with $75,000 Local funds, $1,000,000 State SHOPP TE funds, $200,000 Regional TE funds and $100,000 of Caltrans Minor B funds, all of which are currently budgeted in the Briggsmore/99 Beautification Account #2300-310-A080, and

WHEREAS, a line item budget adjustment to 1) decrease Account #2300-310-A080-6040 by $6,200.00; 2) decrease Account #2300-310-A080-6050 by $593.00; and 3) increase Account #2300-310-A080-6060 by $6,793.00 is requested,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a resolution for the transfer of funds as set forth above to fully fund the Second Amendment to the Agreement with Callander Associates Landscape Architecture, Inc.

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 22nd day of January, 2008, 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
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

Attest: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-063

A RESOLUTION APPROVING A SECOND AMENDMENT TO THE AGREEMENT WITH CALLANDER ASSOCIATES LANDSCAPE ARCHITECTURE, INC. FOR ADDITIONAL PROFESSIONAL SERVICES IN THE NOT TO EXCEED AMOUNT OF $7,500.00, TO PROVIDE CONSTRUCTION SUPPORT SERVICES FOR THE PROJECT TITLED "HIGHWAY PLANTING AND IRRIGATION STATE ROUTE 99 AT BRIGGSMORE AVENUE," AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO THE AGREEMENT

WHEREAS, the Public Works Director has recommended that the bid of $864,286.36 from Elite Landscaping, Inc. for the project titled "Highway Planting and Irrigation State Route 99 at Briggsmore Avenue" be accepted as the lowest responsible bid and the contract be awarded to Elite Landscaping, Inc., and

WHEREAS, the City of Modesto has a current Agreement with Callander Associates Landscape Architecture, Inc. to provide landscape consultant services for the project titled "Highway Planting and Irrigation State Route 99 at Briggsmore Avenue," and

WHEREAS, due to the extent of the anticipated requests for information from Caltrans during construction and the need to have the landscape architect on site for inspections, a Second Amendment to the Agreement with Callander Associates Landscape Architecture, Inc. in the not to exceed amount of $7,500, will be required, and

WHEREAS, the Construction Administration budget has been increased by 1% to 15% to cover the cost of these additional services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Second Amendment to the Agreement with Callander Associates Landscape Architecture, Inc. for additional professional services in the not to

exceed amount of $7,500.00, to provide construction support services for the project titled "Highway Planting and Irrigation State Route 99 at Briggsmore Avenue."

BE IT FURTHER RESOLVED that the Interim 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 22nd day of January, 2008, 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
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

Attest: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-064

A RESOLUTION APPOINTING GRANT SWEARINGEN 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, Councilmember David Lopez has recommended GRANT SWEARINGEN as his selection to the Community Qualities Forum.

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

SECTION 1. GRANT SWEARINGEN is hereby appointed to the Community Qualities Forum with a term expiration of January 1, 2009.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member of the Community Qualities Forum and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-065

A RESOLUTION APPROVING A SIXTEEN (16) MONTH EXTENSION TO THE AGREEMENT FOR CONSULTANT SERVICES FOR FEDERAL LOBBYIST SERVICES WITH PILLSBURY WINTHROP SHAW PITTMAN, LLP AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE EXTENSION TO THE AGREEMENT

WHEREAS, the City of Modesto has determined it is desirable to retain a consultant to represent the City's interests at the federal level, and

WHEREAS, Ms. Elizabeth V. Moeller of Pillsbury Winthrop Shaw Pittman LLP has provided federal lobbying services to the City of Modesto since 2001, and

WHEREAS, the current Agreement expires on February 29, 2008, and

WHEREAS, staff is recommending a 16-month extension to the Agreement which places the Agreement on a fiscal year cycle with future extensions reviewed as part of the annual budget cycle, and

WHEREAS, Ms. Moeller has been an exceptional advocate for the City of Modesto having helped secure over $28 million in federal funding for City projects over the last six years, and

WHEREAS, due to the tremendous success and the excellent relationship the City has developed with Ms. Moeller, staff recommends extending the current Agreement with Pillsbury Winthrop Shaw Pittman, LLP to maintain this established and successful relationship, and

WHEREAS, the City of Modesto has negotiated a 16-month extension to the Agreement for Consultant Services, at the monthly rate of $10,000 with Pillsbury Winthrop Shaw Pittman, LLP to perform federal legislative lobbying services from March 1, 2008 through June 30, 2009, and

WHEREAS, the Finance Committee met on January 28, 2008, and supported staff's recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a 16-month extension to the Agreement for Consultant Services at the monthly rate of $10,000 with Pillsbury Winthrop Shaw Pittman, LLP to perform federal legislative lobbying services from March 1, 2008 through June 30, 2009, as described in the original agreement, a copy of which is attached hereto as **Exhibit "A"** and incorporated herein by reference.

BE IT FURTHER RESOLVED that the Interim City Manager, or his 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 5th day of February, 2008, 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:	Council members:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Council members:	None
ABSENT:	Council members:	None

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT "A"

STANDARD
AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT, made and entered into in the City of Modesto, State of California, this 28 day of February, 2006, by and between the *CITY OF MODESTO*, a municipal corporation of the State of California, hereinafter referred to as *CITY*, and *PILLSBURY WINTHROP SHAW PITTMAN LLP*, hereinafter referred to as *CONSULTANT*.

This agreement is made with regard to the following recitals:

A. The City has determined that it is appropriate to retain a consultant to represent the City's interests in Washington, D.C.

B. Consultant represents that it is qualified, willing and able to provide the services to provide such services.

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 provide the services as set forth and described in the documents attached hereto and referred to as Exhibit A. The Consultant shall perform the services as described in Exhibit A in a manner compatible with the standards of its profession. Over the term of this agreement, the scope of services can be amended by mutual acceptance of both parties.

2. TERM OF AGREEMENT

This Agreement is effective as of March 1, 2006, and will continue in effect until February 29, 2008, unless terminated earlier in accordance with the provisions of the termination clause in this agreement. Upon mutual agreement of the parties, this Agreement may be extended for an additional term not to exceed five years on the same terms and conditions as set

forth herein. The City Manager has the authority to execute said extension, if any, on behalf of the City of Modesto.

3. COMPENSATION

Consultant agrees to perform the services set forth in Exhibit A for a flat fee of ten thousand dollars ($10,000) per month beginning on March 1, 2006 and ending on February 29, 2008. Compensation for any extension of this Agreement will be in an amount mutually agreed upon by the parties hereto.

The compensation shall be paid pursuant in the manner and at the times set forth below: On or before the fifteenth (15th day of each month), Consultant shall submit to the City a report for monthly payment for the work performed during the previous month.

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 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 the services to be provided pursuant to this Agreement. Consultant will also file all necessary and required legal documentation for disclosure of the extent and nature of lobbying services for the City and will provide a copy of said documentation to the City on an annual basis.

5. PERFORMANCE BY KEY EMPLOYEE

Consultant has represented to City that Elizabeth Vella Moeller 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 shall not change this personnel assignment without the written consent of City's Project Manager which shall not be unreasonably withheld.

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 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. AVOIDANCE OF POTENTIAL CONFLICTS

Whenever the federal objectives of existing or future clients conflict with those of the City, the Consultant shall notify the City. The Consultant shall not advocate or promote federal objectives on behalf of existing or potential clients that are determined by the City to be in direct conflict with the City's federal objectives without the prior consent of the 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 or the provisions of this Agreement 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 other 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 the 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 an 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 CITY:

Name: George W. Britton, City Manager
Address: City of Modesto
Post Office Box 642
Modesto, CA 95353-9003

FOR CONSULTANT:

Name: Elizabeth Vella Moeller
Address: Pillsbury Winthrop Shaw Pittman LLP
2300 N Street NW
Washington DC 20037

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 registered mail, return receipt requested, for all of the following stated insurance policies.

(a) General Liability insurance with a minimum limit of liability per occurrence of $1,000,000 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.

(b) Automobile Liability insurance with a minimum limit of liability per occurrence of $1,000,000 for bodily injury and $1,000,000 for property damage or $1,000,000 combined single limit. This insurance shall cover any automobile for bodily injury and property damage.

(c) 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 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 Worker's Compensation. The Worker's 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 specifications to the City Clerk at the time the contract is signed.

15. TERMINATION OF AGREEMENT

Termination on Occurrence of Stated Events

This Agreement shall terminate automatically on the date on which either of the following events occur: (1) bankruptcy or insolvency of Consultant or (2) legal dissolution of Consultant. In the event of the death of key principal(s) of Consultant the City shall have the option to terminate this Agreement.

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 City. The termination date shall be the effective date of the notice.

Voluntary Termination

The parties may terminate this contract at any time upon mutual written Agreement. In addition, either party may terminate this Agreement for any reason upon thirty (30) days written notice to the other.

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. 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 for the final month in which Consultant provided services on a pro rata basis as determined by City in its sole discretion.

16. CITY PROJECT MANAGER

The City Project Manager shall be the designated Deputy City Manager or such other person as shall be designated in writing by the City Manager.

(a) The Project Manager is authorized to approve work and billings hereunder, to give notices referred to herein, to terminate this Agreement as provided herein, and to carry out any other actions referred to herein.

17. INDEMNITY

Consultant, its agents, officers and employees shall defend, indemnify, and hold harmless 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, 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, 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 superceded 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 VALIDITY

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 of 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, files and other materials 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 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 2006-105 *adopted by the Council of the City of Modesto on the* 28 *day of* February, *2006, and Consultant has caused this agreement to be duly executed.*

CITY OF MODESTO,
a California municipal corporation

By: _____
George W. Britton, City Manager

PILLSBURY WINTHROP SHAW
PITTMAN LLP

By: _____ - for PWSP LLC
CFO

By: _____

Consultant Federal ID# 94-1311126

ATTEST:

By _____
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: _____
RICHARD R. RUDNANSKY, Interim City Attorney

By: _____ For
MARY AKIN, Risk Manager

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 2008-066

A RESOLUTION APPROVING THE TRANSFER OF DEFERRED CAPITAL FACILITIES FEES TOTALING $8,991 BETWEEN THE CITY OF MODESTO AND HABITAT FOR HUMANITY TO MARIA BARRERA FOR PROPERTY LOCATED AT 2416 PARKDALE DRIVE, MODESTO, CALIFORNIA, AND AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, on December 11, 2003, by Resolution No. 2003-652, Council approved a Capital Facilities Fees Deferral/Exemption Agreement between the City of Modesto and Habitat for Humanity for property located in the Riverdale Tract for low-income households, located outside the Modesto City limits, but within the City's Sphere of Influence, and

WHEREAS, Habitat for Humanity's houses are built and sold to partner families at no profit, financed with affordable, no-interest loans with payments based on what is affordable to the families, and the homeowners' monthly mortgage payments are used to build more houses by Habitat for Humanity, and

WHEREAS, once the homes are sold, the benefits of Habitat for Humanity's Capital Facilities Fee Deferral/Exemption Agreement are transferred to the new homeowner, and

WHEREAS, one home located in the Riverdale Tract at 2416 Parkdale Drive, Modesto, California ("Property") was built and sold to Maria Barrera ("Owner"), and

WHEREAS, the conditionally deferred Capital Facilities Fees ("CFF") for the Property total Eight Thousand Nine Hundred and Ninety-one dollars ($8,991), and

WHEREAS, upon ownership, Owner

1) assumes the indebtedness of Habitat for Humanity for the deferred CFF,
2) agrees to maintain the property as his or her principal place or residence, and
3) signs a Capital Facilities Fees Deferral Agreement, Promissory Note and City Deed of Trust, and

WHEREAS, Habitat for Humanity has requested that the CFF Deferral terms for the Property be transferred to the Owner, and

WHEREAS, the City has determined that it is appropriate to conditionally defer payment of said fees pursuant to Modesto City Council Resolution No. 2006-061,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Capital Facilities Fees Deferred Payment Agreement between the City of Modesto and Maria Barrera for the deferred payment of $8,991 in Capital Facilities Fees is hereby approved.

BE IT FURTHER RESOLVED that the Interim 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 February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION 2008-067

A RESOLUTION APPROVING THE TRANSFER OF DEFERRED CAPITAL FACILITIES FEES TOTALING $8,991 BETWEEN THE CITY OF MODESTO AND HABITAT FOR HUMANITY TO TIMI HORN FOR PROPERTY LOCATED AT 2409 PARKDALE DRIVE, MODESTO, CALIFORNIA, AND AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, on December 11, 2003, by Resolution No. 2003-652, Council approved a Capital Facilities Fees Deferral/Exemption Agreement between the City of Modesto and Habitat for Humanity for property located in the Riverdale Tract for low-income households, located outside the Modesto City limits, but within the City's Sphere of Influence, and

WHEREAS, Habitat for Humanity's houses are built and sold to partner families at no profit, financed with affordable, no-interest loans with payments based on what is affordable to the families, and the homeowners' monthly mortgage payments are used to build more houses by Habitat for Humanity, and

WHEREAS, once the homes are sold, the benefits of Habitat for Humanity's Capital Facilities Fee Deferral/Exemption Agreement are transferred to the new homeowner, and

WHEREAS, one home located in the Riverdale Tract at 2409 Parkdale Drive, Modesto, California ("Property") was built and sold to Timi Horn ("Owner"), and

WHEREAS, the conditionally deferred Capital Facilities Fees ("CFF") for the Property total Eight Thousand Nine Hundred and Ninety-one dollars ($8,991), and

WHEREAS, upon ownership, Owner

1) assumes the indebtedness of Habitat for Humanity for the deferred CFF,
2) agrees to maintain the property as his or her principal place or residence, and
3) signs a Capital Facilities Fees Deferral Agreement, Promissory Note and City Deed of Trust, and

WHEREAS, Habitat for Humanity has requested that the CFF Deferral terms for the Property be transferred to the Owner, and

WHEREAS, the City has determined that it is appropriate to conditionally defer payment of said fees pursuant to Modesto City Council Resolution No. 2006-061,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Capital Facilities Fees Deferred Payment Agreement between the City of Modesto and Timi Horn for the deferred payment of $8,991 in Capital Facilities Fees is hereby approved.

BE IT FURTHER RESOLVED that the Interim 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 February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION 2008-068

A RESOLUTION APPROVING THE TRANSFER OF EXEMPT CAPITAL FACILITIES FEES TOTALING $8,991 BETWEEN THE CITY OF MODESTO AND HABITAT FOR HUMANITY TO CHRISTINA RODRIQUEZ FOR PROPERTY LOCATED AT 2413 PARKDALE DRIVE, MODESTO, CALIFORNIA, AND AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, on December 11, 2003, by Resolution No. 2003-652, Council approved a Capital Facilities Fees Deferral/Exemption Agreement between the City of Modesto and Habitat for Humanity for property located in the Riverdale Tract for low-income households, located outside the Modesto City limits, but within the City's Sphere of Influence, and

WHEREAS, Habitat for Humanity's houses are built and sold to partner families at no profit, financed with affordable, no-interest loans with payments based on what is affordable to the families, and the homeowners' monthly mortgage payments are used to build more houses by Habitat for Humanity, and

WHEREAS, once the homes are sold, the benefits of Habitat for Humanity's Capital Facilities Fee Deferral/Exemption Agreement are transferred to the new homeowner, and

WHEREAS, one home located in the Riverdale Tract at 2413 Parkdale Drive, Modesto, California ("Property") was built and sold to Christina Rodriguez ("Owner"), and

WHEREAS, the conditionally exempt Capital Facilities Fees ("CFF") for the Property total Eight Thousand Nine Hundred and Ninety-one dollars ($8,991), and

WHEREAS, upon ownership, Owner

1) assumes the indebtedness of Habitat for Humanity for the deferred CFF,

2) agrees to maintain the property as his or her principal place or residence, and

3) signs a Capital Facilities Fees Exemption Agreement, Promissory Note and City Deed of Trust, and

WHEREAS, Habitat for Humanity has requested that the CFF Exemption terms for the Property be transferred to the Owner, and

WHEREAS, the City has determined that it is appropriate to conditionally exempt said fees pursuant to Modesto City Council Resolution No. 2006-061,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Capital Facilities Fees Exemption Agreement between the City of Modesto and Christina Rodriquez for the exemption of $8,991 in Capital Facilities Fees is hereby approved.

BE IT FURTHER RESOLVED that the Interim 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 February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION 2008-069

A RESOLUTION APPROVING THE TRANSFER OF EXEMPT CAPITAL FACILITIES FEES TOTALING $8,991 BETWEEN THE CITY OF MODESTO AND HABITAT FOR HUMANITY TO MARTHA ZUNIGA FOR PROPERTY LOCATED AT 2445 PARKDALE DRIVE, MODESTO, CALIFORNIA, AND AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS, on December 11, 2003, by Resolution No. 2003-652, Council approved a Capital Facilities Fees Deferral/Exemption Agreement between the City of Modesto and Habitat for Humanity for property located in the Riverdale Tract for low-income households, located outside the Modesto City limits, but within the City's Sphere of Influence, and

WHEREAS, Habitat for Humanity's houses are built and sold to partner families at no profit, financed with affordable, no-interest loans with payments based on what is affordable to the families, and the homeowners' monthly mortgage payments are used to build more houses by Habitat for Humanity, and

WHEREAS, once the homes are sold, the benefits of Habitat for Humanity's Capital Facilities Fee Deferral/Exemption Agreement are transferred to the new homeowner, and

WHEREAS, one home located in the Riverdale Tract at 2445 Parkdale Drive, Modesto, California ("Property") was built and sold to Martha Zuniga ("Owner"), and

WHEREAS, the conditionally exempt Capital Facilities Fees ("CFF") for the Property total Eight Thousand Nine Hundred and Ninety-one dollars ($8,991), and

WHEREAS, upon ownership, Owner

1) assumes the indebtedness of Habitat for Humanity for the deferred CFF,
2) agrees to maintain the property as his or her principal place or residence, and
3) signs a Capital Facilities Fees Exemption Agreement, Promissory Note and City Deed of Trust, and

WHEREAS, Habitat for Humanity has requested that the CFF Exemption terms for the Property be transferred to the Owner, and

WHEREAS, the City has determined that it is appropriate to conditionally exempt payment of said fees pursuant to Modesto City Council Resolution No. 2006-061,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Capital Facilities Fees Exemption Agreement between the City of Modesto and Martha Zuniga for the exemption of $8,991 in Capital Facilities Fees is hereby approved.

BE IT FURTHER RESOLVED that the Interim 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 February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

2008-070

Diane Sheatsley

CFF

Print

AMENDED on Mar 22, 2011 By Resolution 2011-106

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-070

A RESOLUTION AMENDING THE CITY'S "CAPITAL FACILITIES FEES POLICIES AND PROCEDURES"AND RESCINDING RESOLUTION NOS. 2006-061 AND 2007-180

RESCINDED MAY 7 2013 THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2013-177

WHEREAS, Sections 8-1.904 of the Modesto Municipal Codes authorizes the Council by resolution to establish Capital Facilities Fees ("CFF"), and

WHEREAS, since the inception of the CFF Program, multiple fee rate programs and policies relating to the administration of CFF have been established, and

WHEREAS, on January 24, 2006, the Council adopted Resolution No. 2006-61 combining the policies mentioned above and general CFF administrative guidelines into one document called "Capital Facilities Fees Policies and Procedures ("CFF Policies and Procedures") and

WHEREAS, it may be necessary and beneficial to revise or modify the CFF Policies and Procedures from time to time, and

WHEREAS, by Resolution No. 2007-180, adopted on March 13, 2007, the City made certain amendments to its CFF Policies and Procedures for the policies relating to the administration of CFF, and

WHEREAS, the City Council desires to further amend the City's CFF Policies and Procedures for the policies relating to the application and administration of CFF,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that its CFF Policies and Procedures relating to the application and administration of Capital Facilities Fees, formerly adopted and amended by this Council

be further amended as restated as amended in their entirety are set forth in **Exhibit "A'** attached hereto.

BE IT FURTHER RESOLVED, by the Council of the City of Modesto that Resolution Nos. 2006-061 and 2007-180 are 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 February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____

SUSANA ALCALA WOOD, City Attorney

City of Modesto

Capital Facilities Fees
Policies and Procedures

Adopted on February 5, 2008 – City Council Resolution No. *******

TABLE OF CONTENTS

I,	Introduction		1
II.	Definitions		1
III.	Administration		6
	A.	CFF Review Committee	6
	B.	Annual Report	6
	C.	Inflationary Adjustments	7
	D.	Calculation of Fees	7
	E.	Exemptions	9
	F.	Deferrals	12
IV.	IMPLEMENTATION OF CFF-RELATED IMPROVEMENTS		15
	A.	Residential Streets	15
	B.	Expressways	15
	C.	Arterial/Major Collector Streets	15
	D.	Priority Policies	16
	E.	Reimbursements	17
VII.	Bidding Process, Prevailing Wages and Licenses		18
	A.	Reimbursement for work less than $300,000	18
VIII.	Completion and Acceptance of Work		20

I. INTRODUCTION

The following policies and procedures ("Policies and Procedures") are for the administration of Capital Facilities Fees, ("CFF"), which are established to mitigate the impacts of new development as outlined in §66000 of the California Government Code. These fees may be used for the purchase, construction, expansion, rehabilitation, or acquisition of public facilities, and must be consistent with the adopted fee program, which is updated every five years. These policies and procedures have been developed to govern the administration of the CFF Program.

II. DEFINITIONS

The intent and meaning of the terms that are used shall be as defined in these CFF Policies and Procedures except as specifically noted, revised, or added.

A. BUILDING INSPECTION – shall mean the Building Safety Division of the Community and Economic Development Department for the City of Modesto.

B. CFF ADMINISTRATOR – person or persons, appointed by the City Manager or his designee responsible for the management of the Capital Facilities Fee Program.

C. CFF REVIEW COMMITTEE – shall mean a committee comprised of city staff from the following departments or divisions of the City of Modesto: CFF Administrator, Community and Economic Development, City Attorney's Office, Planning Division, Building Safety Division, Finance, Parks, Recreation and Neighborhoods, and Public Works as appointed by the City Manager.

D. CHIEF BUILDING OFFICIAL – The Chief Building Official of the City of Modesto.

E. CITY – shall mean the City of Modesto.

F. CITY ATTORNEY – The City Attorney of the City of Modesto or his or her designee.

G. CITY ENGINEER – The City Engineer of the City of Modesto or his or her designee.

H. CITY MANAGER – The City Manager of the City of Modesto or his or her designee.

I. COMMERCIAL – as used in this section, shall mean any of the following retail uses:

1. Convenience markets, often with on-site gasoline pumps, usually 24-hours or extended hours.

2. Fast-food restaurants with or without sit-down facilities and with or without drive-up windows; generally food is ordered and taken to be consumed outside the restaurant building, although some on-site seating is usually provided.

3. Sit-down restaurants where food is ordered and consumed in the restaurant and customers generally stay less than one hour; frequently belonging to chains and typically serve breakfast, lunch and dinner. This category also includes all drinking establishments such as bars and cocktail lounges, except those in conjunction with low turnover restaurant. The later are charged the low turnover rate.

4. Sit down restaurants, which generally have turnover rates of one hour or longer, typically do not serve breakfast, and may or may not serve lunch.

5. Banks – full service banking institutions with or without drive-up windows.

6. Savings and Loan institutions, including thrift and credit unions, with or without drive-up windows, which typically offer fewer financial services than banks and are typically smaller in gross floor area than banks. If a given Savings and Loan is 5,000 gross feet or more, or provides full banking services, it should be treated as a bank.

7. Other retail includes a wide range of retail service uses, both free-standing and in shopping centers, including but not limited to supermarkets, drug stores, department stores, general merchandise, building materials or lumber stores, specialty retail stores, discount stores, hardware/paint stores, video arcades, and new and used car sales as well as auto repair shops. Other retail may include uses in small retail category if located in a shopping center.

J. DEVELOPMENT PROJECT – shall mean any project undertaken for the purpose of development. Development projects include projects involving the issuance of a permit for construction or reconstruction, but not a permit to operate.

K. FACILITIES or PUBLIC FACILITIES – shall mean any of the following:

1. Public buildings, including park, recreation, police, fire, and administrative buildings.

2. Facilities for the storage, treatment, and distribution of nonagricultural water.

3. Facilities for the collection, treatment, reclamation, and disposal of sewage.

4. Facilities for the collection and disposal of storm waters and for flood control purposes.

5. Facilities for the generation of electricity and the distribution of gas and electricity, facilities for the distribution of information, including radio and communication like towers and satellite dishes.

6. Transportation and transit facilities, including but not limited to streets and supporting improvements, roads, overpasses, bridges, harbors, ports, airports, parkways and related facilities.

7. Parks and recreation facilities, including bike trails, public landscape areas and community centers.

8. Public vehicles for public safety.

L. FEE – shall mean a monetary exaction other than a tax or special assessment, whether established for a broad class of projects by legislation of general applicability or imposed on a specific project on an ad-hoc basis, that is charged by a local agency to the applicant in connection with approval of a development project for the purpose of defraying all or a portion of the cost of public facilities related to the development project, but does not include fees specified in §66477, fees for processing applications for governmental regulatory actions or approvals, fees collected under development agreements adopted pursuant to Article 2.5 (commencing with §65864) of Chapter 4, or fees collected pursuant to agreements with redevelopment agencies which provide for their development of property in furtherance or for the benefit of a development project for which a redevelopment plan has been adopted pursuant to the Community Redevelopment Law (Part 1 (commencing with §33000) of Division 24 of the Health and Safety Code).

M. IMPROVEMENTS – See FACILITIES.

N. LAND DEVELOPMENT ENGINEERING – shall mean the Land Development Engineering Division of the Community and Economic Development Department, City of Modesto.

O. INDUSTRIAL LAND USE – as used in this section, shall mean any of the following:

1. Manufacturing/Light Industrial/Industrial Park
    - Electronics assembly, paper products
    - Metal fabricator
    - Bottling plant
    - Cabinet shop
    - Machine shop
    - Sheet-metal shop
    - Welding shop
    - Wholesale shop
    - Printing plant

- Mini-warehouse
- Material testing labors manufacturer
- Food processor, brewery, bakery
- Recycling facility
- Burning operations for lumber and wood products
- Junk handling, processing storage
- Landfill, waste products disposal or transfer station
- Manufacture, fabrication, processing, packaging and treatment of explosives, oil and great products, chemicals and chemical products.
- Rock crushing
- Pulp and paper mill
- Reduction, processing and storage of offal, dead animals, bones or similar materials
- Septic tank, cesspool services
- Stockyard
- Tannery
- Vehicle salvaging, wrecking

2. Mixed Industrial Uses – when a development proposal contains more than an incidental mixture of uses, the general type of uses should be segregated and treated separately for the purpose of calculating development fees.

P. VERY LOW and LOW INCOME HOUSING – shall mean housing at rents affordable to households earning sixty percent (60%) or eighty percent (80%), respectively, or less of the Area Median Income as determined from time to time by the United States Department of Housing and Urban Development.

For a single-family affordable housing unit constructed by any person or entity, as used in this subparagraph, the term "single-family affordable housing unit" shall mean a single-family home purchased by a homebuyer earning sixty percent (60%) or less of the Area Median Income as determined from time to time by the United States Department of Housing and Urban Development to be used by the homebuyer as its principle place of residence.

Q. OFFICE LAND USE – as used in this section, shall mean any of the following:

1. Medical Office – shall mean offices and clinics devoted to the practice of medical and dental professions or providing medical or dental services, including pseudo-medical services, but excluding hospitals and nursing homes, which are treated separately.

2. General Office – shall mean all other types of general and professional offices.

R. OTHER COMMERCIAL LAND USE – as used in this section, shall mean any of the following:

1. Church – Structures primarily designed or used as a place of public worship.

2. Daycare and School – An educational, vocational or daycare facility.

3. Hospital – A structure designed for health services, both inpatient and outpatient; that includes surgical care of the sick or injures of the physically ill and/or therapeutic treatment for the mentally ill. Included as an integral part of a hospital or laboratories, outpatient departments, training facilities, central services facilities, and hospital staff offices on the same site. The preceding ancillary uses are considered "professional offices" if located "off-site" unless a multi-site campus is covered by a P-D Zone or hospital uses. A separate set of offices on the same site for physicians is considered "professional offices."

4. Mini-Warehouse – A personal storage facility not associated with industrial uses.

5. Nursing Home – Structures designed for use as a convalescent hospital, or a retirement home, or a twenty-four hour care center for seven or more persons in addition to members of the family.

S. PUBLIC FACILITIES – see FACILITIES.

T. RESIDENTIAL LAND USE – as used in this section, shall mean any of the following:

1. Single-Family – shall mean single family detached homes on individual lots, such as in residential subdivision, but could also be in planned developments. Density of development may vary, but is typically ten (10) dwellings per acre or less.

2. Multiple-Family – shall mean multiple family dwelling units of several types, including high and low rise apartments, high and low rise condominiums, and multi-family residential planned unit developments greater than a density of ten (10) units per acre. The category also applies to mobile homes and hotel/motel uses.

3. Medium Density – shall mean duplex or triplex buildings located on a single lot designed for occupancy by two or three families.

4. Senior Housing – shall mean retirement communities restricted to adults or senior citizens, congregate care facilities, and similar residential uses.

U. WAREHOUSE DISTRIBUTION/HEAVY LAND USE – shall mean facilities in which the primary activity is the storage of materials or in which the primary activity

is receiving and shipping materials. Uses which are considered to be in this category include uses such as those listed below:

- Freight
- Warehousing
- Corporation yard, freight yard
- Equipment rental yard
- Moving and storage service
- Bulk feed storage
- Lumberyard

III. ADMINISTRATION

Overall administration and oversight of the CFF Program shall reside with the person or persons designated as CFF Administrator(s), as determined by the City Manager. The CFF Administrator(s) shall have the responsibility of ensuring that all issues relating to CFF are managed in accordance with applicable rules and regulations.

A. CFF REVIEW COMMITTEE

The CFF Review Committee, appointed by the City Manager, is hereby established to review policy matters related to the CFF Program in the event of appeals regarding fees, the administration of the CFF Program, and other issues that may arise as a result of the implementation of the CFF Program.

B. ANNUAL REPORT

As required by §66006 of the Government Code, each year an annual report will be prepared and made available to the public within 180 days after the last day of each fiscal year. The report shall contain the following information:

1. A description of the type of fee in the account or fund.

2. The amount of the fee.

3. The beginning and ending balance of the account or fund.

4. The amount of the fees collected and the interest earned.

5. An identification of each public facility on which fees were expended and the amount of the expenditures on each improvement, including the total percentage of the cost of the public improvement that was funded with fees.

6. An identification of an approximate date by which the construction of the public facility will commence if the local agency determines that sufficient funds have been collected to complete financing on an incomplete public facility, as

identified in paragraph (2) of subdivision (a) of §66001, and the public facility remains incomplete.

7. A description of each interfund transfer or loan made from the account or fund, including the public improvement on which the transferred or loaned fees will be expended, and, in the case of an interfund loan, the date on which the loan will be repaid, and the rate of interest that the account or fund will receive on the loan.

8. The amount of refunds made pursuant to subdivision (e) of §66001 of the Government Code and any allocations pursuant to subdivision (f) of §66001.

C. INFLATIONARY ADJUSTMENTS

1. Timing of Adjustments
   In an effort to ensure that the fees collected are adequate for inflation, an annual inflation adjustment shall be applied each year to the CFF. The CFF rates for all land use categories shall be administratively adjusted annually to account for inflation.

   All fees shall be automatically adjusted annually for inflation by the City's Director of Community & Economic Development or his designee. The annual inflation adjustment shall be the annual change in the San Francisco Bay Area Engineering News Record ("ENR") Construction Cost Index through the month of December of the year preceding each inflation adjustment. The inflation adjustment shall be made and become effective on or about July 1st of each year. The Director of Community and Economic Development or designee is hereby authorized and directed to administratively to make the inflation adjustments annually.

2. Notification of Inflationary Adjustment
   The City will provide at least one meeting with stakeholders and other interested parties at least 60 days in advance of the effective date of the inflationary adjustment.

   While an administrative function, the automatic inflationary adjustment shall be submitted to the Council for their information. The item should be scheduled to allow for sufficient time for the increase to become effective at the beginning of the fiscal year or the programmed effective date of the fee increase if a particular fee has a start date that is different than the commencement of the fiscal year.

D. CALCULATION AND COLLECTION OF FEES

1. Authority
   The establishment of capital fees is outlined in Section 8-1.904 in the Modesto Municipal Code.

2. Calculation of Fees
   As codified in the Modesto Municipal Code, fees are collected at the time of building permit issuance and the Chief Building Official has the final say as to the type of use for fee assessment purposes. Below are guidelines in assessing the fee based on circumstances where the fee category has not been explicitly detailed in the CFF Program, but where there is an analysis of how the fee is applied, exemptions of CFF, and deferrals of CFF.

3. Undefined Uses
   a. Recreation Buildings
      i. For residential projects, the CFF on a dwelling unit or room basis are deemed adequate for ancillary recreation buildings that are oriented primarily to the residential development such as:
         - Mobile home park clubhouse
         - Cabana, weight room. lounge, activity building for a single-family subdivision, apartment or condo complex.

      ii. For non-residential projects, CFF shall be based on the closest comparables. For example:

Facility	Capital Facilities Fee to Apply
Church multipurpose room or gym	Church rate
Gym for private school that also has a church	Daycare rate
Racquetball courts (freestanding or part of a recreation facility like the YMCA or SOS Club)	Commercial rate
Locker rooms, showers, etc., with health club	Commercial rate or equivalent

   b. Multi-use Buildings
      For single tenant buildings, when the square footage of a use is greater than 15% of the total square footage of the building, a separate use category is triggered. Multi-use buildings are buildings which have a single tenant, but use the building for multiple purposes. For example, a company may use part of the building for warehousing materials it produces in an adjacent manufacturing area.

   c. Temporary Trailers
      i. A maximum term of two (2) years is used to define "temporary" use of trailers.
      ii. Construction trailers are administratively exempt from CFF.
      iii. All other temporary trailers are not exempt and pay full CFF. However, if an applicant who paid CFF on a temporary trailer removes that temporary trailer from a given site within five (5) years of payment of CFF, that applicant can apply in writing and be reimbursed for the entire

CFF paid including average interest generated by City accounts less 2.5% CFF administrative fees.

iv. The deadline for receipt of written application for rebate by the City Building Safety Division is six (6) years from the payment of CFF.

d. Roof Structures – Erecting, Enclosing or Replacing w/Buildings

i. When an open area exists and a roof structure is to be added, 50% of the total CFF shall be charged. When one (1) or more sides are added, 100% of CFF shall be applied.

- The roof provides shelter and is an enhancement of a business activity. Police surveillance and fire suppression can be provided more easily in an open structure without walls.
- Once one (1) or more walls are added, it is basically a completed building and warrants full CFF.

ii. Canopy Construction

- 50% CFF if the canopy is enclosed on one (1) or two (2) sides with walls
- 100% if canopy is enclosed on three (3) or four (4) sides with walls.

4. Change of Use

For Tenant Improvements (TI), any alteration or change of use of an existing building shall not trigger the payment of capital facilities fees, provided no new square footage is added. Tenant Improvements are defined here as improvements within an existing structure.

For Tenant Improvements (TI) in Shell Buildings, the first tenant in a lease space will be charged the incremental difference in CFF if the proposed TI use is a greater impact on CFF than the Shell Building CFF use.

E. EXEMPTIONS

Capital Facilities Fees established by these policies *shall not* be imposed on any of the following:

1. Commercial and Non-Residential Applications for Exemptions

a. Canopied and Enclosed Truck Loading Bays
It should be noted, that staging areas for the storage and or protection of products are non-exempt.

b. Parking Garages

c. Restaurant Outdoor Dining Patios - Weather conditions limit outside dining areas to seasonal use; therefore, the patio dining area *shall not* be considered in determining square footage and parking requirements, provided they are not enclosed.

d. The rebuilding of any non-residential structure that has been destroyed or demolished if both of the following conditions are met:
   i. The square footage of the rebuilt structure is equal to or less than the square footage of the destroyed or demolished structure, **and**
   ii. The building use of the rebuilt structure is the same as the destroyed or demolished structure.
      - If Condition **ii** is met, and the square footage increases, then CFF shall be paid on only the incremental square footage increase.

2. Residential Applications for Exemptions
   a. Any Low or Very Low Income housing units constructed or expanded by the Housing Authority of the County of Stanislaus or any entity in which the Housing Authority is a major partner.

   b. Any Low or Very Low Income or special needs housing, constructed or expanded by any other person or entity.
      i. Time period of the Exemption
      The term of the exemption would be the term of the period deemed low income. The homebuyer would be granted a full CFF exemption provided there is not a resale or refinance for ten (10) years. If a resale or refinance should occur within the ten (10) year period, the full CFF exemption would be due, with no interest thereon.
      ii. Authorization
      The exemption authorized by this subparagraph may be granted by the City Council on a case-by-case basis after the completion of an exemption agreement and a noticed public hearing. The public hearing shall focus on whether or not the unit to be constructed would be a single-family affordable housing unit. If approved by the City Council, the benefit of the CFF exemption would be transferred to the homebuyer at the time of purchase.
      iii. Agreement
      The homebuyer would be required to sign a CFF Exemption Agreement, Promissory Note, and City Trust Deed to secure the note, as prepared by the City Attorney. The term for the CFF exemption would be the term of the period deemed low income.
      iv. Maximum Number of CFF Exemptions for Residential Projects – 2% Cap
      The total number of residential CFF exemptions shall not exceed two percent (2%) of the total CFF Program housing units.
         (a) Staff Reports to Council shall:
            (1) indicate the cumulative inventory of exempt units and the percent of anticipated total exempt units at build out.
            (2) provide a comparison of cumulative CFF exempt units to total units built since 1989. During recessions and other times of low production of market-rate housing, it is acknowledged that the cumulative, exempt units may exceed two percent (2%) or the total units built.

(b) For each use listed in "a" and "b" above for which the fee is calculated on the basis of the total number of square feet of building space, the area of public or private garages shall not be included in the area of building space for the purpose of calculating the CFF for that use. As used herein, the term "public parking garage" and the term "private parking garage" shall mean the same as those terms are defined in the California Building Code.

(c) Any alteration or addition to a residential structure, except to the extent that additional dwelling units are created.

(d) For newly created developments, such as new subdivisions, when a structure is demolished and new structures are built, an exemption is appropriate for the structure that was destroyed provided:

i. Residential Exemption: Any replacement or reconstruction of a residential structure that has been destroyed or demolished, except to the extent that additional units are created. Replacement or reconstruction is limited to residential use only.

ii. Multi-family Residential Exemption: The payment of CFF will be exempt for the rebuilding of any multi-family residential structure that has been destroyed or demolished if both of the following conditions are met:

(a) The square footage of the rebuilt structure is equal to or less than the square footage of the destroyed or demolished structure, and

(b) The number of residential units in the rebuilt structure is equal to or less than the residential units that were contained in the destroyed or demolished structure.

(e) Any replacement of an existing residential or non-residential structure that has been or will be vacated due to the fact that the title to the property has been acquired by a public entity through eminent domain proceedings or the threat of such proceedings provided that the building permit for the replacement structure or structures is applied for within two (2) years after the transfer of title or within two (2) years after the property has been vacated, whichever occurs last. The exemption granted by this subparagraph shall not apply to the replacement of a non-residential structure to the extent it adds additional square feet, the use is devoted to a higher density category, or results in the generation of additional peak hour trip ends or to the replacement of a residential structure to the extent additional units are created.

(f) Such other exemptions as the City Council may establish by Resolution from time to time.

F. DEFERRALS

Rather than paying CFF at the time a building permit is issued, the developer of a "qualified project" may elect to defer payment of all or a portion of those fees as

hereinafter set forth. The purpose of this procedure is to specify the steps involved in this process, and the responsibilities of various City departments.

1. Non- Residential Qualifications
   a. Category "A": The property owner and/or developer in the case of "Category 'A' qualified projects" may enter into CFF Deferred Payment Agreement with the City to pay ten percent (10%) of those fees at the time the building permit is issued with the remaining ninety percent (90%) to be paid in equal installments over the next ten (10) years (or less at the property owner's option)
      i. Qualified projects shall include any *non-residential* project (except industrial/warehouse projects) on one (1) parcel of land or a group of contiguous parcels under the same ownership for which CFF exceed $150,000.00 *or*
      ii. Category "A" for Industrial Warehouse on one (1) parcel of land or a group of contiguous parcels under the same ownership for which CFF exceeds $50,000.00.

   b. Category "B": The property owner and/or developer in the case of "Category B qualified projects" may enter into a CFF Deferred Payment Agreement with the City to pay twenty percent (20%) of those fees at the time the building permit is issued with the remaining eighty percent (80%) to be paid in equal installments over the next five (5) years (or less at the property owner's option).
      i. Qualified projects shall include any *non-residential* project (except industrial/warehouse projects) on one (1) parcel of land or a group of contiguous parcels under the same ownership for which CFF is more than $25,000.00 but less than $150,000.00.
      ii. Category "B" qualified projects shall also include industrial warehouse projects on one (1) parcel of land or a group of contiguous parcels under the same ownership for which CFF is more than $25,000.00 but less than $50,000.00.

   c. Other Projects: Projects which may be designated by the City Council as "qualified projects," are privately constructed projects on the City/Council Airport where the CFF exceeds $5,000.00.

   d. Process for Non- Residential Deferrals
      i. Completion of a CFF Deferral Application
      ii. All projects must have City Council approval
      iii. In all cases of Category A, B, and Other Projects, the unpaid balance of the fees will be subject to interest and collection charges. The annual interest rate shall be equal to the Wall Street Journal Prime Rate adjusted thereafter semi-annually every July and January.

iv. Adequate security acceptable to the City in the form of an irrevocable letter of credit in an amount sufficient to secure both principal and interest shall be provided for the duration of the deferral.
v. The terms and conditions of the deferral shall be set forth in an agreement which shall also provide that the unpaid balance of the fee shall be due and payable on the sale or the transfer to the property.
vi. As an alternative to providing the irrevocable letter of credit, the agreement may, at the option of the property owner/developer, authorize the City to lien the property and collect the balance of the CFF due through property tax assessment.

e. For those projects where a mitigated negative declaration or an Environmental Impact Report (EIR) has been certified, no CFF deferral shall be allowed to the extent that one (1) or more of the mitigation measures consists of payment of CFF or construction or installation of a public improvement, the cost of which, subject to funding availability, may be eligible for reimbursement of CFF.

2. Residential Qualifications
   a. Qualifications: Any single-family affordable housing unit constructed by any person or entity. As used in this subparagraph and the preceding subparagraph, the term "single-family affordable housing unit" shall mean a single-family home purchased by a homebuyer earning between sixty-one percent (61%) and eighty percent (80%) Area Median Income as determined from time to time by the United States Department of Housing and Urban Development to be used by the homebuyer as its principal place of residence.

   b. Time for Deferral: The homebuyer may be granted a CFF deferral for up to five (5) years, with payments of principal and interest to begin in year six (6). Interest will not accrue during the deferral period, and the CFF would be paid over a ten (10) year period with five percent (5%) interest rate on the unpaid balance. If a resale or refinance should occur within the ten (10) year period, the remaining unpaid balance of the CFF, including interest, shall immediately become due and payable on the sale, transfer or refinancing of the Property.

   c. Authorization: The deferral authorized by this subparagraph may be granted by the City Council on a case-by-case basis after a public hearing. The public hearing shall focus on whether or not the unit to be constructed would be constructed as an affordable housing unit. If approved by the City Council, the benefit of the CFF deferral shall be transferred to the qualified homebuyer at the time of purchase.

   d. Agreement Process
      i. The homebuyer is required to sign a CFF Deferral Agreement, Promissory Note, and City Trust Deed to secure the note, as prepared by the City Attorney.

ii. The CFF Administrator will complete and record the CFF Deferral Agreement and will either obtain the letter of credit or file a Notice of Tax Lien for the total amount due. The original agreement and letter of credit or lien will be kept on file in the City Clerk's office, with copies to Accounts Receivable.

iii. The developer will take copies of the completed documents to Building Safety Division. No permits will be issued until all required documents are received and approved by the CFF Administrator and City Attorney's Office and the down payment has been collected.

iv. Once payment has been received, Building Safety Division will enter either ten percent (10%) or twenty percent (20%) of the total CFF on the permit, since this is the actual cash down payment due. The ten percent (10%) or twenty percent (20%) must be split to each CFF in the appropriate ration.

v. A copy of the paid permit will be sent to Accounts Receivable

(a) Letter of Credit on File – Accounts Receivable will send a reminder bill eleven (11) months after the permit is issued. The due date of the first installment will be one (1) year from the original permit date.

(b) If the Notice of Tax Lien is filed – The first installment will be added to the tax roll in August of the fiscal year after the permit is issued. Interest will be calculated from the original permit date through November 1st of the first installment year.

Example 1: Permit is issued on May 30, 2005. Finance will pro-rate interest from May 30 through November 1, 2005, and will cause the first principal and interest installment to be added to the tax roll in August 2005. The tax bill received in November 2005 will include the first installment.

Example 2: Permit is issued in August 1, 2005. Finance will pro-rate interest from August 1, 2005 through November 1, 2006, and will cause the first principal and interest installment to be added to the tax roll in August 2006. The tax bill received will include the first installment.

(c) In the event that the developer does not pay annual installments, Accounts Receivable shall contact the CFF Administrator, and 1) if a Letter of Credit is on file, the necessary amount will be drawn, and 2) if the property is liened, the City will receive its share upon the sale or transfer of the property.

IV. IMPLEMENTATION OF CFF-RELATED IMPROVEMENTS

A. RESIDENTIAL STREETS

Those residential and collector streets required by new development shall be dedicated and improved to City Standard Specifications, as those may be amended from time to time, by the abutting developer.

B. EXPRESSWAYS

With respect to expressways, expressway improvements or rights of way shall be dedicated as required by conditions of approval but developer shall be reimbursed the cost of said improvements and rights of way with CFF funds, subject to limitations of available CFF funding. All reimbursements shall be detailed in advance of construction or dedication in a reimbursement agreement in accordance with the municipal code.

1. Exceptions:
   a. Intermim Improvements
      Where interim improvements are required to facilitate current development pending future expressway improvement, such interim improvements shall be provided by the abutting developer.

   b. Extra Facilities
      Where extra facilities are required specifically for the particular development at hand (e.g. deceleration/acceleration lanes, slip ramps), such extra facilities shall be provided by and at the expense of the developer without reimbursement.

C. ARTERIAL/MAJOR COLLECTOR STREETS

When a developer is required to dedicate and improve more than forty (40) feet of arterial street or major collector street as measured from the new property line on each side of the street towards the centerline, the cost of right of way and improvements in excess of forty (40) feet shall be reimbursed to the developer with CFF funds, provided funding for said improvements are included in the CFF Program and subject to availability of CFF funds. All reimbursements shall be detailed in advance of construction or dedication in a reimbursement agreement in accordance with the municipal code.

With respect to existing streets, where at least 40 feet of dedication and improvements have previously been made (measured from the existing property line up to the street centerline), any additional dedication and improvements shall be subject to appropriate reimbursement to the developer. On existing streets, if the street has not previously been improved to applicable City Standard Specifications, only dedication

or improvements in excess of 40 feet (measured from the new property line towards the street centerline) will be subject to appropriate reimbursement.

Exception: Where extra facilities are required specifically for the particular development at hand (e.g. deceleration/acceleration lanes, slip ramps), such extra facilities shall be provided by and at the expense of the developer without reimbursement.

D. PRIORITY POLICIES

Within each category of fees collected for capital projects, there are competing demands for the use of those funds by multiple projects listed in the program. As a result, below are guiding policies used to establish priorities for the construction of the projects identified in the City's Capital Improvement Program. The following principles will be applied for transportation related construction priorities:

1. Priority Principles
   a. Address Critical Safety Issues

   b. Legal Obligations
      i. Projects must be included in the program to use CFF funding.
      ii. Honor all commitments in existing executed agreements.

   c. Maximize Traffic Benefits For Dollars Spent
      i. Phase projects to maximize traffic benefits per unit cost.
      ii. Utilize lower cost traffic improvements such as restriping and signal modifications where possible.
      iii. Project amenities will follow later.

   d. Economic Development: Projects to complement high priority economic development.

   e. Segment Completion: Projects that complete segments of previously phased work.

2. Priority Transportation Corridors

   The following corridors are of high priority for programming projects:
   a. East-West Priority Corridors:
      (i). Pelandale Avenue
      (ii) Briggsmore Avenue

   b. North-South Priority Corridors:
      (i). Carpenter Road
      (ii) Claus Road

E. REIMBURSEMENTS

Prior to the commencement of any work that is to be reimbursed, an agreement between the developer and the City must be approved per §8-3.102 of the Modesto Municipal Code.

1. Reimbursement Process
   It is the obligation of the developer, landowner, and or the developer's engineer to submit a request to the CFF Administrator for reimbursement. Requests will not be granted if the dedication has already been made, or the improvements have been started.
   a. Request for Reimbursement
      Requests for reimbursement shall include:
      (i) Engineer's estimate on reimbursement amount
      (ii) All exhibits relating to the improvements or right of way including the plat and, where applicable, closure calculations
      (iii) Developer may also be reimbursed for design costs incurred prior to the execution of a Reimbursement Agreement for completed and accepted, City-funded facilities as determined and approved by the CFF Administrator and the City's Engineer

   b. Agreement
      Prior to the issuance of a construction permit, and prior to recording of a final map for dedication, the developer will be required to enter into all necessary agreements in a form provided by the City and consistent with these Policies and Procedures. These agreements may include, but not be limited to:
      - Reimbursement Agreement
      - Land Dedication Agreement (where required)
      - Development Agreement
      - Other Agreements (as required)

      Prior to execution of any such agreements, the agreements shall be reviewed and approved by the CFF Administrator and the City Attorney. Other consultants may also review them, as the City believes are appropriate.

   c. Timing of Agreement
      The planning contained in the City's annually adopted Capital Improvement Program shall guide the amount and the schedule of reimbursements to be paid from CFF funds to reimburse developers for advances in cash which are determined by the City to benefit CFF eligible improvements. All such reimbursements shall be made pursuant to a written reimbursement agreement ("RA"), which must be executed, by both the City and the developer *prior to the start* of any potentially reimbursable work by the developer.

A RA will be required where development occurs fronting a planned CFF project, or which requires CFF work off-site, and all such work shall be done by developer advances, subject to reimbursement pursuant to the RA. RAs in an amount less than that stated in Modesto Municipal Code §8-3.102 as it currently reads, or as it may be amended in the future, may be approved by the City Manager alone. *The rate of reimbursement specified in a RA shall be the amount of the actual cost of the developer advanced project, subject to documentation and approval by City staff and not to exceed the City Engineer's estimate of the cost of the project as stated in the RA.*

With respect to timing of reimbursement, the CFF Administrator shall determine the fiscal year or years in which funds will become available in the appropriate CFF fund for reimbursement, and such years or dates shall be specified in the RA. Reimbursement shall actually be paid from the relevant CFF fund, pursuant to the provisions of any RA, and pursuant to the timing and rate provisions contained in the RA.

d. Payment of Agreements
Payment of a Reimbursement Agreement shall correspond to the CFF Update that the developer paid CFF, regardless of length of time. The corresponding inflation adjustment shall also apply to the payment of the agreement.

The CFF Administrator will be the initial contact for developers wishing to commence or process a RA in order to provide advances to CFF eligible projects.

VII BIDDING PROCESS, PREVAILING WAGES, and LICENSES

No permits shall be issued and no work shall commence until the developer and the CFF Administrator have executed a Reimbursement Agreement for the improvements to be constructed.

A. REIMBURSEMENT FOR WORK LESS THAN $300,000

In retaining construction contractors for work which is reimbursable by the City of Modesto and where a Reimbursement Agreement (or other similar agreement) with the City is less than $300,000.00, the developer shall abide by the following bid process:

1. Three Competitive Bids
The developer shall provide three (3) competitive bids. If the developer desires to award to a contractor other than the low bidder, a written request must be submitted to the City. The City may allow this if the developer can provide adequate justification.

2. Licensing
   The developer shall make sure that all contractors and subcontractors are licensed in accordance with §7000 through §7145 inclusive, of the California Business and Professions Code and maintain adequate insurance for any work or services performed. Developer, its contractors and subcontractors shall have and maintain a City business license during the term of any agreement.

3. Payment of Prevailing Wages
   In accordance with California Labor Code §1770, developer shall require the payment of prevailing wages based on the rates determined by the California Director of Industrial Relations. Unless otherwise directed by the City, developer's construction schedule shall provide adequate time for completion of the work such that no holiday or overtime labor shall be required. The City shall not reimburse developer for any labor costs which exceed the normal and customary straight time rates as described in the City of Modesto General Provisions, §4.19, for the work performed unless the City authorizes the use of overtime or legal holiday time, in advance and in writing.

   The developer shall maintain certified payroll records for all labor costs incurred on all City reimbursable work for a minimum period of four (4) years from the issuance of the Notice of Completion. Said payroll records shall be made available to the City or any state regulatory agency for review, audit, inspection or copying upon request.

4. Indemnification
   Developer shall indemnify and hold the City harmless for ensuring that the project is bid and constructed in accordance with City standards, and in compliance with all applicable local, state and federal laws. Developer shall also indemnify and hold the City harmless for any damages, claims or actions arising out of said construction activities in a form approved by the City Attorney and the Risk Manager.

5. Overtime & Change Orders
   The City shall retain the right to be in attendance to inspect all bids and change orders. Any extra work or charges during construction for which reimbursement is sought shall be justified and documented. Except in the case of an emergency, any such charges shall be approved by the City in advance and in writing. In the case of an emergency, any such charges may be authorized by the City if the developer provides adequate justification that an emergency existed and that the extra work or charges incurred were reasonable. Said justification shall be provided within a reasonable time after the emergency ends and prior to reimbursement for any such charges.

8.0 COMPLETION AND ACCEPTANCE OF WORK

The completion and acceptance of work for reimbursement will follow Chapter 4, Title 4 of the Modesto Municipal Code.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-071

A RESOLUTION DECLARING AS SURPLUS FROM FEBRUARY 1, 2008 THROUGH JANUARY 31, 2009 THE FOLLOWING ITEMS: STOLEN, UNCLAIMED AND/OR SEIZED PROPERTY FROM THE POLICE DEPARTMENT, EXCESS PROPERTY ACCUMULATED BY THE CITY, AND SURPLUS CITY VEHICLES AND AUTHORIZING THE PURCHASING DIVISION TO SELL SAME BY SEALED BID, CONSIGNMENT, PUBLIC AUCTION, ONLINE AUCTION, OR AS SCRAP. THE AUCTION HOUSE, LOCATED AT 824 W. KIERNAN AVENUE IN ACCORDANCE WITH AUCTIONEERING AGREEMENT DATED AUGUST 14, 2001 WILL CONDUCT THE PUBLIC AUCTION. PUBLICSURPLUS.COM OF PROVO, UTAH WILL CONDUCT ONLINE AUCTIONS FOR SELECTED SURPLUS PROPERTY AS NEEDED

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) obsolete traffic signal equipment; (2) lost, stolen, unclaimed and/or seized property, and excess property accumulated by the City; unclaimed bicycles accumulated at the Police Department Evidence and Property Room; and (3) surplus City vehicles, and

WHEREAS, the current auction agreement calls for auctioneering services to be provided by the Auction House (Resolution Number 2001-423); and

WHEREAS, public auctions are conducted at their facility located at 824 W. Kiernan Avenue in Modesto, and

WHEREAS, the Purchasing Division will also sell selected surplus property online through PublicSurplus.com, and

WHEREAS, the items sold online 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, and

WHEREAS, by authorizing the Purchasing Division to process surplus property, from February 1, 2008 through January 31, 2009, without returning to City Council for subsequent approvals, the City will save substantial staff and processing time and be compliant with the City Charter and the Modesto Municipal Code, and

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

SECTION 1. The City Council hereby authorizes the City Purchasing Division to seek City Council approval each year for the disposition of surplus property in accordance with Section 801 of the City Charter and Modesto Municipal Code, and hereby declares as surplus from February 1, 2008, through January 31, 2009, 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 on consignment to the highest bidder any surplus properties as set forth on the list on file in the City Clerk's office.

SECTION 3. If said property cannot be sold on consignment as listed above, the City Manager, or his designated representative, is hereby authorized and directed to sell on a sealed bid basis to the highest bidder any surplus properties as set forth on the list on file in the City Clerk's office.

SECTION 4. If said property cannot be sold on consignment or on a sealed bid basis as provided, then said property may be sold online pursuant to Resolution No. 2006-192, adopted on April 4, 2006.

SECTION 5. If said property cannot be sold on consignment, sealed bid or on an online basis as provided for above, then said property may be sold at public auction utilizing the current agreement with The Auction House which was entered into on August 14, 2001, and approved by Council by Resolution No. 2001-423. Said resolution provides for auctioneering services to be provided by The Auction House, subject to the appropriate insurance being on file in the office of the City Clerk, and subject to at least five (5) days notice being given before the time fixed for the sale. The City Clerk shall cause notice thereof to be published in the Modesto Bee, the official newspaper of the City of Modesto. Said notice shall set forth the time and place of the sale and shall state that the list of items to be offered for sale can be inspected in the office of the City Clerk.

SECTION 6. If said property cannot be sold on consignment, sealed bid, online, or through the public auction process, then said property may be sold for scrap.

SECTION 7. The City Central Stores Manager is hereby authorized to contact The Auction House to coordinate pick-up for surplus property after the Purchasing Division has approved the necessary surplus property forms.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-072

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF RUBBERIZED SIDEWALK PAVERS AND ACCESSORIES FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, SOLID WASTE DIVISION AND PUBLIC WORKS DEPARTMENT, FORESTRY DIVISION, TO RUBBERSIDEWALKS, INC., FOUNTAIN VALLEY, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE AN ANNUAL PURCHASE AGREEMENT FOR A PERIOD OF THREE (3) YEARS, FOR AN ESTIMATED TOTAL COST OF $100,966

WHEREAS, in 2006, the California Integrated Waste Management Board (CIWMB) made available the 06/07 Tire Derived Product Grant for the purchase of products made with California recycled tire rubber, and

WHEREAS, the grant required that each proposal divert a minimum of 2,500 California waste tires, and

WHEREAS, on December 14, 2004, the City Council by Resolution No. 2004-669, authorized the City Manager to submit applications and grant related documents, to accept awards and amend the annual budget for all grants offered by the CIWMB, and

WHEREAS, in November 2006, City staff applied for $51,300 to purchase rubber sidewalk materials and installation accessories, and

WHEREAS, the proposal also included approximately $49,000 in matching funds to be pooled from the Solid Waste Management Division and Forestry Division, and

WHEREAS, City staff will take advantage of the grant money by installing rubber sidewalks in test situations where tree roots have damaged concrete sidewalks that are scheduled for replacement, and

WHEREAS, on May 22, 2007, the City Council by Resolution No. 2007-297, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the

purchase of rubber sidewalk materials made from California waster tires for the Parks, Recreation and Neighborhoods Department, Solid Waste Division and Public Works Department, Forestry Division, for a three (3) year agreement, and

WHEREAS, on November 28, 2007, the Purchasing Division issued Request for Bid No. 0708-13 for the purchase of rubberized sidewalk pavers and accessories to four (4) 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, a bidders conference was not scheduled, and

WHEREAS, on January 8, 2008, RFB's were formally opened in the City Clerk's office. Of the four (4) 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 rubberized sidewalk pavers and accessories for the Parks, Recreation and Neighborhoods Department, Solid Waste Division and Public Works Department, Forestry Division to Rubbersidewalks, Inc., Fountain Valley, CA, and authorizing the Purchasing Manager to issue an annual purchase agreement for a period of three (3) years, for an estimated total cost of $100,966,

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 rubberized sidewalk pavers and accessories for the Parks, Recreation and Neighborhoods Department, Solid Waste Division and Public Works Department, Forestry Division conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in accounts 0410-355-4436-0237, 03100-355-4402-0237 and 0700-480-4724-0360 for the purchase of rubberized sidewalk pavers and accessories,

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 rubberized sidewalk pavers and accessories for the Parks, Recreation and Neighborhoods Department, Solid Waste Division and Public Works Department, Forestry Division, to Rubbersidewalks, Inc., Fountain Valley, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue an annual purchase agreement for a period of three (3) years, for an estimated total cost of $100,966.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-073

A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008ANNUAL 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 2007-2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2007-2008 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 5th day of February 2008, 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, Acting City Clerk

(seal)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-074

A RESOLUTION REPEALING RESOLUTION 97-183 AND RE-AUTHORIZING THE CITY OF MODESTO ("CITY") TO JOIN WITH OTHER PUBLIC AGENCIES AS A PARTICIPANT OF THE CALIFORNIA ASSET MANAGEMENT TRUST AND TO INVEST IN SHARES OF THE TRUST AND IN INDIVIDUAL PORTFOLIOS.

WHEREAS, Section 6509.7 of Title 1, Division 7, Chapter 5 of the Government Code of the State of California (the "Joint Exercise of Powers Act") provides that, if authorized by their legislative or other governing bodies, two or more public agencies that have the authority to invest funds in their treasuries may, by agreement, jointly exercise that common power, and

WHEREAS, under Sections 6500 and 6509.7(b) of the Joint Exercise of Powers Act, a "public agency" includes, but is not limited to, any California county, county board of education, county superintendent of schools, city, public corporation, public district, regional transportation commission, state department or agency, any joint powers authority formed pursuant to the Joint Exercise of Powers Act by public agencies or any nonprofit corporation whose membership is confined to public agencies or public officials, and

WHEREAS, public agencies that constitute local agencies, as that term is defined in Sections 53600 of Title 5, Division 2, Part 1, Chapter 4, Article 2 of the Government Code of the State of California (the "California Government Code"), are authorized pursuant to Sections 53601(o), to invest all money belonging to, or in the custody of, a local agency not required for its immediate need in shares of beneficial interest issued by a joint powers authority organized pursuant to Section 6509.7 of the California

Government Code that invests in the securities and obligations authorized in subdivisions (a) to (n), inclusive, of Government Code Section 53601, and

WHEREAS, the California Asset Management Trust (the "Trust") was established, pursuant to and in accordance with the Joint Exercise of Powers Act, by a Declaration of Trust, made as of December 15, 1989, as subsequently amended from time to time (the "Declaration of Trust"), as a vehicle for public agencies to jointly exercise their common power to invest the proceeds of debt issues and Public Agency surplus funds, and

WHEREAS, the City previously adopted Resolution #97-183 which authorized the City to participate in the California Asset Management Trust. In as much as the City Council desires to re-authorize participation in the trust, Resolution #97-183 shall be revoked, and

WHEREAS, pursuant to and in accordance with the Joint Exercise of Powers Act, the City desires to join the other public agencies which are or will be Participants of the Trust by adopting and executing the Declaration of Trust, a form which is on file in the office of the Treasurer/Finance Director, and

WHEREAS, the City is a "public agency" as that term is defined in Sections 6500 and 6509.7(b) of the Joint Exercise of Powers Act and a "local agency" as that term is defined in Section 53600 of the California Government Code, and

WHEREAS, the City is otherwise permitted to be a Participant of the Trust and to invest funds in the Trust and in the individual portfolios to be managed by the Investment Adviser to the Trust ("Individual Portfolios"), and

WHEREAS, a program guide describing the Trust and the Individual Portfolios (the "Program Guide") is on file in the office of the Treasurer/Finance Director.

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

Section 1. Resolution 97-183 is hereby repealed.

Section 2. The City shall join with other public agencies pursuant to and in accordance with the Joint Exercise of Powers Act by executing the Declaration of Trust and thereby becoming a Participant in the Trust, which Declaration of Trust is hereby approved and adopted. A copy of the Declaration of Trust, which is available in the office of the Treasurer/Finance Director shall be filed with the minutes of the meeting at which this Resolution was adopted. The City Manager is hereby authorized to execute, and the City Clerk is hereby authorized to attest and deliver, the Declaration of Trust in substantially the form presented at this meeting.

Section 3. The City is hereby authorized to purchase shares in the Trust from time to time with available funds of the City, and to redeem some or all of those shares from time to time as such funds are needed.

Section 4. The City is hereby authorized to invest available funds of the City from time to time in one or more Individual Portfolios managed by the Investment Adviser to the Trust and described in the Program Guide.

Section 5. The appropriate officers, agents and employees of the City are hereby authorized and directed in the name and on behalf of the Public Agency to take all actions and to make and execute any and all certificates, requisitions, agreements, notices, consents, warrants and other documents, and any changes, amendments, modifications, or waivers thereto which they, or any of them, might deem necessary or appropriate in order to accomplish the purposes of this Resolution.

The foregoing was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of February, 2008, 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, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANAN ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-075

A RESOLUTION APPROVING AN AMENDMENT TO THE POLICY FOR INVESTMENT OF PUBLIC FUNDS

WHEREAS, pursuant to Section 2-3.401 of the Modesto Municipal Code, it is the function of the City of Modesto ("City") Finance Department to deposit and invest funds in accordance with sound treasury management, and

WHEREAS, the City is also governed by Sections 53600 et seq. of the California Government Code, which requires that local agencies annually adopt an investment policy, and

WHEREAS, the City Council approved a contract on February 3, 2004 with Public Financial Management (PFM), an investment services advisor, to provide investment management, research and supervision of the City's Managed Funds, and

WHEREAS, a revision has been made to the policy and a copy of the policy is marked **Attachment "A"**, attached hereto and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the Amended Policy for Investment of Public Funds.

The foregoing was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSAN ALCALA WOOD, City Attorney

ATTACHMENT A

CITY of MODESTO — CITY COUNCIL POLICY		**POLICY NO.: 1.019**
SUBJECT: INVESTMENT POLICY		

PURPOSE

The purpose of this document is to identify various policies and procedures that enhance opportunities for a prudent and systematic investment policy and to organize and formalize investment-related activities.

BACKGROUND

Under Section 2-3.401 of the Municipal Code, it is the function of the Finance Department to deposit and invest funds in accordance with sound treasury management. As a charter city, Modesto operates its pooled idle cash investment under the "prudent investor" rule which states that:

> "When investing, reinvesting, purchasing, acquiring, exchanging, selling, or managing public funds, a trustee shall act with the care, skill, prudence, and diligence under the circumstances then prevailing, including, but not limited to, the general economic conditions and the anticipated needs of the agency, that a prudent person acting in a like capacity and familiarity with those matters would use in the conduct of funds of a like character and with like aims, to safeguard the principal and maintain the liquidity needs of the agency."

The City is also governed by Sections 53600 et seq. of the California Government Code. This affords the City a broad spectrum of investment opportunities, so long as the investment is deemed prudent and allowable under current legislation of the State of California and the charter of the City of Modesto.

On an annual basis, the Finance Director/Treasurer will render to the City Council the statement of investment policy. The report will be considered, with any changes, by the City Council at a public meeting.

INVESTMENT REPORT

The Finance Director/Treasurer shall provide the City Council with a monthly report of investment transactions. In addition, the Finance Director/Treasurer shall render a quarterly report to the City Council, City Manager and the internal auditor within 30 days following the end of the quarter. The report shall contain the following:

1. The type of investment, issuer, purchase date, date of maturity, credit rating, overall portfolio yield based on cost, total par and dollar amount invested on all securities, investments

and monies.

2. The weighted average maturity of the portfolio.

3. A description of any funds, investments or programs that are under management of contracted parties, including lending programs. Funds and investments held by contracted parties shall be reported at market value and the source of valuation shall be reported.

4. The market value as of the date of the report, and the source of the valuation.

5. A statement of compliance with the investment policy or manner in which the portfolio is not in compliance.

6. A statement denoting the City's ability to meet its expenditure requirements for the next six months or provide an explanation as to why sufficient money shall, or may, not be available.

INVESTMENT CRITERIA

Public funds are invested in the following manner in order of priority:

1. **Safety of Principal**
   The duty of the Finance Director/Treasurer is to protect, preserve and maintain cash and investments on behalf of the citizens of the community. To guard against loss of principal, only prudent and safe investments will be considered.

2. **Liquidity**
   The receipt of revenues and maturities of investments should be scheduled so that adequate cash will be available to meet disbursements. An adequate portion of the portfolio should be maintained in liquid short-term instruments which can be readily converted to cash if necessary.

3. **Yield**
   Yield is the potential dollar earnings, or rate of return, an investment can provide. Yield becomes a consideration only after the basic requirements of safety and liquidity have been met.

SAFEKEEPING AND CUSTODY

All security transactions entered into by the City shall be conducted on a delivery-versus payment basis. Securities will be held by third party custodian designated by the Finance Director/Treasurer and evidenced by safekeeping receipts.

The only exception to the foregoing are Local Agency Investment Pools, Certificates of Deposit, and money market funds since the purchased securities are not deliverable. In all cases, purchased securities shall be held in the City's name.

PERFORMANCE STANDARDS

The investment portfolio shall be designed with the objective of obtaining a rate of return throughout budgetary and economic cycles, commensurate with the investment risk constraints and the cash flow needs. The City will measure the portfolio's performance against a market benchmark that is commensurate with the City's investment risk constraints and the cash flow characteristics of the portfolio.

AUTHORIZED INVESTMENTS

Commencing with Section 53601 of Article 1, Chapter 4 of the Government Code of the State of California, surplus money may be invested in the following:

A. City of Modesto bonds. Bonds issued by the City.

B. U.S. Treasury securities. United States Treasury notes, bonds, bills or certificates of indebtedness or those for which the faith and credit of the United States are pledged for the principal and interest.

C. State of California securities. Registered State of California warrants, treasury notes or bonds, provided that the securities are rated AAA by a nationally recognized statistical rating agency

D. California municipal securities. Bonds, notes, warrants or other evidence of indebtedness of any local agency within California, provided that the securities are rated AAA by a nationally recognized statistical rating agency

E. Federal Agency securities. Obligations issued by a federal agency or United States government-sponsored enterprise.

F. Bankers' Acceptances. Bankers' Acceptances issued by domestic or foreign banks, which are eligible for purchase by the Federal Reserve System, the short-term paper of which is rated in the highest category by a nationally recognized statistical rating agency.

Purchases of Bankers' Acceptances may not exceed 180 days maturity or 40 percent of the City's surplus money. The maximum amount permitted to be invested in the Banker's Acceptances of any one commercial bank is the greater of 10 percent of the City's surplus funds or $1 million.

G. Commercial Paper. Commercial paper of "prime" quality of the highest ranking or of the highest letter and number rating as provided for by a nationally recognized statistical-rating organization. The entity that, issues the commercial paper shall meet all of the following conditions in either paragraph (1) or paragraph (2):

(1) The entity meets the following criteria: (a) is organized and operating within the United States as a general corporation. (b) Has total assets in excess of $500 million. (c) Has debt other than commercial paper, if any, that is rated "A" or higher by a nationally recognized statistical-rating organization (NRSRO).

(2) The entity meets the following criteria: (a) is organized within the United States as a special purpose corporation, trust, or limited liability company. (b) Has program wide credit enhancements including, but not limited to, over collateralization, letters of credit, or surety bond.

Investments in commercial paper are limited to a maximum of 25% of the portfolio. Purchases shall not exceed 10 percent of the outstanding paper of the issuing corporation. The maximum investment maturity is restricted to 270 days.

H. Certificates of Deposit. FDIC insured or fully collateralized time certificates of deposit in financial institutions located in California. Eligible investments are restricted to those issuing institutions that have been in business at least five years. The maximum term for deposits shall be one year. Investments in certificates of deposit are further limited to 20% of surplus funds. All time deposits must be collateralized in accordance with California Government Code section 53561. The City, at its discretion, may waive the collateralization requirements for any portion of the deposit that is covered by federal insurance.

I. Negotiable Certificates of Deposit. Negotiable certificates of deposit issued by a nationally- or state-chartered bank or a state or federal savings and loan association or by a state-licensed branch of a foreign bank; provided that the senior debt obligations of the issuing institution are rated "AA" or better by Moody's or Standard & Poor's. Investments in negotiable certificates of deposit are limited to 30 percent of the portfolio.

J. Repurchase Agreements. Repurchase Agreements used solely as short-term investments not to exceed 90 days.

The following collateral restrictions will be observed: Only U.S. Treasury securities or Federal Agency securities as described in 1 and 2 will be acceptable collateral. All securities underlying Repurchase Agreements must be delivered to the City's custodian bank versus payment or be handled under a tri-party repurchase agreement. The total of all collateral for each Repurchase Agreement must equal or exceed, on the basis of market value plus accrued interest, 102 percent of the total dollar value of the money invested by the City for the term of the investment. For any Repurchase Agreement with a term of more than one day, the value of the underlying securities must be reviewed on a regular basis.

Market value must be calculated each time there is a substitution of collateral.

The City or its trustee shall have a perfected first security interest under the Uniform Commercial Code in all securities subject to Repurchase Agreement.

The City may enter into Repurchase Agreements with (1) primary dealers in U.S. Government securities who are eligible to transact business with, and who report to, the Federal Reserve Bank of New York, and (2) California and non-California banking institutions having assets in excess of $1 billion and in the highest short-term rating category as provided by Moody's Investors Service, Inc. or Standard & Poor's Corporation.

The City will have specific written agreements with each firm with which it enters into Repurchase Agreements.

K. Reverse Repurchase Agreements. The City may invest in reverse repurchase agreements only with "primary dealers" with which the City has entered into a master repurchase agreement contract. The City may invest in reverse repurchase agreements with the following conditions: The City may only use reverse repurchase agreements to (1) cover a temporary cash shortage, or (2) augment earnings. Reverse repurchase agreements may not be used to leverage the portfolio.

In addition, if a reverse repurchase agreement is authorized, it may be utilized only if the security to be sold on reverse repurchase agreement has been owned and fully paid for by the City for a minimum of 30 days prior to the sale; the total of all reverse repurchase agreements on investments owned by the City does not exceed 20% of the portfolio; and the agreement does not exceed a term of 92 days, unless the agreement includes a written codicil guaranteeing a minimum earning or spread for the entire period between the sale of the security using a reverse repurchase agreement and the final maturity date of the same security. The proceeds of the reverse repurchase agreement may not be invested in securities whose maturity exceeds the term of the Reverse Repurchase Agreement.

L. Medium-term corporate notes . Medium-term corporate notes defined as all corporate and depository institution debt securities with a maximum remaining maturity of five years or less, issued by corporations organized and operating within the United States or by depository institutions licensed by the U.S. or any state and operating within the U.S. Medium-term notes shall be rated in a rating category "AA-" or its equivalent or better by a nationally recognized rating service. Purchase of medium-term corporate notes may not exceed 30 percent of the City's investment portfolio.

M. Money market funds. Shares of beneficial interest issued by diversified management companies that are money market funds registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (money market funds).

N. State of California Local Agency Investment Fund (LAIF).

O. Mortgage and asset-backed securities. Any mortgage pass-through security, collateralized mortgage obligation, mortgage-backed or other pay-through bond, equipment lease-backed certificate, consumer receivable-backed bond that has been issued by a Federal Agency and has a maximum of five years maturity.

P. California Asset Management Program (CAMP)

MAXIMUM MATURITY

Investment maturities shall be based on a review of cash flow forecasts. Maturities will be scheduled so as to permit the City to meet all projected obligations.

Maximum maturity of an authorized investment is limited to five years.

Proceeds of sales or funds set aside for the repayment of any notes (e.g., Tax and Revenue Anticipation Notes) shall not be invested for a term that exceeds the term of the notes.

INELIGIBLE INVESTMENTS

Any security type or structure not specifically approved by this policy is hereby specifically prohibited. Security types which are thereby prohibited include, but are not limited to,

Investment in inverse floaters, range notes, or interest only strips that are derived from a pool of mortgages is prohibited.

Investment in any security that could result in a zero interest accrual if held to maturity is prohibited.

RESTRICTIONS SET BY THE FINANCE DIRECTOR/TREASURER

A. Prior approval of the Finance Director/Treasurer is required for the following transactions, unless the City utilizes the services of an investment advisor registered with the Securities and Exchange Commission in a fiduciary relationship as outlined in this policy.

Sale of securities
Swaps and trades
Purchase of collateralized mortgage obligations (CMO)
Purchase of mortgage-backed obligations
Purchase of corporate notes
Purchase transaction in excess of $3 million

B. The following investments are not deemed appropriate for the City and will not be utilized:

Futures and options
Small Business Administration notes

AUTHORIZED INVESTMENT PERSONNEL

Pursuant to the Government Code, the City Council delegates the authority to invest or to reinvest funds, or to sell or exchange securities so purchased, to the Finance Director/Treasurer for a one-year period. The Finance Director/Treasurer is charged with the responsibility for carrying out the policies of the City Council and shall assume full responsibility for investment transactions until the delegation of authority is revoked or expires.

Idle cash management and investment transactions are the responsibility of the Finance Department, which is under the control of the Finance Director/Treasurer. The Finance Director/Treasurer may designate an individual(s) ["Designee"] to be responsible for the daily management of the City's portfolio of treasury investments. The Designee may also be directed to monitor and forecast the City's cash flows, and prepare periodic investment reports that are submitted to the City Council. The Accounting Division of the Finance Department monitors all treasury transactions and prepares accounting records of all investment transactions as to type of investment, amount, yield, and maturity. No other person has authority to make investment transactions without the written authority of the Finance Director/Treasurer. Pursuant to Government Code chapter 53600, all persons investing monies are trustees and therefore fiduciaries subject to the prudent investor standard. Financial market security transactions will be executed by delivery versus payment and the securities will be held by a third party custodian.

Subject to required procurement procedures, the City may engage the support services of outside professionals in regard to its financial program, so long as it can be demonstrated or anticipated that these services produce a net financial advantage or necessary financial protection of the City's resources.

POLICY REVIEW

The investment policy shall be adopted by resolution of the City Council on, at minimum, an annual basis. This investment policy shall be reviewed at least annually to ensure its consistency with the overall objectives of preservation of principal, liquidity and yield, and its relevance to current law and financial and economic trends. Any amendments to the policy shall be forwarded to City Council for approval.

This policy and the internal controls related to the investment of City funds will be reviewed by the City's independent external auditors as part of their annual audit of the City's financial statements.

APPENDIX A - GLOSSARY

Bankers Acceptances (BAs)
Bankers Acceptance is a time bill of exchange drawn on and accepted by a commercial bank to[1] finance the exchange of goods. When a bank "accepts" such a bill, the time draft becomes, in effect, a predated certified check payable to the bearer at some future specified date. Little risk is involved for the investor because the commercial bank assumes primary liability once the draft is accepted.

California Asset Management Program (CAMP)
CAMP is a Joint Powers Authority ("JPA") designed to assist public agencies with their investment needs through the use of the Cash Reserve Portfolio ("Pool"), which is rated "AAAm" by Standard & Poor's, its highest rating category. The Pool seeks to attain a high level of current income consistent with the preservation of principal.

Certificates of Deposit (CDS)
A certificate of deposit is issued against funds deposited in a commercial bank for a definite period of time and earning a specified rate of return. They are issued in two forms, negotiable and non-negotiable:

A negotiable certificate of deposit may be sold by one holder to another prior to maturity. This is possible because the issuing bank agrees to pay the amount of the deposit, plus earned interest, to the Bearer of the certificate at maturity.

A non-negotiable certificate of deposit is collateralized and is not a money market instrument since it cannot be traded in the secondary market. It is issued on a fixed maturity basis and often pays a higher interest rate than is permissible on other savings or time deposit accounts.

Collateralized Mortgage Obligation (CMO)
A CMO is a pool of mortgages sold as a single investment with interest paid monthly, quarterly, or semi-annually. Mortgage securities pay a higher rate than U.S. Treasury securities due to risk of prepayment and default.

Commercial Paper (CP)
This is a short-term promissory note issued by a corporation to raise working capital. The interest rates tend to be higher than other investments of similar liquidity.

Derivatives
A financial instrument with a value derived from the value of one or more underlying assets or indexes of asset values. The term "derivative products" refers to instruments or features such as collateralized mortgage obligations (CMOs), interest-only (IOs) and principal-only (POs), forwards, futures, currency and interest rate swaps, options, floaters/inverse floaters, and caps/floors/collars.

Federal Agency Securities
Certain agencies created by Congress and sponsored by the federal government issue debt that is considered to be of prime quality and have a very high standing in the bond market. The major federal agencies are described as follows:

Federal National Mortgage Association (FNMA, "Fannie Mae") provides funds to the mortgage market primarily by purchasing loans from local lenders.

Federal Home Loan Mortgage Corporation (FHLMC, "Freddie Mac") purchases conventional mortgages and sells mortgage-backed securities.

Student Loan Marketing Association (SLMA, "Sallie Mae") facilitates that flow of private capital into various federally-guaranteed student loan programs maintained through banks, S&Ls, educational institutions and other participating lenders.

Federal Farm Credit System (FFCB) sells securities to provide mortgage loans and short-term and intermediate-term credit to farmers, ranchers, and agricultural cooperatives.

Federal Home Loan Bank (FHLB) acts as a credit reserve system for the thrift industry to stabilize the flow of funds to member savings and loan and savings banks.

Futures
Exchange traded contracts specifying a future date of delivery or receipt of a specific product (physical commodity or financial instrument). Futures are used by business as a hedge against unfavorable price changes, and by speculators who hope to profit from such changes.

Local Agency Investment Fund (LAIF)
State of California LAIF is designed to provide a convenient and safe means of investing temporarily idle monies by the State Treasurer. LAIF provides high liquidity and generally pays higher yields than can be realized by individual local agencies (for similar maturities) due to economies of scale.

Medium-Term Notes
Issued by corporations (in the form of secured or unsecured debt) for the purpose of raising working capital and purchasing capital assets.

Options
A right to buy (call) or sell (put) a fixed amount of a given stock at a specified price within a limited period of time. The purchaser hopes that the stock's price will go up (if he bought a call) or down (if he bought a put) by an amount sufficient to provide a profit when he sells the option. If the price is static or moves in the opposite direction, the price paid for the option is lost entirely.

Repurchase Agreement
As authorized in Government Code Section 5360i(1), these investment vehicles are (generally

short-term) agreements between the local agency and seller for the purchase of Government securities to be resold at a specific date and for a specific amount.

Reverse Repurchase Agreement

This transaction is the opposite of a repurchase agreement. The dealer buys securities with a contractual agreement to sell them back at a prearranged date. The local agency pays the dealer' interest for the use of the funds. The money "borrowed" on a "reverse repo" can be reinvested in higher yielding instruments.

U.S. Treasury Securities

The highest quality, most liquid debt investments available in the fixed income market-place; unconditionally backed by the "full faith and credit" of the U.S. Government. Treasury bills are short-term instruments (maturity of three months to one year); Treasury notes and bonds are currently issued with maturities of two to ten years.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-076

A RESOLUTION APPROVING AN APPROPRIATION FUND TRANSFER AND AMENDING THE FY 07-08 OPERATIONG BUDGET TO TRANSFER $80,000 FROM MODESTO POLICE DEPARTMENT ASSET FORFEITURE ACCOUNT, IN THE CITY TRUST FUND 8600-3410 TO INFORMATION TECHNOLOGY RESERVE ACOUNT 7130-070-0742-5400 AND $40,000 FROM INFORMATION TECHNOLOGY RESERVE ACCOUNT 7130-800-8000-8003 TO INFORMATION TECHNOLGOY RESERVE ACCOUNT 7130-070-0742-5400 TO FUND THE PREVIOUSLY ADOPOTED COMPUTER AIDED DISPATCH SYSTEM (CAD) FOR PUBLIC SAFETY IN AND AMOUNT NOT TO EXCEED $120,000

WHEREAS, on July 10, 2007, the City Council by Resolution No. 2007-426, authorized the award of proposed contract for an Integrated Public Safety System/Computer Aided Dispatch (CAD) to IPC Command Systems, Inc., and

WHEREAS, a Document Management System (DMS) was identified as an optional component for the Modesto Police Department's Records Management Division, and would be purchased and implemented at a later date, upon funding approval, and

WHEREAS, the Modesto Police Department and the Information Technology Department are now seeking to exercise the option to purchase the DMS for the Integrated Public Safety System, and

WHEREAS, funds have now been identified to exercise this option, and

WHEREAS, $80,000 will be funded from the Modesto Police Department Asset Forfeiture Account, in the City Trust Fund 8600-3410, and

WHEREAS, $40,000 will be funded from the Information Technology Reserve Account 7130-800-8000-8003, and

WHEREAS, the funds will be transferred into the Information Technology Reserve Account 7130-070-0742-5400,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a fund transfer and amends the FY 07-08 Operating Budget to transfer $80,000 from Modesto Police Department Asset Forfeiture Account, in the City Trust Fund 8600-3410 to Information Technology Reserve Account 7130-070-0742-5400 and $40,000 from Information Technology Reserve Account 7130-800-8000-8003 to Information Technology Reserve Account 7130-070-0742-5400 to fund the previously adopted Computer Aided Dispatch System (CAD) for Public Safety.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-077

A RESOLUTION APPROVING THE CREATION OF AN INTERFUND LOAN BETWEEN THE MODESTO POLICE DEPARTMENT ASSET FORFEITURE ACCOUNT, IN THE CITY TRUST FUND, 8600-3410 AND INFORMATION TECHNOLOGY RESERVE ACCOUNT, 7130-800-8000-8003 IN THE AMOUNT OF $40,000 TO REPAID IN FY 08-09 FOR THE PURCHASE OF A DOCUMENT MANAGEMENT SYSTEM (DMS)

WHEREAS, on July 10, 2007, the City Council by Resolution No. 2007-426, authorized the award of proposed contract for an Integrated Public Safety System/Computer Aided Dispatch (CAD) to IPC Command Systems, Inc., and

WHEREAS, a Document Management System (DMS) was identified as an optional component for the Modesto Police Department's Records Management Division, and would be purchased and implemented at a later date, upon funding approval, and

WHEREAS, the Modesto Police Department and the Information Technology Department are now seeking to exercise the option to purchase the DMS for the Integrated Public Safety System, and

WHEREAS, funds have now been identified to exercise this option, and

WHEREAS, $80,000 will be funded from the Modesto Police Department Asset Forfeiture Account, in the City Trust Fund 8600-3410, and

WHEREAS, $40,000 will be funded from the Information Technology Reserve Account 7130-800-8000-8003, and

WHEREAS, the funds will be transferred into the Information Technology Reserve Account 7130-070-0742-5400, and

WHEREAS, the creation of an interfund loan between the Modesto Police Department Asset Forfeiture Account, in the City Trust Fund 8600-3410 and Information Technology Reserve Account, 7130-800-8000-8003 will be established, and

WHEREAS, $40,000 funded from the Information Technology Reserve Account 7130-800-8000-8003 will be repaid with interest for the purchase of a document management system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an interfund loan between the Modesto Police Department Asset Forfeiture Account, in the City Trust Fund 8600-3410 and Information Technology Reserve Account, 7130-800-8000-8003 in the amount of $40,000 to be repaid in FY 08-09 for the purchase of a document management system (DMS).

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-078

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE DEMOLITION OF THE CITY-OWNED BUILDING AT 800 E. MORRIS AVENUE IN MODESTO TO DON LAWLEY COMPANY, INC., STOCKTON, CA, FOR AN ESTIMATED TOTAL COST OF $58,848, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on October 14, 2007, firefighters responded to a fire at the old John Muir School (Modesto Community Service Center) at 800 E. Morris Avenue in T.B. Scott Park. The fire destroyed the building and most of its contents, primarily historical artifacts stored on the second floor, leaving the brick walls and little else, and

WHEREAS, staff immediately addressed the emergency presented by the unstable structure. Fencing was ordered to secure the site at a cost of $1,617 for six months and a security service was put in place at a cost of $12,028 per month. The security service will continue to be on site on 24 hours per day, seven days per week until the walls come down, and

WHEREAS, the City's Risk Manager arranged to have the City's insurance company come out to view the site and take pictures, and MID and PG&E were notified to disconnect their services, and the electrical connections for the irrigation timers at the park were moved, and

WHEREAS, the Chief Building Official for the City stated that the building was not safe to occupy and wrote a letter stating so, and

WHEREAS, staff acquired a partial permit from the Air Quality Board stating that the walls could be knocked down and the brick recycled. Once this process has been completed staff will need to apply for the next phase of the permit and then complete the abatement, and

WHEREAS, a work plan titled "Asbestos Work Plan" was developed to assist the contractor in the process of debris removal, a copy of which is attached as **Exhibit "A"** and incorporated herein by reference, and

WHEREAS, demolition will be a two-step process. First, the brick walls will be taken down in accordance with the work plan. This process is estimated to take two weeks. Once the brick walls have been removed from the site, the fence will be moved in closer to the building and security will be released, and

WHEREAS, since all insurance inspections are completed and bids for the demolition have been obtained, it is now appropriate to move forward with the demolition of the building as described in the attached Asbestos Work Plan, and

WHEREAS, quotes for the demolition of the building were requested from three qualified companies, and as of January 11, 2008, three companies responded as follows:

Don Lawley Company, Inc.	$58,848.00
Modesto Sand and Gravel	$69,137.00
Bowen Engineering and Environmental	$133,000.00

and

WHEREAS, based on being the lowest bidder, staff recommends award of proposal and contract to Don Lawley Company, Inc., Stockton, CA, for a total estimated cost of $58,848, and

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

WHEREAS, the award of proposal and contract for the demolition of the City-owned building at 800 E. Morris Avenue in Modesto to Don Lawley Company, Inc. of Stockton, CA, conforms to the Modesto Municipal Code, and

WHEREAS, Organization 3020 was established in FY 07-08 for the purpose of tracking expenses related to the fire and subsequent related actions, and

WHEREAS, this organization is in Agency 300, which also covers the Parks, Recreation and Neighborhoods Department's Administration, and

WHEREAS, although Organization 3020 has a zero budget, any expenditures will be reimbursed through the insurance settlement,

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 demolition of the City-owned building at 800 E. Morris Avenue in Modesto to Don Lawley Company, Inc., Stockton, CA, for a total estimated cost of $58,848.

BE IT FURTHER RESOLVED that the Interim 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 February, 2008, 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

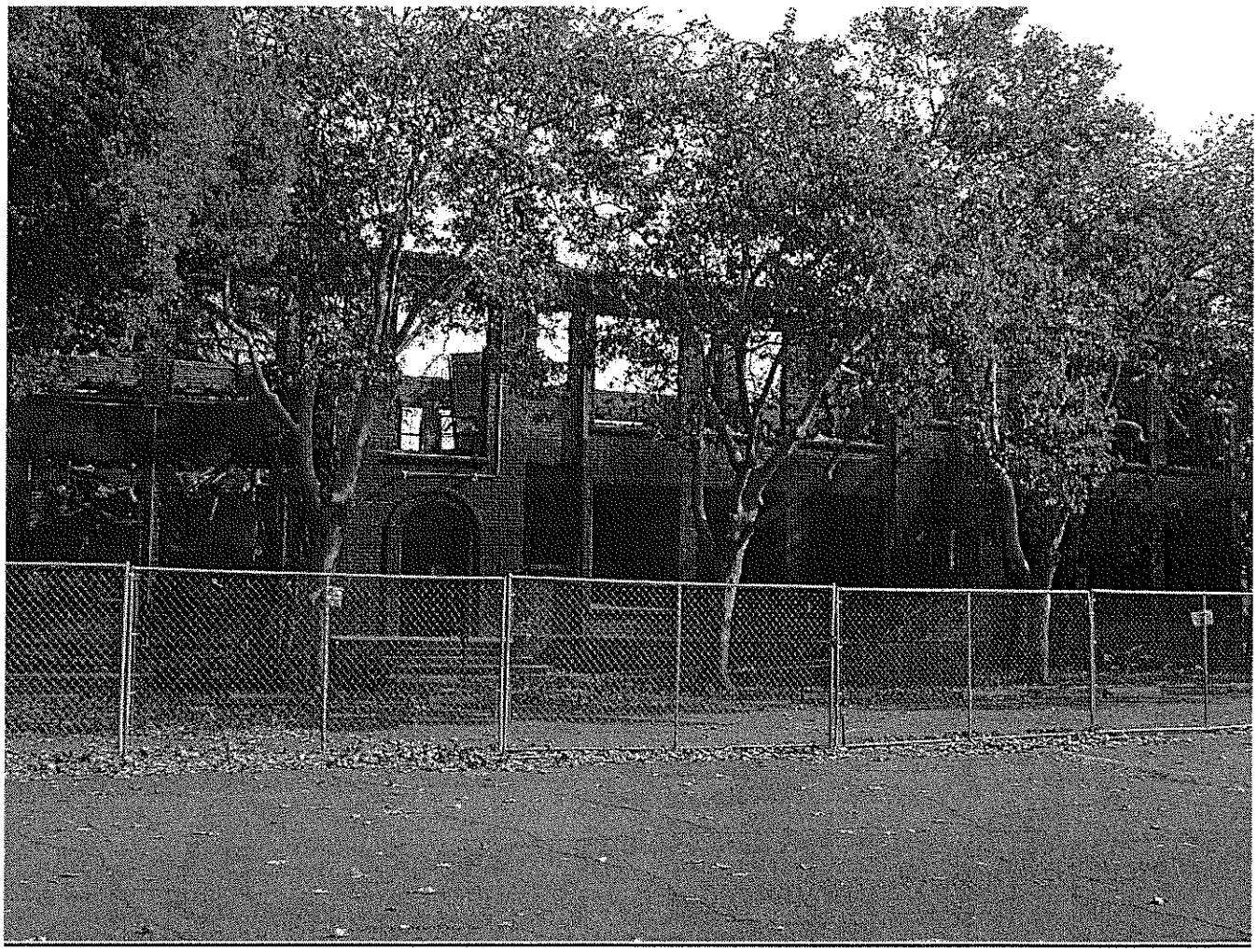
ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

ASBESTOS WORK PLAN

800 East Morris Avenue, Modesto, CA 95350



12/20/07

ASBESTOS WORK PLAN

800 East Morris Avenue, Modesto, CA 95350

This work plan has been prepared by the City of Modesto for the demolition of the structure at 800 East Morris Avenue, Modesto, CA 95350. The attached Asbestos Survey Report confirms or denies the existence of asbestos in suspected building materials that has been impacted by the fire and will be impacted during the demolition of the structure.
Asbestos Survey is a requirement of the United States Environmental Protection Agency (EPA) in the National Emissions Standards for Hazardous Air Pollutants (NESHAP) 40 CFR and the San Joaquin Valley Unified Air Pollution Control District.
A work plan is required by the Division of Occupational Safety (Cal /OSHA) and Federal OSHA.
This work Plan was prepared by a Certified Asbestos Project Designer

PROPERTY DESCRIPTION

The building at 800 East Morris was originally built as a school building in 1923. The City purchased the property in 1953 to be used as a community service building. Since that time the building has been decommissioned and the structure has been used for storage only. The building caught fire on 10/14/07 burning interior walls, ceilings and roof structure. The perimeter unreinforced brick walls and interior walls remained. On 10/15/07 the Chief Building Official of the City of Modesto deemed this building is structurally unsafe and must not be occupied.
The building is a 15,000 square foot two story building built in 1923 built in the style of elementary school buildings of that era. A boiler located in the basement of the structure heated the building. The recent fire has contaminated the fire debris and remaining brick exterior walls with asbestos previously identified in this building.

SCOPE OF WORK

The decontamination of the existing bricks, removing of asbestos contaminated fire debris along with remaining footprint of building in this scope of work will be as follows:

1. Remove contaminated fire debris around the perimeter of structure dispose of debris in approved lined and marked bins.
2. Construct a cofferdam to collect all wash water used in the decontamination of bricks.
3. Filter recovered water using a three-stage filtration system down to 5 microns prior to disposal.
4. Decontaminate bricks with a stream of water washing existing brick walls from top to bottom.
5. Bring down brick walls way from contaminated debris.
6. Clean and stack salvaged bricks on pallets as per agreement with the City. Bricks are to be handled as per NESHAP guidelines.
7. Remove contaminated fire debris and remaining walls of structure.
8. Remove previously identified 9" and 12" VFT remaining tiles as per attached floor plan.
9. Pump out water in basement area and run through three-stage 5-micron filtration system.
10. Remove Boiler and all TSI including piping, gaskets pipe wrap and Aircell material.

11. Remove all concrete foundation and basement, fill with clean soil and compact as per city agreement.

GENERAL REQUIREMENTS

1. Except as amended here or in the scope of work, the attached asbestos general requirements shall be followed.

2. Only qualified contractors and properly trained and certified abatement personnel shall be used to perform the work.

3. All documentation in regards to requirement number two will be presented to the project monitor before commencing the work. This documentation will include but is not necessarily limited to contractor licensing, insurance, training certificates of personnel, current medical certificates for abatement personnel who will be required to wear negative pressure respirators, and a foreman or on-site contractor representative who is trained in the provisions of NESHAP.

4. Contractor will at all time follow all applicable state, federal, and local laws and Regulations pertaining to asbestos abatement and proper disposal of waste materials both hazardous and non-hazardous.

5. The contractor shall provide all necessary equipment, tools, materials, lighting, power labor, water etc. to perform the work.

6. All HEPA equipment to be used on the project must be delivered to the site empty of all debris, clean and free of dust, and in full operating condition. At least one vacuum shall be DOP tested prior to the job in the event that vacuuming inside the building is required.

7. The contractor shall provide worker safety according to all OSHA regulations (Title 8), including use of tie-offs, harnesses, and lanyards. Particular attention shall be given to the placement and securing of accesses (ladders, etc.) to the roof

PRE-ABATEMENT PREPERATION REQUIREMENTS

8. Poly sheeting shall be placed on the ground directly below the work area extending out from the perimeter of the building at least 10 feet. The contractor shall secure the poly to the ground using tape, weights, or other means to secure the poly from being picked up by wind or becoming a tripping hazard.

9. The-perimeter of the building, where removal is to be conducted, shall be posted With barrier tape at a distance of at least 10 feet from the edge of the poly sheathing used around the perimeter of building. This barrier tape will provide a buffer zone, and assist in the restriction of non-abatement personnel at ground level from falling objects.

BINS AND WASTE BIN PREPARATIONS

10. The contractor shall be required to place footing materials of sufficient thickness, strength and size under the casters, footings, and/or runners of waste bin(s) to prevent damage of property surfaces.

11. The contractor is responsible for all damages to Owner's property caused by the delivery, placement, or removed of a waste bin. Damaged property shall be repaired to equal or better condition than was present prior to the activity causing the damage. This section may be amended in the "Scope of Work" for this project.

12. All waste shall be sufficiently wetted with amended water to prevent fiber release. If fiber release cannot be prevented then the chute and bin must he within a negative pressure enclosure.

POSTING AND LABEL REQUIRERMENTS

Regulated Area Entry Points

Access to a regulated area shall be posted as outlined by CAL OSHA Title 8,1529 (k) (7) (B) 1 and 2 with warning signs bearing the following information:

DANGER
ASBESTOS
CANCER AND LUNG DISEASE HAZARD
AUTHORIZED PERSONNEL ONLY
RESPIRATORS AND PROTECIVE CLOTHING ARE
REQUIRED IN THIS AREA

Waste Bin Perimeters

Perimeters of waste bin(s) shall be posted as specified by CAL OSHA Title 8, 1529 (K) (7) (B) 1 and 2 with barrier tape bearing the following information: to warn non-abatement personnel of the restricted access, and the potential hazard which exists in the vicinity of the waste bin(s)

DANGER
ASBESTOS
CANCER AND LUNG DISEASE HAZARD
AUTHORIZED PERSONNEL ONLY
RESPIRATORS AND PROTECIVE CLOTHING ARE
REQUIRED IN THIS AREA

Building Perimeter

Building perimeters shall be posted with barrier tape bearing one of the following descriptions:

a. CAUTION in black letters on a solid yellow background.
b. DANGER in black letters on a solid red background.
c. DANGER ASBESTOS HAZARD in black letters on a solid red background.

WASTE MATERIAL CONTAINERS

Waste Material Containers, including the "burrito wrapped" material, shall have warning labels affixed in accordance with CAL OSHA Title 8,1529 (k) (8) (A-D).

DANGER
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
CANCER AND LUNG DISEASE HAZARD

The owner's Contractor will have a responsible person on site trained in the provisions of NESHAP, during the preparation and demolition of the building. City of Modesto's representative at their option may request to verify the methods used by Contractor to comply with this work plan.

WASTE DISPOSAL AND DOCUMENTATION REQUIREMNTS

The roofing material may be disposed as a non-hazardous waste in a landfill which is permitted to accept non-friable, non-hazardous asbestos roofing material. If the asbestos roofing material is currently friable, or becomes friable during its removal, it shall be disposed of, in a permitted landfill for friable asbestos waste.

It is acceptable to dispose of bagged or sealed roofing waste into 6 mil double lined open topped dumpsters. The contractor shall completely enclose all roofing waste material commonly known as "burrito wrapped" in the dumpster using 6 mil poly. Upon being lowered, unwrapped material shall be transferred to a closed receptacle in such a manner as to preclude the dispersion of dust. In addition to the 6 mil poly, the top of the dumpster shall be completely enclosed with a tarp which is secured to the vehicle for transport or storage on-site if left overnight. The type of material for the tarp shall meet all requirements for transport of hazardous materials.

See attachments A- Floor plan
B- Asbestos Survey Report dated10/24/90 and 3/30/05

Ken Horrillo
Environmental Review Specialist
City of Modesto

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-079

A RESOLUTION AMENDING THE FISCAL YEAR 2007-08 OPERATING BUDGET TO APPROPRIATE $58,848 FROM 0100-800-8000-8003, GENERAL FUND RESERVE TO 0100-300-3020-0235, 800 E. MORRIS DEMOLITION, PROFESSIONAL SERVICES TO FUND THE DEMOLITION OF THE CITY-OWNED BUILDING AT 800 E. MORRIS AVENUE IN MODESTO

WHEREAS, on October 14, 2007, firefighters responded to a fire at the old John Muir School (Modesto Community Service Center) at 800 E. Morris Avenue in T.B. Scott Park. The fire destroyed the building and most of its contents, primarily historical artifacts stored on the second floor, leaving the brick walls and little else, and

WHEREAS, staff immediately addressed the emergency presented by the unstable structure. Fencing was ordered to secure the site at a cost of $1,617 for six months and a security service was put in place at a cost of $12,028 per month. The security service will continue to be on site on 24 hours per day, seven days per week until the walls come down, and

WHEREAS, the City's Risk Manager arranged to have the City's insurance company come out to view the site and take pictures, and MID and PG&E were notified to disconnect their services, and the electrical connections for the irrigation timers at the park were moved, and

WHEREAS, the Chief Building Official for the City stated that the building was not safe to occupy and wrote a letter stating so, and

WHEREAS, staff acquired a partial permit from the Air Quality Board stating that the walls could be knocked down and the brick recycled. Once this process has been completed staff will need to apply for the next phase of the permit and then complete the abatement, and

WHEREAS, a work plan titled "Asbestos Work Plan" was developed to assist the contractor in the process of debris removal, and

WHEREAS, since all insurance inspections are completed and bids for the demolition have been obtained, it is now appropriate to move forward with the demolition of the building as described in the **attached** Asbestos Work Plan, and

WHEREAS, quotes for the demolition of the building were requested from three qualified companies, and as of January 11, 2008, three companies responded as follows:

Don Lawley Company, Inc.	$58,848.00
Modesto Sand and Gravel	$69,137.00
Bowen Engineering and Environmental	$133,000.00

and

WHEREAS, based on being the lowest bidder, staff recommends award of proposal and contract to Don Lawley Company, Inc., Stockton, CA, for a total estimated cost of $58,848, and

WHEREAS, Organization 3020 was established in FY 07-08 for the purpose of tracking expenses related to the fire and subsequent related actions, and

WHEREAS, this organization is in Agency 300, which also covers the Parks, Recreation and Neighborhoods Department's Administration, and

WHEREAS, Organization 3020 has a zero budget, and there is not sufficient funding in place to cover the expenses of the demolition, and

WHEREAS, any expenditures will be reimbursed through the insurance settlement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 07-08 operating budget to appropriate

$58,848 from 0100-800-8000-8003, General Fund Reserve, to 0100-300-3020-0235, 800 E. Morris Demolition, Professional Services, to fund the demolition of the City-owned building at 800 E. Morris Avenue in Modesto.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the steps necessary to implement the budgetary 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 February, 2008 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

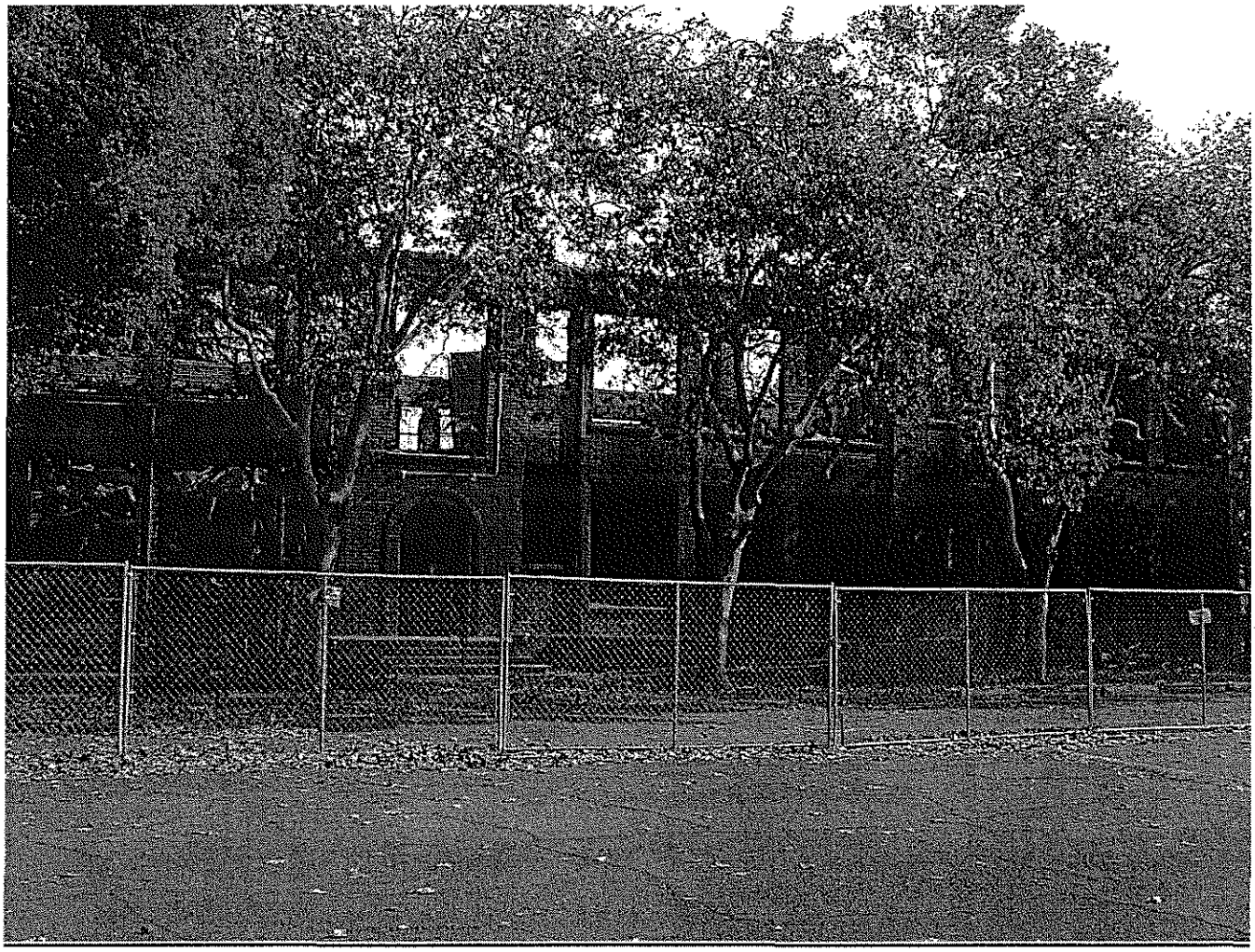
ATTEST: _____
Stephanie Lopez, Acting City Clerk

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

ASBESTOS WORK PLAN

800 East Morris Avenue, Modesto, CA 95350



12/20/07

ASBESTOS WORK PLAN

800 East Morris Avenue, Modesto, CA 95350

This work plan has been prepared by the City of Modesto for the demolition of the structure at 800 East Morris Avenue, Modesto, CA 95350. The attached Asbestos Survey Report confirms or denies the existence of asbestos in suspected building materials that has been impacted by the fire and will be impacted during the demolition of the structure.
Asbestos Survey is a requirement of the United States Environmental Protection Agency (EPA) in the National Emissions Standards for Hazardous Air Pollutants (NESHAP) 40 CFR and the San Joaquin Valley Unified Air Pollution Control District.
A work plan is required by the Division of Occupational Safety (Cal /OSHA) and Federal OSHA.
This work Plan was prepared by a Certified Asbestos Project Designer

PROPERTY DESCRIPTION

The building at 800 East Morris was originally built as a school building in 1923. The City purchased the property in 1953 to be used as a community service building. Since that time the building has been decommissioned and the structure has been used for storage only. The building caught fire on 10/14/07 burning interior walls, ceilings and roof structure. The perimeter unreinforced brick walls and interior walls remained. On 10/15/07 the Chief Building Official of the City of Modesto deemed this building is structurally unsafe and must not be occupied.
The building is a 15,000 square foot two story building built in 1923 built in the style of elementary school buildings of that era. A boiler located in the basement of the structure heated the building. The recent fire has contaminated the fire debris and remaining brick exterior walls with asbestos previously identified in this building.

SCOPE OF WORK

The decontamination of the existing bricks, removing of asbestos contaminated fire debris along with remaining footprint of building in this scope of work will be as follows:

1. Remove contaminated fire debris around the perimeter of structure dispose of debris in approved lined and marked bins.
2. Construct a cofferdam to collect all wash water used in the decontamination of bricks.
3. Filter recovered water using a three-stage filtration system down to 5 microns prior to disposal.
4. Decontaminate bricks with a stream of water washing existing brick walls from top to bottom.
5. Bring down brick walls way from contaminated debris.
6. Clean and stack salvaged bricks on pallets as per agreement with the City. Bricks are to be handled as per NESHAP guidelines.
7. Remove contaminated fire debris and remaining walls of structure.
8. Remove previously identified 9" and 12" VFT remaining tiles as per attached floor plan.
9. Pump out water in basement area and run through three-stage 5-micron filtration system.
10. Remove Boiler and all TSI including piping, gaskets pipe wrap and Aircell material.

11. Remove all concrete foundation and basement, fill with clean soil and compact as per city agreement.

GENERAL REQUIREMENTS

1. Except as amended here or in the scope of work, the attached asbestos general requirements shall be followed.

2. Only qualified contractors and properly trained and certified abatement personnel shall be used to perform the work.

3. All documentation in regards to requirement number two will be presented to the project monitor before commencing the work. This documentation will include but is not necessarily limited to contractor licensing, insurance, training certificates of personnel, current medical certificates for abatement personnel who will be required to wear negative pressure respirators, and a foreman or on-site contractor representative who is trained in the provisions of NESHAP.

4. Contractor will at all time follow all applicable state, federal, and local laws and Regulations pertaining to asbestos abatement and proper disposal of waste materials both hazardous and non-hazardous.

5. The contractor shall provide all necessary equipment, tools, materials, lighting, power labor, water etc. to perform the work.

6. All HEPA equipment to be used on the project must be delivered to the site empty of all debris, clean and free of dust, and in full operating condition. At least one vacuum shall be DOP tested prior to the job in the event that vacuuming inside the building is required.

7. The contractor shall provide worker safety according to all OSHA regulations (Title 8), including use of tie-offs, harnesses, and lanyards. Particular attention shall be given to the placement and securing of accesses (ladders, etc.) to the roof

PRE-ABATEMENT PREPERATION REQUIREMENTS

8. Poly sheeting shall be placed on the ground directly below the work area extending out from the perimeter of the building at least 10 feet. The contractor shall secure the poly to the ground using tape, weights, or other means to secure the poly from being picked up by wind or becoming a tripping hazard.

9. The-perimeter of the building, where removal is to be conducted, shall be posted With barrier tape at a distance of at least 10 feet from the edge of the poly sheathing used around the perimeter of building. This barrier tape will provide a buffer zone, and assist in the restriction of non-abatement personnel at ground level from falling objects.

BINS AND WASTE BIN PREPARATIONS

10. The contractor shall be required to place footing materials of sufficient thickness, strength and size under the casters, footings, and/or runners of waste bin(s) to prevent damage of property surfaces.

11. The contractor is responsible for all damages to Owner's property caused by the delivery, placement, or removed of a waste bin. Damaged property shall be repaired to equal or better condition than was present prior to the activity causing the damage. This section may be amended in the "Scope of Work" for this project.

12. All waste shall be sufficiently wetted with amended water to prevent fiber release. If fiber release cannot be prevented then the chute and bin must he within a negative pressure enclosure.

POSTING AND LABEL REQUIRERMENTS

Regulated Area Entry Points

Access to a regulated area shall be posted as outlined by CAL OSHA Title 8,1529 (k) (7) (B) 1 and 2 with warning signs bearing the following information:

DANGER
ASBESTOS
CANCER AND LUNG DISEASE HAZARD
AUTHORIZED PERSONNEL ONLY
RESPIRATORS AND PROTECIVE CLOTHING ARE
REQUIRED IN THIS AREA

Waste Bin Perimeters

Perimeters of waste bin(s) shall be posted as specified by CAL OSHA Title 8, 1529 (K) (7) (B) 1 and 2 with barrier tape bearing the following information: to warn non-abatement personnel of the restricted access, and the potential hazard which exists in the vicinity of the waste bin(s)

DANGER
ASBESTOS
CANCER AND LUNG DISEASE HAZARD
AUTHORIZED PERSONNEL ONLY
RESPIRATORS AND PROTECIVE CLOTHING ARE
REQUIRED IN THIS AREA

Building Perimeter

Building perimeters shall be posted with barrier tape bearing one of the following descriptions:

a. CAUTION in black letters on a solid yellow background.
b. DANGER in black letters on a solid red background.
c. DANGER ASBESTOS HAZARD in black letters on a solid red background.

WASTE MATERIAL CONTAINERS

Waste Material Containers, including the "burrito wrapped" material, shall have warning labels affixed in accordance with CAL OSHA Title 8,1529 (k) (8) (A-D).

DANGER
CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
CANCER AND LUNG DISEASE HAZARD

The owner's Contractor will have a responsible person on site trained in the provisions of NESHAP, during the preparation and demolition of the building. City of Modesto's representative at their option may request to verify the methods used by Contractor to comply with this work plan.

WASTE DISPOSAL AND DOCUMENTATION REQUIREMNTS

The roofing material may be disposed as a non-hazardous waste in a landfill which is permitted to accept non-friable, non-hazardous asbestos roofing material. If the asbestos roofing material is currently friable, or becomes friable during its removal, it shall be disposed of, in a permitted landfill for friable asbestos waste.

It is acceptable to dispose of bagged or sealed roofing waste into 6 mil double lined open topped dumpsters. The contractor shall completely enclose all roofing waste material commonly known as "burrito wrapped" in the dumpster using 6 mil poly. Upon being lowered, unwrapped material shall be transferred to a closed receptacle in such a manner as to preclude the dispersion of dust. In addition to the 6 mil poly, the top of the dumpster shall be completely enclosed with a tarp which is secured to the vehicle for transport or storage on-site if left overnight. The type of material for the tarp shall meet all requirements for transport of hazardous materials.

See attachments A- Floor plan
B- Asbestos Survey Report dated10/24/90 and 3/30/05

Ken Horrillo
Environmental Review Specialist
City of Modesto

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-080

A RESOLUTION ACCEPTING STAFF REPORT ON IMPLEMENTATION OF THE AFFORDABLE HOUSING POLICY CONSOLIDATING ADMINISTRATION OF HUD FUNDS AND REDEVELOPMENT AGENCY HOUSING SET-ASIDE FUNDS AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO APPROVE A NEW ADMINISTRATIVE ANALYST I/II POSITION IN THE HUD UNIT OF THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT UTILIZING EXISTING EXPENDITURE ALLOCATIONS

WHEREAS, the City of Modesto currently benefits from two funding streams dedicated to the development, acquisition, rehabilitation and preservation of affordable housing, and related services, which are HUD Entitlement Funding and Redevelopment Agency Housing Set-Aside, and

WHEREAS, on November 29, 2007, by Resolution No. 11-2007, the Redevelopment Agency (RDA) approved consolidating the administration of affordable housing funds; assigned administration of these funds to the Parks, Recreation and Neighborhoods Department (PRND) HUD Unit; assigned advisory oversight of funding and projects to the Citizen's Housing and Community Development Committee (CH&CDC); and recommended that the City Council amend the CH&CDC bylaws to add three (3) additional seats to provide representation from the Citizens Redevelopment Advisory Commission, and

WHEREAS, staff's proposed plan to consolidate the administration of affordable housing funds is to assign administration of all affordable housing funds to the PRND to allow the Community and Economic and Development Department (CEDD) staff currently assigned to the RDA to put more emphasis on community economic development, and

WHEREAS, staff's proposed plan to assign administration of the RDA affordable housing funds to the PRND HUD Unit is to assign budget oversight, coordination of affordable housing development, and day-to-day administrative operation duties will be assigned to the

PRND HUD Manager, and to assign monitoring and assurance of program and regulatory compliance, day-to-day interaction with the public, researching of information for development projects and reporting to funding sources to a new Administrative Analyst I/II position, and

WHEREAS, assignment of advisory oversight of funding and projects to the CH&CDC and amendment of the CH&CDC bylaws to add three (3) additional seats to provide representation from the Citizens Redevelopment Advisory Commission are discussed in a separate Council item, and

WHEREAS, the Finance Committee met on October 22, 2007, and supported the consolidation of affordable housing administration, and

WHEREAS, the CH&CDC met on October 26, 2007, and supported the consolidation of affordable housing administration, and

WHEREAS, the Citizens Redevelopment Advisory Commission met on November 7, 2007, and took no action, and

WHEREAS, the Economic Development Committee met on November 14, 2007, and supported the consolidation of affordable housing administration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts the staff report on implementation of the Affordable Housing Policy consolidating administration of HUD funds and Redevelopment Agency Housing Set-Aside funds.

BE IT FURTHER RESOLVED that the Interim City Manager, or his designee, is hereby authorized to approve a new Administrative Analyst I/II position in the HUD Unit of the Parks, Recreation and Neighborhoods Department utilizing existing expenditure allocations.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-081

A RESOLUTION APPROVING A MANAGEMENT AGREEMENT WITH THE STANISLAUS MULTI-CULTURAL COMMUNITY HEALTH COALITION WEST MODESTO/KING-KENNEDY NEIGHBORHOOD COLLABORATIVE (COLLABORATIVE), TO MANAGE AND OPERATE THE KING-KENNEDY MEMORIAL CENTER (KKMC), AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE MANAGEMENT AGREEMENT

WHEREAS, in March 1966, the Westside Neighborhood Center Steering Committee was formed to discuss and address some of the social issues which were occurring on the west side of Modesto, and

WHEREAS, the Westside Neighborhood Center, Inc. (WNCI), a non-profit organization, requested that the City of Modesto file an application with the Federal Housing and Urban Development Department (HUD) for funds to construct a neighborhood center under the Neighborhood Facilities Grant Program, and

WHEREAS, in March 1968, the City of Modesto entered into an agreement with WNCI, which stated that, WNCI would operate and staff the new facility which was designed to carry out a program of health, recreational, social or similar community services, and

WHEREAS, in January 1969, the City and WNCI entered into another agreement, which stated that due to the lack of an anticipated funding source, the WNCI did not have the funding to operate the new facility, and according to the application filed with HUD for the building funds, the City of Modesto made a commitment to operate the neighborhood facility, and

WHEREAS, in May 1969, the name of the community center was changed to the King-Kennedy Memorial Center (KKMC) and a dedication ceremony occurred on June 29, 1969, and

WHEREAS, the City of Modesto dedicates $331,489 annually for the facilities, staffing and programming budget at the KKMC, and

WHEREAS, on May 23, 2006, by Resolution No. 2006-317, the City Council authorized staff from the Parks, Recreation and Neighborhoods Department (PRND) to invite qualified and involved non-profit 501(c) 3 organizations to submit "Letters of Interest" for consideration to enter into a Management Agreement with the City of Modesto to operate the KKMC, and

WHEREAS, in June 2006, a "Request of Interest (RFI)" was sent to non-profit organizations that serve the City of Modesto; only one non-profit organization, the Stanislaus Multi-Cultural Community Health Coalition West Modesto/King-Kennedy Neighborhood Collaborative (Collaborative) responded to the RFI, and

WHEREAS, the Collaborative stated that they were interested in operating the KKMC on a daily basis and working with the City of Modesto to enter into a management agreement regarding the KKMC facility, and

WHEREAS, the Collaborative submitted responses to questions related to the oversight and management of the facility questionnaire; they were reviewed by staff and discussed at the King-Kennedy Board of Directors meeting, and

WHEREAS, the King-Kennedy Board of Directors voted unanimously for City staff to continue to pursue the management agreement concept with the Collaborative, and

WHEREAS, on June 12, 2007, by Resolution No. 2007-339, the City Council authorized staff to enter into negotiations with the Collaborative for a management agreement for the operation of the KKMC, and

WHEREAS, the basic terms of the proposed management agreement are:

- the term of this agreement shall run from January 1, 2008, to December 31, 2017,
- either party may request to reopen the terms of this agreement during the period April 1, 2012, through October 31, 2012,
- either party may request an early termination of this agreement after December 31, 2008; such a request must be made in writing, and must be made a minimum

of four months in advance of the proposed termination date, unless City and Collaborative mutually agree to a lesser time; provided that such written request is timely made, termination shall occur upon the specified termination date,

- the City will schedule regular custodial services at said facility,

- the Collaborative agrees to follow and uphold the Facility Guidelines, as approved by City Council, for daily use and rental use of City-owned facilities, including any regulations or procedures set regarding requirements for security personnel, and enforcement of the "no alcohol policy" for said facility,

- when rental events which are reserved and staffed by the Collaborative produce revenue, the City shall received 20% of said revenue, and the Collaborative will receive 80% of said revenue,

- the City reserved the right to use the premises and facilities for free according to a submitted schedule of annual events and classes, and

WHEREAS, if the KKMC is managed by the Collaborative, the City will be able to re-program staffing and program operating costs of approximately $297,589 to the Maddux Youth Center, the Neighborhood Center at Marshall Park, or other units within the Recreation Division, and

WHEREAS, the City is committed to ensuring that the investment in the KKMC facility infrastructure is maintained to current City standards; therefore, as part of the agreement, the City will continue to support the facility by providing property insurance, custodial and related maintenance functions, at a current cost of approximately $75,000 per year, and

WHEREAS, the Safety and Communities Committee met on November 5, 2007, and supported staff's recommendation to enter into a Management Agreement with the Collaborative,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a Management Agreement with the Stanislaus Multi-Cultural Community Health Coalition West Modesto/King-Kennedy Neighborhood Collaborative

(Collaborative) for the management and operation of the King-Kennedy Memorial Center (KKMC).

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-082

A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008 ANNUAL OPERATING BUDGET TO RE-ALLOCATE FULL-TIME AND PART-TIME STAFFING AND OPERATING COSTS OF APPROXIMATELY $55,744 TO THE MADDUX YOUTH CENTER AND APPROXIMATELY $22,527 TO THE NEIGHBORHOOD CENTER AT MARSHALL PARK

WHEREAS, the City of Modesto operates the King-Kennedy Memorial Center and allocates $297,589 from the General Fund annually for the facilities, staffing and programming budget at the KKMC, and

WHEREAS, on May 23, 2006, by Resolution No. 2006-317, the City Council authorized staff from the Parks, Recreation and Neighborhoods Department (PRND) to invite qualified and involved non-profit 501(c) 3 organizations to submit "Letters of Interest" for consideration to enter into a Management Agreement with the City of Modesto to operate the KKMC, and

WHEREAS, the Stanislaus Multi-Cultural Community Health Coalition West Modesto/King-Kennedy Neighborhood Collaborative (Collaborative) responded, and

WHEREAS, the Collaborative stated that they were interested in operating the KKMC on a daily basis and working with the City of Modesto to enter into a management agreement regarding the KKMC facility, and

WHEREAS, on June 12, 2007, by Resolution No. 2007-339, the City Council authorized staff to enter into negotiations with the Collaborative for a management agreement for the operation of the KKMC, and

WHEREAS, if the KKMC is managed by the Collaborative, the City will be able to re-program staffing and program operating costs of approximately $55,744 to the Maddux Youth Center and approximately $22,527 to the Neighborhood Center at Marshall Park, or other units within the Recreation Division, and

WHEREAS, the City is committed to ensuring that the investment in the KKMC facility infrastructure is maintained to current City standards, as part of the agreement, and the City will continue to support the facility by providing property insurance, custodial and related maintenance functions, at a current cost of approximately $75,000 per year, and

WHEREAS, the Safety and Communities Committee met on November 5, 2007, and supported staff's recommendation to enter into a Management Agreement with the Collaborative,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 2007-2008 Annual Operating Budget to re-allocate full-time and part-time staffing and operating costs of approximately $55,744 to the Maddux Youth Center and approximately $22,527 to the Neighborhood Center at Marshall Park, as estimated in 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 5th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-083

A RESOLUTION AMENDING THE CITY OF MODESTO CITIZEN PARTICIPATION PLAN (CPP) TO INCREASE THE CITIZENS HOUSING & COMMUNITY DEVELOPMENT COMMITTEE (CH&CDC) MEMBERSHIP TO THIRTEEN (13) MEMBERS AND TO APPOINT THREE MEMBERS FROM THE CITIZEN REDEVELOPMENT ADVISORY COMMISSION (CRAC) AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO SUBMIT THE AMENDED CPP TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

WHEREAS, the City of Modesto receives several Federal grants from the U.S. Department of Housing and Urban Development (HUD), and

WHEREAS, HUD requires jurisdictions receiving funds to publish a Citizen Participation Plan (CPP), and

WHEREAS, the Ppan must set forth the jurisdiction's policies and procedures for citizen participation as stated in 24 CFR 91.105, and

WHEREAS, the purpose of the plan is to encourage citizen participation, and

WHEREAS, the CPP must provide for and encourage citizens to participate in the development of: the Consolidated Plan; the Annual Action Plan; any substantial amendments to the Consolidated or Annual Action Plan; and the Consolidated Annual Performance Evaluation Report (CAPER), and

WHEREAS, on September 13, 2005, by Resolution No. 2005-469 the City Council approved the CPP to ensure compliance with HUD regulations, and

WHEREAS, on November 29, 2007 by Resolution No. 11-2007, the Modesto Redevelopment Agency recommended that the bylaws of the Citizens Housing & Community Development Committee (CH&CDC) be amended to update the membership to thirteen (13) members, and to reflect that three of the seats provide representation from the Citizen Redevelopment Advisory Commission (CRAC), and

WHEREAS, the CPP serves as the bylaws for the CH&CDC, and

WHEREAS, the CPP was made available for public review and comment from January 14, 2008, through February 5, 2008, and

WHEREAS, all public comments, and staff responses to these comments, must be presented to the City Council for review and approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the amended Citizen Participation Plan update the membership to thirteen (13) members, and to reflect that three of the seats provide representation from the Citizen Redevelopment Advisory Commission (CRAC), a copy of which is on file in the office of the City Clerk.

BE IT FURTHER RESOLVED that the Interim City Manager, or his designee, is hereby authorized to submit the amended CPP 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 5th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-084

A RESOLUTION APPROVING AN AGREEMENT FOR THE PURCHASE OF RETIRED CITY OF MODESTO POLICE CANINE BY ITS HANDLER, OFFICER LETSINGER, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT WITH THE OFFICER FOR PURCHASE OF HIS POLICE CANINE

WHEREAS, the Police Chief for the City of Modesto, from time to time, officially retires police canines from departmental service, and

WHEREAS, City of Modesto police canine handler, Officer Letsinger, wishes to purchase and assume possession of his assigned canine, Oden, 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 the agreement with Officer Letsinger for the purchase of his retired police canine, Oden, in the amount of One Dollar ($1.00) 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 Interim City Manager, or his designee, is hereby authorized to execute said contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of February, 2008, 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, Acting 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 19 day of DEC., 2007, by and between the City of Modesto, a municipal corporation of the State of California, hereinafter referred to as "CITY", and Derrick Letsinger, canine handler for the Modesto Police Department, hereinafter referred to as "HANDLER".

Facts:

Canine "Oden" has been with the Modesto Police Department since April of 2003. "Oden" has served the city for almost 5 years. "Oden" was born on May 18, 2001 and will be seven years old in May of 2008. "Oden" has had a long and distinguished career as a police narcotic dog. "Oden" has reached an age where his health has begun to decline and he has developed a lower back problem. His ability to continue to do police work at an acceptable level can no longer be achieved and it is my recommendation he 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 "Oden". *HANDLER* was previously the assigned canine handler for "Oden".

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 "Oden", 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 12 · 19 __, 2007.

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 "Oden" for at least eighteen (18) months prior to any sale of the aforementioned retired police canine.

4. The retired police canine "Oden" 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. 08-____ adopted by the City Council of the City of Modesto on the ? day of ? 2008.

CITY OF MODESTO

_____
JAMES E. NISKANEN, Interim City Manager

NEW OWNER

_____
DERRICK LETSINGER, Handler

ATTEST:

By_____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-085

A RESOLUTION ACCEPTING THE WORK BY SKYLINES ROOFING FOR THE PROJECT TITLED "KING KENNEDY MEMORIAL CENTER ROOF REPLACEMENT" AS COMPLETE, AUTHORIZING THE ACTING CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIOD, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $49,624.50.

WHEREAS, a report has been filed by the Public Works Director that the project titled "King-Kennedy Memorial Center Roof Replacement" has been completed by Skylines Roofing in accordance with the contract agreement dated September 11, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "King-Kennedy Memorial Center Roof Replacement" is hereby accepted as complete from said contractor Skylines Roofing, that the Acting City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and to release securities upon expiration of statutory period, and that payment of amounts totaling $49,624.50 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 5th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-086

A RESOLUTION ACCEPTING THE WORK BY ODYSSEY LANDSCAPE CO., INC. FOR THE PROJECT TITLED "9TH STREET BRIDGE RIPARIAN REVEGETATION" AS COMPLETE, AUTHORIZING THE ACTING CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIOD, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $47,915.00.

WHEREAS, a report has been filed by the Public Works Director that the project titled "9th Street Bridge Riparian Revegetation" has been completed by Odyssey Landscape, Co., Inc. in accordance with the contract agreement dated July 3, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "9th Street Bridge Riparian Revegetation" is hereby accepted as complete from said contractor Odyssey Landscape, Co., Inc., that the Acting City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and to release securities upon expiration of statutory period, and that payment of amounts totaling $47,915.00 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 5th day of February, 2008, 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, Acting City Clerk
(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-087

A RESOLUTION APPROVING AN AGREEMENT WITH FINANCIAL CONSULTING SOLUTIONS GROUP, INC. (FCS GROUP) TO CONDUCT AN UPDATED WATER RATE AND CAPACITY CHARGE STUDY IN THE NOT-TO EXCEED AMOUNT OF $138,440 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $13,844 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A MAXIMUM TOTAL AMOUNT OF $152,284, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, the City Council, on 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, and

WHEREAS, the City Council, on 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, which among other things, establishing the criteria to reevaluate the capacity charges every three years, and

WHEREAS, the 2004 utility rate and 2005 capacity charge updates reflect the proportional fair share cost allocation between the existing rate payers and future users for system wide improvements (identified at that time) needed to provide and maintain reliable water service to existing and future customers, and

WHEREAS, due to the anticipated new water supply projects, services and revised water improvement costs estimates, the current rate structure in water does not adequately fund operating expenditures, capital improvement and maintenance needs, or issuance of bonds and debt service needs, and

WHEREAS, the City Council, on October 23, 2007, by Resolution No. 2007-614, approved an Agreement with West Yost Associates, Inc. for professional services to develop an updated Engineer's Report for a Water Rate and Connection Fee Update Study, and

WHEREAS, the purpose of the study is to ensure rates accurately reflect the cost to provide the services, including rehabilitation of our aging water facilities and ensure a continued safe and reliable water supply for the community, and

WHEREAS, a key item to developing an updated Water System Engineer's Report and the Water Rate and Capacity Charge Study (Study) will be the evaluation of the feasibility of the City's continued participation in the Turlock Irrigation District's (TID) Regional Surface Water Supply Project (RSWSP), and

WHEREAS, the updated Engineer's Report will present the proposed improvements needed to provide and maintain reliable water service to existing and future customers (over both a 5-year and 20-year horizon), their associated cost estimates, and their allocations (existing rate payers vs. future users) under two separate, but parallel analyses; the first will be with full participation by the City in TID's RSWSP, and the second without participation by the City, and

WHEREAS, the Water Rate and Capacity Charge Study will provide a similar analysis for both "with-TID" and "without-TID" scenarios, and

WHEREAS, the City Council, on May 23, 2006, by Resolution No. 2006-303, approved a list of qualified utility rate professionals to assist the City with Utility User Fee and Connection Fee Studies, as well as Peer Reviews for a period of five (5) years, and

WHEREAS, on December 14, 2007, Request for Proposals (RFPs) were distributed to three (3) of the listed firms, and

WHEREAS, consultant interviews were held on January 11, 2008, and Financial Consulting Solutions Group, Inc. (FCS Group) was deemed the most qualified firm to prepare the City's updated Water Rate and Capacity Charge Study, and

WHEREAS, FCS Group will provide an analysis to determine what proportionate amount of any rate increase can be attributed to various cost factors, such as the cost of new water supplies. Another firm from the approved list will be selected at a later date to peer review FCS Group's work prior to completion of the project, and

WHEREAS, the City does not have the staffing level or expertise to prepare an updated Water Rate and Capacity Charge in-house, and

WHEREAS, using professional consulting services will enable this work to be completed on an expedited schedule and will allow all CEQA work and a Proposition 218 process to be completed prior to the November 1, 2008 decision deadline for the City's continued participation with the TID RSWSP, and

WHEREAS, FCS Group is on the City's pre-qualified list for providing water rate and capacity charge study services, they have a clear understanding of the City's challenges, they can complete this task in the short time frame available, and City staff is familiar with the high quality of their work, therefore, it was considered by City staff to be appropriate for FCS Group to perform the required water rate and capacity charge study in an amount not to exceed $152,284,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Financial Consulting Solutions Group, Inc.

(FCS Group) to conduct an updated Water Rate and Capacity Charge Study for a not-to-exceed amount of $152,284.

BE IT FURTHER RESOLVED that the Interim 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 February, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Mayor Ridenour was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-088

A RESOLUTION AMENDING THE FY 07-08 OPERATING BUDGET BY APPROVING A TRANSFER OF FUNDS IN THE AMOUNT OF $152,284 FROM ACCOUNT 6100-800-8000-8003 "WATER FUND-RESERVES" TO OPERATING ACCOUNT 6100-440-5015-0235 "CAPITAL PLANNING" IN ORDER TO FULLY FUND THE AGREEMENT WITH FINANCIAL CONSULTING SOLUTIONS GROUP, INC. (FCS GROUP) TO CONDUCT AN UPDATED WATER RATE AND CAPACITY CHARGE STUDY.

WHEREAS, certain budgetary transactions are necessary to fully fund the agreement with Financial Consulting Solutions Group, Inc. (FCS Group) in the amount of $152,284, to conduct an updated Water Rate and Capacity Charge Study, and

WHEREAS, to fully fund the agreement to conduct an updated Water Rate and Capacity Charge Study in the not-to exceed amount of $138,440 for the identified scope of services, plus $13,844 for additional services (if needed) for a maximum total amount of $152,284, the current operating budget must be amended by transferring $152,284 from Account 6100-800-8000-8003 "Water Fund-Reserves" to Operating Account 6100-440-5015-0235 "Capital Planning" to perform the required services to complete the updated Water Rate and Capacity Charge Study,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds as set forth herein to fully fund the agreement with FCS Group to perform the required services to complete the updated Water Rate and Capacity Charge Study.

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 February, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Mayor Ridenour, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-089

A RESOLUTION AMENDING THE WASTEWATER FUND OPERATING BUDGET FOR FISCAL YEAR 2007/2008 TO APPROPRIATE $525,714 TO (A) ENHANCE SECURITY STAFFING AT THE PRIMARY PLANT ($13,000); (B) ALLOCATE ONE (1) INSTRUMENT REPAIR TECHNICIAN, ONE (1) ELECTRICIAN, ONE (1) PLANT MECHANIC, AND ONE (1) ADMINISTRATIVE OFFICE ASSISTANT III TO OPERATE AND MAINTAIN DISSOLVED AIR FLOTATION AND TERTIARY TREATMENT AT THE SECONDARY PLANT ($210,829); (C) ALLOCATE EIGHT (8) WASTEWATER COLLECTION SYSTEMS OPERATORS FOR FURTHER IMPLEMENTATION OF THE GAP ANALYSIS RECOMMENDATIONS FOR WDR COMPLIANCE ($301,885); AND AUTHORIZING THE TRANSFER OF FUNDS IN THE AMOUNT OF $525,714 FROM WASTEWATER FUND RESERVES TO FUND THESE SUPPLEMENTAL REQUESTS.

WHEREAS, the Sutter Avenue Primary Treatment Plant will begin a security upgrade project in January, 2008, and

WHEREAS, these security upgrades are intended to more closely monitor authorized access and to secure the Primary Treatment Plant from unauthorized access, and

WHEREAS, the upgrades will require the placement of a hired security staff at the entry gate on a 24-hour basis, which increases the current security staffing from only evenings, weekends, and holidays, and

WHEREAS, funds are available in Wastewater Fund Reserves to fund the $13,000 for the remainder of FY 2007/08 and $26,000 annually thereafter, and

WHEREAS, in early 2007, the Jennings Secondary Treatment Plant started construction of a Dissolve Air Flotation (DAF) System, with a total project cost of approximately $7 million, and

WHEREAS, the project is expected to be completed in early 2008, and

WHEREAS, the DAF System project will be followed later in 2008 by Phase I of a new Tertiary Treatment Facility at an estimated cost of $18 million, and

WHEREAS, these new additions to the Jennings site will require the additional staffing of one (1) instrument repair technician, one (1) electrician, one (1) plant mechanic, for proper operation and maintenance, and

WHEREAS, it is important that these technical positions be on staff during construction and start-up to ensure a successful implementation, and

WHEREAS, one (1) Administrative Office Assistant III is also a necessary addition to assist in the added workload generated by these facilities and to provide general administrative support to the Chief Plant Operator, and

WHEREAS, funds are available in Wastewater Fund Reserves to fund the $210,829 for the remainder of FY 2007/08 and $303,858 annually thereafter, and

WHEREAS, the State Water Resources Control Board recently adopted statewide General Waste Discharge Requirements (WDR) for sanitary sewer systems, which include new directives for Wastewater Collections, and

WHEREAS, a Gap Analysis was developed to help identify steps needed to comply with the new WDR, and was approved by City Council, by Resolution 2007-460, on July 24, 2007 as the City's Sanitary Sewer Management Plan (SSMP), and

WHEREAS, the SSMP prescribes specific milestones that relate to compliance with the WDR, and

WHEREAS, Council has since approved two of the 14 recommendations in the Gap Analysis (GIS Based Block Book Map – Resolution 2007-595 and Computerized Maintenance Management System – Resolution 2007-563), and

WHEREAS, staff is now proposing to move forward with the Gap Analysis recommendations for a Proactive Maintenance Program and a second Closed Circuit Television crew, and

WHEREAS, additional staffing of eight (8) Wastewater Collection System Operators are necessary to implement the above Gap Analysis recommendations, and

WHEREAS, funds are available in Wastewater Fund Reserves to fund the $301,885 for the remainder of FY 2007/08 and $603,227 annually thereafter,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the Wastewater Fund Operating Budget for Fiscal Year 2007/2008 to appropriate $525,714 to (a) enhance security staffing at the Primary Plant ($13,000); (b) allocate one (1) Instrument Repair Technician, one (1) Electrician, one (1) Plant Mechanic, and one (1) Administrative Office Assistant III to operate and maintain Dissolved Air Flotation and Tertiary Treatment at the Secondary Plant ($210,829); and (c) allocate eight (8) Wastewater Collection Systems Operators for further implementation of the Gap Analysis recommendations for WDR compliance ($301,885).

BE IT FURTHER RESOLVED that the City Council hereby authorizes the transfer of funds in the amount of $525,714 from Wastewater Fund Reserves to fund these supplemental requests.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-090

A RESOLUTION AMENDING THE WATER FUND OPERATING BUDGET FOR FISCAL YEAR 2007/2008 TO APPROPRIATE $291,244 TO (A) REPLACE LARGE WATER METERS ($143,560); (B) ALLOCATE TWO (2) WATER DISTRIBUTION OPERATORS AND TWO (2) 1000-HOUR EMPLOYEES TO IMPLEMENT A VALVE TURNING PROGRAM ($76,627); (C) ALLOCATE ONE (1) ASSOCIATE CIVIL ENGINEER TO PERFORM HYDRAULIC MODELING ($83,046); AND AUTHORIZING THE TRANSFER OF FUNDS IN THE AMOUNT OF $291,244 FROM WATER FUND RESERVES TO FUND THESE SUPPLEMENTAL REQUESTS.

WHEREAS, large commercial and industrial water meters (3" and up) operate continuously and have a shorter useful life than residential meters, and

WHEREAS, as a meter begins to deteriorate, so does its ability to accurately measure water usage, which ultimately results in lost revenue, and

WHEREAS, there is currently a backlog of 156 large meters needing replacement and they are typically replaced on a ten-year cycle, and

WHEREAS, staff has determined that these 156 meters are at least 15-20 years old, and an ongoing program is needed to ensure that funding is available to replace these meters as soon as they begin to show signs of failure to prevent lost revenue, and

WHEREAS, funds are available in Water Fund Reserves to fund the $143,560 for the remainder of FY 2007/08 and $287,120 annually thereafter, and

WHEREAS, prior to 2001 Water Operations established and maintained an ongoing Valve Turning Program, and

WHEREAS, due to increased costs and budget reductions over time, discretionary budget appropriations have not been sufficient to cover the costs of continuing this program on a regular cycle, and

WHEREAS, valve turning performed on a regular cycle is necessary to keep valves operational and in good working order; otherwise corrosion sets in and valves become stiff, difficult to turn, and tend to break more easily, and

WHEREAS, currently valve turning is performed as time allows, which translates into full cycle valve turning occurring every five to ten years instead of the industry standard of every two to three years, and

WHEREAS, staff is recommending implementing a valve turning program with a three-year cycle, and

WHEREAS, the addition of two (2) Water Distribution Operators and two (2) 1000-hour employees are necessary for program implementation, and

WHEREAS, funds are available in Water Fund Reserves to fund the $76,627 for the remainder of FY 2007/08 and $153,254 annually thereafter, and

WHEREAS, currently, there is not sufficient staff to perform hydraulic modeling, and therefore the City of Modesto relies on consultant services, and

WHEREAS, having an in-house Associate Civil Engineer to perform hydraulic modeling would allow staff to be more responsive to minor development proposals and aid engineering and operations staff in evaluating minor changes to the water and sewer systems, and

WHEREAS, funds are available in Water Fund Reserves to fund the $83,046 for the remainder of FY 2007/08 (includes annual training, computer purchase, software upgrade, and office modifications) and $133,092 annually thereafter,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the Water Fund Operating Budget for Fiscal Year 2007/2008 to appropriate $291,244 to (a) replace large water meters ($143,560); (b) allocate two (2) Water Distribution Operators and two (2) 1000-hour employees to implement a valve turning program,

($76,627); and (c) allocate one (1) Associate Civil Engineer to perform hydraulic modeling ($83,046).

BE IT FURTHER RESOLVED that the City Council hereby authorizes the transfer of funds in the amount of $291,244 from Water Fund Reserves to fund these supplemental requests.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-091

A RESOLUTION AMENDING THE CIP SUPPORT FUND OPERATING BUDGET FOR FISCAL YEAR 2007/2008 TO APPROPRIATE $267,478 TO ALLOCATE THREE (3) POSITIONS (ASSOCIATE CIVIL ENGINEER, SR. ADMINISTRATIVE OFFICE ASSISTANT, AND CONSTRUCTION INSPECTOR) IN ORGANIZATION 4212 – CONSTRUCTION ADMINISTRATION, AND ALLOCATE ONE (1) NEW POSITION (PROPERTY AGENT) IN ORGANIZATION 4112 – ENGINEERING DESIGN FOR THE CAPITAL IMPROVEMENT PROGRAM; AND INCREASING REVENUE AND OFFSETTING EXPENSES IN THE AMOUNT OF $201,740 IN ORGANIZATION 0300-420-4212 (CONSTRUCTION ADMINISTRATION; AND INCREASING REVENUE AND OFFSETTING EXPENSES IN THE AMOUNT OF $64,738 IN ORGANIZATION 0300-410-4112 (ENGINEERING DESIGN) TO FUND THESE SUPPLEMENTAL REQUESTS.

WHEREAS, recent approval of major capital improvement programs (CIP) in water and wastewater, in addition to existing programs in other areas, has created a peak workload issue in the Public Works Construction Administration Office, and

WHEREAS, the estimated construction value of work in the proposed CIP will reach an unprecedented peak over the next three years, and

WHEREAS, the proposed workload for FY 2008 through 2010 will represent an average annual workload that is approximately five times the five-year historical average for the Construction Administration Office , and

WHEREAS, the estimated workload then levels off in FY 2011 through 2017 to a level that is approximately 60% above the five-year historical average, and

WHEREAS, while a major portion of the workload demand can be met with the use of construction management firms, this level of workload outstrips staff's ability to effectively manage and support these construction management firms, and

WHEREAS, the addition of three new positions (Associate Civil Engineer, Sr. Administrative Office Assistant, and Construction Inspector) represent a staff that can effectively manage and support construction management firms, and perform construction management for a CIP workload that corresponds to the estimated CIP program in FY 2011 through 2017, and

WHEREAS, these three new positions will be fully funded through the Capital Improvement Program, and

WHEREAS, the addition of an in-house property agent would free up many hours of engineering staff time, which would allow them to dedicate additional hours to managing the design contracts, and

WHEREAS, the City had a Property Agent for 20 years, until retirement in 2001 left the position unfilled, and staff has had to rely on consultant services, and

WHEREAS, this in-house property agent position will negotiate agreements for the acquisition and purchase of real property for the City, secure right-of-way, easements and lease, manage real property owned by the City, and provide relocation services for individuals displaced by land acquisition, and

WHEREAS, the new position of property agent will be fully funded through the Capital Improvement Program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the CIP Support Fund Operating Budget for Fiscal Year 2007/2008 to appropriate $267,478 to allocate three (3) positions (Associate Civil Engineer, Sr. Administrative Office Assistant, and Construction Inspector in Organization 4212 Construction Administration, and allocate one (1) new position (Property Agent) in Organization 4112 – Engineering Design for the Capital Improvement Program.

BE IT FURTHER RESOLVED that the City Council hereby authorizes increasing revenue and offsetting expenses in the amount of $201,470 in Organization 0300-420-4212 (Construction Administration).

BE IT FURTHER RESOLVED that the Council hereby authorizes increasing revenue and offsetting expenses in the amount of $65,738 in Organization 0300-410-4112 (Engineering Design).

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-092

A RESOLUTION GRANTING THE APPEAL OF ACME CONSTRUCTION FOR CAPITAL FACILITIES FEES PAID IN PROTEST AT THE BUSINESS PARK-MANUFACTURING RATE FOR THE CONSTRUCTION OF A 3,300 SQUARE FOOT WAREHOUSE BUILDING LOCATED AT 1565 CUMMINS DRIVE AND APPROVING AN ADJUSTMENT OF CAPITAL FACILITIES FEES TO THE INDUSTRIAL-WAREHOUSE RATE

WHEREAS, on January 24, 2006, the Modesto City Council adopted Resolution No. 2006-061 updating its Capital Facilities Fee (CFF) program for the establishment and collection of fees for future capital facilities, and

WHEREAS, Resolution No. 2006-061 ("CFF Policies and Procedures) defines the categories of uses and rates on which the fees will be collected, and

WHEREAS, on March 13, 2007, the Modesto City Council adopted Resolution No. 2007-180 amending the City's CFF Policies and Procedures, and

WHEREAS, the categories identified in the CFF program include a broad range of uses based on square footage to ensure that each use pays its share of the CFF based on the anticipated impacts of the development, and

WHEREAS, per the City's CFF Policies and Procedures, it is policy for Building Inspection to calculate the fee based on the type of permit being issued and the definition of the fee that relates to that type of use, and

WHEREAS, on September 11, 2007, Acme Construction ("Applicant") was charged the Business Park Industrial rate of $4.978 per square foot for CFF for the construction of a 3,300 square foot building located at 1565 Cummins Drive, and

WHEREAS, Applicant paid the CFF in protest indicating they should have been charged the Industrial-Warehouse rate of $3.202 per square foot, and

WHEREAS, on October 4, 2007, Acme Construction was notified by letter from the City's Infrastructure Financing Program Administrative Officer, that the CFF charged for that project was based on the location of said project being in a city-designated Business Park, and

WHEREAS, by letter dated October 25, 2007, Applicant filed an appeal to the decision of the Infrastructure Financing Program Administrative Officer for the CFF charged on the building located at 1565 Cummins Drive, and

WHEREAS, by an agenda report to the City Council from the Community and Economic Development Director dated January 14, 2008, City staff recommended the appeal of Acme Construction be granted, and

WHEREAS, said appeal was set for a duly noticed public hearing to be held on November 25, 2007, and at the request of Applicant was continued to February 5, 2008 at 5:30 p.m. before the City Council at its regular meeting place in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, at which date and time evidence both oral and documentary was received and considered, and

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto, that it hereby makes the following findings:

1. The City Council has reviewed Acme Construction's request and has determined that the incremental difference in the CFF rate between Business Park Manufacturing and Industrial Warehouse is unnecessary.

2. Said appeal is approved as recommended because this use is deemed Industrial-Warehouse and not Business Park Manufacturing and the incremental difference based on associated impacts is to be hereby refunded.

BE IT FURTHER RESOLVED by the Council of the City of Modesto it hereby approves the appeal of Acme Construction regarding and adjustment of Capital Facilities Fees for Industrial-Warehouse.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-093

A RESOLUTION ACCEPTING THE MODESTO SISTER CITIES INTERNATIONAL (MSCI) ANNUAL REPORT, APPROVING A FOURTH AMENDMENT TO AGREEMENT TO REDUCE THE CITY'S FY 08-09 CONTRIBUTION TO MSCI BY 3% ($853), AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, Modesto Sister Cities International (MSCI) is a volunteer organization dedicated to the promotion of international cultural and social relations, education, and commerce in order to foster mutual understanding, goodwill, and the opportunity for services in the human interest, and

WHEREAS, MSCI coordinates and administers Sister City activities on behalf of the City of Modesto, and

WHEREAS, the MSCI Annual Report is presented to inform and advise the Modesto City Council regarding the status of Sister City activities, and

WHEREAS, when staff was informed that General Fund budget organizations were expected to make a 3% reduction in their FY 08-09 expenditures, MSCI was contacted and asked to accept a voluntary reduction of 3% in the City's contribution to MSCI, and

WHEREAS, their agreement does not require them to agree, and provides for a 1-year notice to changes, however, MSCI recognizes the City's budget situation and has graciously agreed to accept a contribution of $27,587 for FY 08-09, which is $583 less than what they received for FY 07-08, and

WHEREAS, if budget cuts above 3% are required, staff will either reduce other areas in the department's General Fund budget or will ask MSCI to consider further reductions

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts the Modesto Sister Cities International (MSCI) Annual Report, a copy of which is **attached** hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that the Council hereby approves a Fourth Amendment to Agreement to reduce the City's FY 08-09 contribution to MSCI by 3% ($853).

BE IT FURTHER RESOLVED that the Interim 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 12th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Modesto Sister Cites International
Statement of Goals and Events for 2008

Board Goals

- Focus the organization's program
- Support the goals of each city committee
- Promote/support board projects
- Increase volunteerism and involvement

Dedication of time

- Traveling to and from our sister cities
- Driving to and from airports to receive or send off delegates
- Home-staying delegates
- Planning and hosting receptions
- Chaperoning youth exchange students on their trips and activities
- Recruiting local businesses to set up meetings, internships, exchanges and tours
- Negotiating by letter, telephone, email, or fax with counterparts to plan, maintain, and implement programs

MSCI BUDGET FOR 2007

Income

City Grant, F.Y.06-07	$20,440.00
Membership	3,600.00
Fundraiser	3,500.00
Interest	1,500.00
Mengzi Guardianship	5,000.00
Total	**$34,040.00**

Expenses

Insurance	$3,200.00
Administrative	15,970.00
Vernon	3,000.00
Aguascalientes	2,500.00
Vijayawada	2,500.00
Khmelnitsky	3,000.00
Kurume	5,000.00
Laval	1,000.00
Mengzi	4,800.00
Fundraiser	500.00
Total	**$41,470.00**

Total Expenses	**$34,040.00**
Total Income	**$41,470.00**
Amount for reserve	**$7,430.00**

Modesto Sister Cities International Highlights 2007

Aguascalientes

- April 2007-Paul and LuAnn Kuehn and Richard Navarro travel to Aguascalientes for the San Marcos Feria.
- October 2007- Micheal and Janet Maxwell travel to Aguascalientes for the 423nd Anniversary Celebration of the city.

Khmelnitsky

- September 2007- Modesto delegation travel to Khmelnitsky to celebrate the 20th anniversary of our sister city agreement. The delegation included 2 members of the original delegation from 1987.
- October 2007- Delegation from Khmelnitsky travels to Modesto to celebrate the 20th anniversary of our sister city agreement. The delegation included several city officials, teachers, artists and businessmen.

Kurume

- July/August 2007 – Kurume/Modesto Youth Exchange.
- October 2007 – Delegation from Kurume visits Modesto to celebrate the 15th anniversary of our sister city agreement. The delegation included Mayor Eto and Chairman Ishibashi from the Kurume City Council as well as the extraordinary Bridgestone Jazz Band.

Vernon

- July 2007 – Brenda Brannon travels to Vernon and meets with new Mayor, artists, musicians and the RCMP detachment all hoping to make a trip to Modesto.
- October 2007 – Delegation from Vernon visits Modesto to celebrate the 25th anniversary of our sister city agreement. The delegation included Mayor Wayne Lippert and City Councilor Jack Gilroy along with many other wonderful citizens of Vernon.

Vijayawada

- June 2007 – Dinner and movie cultural event/membership drive held at India Palate.
- October 2007 – Committee provides items and support for City of Modesto Cultural awareness week.

August		
11th - 21st	Kurume students in Modesto	Kurume Youth Exchange
12th	Welcome Party for Kurume Students	Graceada Park, Modesto
20th	Sayonara Party for Kurume Students	McHenry Mansion
September		
12th	Board of Directors Meeting	6PM Tenth Street Place, room 2005
21st – October 1st	Modesto delegation to visit Khmelnitsky in celebration of 20th anniversary	
October		
7th	International Festival's Celebration of International Music and Dance	Gallo Center
8th – 12th	Delegation from Mengzi to visit Modesto	
9th - 21st	Delegation from Khmelnitsky visits Modesto in celebration of 20th anniversary	
11th	Reception in honor of the Khmelnitsky delegation and celebrating the 20th anniversary	McHenry Mansion
19th -23rd	MSCI President visits Aguascalientes for 432nd anniversary of city	
26th	Welcome Dinner for Vernon 25th anniversary delegation	McHenry Museum
27th	Softball game between Vernon and Modesto	Davis Park Field
27th	Concert featuring Modesto's Home Grown and Kurume's award-winning Bridgestone Band	Downey High School Auditorium
28th	Softball game between Kurume and Modesto Rotarians	Davis Park Field
28th	Reception in honor of the Kurume delegation and celebrating 15th Anniversary	McHenry Mansion
28th	Farewell Dinner for Vernon 25th anniversary delegation	McHenry Museum

Aguascalientes Committee Annual Report 2007

April 2007

Richard and Josephine Navarro, Paul and LuAnn Kuehn and John Church represented the city of Modesto and Modesto Sister Cities International and travelled to Aguascalientes, Mexico to join our sister city in celebrating the Feria de San Marcos.

The delegation was warmly greeted by two members of the Aguascalientes sister city organization. They enjoyed a larger dinner reception hosted by the mayor of the city of Aguascalientes and later that evening the group attended a bull fight as guests of the mayor. The delegation attended a city council meeting and were recognized and greeted by the council. They were also presented with certificates of welcome and friendship and met afterwards as a small group with the mayor and a sister city group from City of Commerce, California. Gifts and commitments of continued friendship were exchanged. Later that afternoon the group enjoyed a gracious luncheon at a country villa owned by one of the sister city families.

The MSCI delegation and the sister city group from City of Commerce met with the governor of the state of Aguascalientes in his offices As with the mayor, they exchanged gifts, expressions of friendship and continued commitment in our relationship as sister cities and friends. The group attended a bull fight in the evening, a dinner reception with the governor and a concert.

Other items on their itinerary included a visit to a Rotary group during their monthly meeting, a trip to Isla de Cristo Roto (a monument located in the small village of San Jose' de Gracia), the Feria de San Marcos parade, a visit to the newly built state agriculture center, a cultural performance of music and ballet as well as many dinner and social gatherings with delegates from the state and city of Aguascalientes, City of Commerce and the Aguascalientes Sister City Organization.

October 2007

Micheal and Janet Maxwell represented the city of Modesto and Modesto Sister Cities International and travelled to Aguascalientes, Mexico to join our sister city in celebrating its 432 anniversary. The Maxwell's were able to meet with the outgoing Mayor of Aguascalientes as well as the newly elected Mayor and attend a council meeting. In addition, they met with the members of the Aguascalientes sister city organization and were introduced to their newly elected president. The Maxwell's were also able to accompany the sister city group from City of Commerce, CA on their tours of an orphanage and senior care center. Preliminary plans were developed to combine the resources of the organizations to provide some humanitarian aid to facilities like these in the Aguascalientes area.

Khmelnitsky Committee Annual Report 2007

Oscar Ardans was elected in January as the new chair for the Khmelnitsky committee and much of the early part of the year was spent repairing contacts with the sister city organization and planning the events for the anniversary celebrations in the fall.

MODESTO DELEGATION VISIT TO KHMELNITSKY SEPTEMBER 2007

Seven representatives of Modesto, Gene Palsgrove, Cam McCune, Bill Bishop, Garrad and Dallas Marsh, and Jennifer and Oscar Ardans arrived in Kiev on September 22nd. They were met by an old friend Raisa Naugolnaya and taken by bus to Khmnelnitsky. The countryside was beautiful. The leaves were turning gold and yellow, the grass very green and it was warm, sunny and humid. They were treated like royalty with receptions, gatherings and events to celebrate the 20th anniversary. The group met many old friends and made lots of new ones.

The Modesto group spent one day at Kamenetz Padilsk, a couple of days in Lvov, and two days in Kiev. They visited with the Mayor and presented our gifts from Modesto. They also visited the Children's Hospital where Jennifer gave out medical supplies which had been donated by Modesto physician Dr. Andy Jaramillo. School #1 gave them a wonderful welcome with flowers from the children and the ceremonial bread and salt. The students entertained them with singing and dancing and music. Several poets who had written poems for the Stanislaus Connections newspaper were recognized for their creativity and recited them.

KHMELNITSKY DELEGATION VISIT TO MODESTO OCTOBER 2007

A seven member delegation from Khmelnitsky visited Modesto in October 2007. The delegation included:

Leskov, Valeriy	Secretary, City Council
Cherevchenko, Ludmila	City Administrator
Bukhal, Ivan	Deputy, City Council
Naugolna, Rozaliya	Teacher, School #1
Skorupska, Olena	Artist
Korbut, Anatolii	Director, Khmelnitskzalizobeton
Baldin, Anatoliy	Manager, "MIT" Co

Six host families were gracious in giving of their time and their homes to provide home-stays for the delegation members. Several Ukrainian immigrants, Halyna Petrechko, Maria Lupekha, Dmitry Kozlov, Igor and David Ivaskevych, and Vadim and Serge Ivaschenko, who all live in Modesto gave freely of their time and linguistic talent and helped the committee immensely during the visit. Other committee members arranged pot-luck dinners and provided transportation. Without this wonderful group of people the visit could not have been so successful.

Modesto/Khmelnitskiy celebrate 20 years of people-to-people peace and friendship

By TINA ARNOPOLE DRISKILL

"In terms of ideologies and government policies that divide us as nations and peoples, we must learn to survive by working together through communication and the sharing of resources and skills to promote respect and understanding," says Gene Palsgrove, founding member of the Modesto Sister Cities International Khmelnitskiy Committee. "Either we understand we are all on the same planet earth and learn to work together or the future of the human family is dismal...but, I'm optimistic!"

Modesto Sister Cities International (MSCI) is a non-profit, community based, volunteer organization promoting international understanding, friendship, and peace between nations. The U.S. Sister City program originated in 1956 when President Eisenhower proposed a people-to-people, citizen diplomacy initiative. MSCI continues to promote international understanding through programs originated at the community level.

Modesto currently has 5 sister cities. Aguascalientes, Mexico; Khmelnitskiy, Ukraine; Kurume, Japan; Vernon, Canada and Vijayawada, India. MSCI also aids Stanislaus County with its county-to-county relationship with La Mayenne, France and is actively pursuing a sister city relationship with that department's largest city, Laval. In addition, investigation was begun in the Fall of 2005 on an association with Mengzi, China.

Palsgrove will join other representatives of MSCI in late September as people-to-people ambassadors to Khmelnitskiy, Ukraine, when the two cities celebrate twenty years of cultural, educational, governmental, medical, business, legal, agricultural, building trades, engineering, student and other people-to-people exchanges. A group from Khmelnitskiy will make a reciprocal exchange visit to Modesto in October. That

KHMELNITSKIY ... continued p. 8

July 2007 Stanislaus Connections

Modesto/Khmelnitskiy celebrate 20 years

... from p. 1

same month will include exchanges between Vernon as part of a 25th anniversary celebration and with Kurume, which has a 15-year relationship with MSCI.

In 1985 Palsgrove was instrumental in shepherding Modesto toward joining together with other cities in peace and friendship as part of the local Peace Retreat Committee, an ad hoc group of folks interested in working toward global peace in response to the critical period of nuclear saber rattling and political tension between the United States and the former Soviet Union.

Dr. Henry Tyler, past president of Modesto Junior College, learned that Ground Zero in Portland, Oregon had taken on the task of pairing some 1300 Soviet cities with cities in the US and had matched Modesto with Khmelnitskiy.

Upon learning of this endeavor the Peace Retreat group embraced the opportunity and after several unsuccessful attempts to reach citizens of Khmelnitskiy, 25 local delegates joined together for a visit in April of 1985. Cameron McCune, then principal at Roosevelt Junior High School and a travel agent, and Gene Palsgrove organized the trip to the Soviet Union and our paired city.

Although they had no response from Khmelnitskiy before their arrival, "it is interesting," says Palsgrove, that "with all the hostility our governments showed, there was no hostility from there. The people showed intense curiosity and had much admiration for the people of the United States."

Two years after the initial visit a letter arrived at a Modesto post office in January, 1987 which was passed along to the Peace Retreat Committee announcing the mayor, a doctor and a teacher/translator from Khmelnitskiy would be visiting Modesto in the hope of signing a Sister Cities agreement.

The process needed to organize Modesto Sister Cities Khmelnitskiy Committee was accomplished over the next several months, and with the blessing of Mayor Peggy Mensinger and the city council, a second group traveled to Ukraine in August 1987 to sign the final agreement. Mayor Mensinger and Khmelnitskiy Mayor Bukal became very close friends during the ensuing years.

Palsgrove estimates that between 100 and 200 area residents have visited Khmelnitskiy and that close to that number have visited here. Palsgrove reports that these and other Ukrainian visitors have been overwhelmed by our technology and retail wealth.

"The program," he emphasizes, "is about communication and understanding, and that both cities have benefited greatly through the building of trust, cultural awareness, friendship and peace."

Medical donations alone have had "a profound affect on the people of Khmelnitskiy," says Betty Vencill. She, Jennifer Ardans, R.N., and many others have arranged for the transportation, installation, and implementation of a large number of medical supplies, equipment and technical advice.

Palsgrove points out that most major US cities have a sister city in the former Soviet Union, and he believes that, although President Ronald Reagan liked to take credit for bringing down the Berlin Wall and the reign of Communism in the Soviet Union, the climate for political change largely was done through the work of hundreds of people to people programs like Sister Cities.

It's been a great adventure," claims Palsgrove. "I hope we continue to have a relationship with Khmelnitskiy" far into the future.

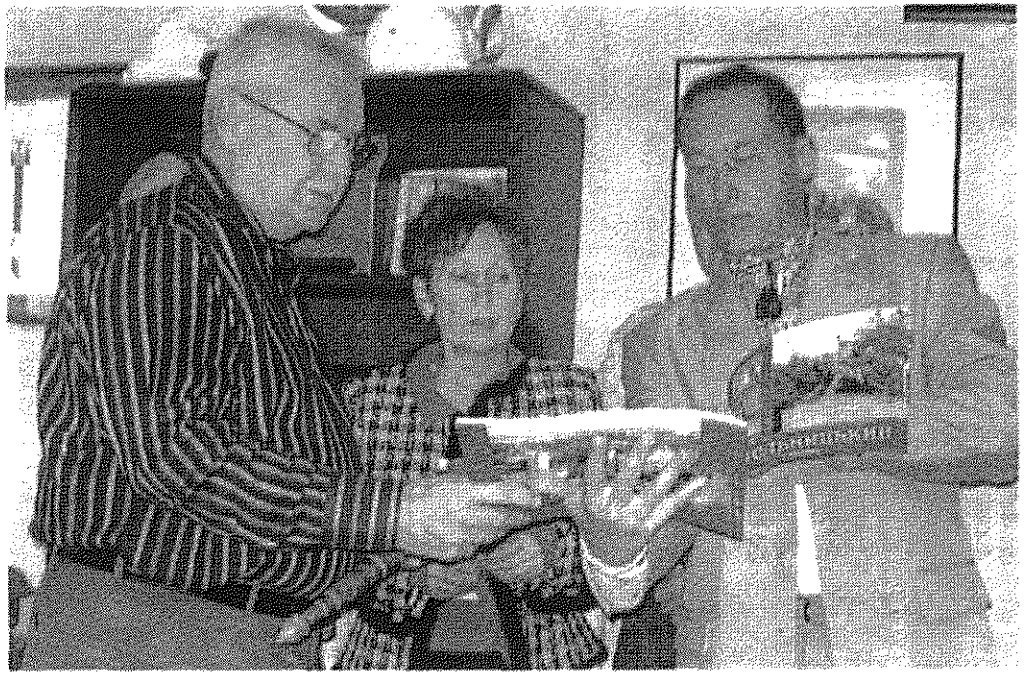
He sees the war in Iraq and numerous other global situations as much more dangerous than the threat of the former Soviet Union, and he feels these cannot be addressed through violence. He believes "a deeper level is needed to promote communication, understanding and respect."



ACTION: Contact *www.modestosistercities.com* to learn more, become active as an MSCI volunteer



The Khmelnitsky delegation visits Mayor Ridenour's office.





Kurume Committee Annual Report for 2007

March 29, 2007

Junior high students from Kurume who were being hosted by families in the Bay Area San Francisco came to Modesto for the day. Their itinerary included visiting the flower clock, meeting the Mayor, McHenry Mansion, etc. They visited MJC West and had lunch at the Mary Stuart Rodgers building. They also had a great tour of Enochs High School. Board member Cathy Line was able to be their tour guide for the day and also talked to them about the exchange they could be a part of in a few years.

July/August 2007

The Committee took 10 Modesto students to Kurume and hosted 23 Kurume guests for another wonderful cultural experience. We had a great turn out at our Welcome and Sayonara parties. We visited Kyoto, Nara, and Kobe this year on our two night overnighter and while we were there, Kurume experienced a typhoon. In Kobe, we had extreme wind and rain which was interesting because the temperature never dropped. We were able to obtain a scholarship in the amount of $500 from the Soroptimists to provide some financial aid to two students from Modesto for the trip. Due to family circumstances, one of the students chosen was not able to make the trip so the scholarship money was given to only one student. She attended a Soroptimist luncheon on August 22, 2007 to talk to them about her experience in Japan.

October 2007

In early October, a pre-delegation group visited to make plans for the larger delegation's visit at the end of October. In addition to planning the delegation visit, they attended Oktoberfest and spent a day touring Yosemite.

The weekend of October 27-29, 2007 we celebrated our 15th anniversary with Kurume by welcoming 32 visitors from Japan, including Mayor Eto, the Chairman of the City Council and the Bridgestone Jazz Band. The delegation was split into two groups, the musicians and those with the mayor. Micheal Maxwell entertained the musicians group and they spent the better part of the afternoon preparing for the Saturday evening concert at Downey High School. The concert was really the highlight of the weekend. The Band was fabulous and they were able to play with Modesto's Home Grown, who has gone to Kurume for the celebration of the 10th anniversary. The committee served dinner to the band backstage and served cookies and water at the intermission to the guests.

Nancy Holmes hosted the mayor's group, whose itinerary included a trip to Beekman and Beckman's (honey and wine tasting) and Robert's Ferry Nut Company where they were told all about growing almonds while standing in the middle of an orchard. They even had time for a very brief stop at the new Raley's on Roselle before getting them back downtown for their dinner reservation.

Sunday morning started off with a baseball game pitting Modesto Rotarians against the Kurume team at Davis Park and after the game there was pizza at Mountain Mikes.



Kurume Youth at McHenry Mansion during summer youth exchange.



Modesto Youth visiting Japan during summer youth exchange.



SISTER CITIES: Japanese band takes stage

CONTINUED FROM B-1

people they know.

Sunday evening's reception at the McHenry Mansion and other activities this weekend marked the 15th anniversary of the sister cities agreement between Modesto and Kurume.

Kurume's award-winning Bridgestone Band performed Saturday night at the Downey High School auditorium. The concert also featured a performance from Home Grown of Modesto.

The Japanese band, made up of employees of the Bridgestone Tire Co. in Kurume, plays swing, jazz and tunes from the Big Band era.

Thirty-eight delegates from Kurume made the trip.

Modesto Sister Cities International also welcomed a group from Vernon, British Columbia, Canada, over the weekend. Representatives of the two cities exchanged gifts and enjoyed a dinner, softball game and a public reception Sunday evening at the McHenry Museum.

Maxwell said he has made 15 trips to Japan, taking Modesto residents on visits as well as young people involved in exchange programs. Young people from Kurume have made regular visits to Modesto.

"We have touched a lot of lives in Modesto and Kurume with these exchanges," Maxwell said.

Leading the delegation from Kurume was Mayor Morikuni Eto and City Council Chairman Tsutomu Ishibashi. Both said they were pleased Modesto continues to grow.

Many Japanese cities are declining because of the nation's large elder population.

Kurume has the Modesto City Council beat in terms of sheer numbers, however. Its City Council has 42 members compared with Modesto's seven.

With so many council members, Kurume city government meetings are more like a state legislative session here.

Kurume brought its city government baseball team to Modesto for a game.

Shohei Kurata, a shoe wholesaler in Japan, said Sunday that despite the busy schedule this week, he set aside time to watch the World Series. Of course, he favored the Boston Red Sox with starting pitcher Daisuke Matsuzaka and reliever Hideki Okajima, both of Japan.

October has been a busy month for Modesto Sister Cities International, a volunteer group that maintains relationships with five sister cities. A delegation from Khmelnitskiy, Ukraine, was here this month, too.

Maxwell said the organization felt obliged to accommodate the travel schedules of the three cities. "It's been a whirlwind," he said.



Members of the Vernon, British Columbia, Canada, sister city delegation gather Sunday for a portrait on the steps of Modesto's McHenry Museum.

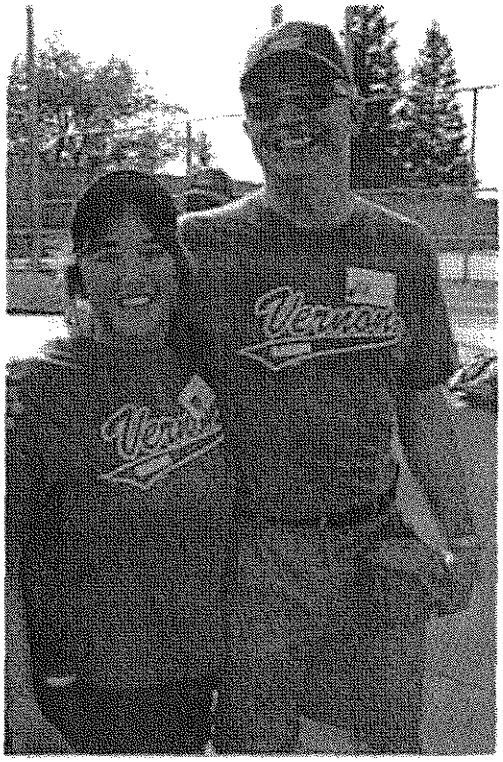
ADRIAN MENDOZA/ THE BEE

AT A GLANCE

- **WHAT:** Modesto played host over the weekend to delegations from sister cities Kurume, Japan, and Vernon, British Columbia, Canada.
- **WHAT THEY DID:** Softball games, a dinner, concert, a gift exchange and the opening of a time capsule.
- **OTHER FRIENDS:** Modesto also has sister city relationships with Khmelnitskiy, Ukraine, Vijayawada, India, and Aguascalientes, Mexico.

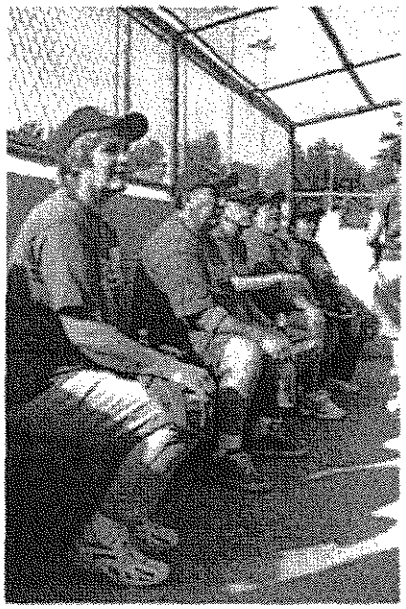
To comment, click on the link with this story at www.modbee.com. Bee staff writer Ken Carlson can be reached at kcarlson@modbee.com or 578-2321.







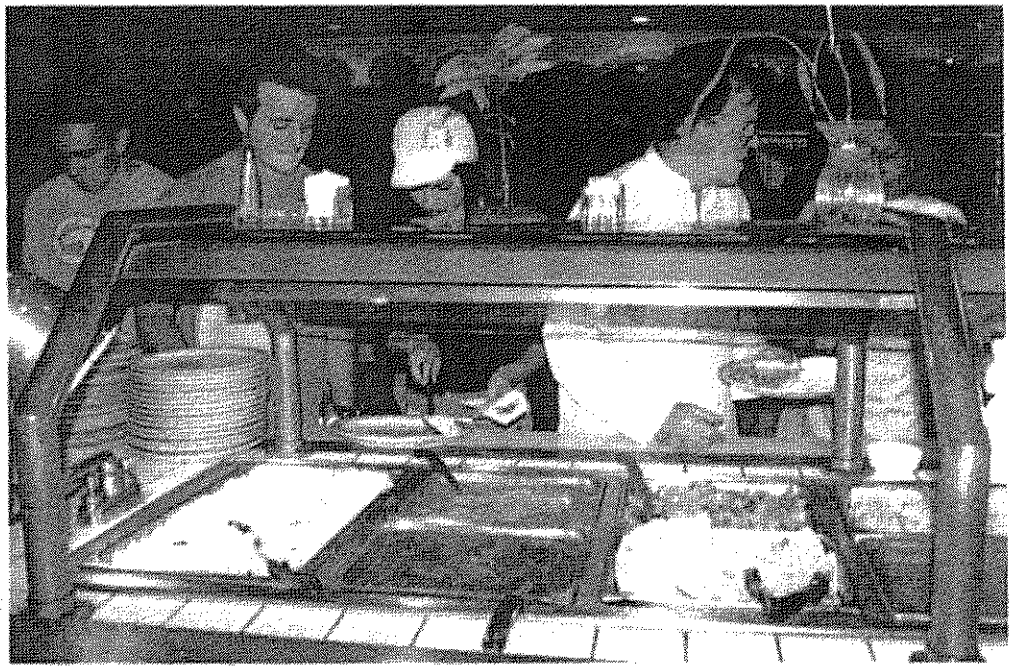
Vernon Mayor Wayne Lippert

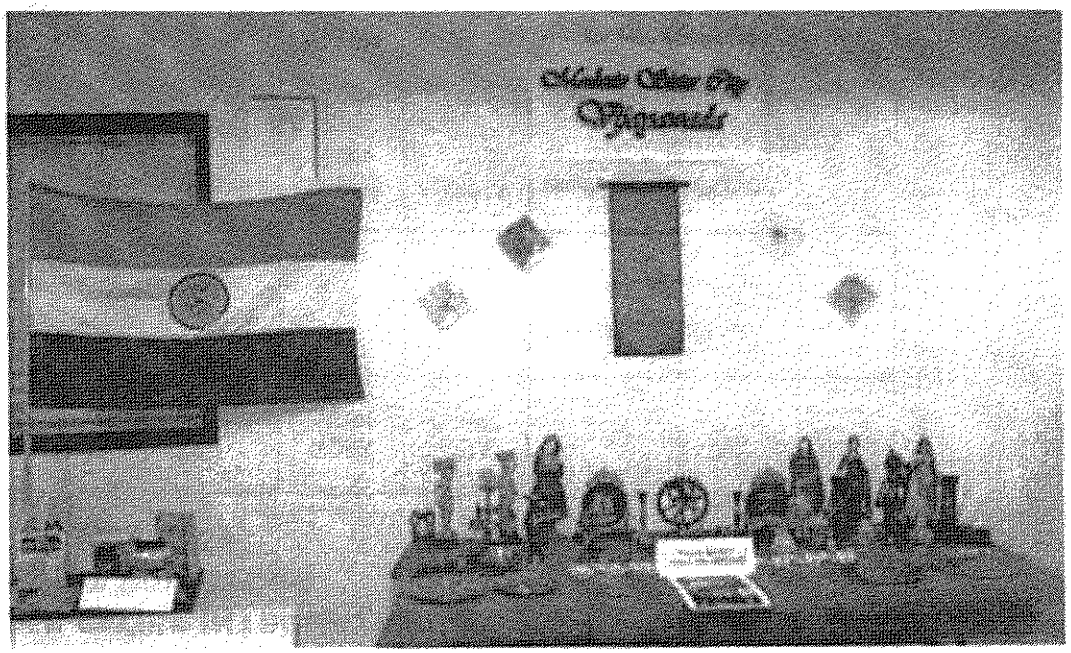


Vernon delegation softball game against the Modesto team.



Vijayawada committee members at the Dinner & Movie Membership drive.





Vijayawada display at 10th Street Place for the City of Modesto's Cultural Awareness Week

NAME/ADDRESS	HOME ADDRESS	HOME PHONE	WORK PLACE/ADDRESS	WORK PHONE	CELL & PAGER	E-MAIL
MARY LOMAX VP – Aguascalientes, Mexico	2112 Park Ridge Drive Riverbank, CA 95367 Spouse-Brian	869-3068 After 5:30pm or leave message	Enochs High School	550-3410	614-8127	lomaxma@yahoo.com
OSCAR ARDANS VP – Khmelnitskiy, Ukraine	1439 River Road Modesto, CA 95351 Spouse-Jennifer	521-5876				ardanso@charter.net
NANCY HOLMES VP- Kurume, Japan	2304 Shortline Ct. Modesto, CA 95350	578-2872 (#3)	YCCD 2201 Blue Gum Ave. Modesto, Ca 95358	575-6568 (#2)	765-9290 (#1)	holmesn@yosemite.edu
BRENDA BRANNON VP – Vernon B.C., Canada	4205 Frost Way Modesto, CA 95356	545-2905	Bank of Stockton (Modesto Commerce Bank) 415 E. Miner Ave Stockton, CA 95202	929-1620	606-1912	Blewbrannon@aol.com bbrannon@bankofstockton.com
JAMES BUSSEY VP – Vernon B.C., Canada	2420 Van Layden Way Modesto, CA 95356	527-6016	Model A Technology 2420 Van Layden Way Modesto, CA 95356	575-3445	988-0096	JBmodel@inreach.com
VIDHU MEHRA Co - VP – Vijayawada, India	844 Cedar Ridge Drive Turlock, CA 95382	667-6779	Brown Elementary School 400 Georgetown Turlock, CA 95380	634-7321	277-4362	shivme@sbcglobal.net
TOM DURBIN Co- VP – Vijayawada, India	275 East Minnesota #151 Turlock, CA 95382	668-1840 Best time pm but try anytime	Cal State University 801 West Monte Vista, Turlock, CA 95382	667-3556		tdurbin@csustan.edu
JOHN MENSINGER VP - Laval/Mayenne, France	1629 Edgebrook Drive Modesto, CA 95354 Spouse-Julia	522-4266	President, American Lumber Co. 1231 Ninth Street Modesto, CA 95350	578-5200	602-4515	Jmensinger@4x6.com

NAME/ADDRESS	HOME ADDRESS	HOME PHONE	WORK PLACE/ADDRESS	WORK PHONE	CELL PHONE	E-MAIL
RICHARD NAVARRO Member at Large	2012 Sandpoint Drive Modesto, CA 95358	577-3275	Insurance Agent State Farm Insurance 2937 Veneman Avenue, Suite A-110 Modesto, CA 95356	526-2194	602-5636	navarror13@sbcglobal.com
BARBARA St. URBAIN Member at Large	4108 Five Mile Drive Stockton, CA 95219	478-6584	International Student Program Modesto Junior College 435 College Avenue Modesto, CA 95350	575-6012	603-5365	sturbainb@mjc.edu
MICHELE GORDON Program Manager	2222 Autumn Moon Way Turlock, CA 95382	669-6985		669-6985	617-3534	mgordon_msci@charter.net

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-094

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO CONDUCT A SOLE SOURCE PROCUREMENT OF FIVE (5) CLEAIRE "LONGVIEW" FILTER SYSTEMS FOR THE PUBLIC WORKS D EPARTMENT, FLEET SERVICES DIVISION, FROM CUMMINS WEST, INC., SAN LEANDRO, CA AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF $95,915.

WHEREAS, on November 27, 2007, Council approved Resolution No. 2007-714, authorizing the purchase of five (5) new urban transit buses, and

WHEREAS, in order for these buses to be put into service once they arrive, staff must first retro fit five (5) existing buses as required by the State of California Air Resources board (CARB) Amendment 20231.1, and

WHEREAS, this CARB requirement benefits the public by reducing emissions in the environment and works towards improving air quality for the citizens of Modesto and the rest of California, and

WHEREAS, the Cleaire "Longview" emission reduction catalyst/diesel particulate filter system is the only system approved by CARB for transit buses, and

WHEREAS, on January 8, 2008, Council approved Resolution No. 2008-035, authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the sole brand procurement of five (5) Cleaire "Longview" emission reduction catalyst/diesel particulate filter systems, and authorizing the Purchasing Manager to issue a purchase order to the lowest responsive and responsible bidder, and

WHEREAS, City staff has determined that the Cleaire "Longview" diesel particulate filter systems can only be purchased and installed by Cummins West, Inc., San Leandro, CA, and

WHEREAS, the City must retrofit the existing five (5) buses with Cleaire "Longview" diesel particulate filter systems prior to putting the five (5) recently purchased new transit buses into service, and

WHEREAS, this purchase and installation will allow the City to be in compliance with CARB Amendment 20231.1, and

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

WHEREAS, one exception to the formal 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", and

WHERAS, the sole source purchase of five (5) Cleaire "Longview" filter systems for the Public Works Department, Fleet Services Division from Cummins West, Inc., San Leandro, CA conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in the following account for the purchase of Cleaire "Longview" diesel particulate filters for FY 07/08, account number 6510-165-1678-5946, and

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 five (5) of Cleaire "Longview" filter systems for the Public Works Department, Fleet Services Division from Cummins West, Inc., San Leandro, CA,

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for an estimated total cost of $95,915.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-095

A RESOLUTION AUTHORIZING STAFF TO NEGOTIATE A REDUCED TIP FEE WITH GILTON SOLID WASTE FOR PRE-GROUND MATERIALS FROM NON-CITY SOURCES DELIVERED TO THE CITY OF MODESTO COMPOSTING FACILITY, AND AUTHORIZING THE ACTING DIRECTOR OF PARKS, RECREATION AND NEIGHBORHOODS TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH GILTON SOLID WASTE

WHEREAS, the City of Modesto's Compost Facility at 7001 Jennings Road has been in operation since 1997, and

WHEREAS, in the 9 years since it began operation, the Facility has processed approximately 350,000 tons of green waste and other compostable materials, diverting this material from landfills and earning the City valuable AB 939 diversion credits and saving garbage ratepayers over $5 million because the cost of composting is about half the cost of putting materials in a landfill, and

WHEREAS, in July, 2004 the Council adopted Resolution 2004-367, establishing the Compost Facility as a separate Enterprise Fund, and because Enterprise Funds must be self supporting, the resolution also set tip fees for materials delivered to the Facility at $18.35 per ton for green waste and other compostables and $6.50 per ton for biosolids, and

WHEREAS, revenues derived from tip fees and product sales fully fund Facility operations, enabling it to be separated from the Wastewater Fund, and

WHEREAS, in December, 2005, compost operations were transferred from the Wastewater Division of Public Works to the Solid Waste Division of the Parks, Recreation and Neighborhoods Department, and

WHEREAS, to ensure that pruned refuse would continue to be delivered to the facility and protect the volume and quality of the finished compost, the Council also approved setting tip fees for pruned refuse at $6.50 per ton, based on the benefits this material has to the end product and facility economics, and

WHEREAS, in FY 2006-2007, the facility received about 66,000 tons of materials from various sources, and the permitted capacity of the Facility is 130,000 tons a year, leaving an available capacity of about 64,000 tons, and

WHEREAS, the Solid Waste Division recently received a letter from Gilton Resource Recovery, which also operates a composting facility, requesting that the City consider charging it a reduced tip fee for materials from non-City sources that would be delivered to the Compost facility in a clean, "ready to windrow" condition, and stating that it could deliver 20,000 to 30,000 tons per year to the City site and that a tip fee of $9.50 per ton would be appropriate, because the material would not have to be ground, and

WHEREAS, although the $9.50 per ton reduced price for additional materials proposed by Gilton Resource Recovery is less than the $12.78 per ton processing cost for materials that don't have to be ground, the increase in revenue from additional finished product would more than offset the difference in tip fee revenue, and

WHEREAS, staff is recommending that the Council consider authorizing staff to negotiate a reduced per ton tip fee somewhere in between the $9.50 that Gilton initially proposed and the $12.78 Compost Enterprise cost of processing materials that do not need grinding with Gilton Resource Recovery for the delivery of additional materials to the Compost Facility that do not require grinding, and

WHEREAS, the Solid Waste Advisory Committee met on November 16, 2007, and took no action due to a lack of quorum,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to negotiate a reduced tip fee with Gilton Solid Waste for pre-ground materials from non-City sources delivered to the City of Modesto Composting Facility.

BE IT FURTHER RESOLVED that the Acting Director of Parks, Recreation and Neighborhoods, or her designee, is hereby authorized to execute the agreement.

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 February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-096

A RESOLUTION AFFIRMING THE CITY'S CO-SPONSORSHIP OF "EARTH DAY IN THE PARK FESTIVAL, 2008" AT GRACEADA PARK AND ALLOWING THE SALE OF MERCHANDISE IN THE PARK DURING THE EVENT

WHEREAS, in 1970, Earth Day was established to make the public aware of programs successful in protecting the environment and conserving natural resources, and

WHEREAS, on March 24, 1992, by Resolution No. 92-129, the City Council acknowledged "Earth Day in the Park" as an annual event, and

WHEREAS, the Citizens Advisory Committee on Recycling (CACOR) sponsors the event, and

WHEREAS, the 19th Annual "Earth Day in the Park" will be held on Saturday, April 19, 2008, at Graceada Park, and

WHEREAS, the 2008 event will host a corresponding E-Waste and Household Hazardous Collection Event at nearby Modesto Junior College, East Campus, and

WHEREAS, the 2008 event will also host a corresponding Community Clean Up Project on Saturday, April 12, 2008, and

WHEREAS, the main 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, 2007" 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, 2008", at Graceada Park and Modesto Junior College.

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, 2008" event.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-097

A RESOLUTION ACCEPTING THE WORK BY CUNNINGHAM & SONS, INC. FOR THE PROJECT TITLED "MERLE AVENUE AND MAID MARIANE LANE ROUNDABOUT IMPROVEMENTS" AS COMPLETE, AUTHORIZING THE ACTING CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIOD, AND AUTHORIZING PAYMENT OF AMOUNTS TOTALING $169,691.90

WHEREAS, a report has been filed by the Public Works Director that the project titled "Merle Avenue and Maid Mariane Lane Roundabout Improvements" has been completed by Cunningham & Sons, Inc. in accordance with the contract agreement dated May 22, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Merle Avenue and Maid Mariane Lane Roundabout Improvements" is hereby accepted as complete from said contractor Cunningham & Sons, Inc. that the Acting City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and to release securities upon expiration of statutory period, and that payment of amounts totaling $169,691.90 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 12th day of February 2008, 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, Acting City Clerk
(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-098

A RESOLUTION APPROVING AN AGREEMENT FOR THE ACQUISITION OF A PORTION OF A PARCEL OF LAND ALONG FLOYD AVENUE JUST WEST OF FINE AVENUE (3725 FLOYD AVENUE) OWNED BY WADE AND NERIE RAMEY (APN: 085-018-062), INCLUDING A TEMPORARY CONSTRUCTION EASEMENT (TCE), TO BE PURCHASED BY THE CITY OF MODESTO FOR THE FLOYD AVENUE WIDENING PROJECT BETWEEN ROSELLE AVENUE AND FINE AVENUE IN THE AMOUNT OF $120,000, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, on October 3, 2006, the City Council by Resolution 2006-637 previously approved the Capital Improvement Program that included Project #X512, "Floyd Avenue between Roselle Avenue and Fine Avenue," and

WHEREAS, this project includes right-of-way acquisition, design, construction, construction administration and contingency for the roadway improvements, and

WHEREAS, per the Village One Facilities Master Plan, this section of Floyd Avenue is to be widened from 2 lanes to 4 lanes and will include curb, gutter, sidewalks, median and landscaping, and

WHEREAS, in order to expand Floyd Avenue and for the project to proceed as planned, it is necessary that the City acquire in fee a 6,565 square foot strip of property in the planned right-of-way at 3725 Floyd Avenue (APN 085-018-062), and

WHEREAS, an additional 1,560 square feet of land is needed for a temporary construction easement to construct the project, and

WHEREAS, on November 7, 2007, the Council adopted Resolution No. 2007-658 finding that the Floyd Avenue Widening Project between Roselle Avenue and Fine 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

WHEREAS, on November 7, 2007, the Council adopted Resolution No. 2007-665 determining that the public interest and necessity require the acquisition of the subject property interests and directing the commencement of eminent domain proceedings to condemn the subject property for the Floyd Avenue Widening project,

WHEREAS, the City Council directed staff to continue to negotiate with Wade and Nerie Ramey to purchase the portion and interests in their property as described herein above for the Floyd Avenue Widening project, and

WHEREAS, Wade and Nerie Ramey agreed to accept the sum of $120,000 as full compensation for the required right-of-way and temporary construction easement and other property interests to be acquired,

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 Wade and Nerie Ramey (APN 085-018-062) to purchase the necessary real property and temporary construction easement for the Floyd Avenue Widening Project Between Roselle Avenue and Fine Avenue in the amount of $120,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of February, 2008, 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,

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-099

A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO SIGN ACCEPTANCE FORMS FOR THE GRANT DEED FOR THE ACQUISITION OF A PORTION OF THE PARCEL ALONG FLOYD AVENUE JUST WEST OF FINE AVENUE (3725 FLOYD AVENUE) OWNED BY WADE AND NERIE RAMEY (APN: 085-018-062), INCLUDING A TEMPORARY CONSTRUCTION EASEMENT TO THE CITY OF MODESTO FOR THE FLOYD AVENUE WIDENING PROJECT BETWEEN ROSELLE AVENUE AND FINE AVENUE.

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 for the Floyd Avenue Widening Project between Roselle Avenue and Fine Avenue owned by Wade and Nerie Ramey (APN: 085-018-062),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Interim City Manager, or his designee, is hereby authorized to sign acceptance forms on behalf of the City of Modesto for one (1) Grant Deed for the acquisition of a portion of a property owned by Wade and Nerie Ramey (APN: 085-018-062) and one (1) Temporary Construction Easement (APN 085-018-062) for the Floyd Avenue Widening Project between Roselle Avenue and Fine Avenue.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of February, 2008, 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
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-100

A RESOLUTION APPROVING A STORMWATER MANAGEMENT AND MAINTENANCE AGREEMENT BETWEEN KAISER FOUNDATION HOSPITALS AND THE CITY OF MODESTO RELATED TO THE MANAGEMENT AND MAINTENANCE OF STORMWATER FACILITIES AT AND ADJACENT TO THE NEW KAISER HOSPITAL ON DALE ROAD AT BANGS ROAD, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Kaiser Foundation Hospitals (Developer) is in the process of developing a new hospital facility located at the southwest corner of Dale Road and Bangs Road, commonly known as Kaiser Modesto Hospital, and

WHEREAS, Developer entered into a Development Agreement with the City of Modesto (City), and

WHEREAS, Section 4.05(a)(5)(i) of said Development Agreement requires Developer to enter into a Stormwater Management and Maintenance Agreement with City, and

WHEREAS, Developer and City have reached agreement as to the plans for management and maintenance of related stormwater facilities,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Stormwater Management and Maintenance Agreement between Kaiser Foundation Hospitals and the City of Modesto.

BE IT FURTHER RESOLVED that the Interim 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 12th day of February 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-101

A RESOLUTION APPROVING AN AGREEMENT WITH CH2MHILL IN THE AMOUNT OF $41,100 TO PERFORM A WASTEWATER TREATMENT PLANT (WWTP) LAND APPLICATION SYSTEM STUDY, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, the City currently has a total of 2,526 acres that are dedicated for use as the Jennings Road Ranch and is irrigated with secondary treated wastewater and seasonal segregated cannery process water, and

WHEREAS, the City's Waste Discharge Requirements (WDR) issued by the Regional Water Quality Control Board (Regional Board) regulates the application of treated effluent to land, and

WHEREAS, the City's current WDR specifies a loading regulation for wastewater land disposal, reclamation, and segregation of cannery process water, and

WHEREAS, wastewater land disposal is limited to 50 lbs per acre per day as a 30-day average over the irrigation area in use of Biochemical Oxygen Demand (BOD), and

WHEREAS, the segregation of cannery process water cannot exceed 100 lbs of BOD per acre per day as a seasonal average over the disposal area in use, and

WHEREAS, the current loading limit is a constraint for growth of industry within the City Sewer Service District, and

WHEREAS, the Wastewater Treatment Plant (WWTP) Land Application System Study will assist the City by evaluating the range of potential limitations to increased flows and BOD loading from the canneries, followed by developing two irrigation alternatives for the City to consider in future operations, and

WHEREAS, CH2MHILL is a highly reputable consulting firm that provides water and wastewater engineering services, and

WHEREAS, staff selected CH2MHILL to provide these services based on its experience in performing similar tasks for cities with land applications systems (like the City's ranchland disposal system), and

WHEREAS, another consulting firm was considered to provide these services; however, CH2MHILL's experience and approach is more inline with the needs of the City and wet industries, and

WHEREAS, the cost of the study is $41,100, and

WHEREAS, funds are being transferred under separate Council Action from Wastewater Reserves (5210-800-8000-8003) to Wastewater Treatment Secondary (6210-480-5214-0235) to fund this study,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with CH2MHILL in the amount of $41,100 to perform a Wastewater Treatment Plant (WWTP) Land Application System Study.

BE IT FURTHER RESOLVED that the Council hereby authorizes the Interim City Manager, or his designee, to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008–102

A RESOLUTION AUTHORIZING THE TRANSFER OF $41,100 FROM WASTEWATER RESERVES (6210-800-8000-8003) TO WASTEWATER TREATMENT SECONDARY (6210-480-5214-0235) TO FUND THE CH2MHILL AGREEMENT FOR THE WASTEWATER TREATMENT PLANT LAND APPLICATION SYSTEM STUDY.

WHEREAS, the City currently has a total of 2,526 acres that are dedicated for use as the Jennings Road Ranch and is irrigated with secondary treated wastewater and seasonal segregated cannery process water, and

WHEREAS, the City's Waste Discharge Requirements (WDR) issued by the Regional Water Quality Control Board (Regional Board) regulates the application of treated effluent to land, and

WHEREAS, the City's current WDR specifies a loading regulation for wastewater land disposal, reclamation and segregation of cannery process water, and

WHEREAS, wastewater land disposal is limited to 50 lbs per acre per day as a 30-day average over the irrigation area in use of Biochemical Oxygen Demand (BOD), and

WHEREAS, the segregation of cannery process water cannot exceed 100 lbs of BOD per acre per day as a seasonal average over the disposal area in use, and

WHEREAS, the current loading limit is a constraint for growth of industry within the City Sewer Service District, and

WHEREAS, the Wastewater Treatment Plant (WWTP) Land Application System Study will assist the City by evaluating the range of potential limitations to increased flows and BOD loading from the canneries, followed by developing two irrigation alternatives for the City to consider in future operations, and

WHEREAS, the cost of the study is $41,100, and

WHEREAS, the transfer of funds from Wastewater Reserves (5210-800-8000-8003) to Wastewater Treatment Secondary (5210-480-5214-0235) is necessary to fund the WWTP Land Application System Study,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the transfer of $41,100 from Wastewater Reserves (6210-800-8000-8003) to Wastewater Treatment Secondary (6210-480-5214-0235) to fund the CH2MHILL Agreement for the Wastewater Treatment Plant Land Application System.

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 12th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-103

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH CAROLLO ENGINEERS, P.C. (CAROLLO) FOR FINAL DESIGN SERVICES FOR PHASE 1A TERTIARY WASTEWATER TREATMENT FACILITY PROJECT TO INCLUDE ALTERNATIVE ULTRA VIOLET (UV) DISINFECTION SYSTEM DESIGN IN AN AMOUNT NOT TO EXCEED $72,095, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO 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, due to the lengthy process of implementing a full-scale tertiary facility, a phased approach is underway that will allow the City to comply with expected regulatory issues and continue with development within a short timeframe, and

WHEREAS, the City Council, on February 13, 2007, by Resolution 2007-110, approved an Agreement with Carollo Engineers, P.C. (Carollo) to complete the 35% design effort and a Preliminary Design Report (PDR) for the Phases 1A and 1B Tertiary Treatment Facilities Project, and

WHEREAS, the PDR serves as the basis of design for the two phases, and

WHEREAS, the City Council, on June 26, 2007, by Resolution 2007-379 approved the final PDR as complete, and

WHEREAS, the City Council, on July 3, 2007, by Resolution 2007-408, approved an Agreement with Carollo for Final Design of the Phase 1A Tertiary Wastewater Treatment Facility Project, and

WHEREAS, Carollo has completed 90 percent design documents for Phase 1A Tertiary Treatment that include a medium-pressure in-vessel ultraviolet (UV) disinfection system selected to provide the lowest initial capital cost, and

WHEREAS, since this time, vendor costs have changed and there is the potential for a low-pressure in-vessel ultraviolet (UV) disinfection system to be a competitive alternative to the medium-pressure system based on lifecycle cost, and

WHEREAS, additional work is required in order to include the low-pressure in-vessel system as a bid alternative, and

WHEREAS, City staff has requested Carollo to prepare nine additional drawings, as well as a second UV system specification to be completed for an amount not to exceed $72,095,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement with Carollo Engineers, P.C. (Carollo) for Final Design Services for Phase 1A Tertiary Wastewater Treatment Facility Project to include alternative ultra violet (UV) disinfection system design in an amount not to exceed $72,095.

BE IT FURTHER RESOLVED that the Interim 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 12th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-104

A RESOLUTION APPROVING THE FILING OF AN APPLICATION TO THE STANISLAUS LOCAL AGENCY FORMATION COMMISSION TO ANNEX APPROXIMATELY 1.87 ACRES OF PROPERTY LOCATED ON THE NORTHEAST CORNER OF TEMPERATE AND MERCY AVENUES TO THE CITY OF MODESTO AND MODESTO SEWER DISTRICT NO. 1 AND TO DETACH SAID PROPERTY FROM THE WOODLAND FIRE PROTECTION DISTRICT (OWNER INITIATED – UNINHABITED)

WHEREAS, Temperate Enterprises, LLC (applicant) represents Philip Layman, the owner of approximately 1.87 acres of real property, located on the northeast corner of Temperate and Mercy Avenue ("Property"), and

WHEREAS, the City has received a written request from the applicant to initiate annexation of the Property to the City of Modesto under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, California Government Code Section 56000, et seq, and

WHEREAS, Government Code Section 56650 provides that proceedings to initiate a change of organization to annex additional territory to a City may be initiated by Resolution of Application or Petition, and

WHEREAS, the Property proposed to be annexed is uninhabited, and a description of the boundaries of the subject Property is set forth in Exhibits "A" and "B", attached hereto and by this reference incorporated herein, and

WHEREAS, the subject territory proposed to be annexed is within Stanislaus County, contiguous to the existing City limits and within the current Sphere of Influence of the City of Modesto, as adopted by Stanislaus Local Agency Formation Commission, Resolution No. 97-11, on December 19, 1994, and

WHEREAS, before an annexation application may be heard by LAFCO, there must be an agreement with the County providing for the sharing of property taxes following an annexation, and

WHEREAS, the proposed annexation area is covered by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170 on April 9, 1996, and

WHEREAS, the proposed Property is not subject to a Williamson Act contract, pursuant to Government Code Section 51200, et seq, and

WHEREAS, it is desired to provide that the proposed reorganization be subject to the following terms and conditions:

(a) The annexation of said property, as set forth on Exhibits "A" and "B" attached hereto, to the City of Modesto.
(b) The annexation of said property, as set forth on **Exhibits "A"** and **"B"** attached hereto, to the Modesto Sewer District No. 1.
(c) The detachment of said property from the Woodland Fire Protection District, and

WHEREAS, the reasons for this proposed reorganization to the City of Modesto are as follows:

(a) Staff has received a written request signed by the property owners to annex their properties to the City of Modesto.
(b) The proposed annexation is within the existing Sphere of Influence and is consistent with the Urban Area General Plan and can be most efficiently served by City services.
(c) The proposed annexation will result in the public improvements necessary to bring Mercy Avenue into conformance with City Standards.
(d) The proposed annexation will result in orderly planning and use of land resources because future residential development on the site will be consistent with the existing residential uses in the area.

WHEREAS, pursuant to Government Code Section 56653, a plan for providing services is set forth in **Exhibit "C",** attached hereto and by this reference incorporated herein, and

WHEREAS, an Initial Study (Environmental Assessment No. EA/C&ED 2007-22) 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

WHEREAS, the Planning Commission held a duly noticed public hearing to consider the proposed application for annexation on June 4, 2007, at 7:00 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California and recommended adoption of a Resolution of Application to annex the property, and

WHEREAS, on February 12, 2008, at 5:30 p.m., in the Tenth Street Place Chambers at 1010 Tenth Street, Modesto, California, the City Council held a duly noticed public hearing to consider the proposed Resolution of Application for annexation of the Property.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Modesto hereby finds and determines as follows:

1. That the proposed annexation and this Resolution of Application are consistent with the Modesto Urban Area General Plan, because they are consistent with General Plan Urban Growth Policy II.C.1.b., which states, "Urban development should be kept as contiguous as possible in order to avoid premature urbanization of valuable farm land, foster resident convenience, and provide for economy in City services," and because the development resulting from the proposed annexation is consistent with the General Plan.

2. The type of project under consideration is described in Chapter II of the MEIR and is within the scope of the MEIR (SCH No. 1999082041), which analyzed the potential impacts of build out of the Baseline Development Area.

3. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or have otherwise been made conditions of approval of the project.

4. That the proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.

5. That no new or additional mitigation measures or alternatives are required.

6. The Initial Study, Environmental Assessment No. EA/C&ED 2007-22, provides the substantial evidence to support findings 2-5 above.

7. The Property proposed to be annexed to the City of Modesto is uninhabited, and a description of the boundaries of the subject Property is set forth in Exhibits "A" and "B," attached hereto and by this reference incorporated herein.

8. The Property is located within Stanislaus County, and is within the City's existing Sphere of Influence, is contiguous to the existing City limits and can be most efficiently served with City services.

9. The proposed annexation will result in planned, orderly, and efficient development of the area, and the most efficient provision of services.

10. An agreement for the sharing of property taxes for the Property was approved by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170 on April 9, 1996.

11. The Property is not subject to a Williamson Act Contract pursuant to Government Code Section 51200, et seq.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts this Resolution of Application to annex the Property to the City of Modesto and Modesto Sewer District No. 1 and to detach the Property from the Woodland Fire Protection District.

BE IT FURTHER RESOLVED by the City Council of the City of Modesto that:

1. All owners of land within the affected Property have given their written consent to the reorganization and therefore, pursuant to California Government Code Section 56663 (c)(1), the City Council consent to waiver of conducting authority proceedings.

2. Pursuant to Government Code Section 56653, the City Council shall submit the plan for providing services as set forth in Exhibit "C," attached hereto and by this reference incorporated herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

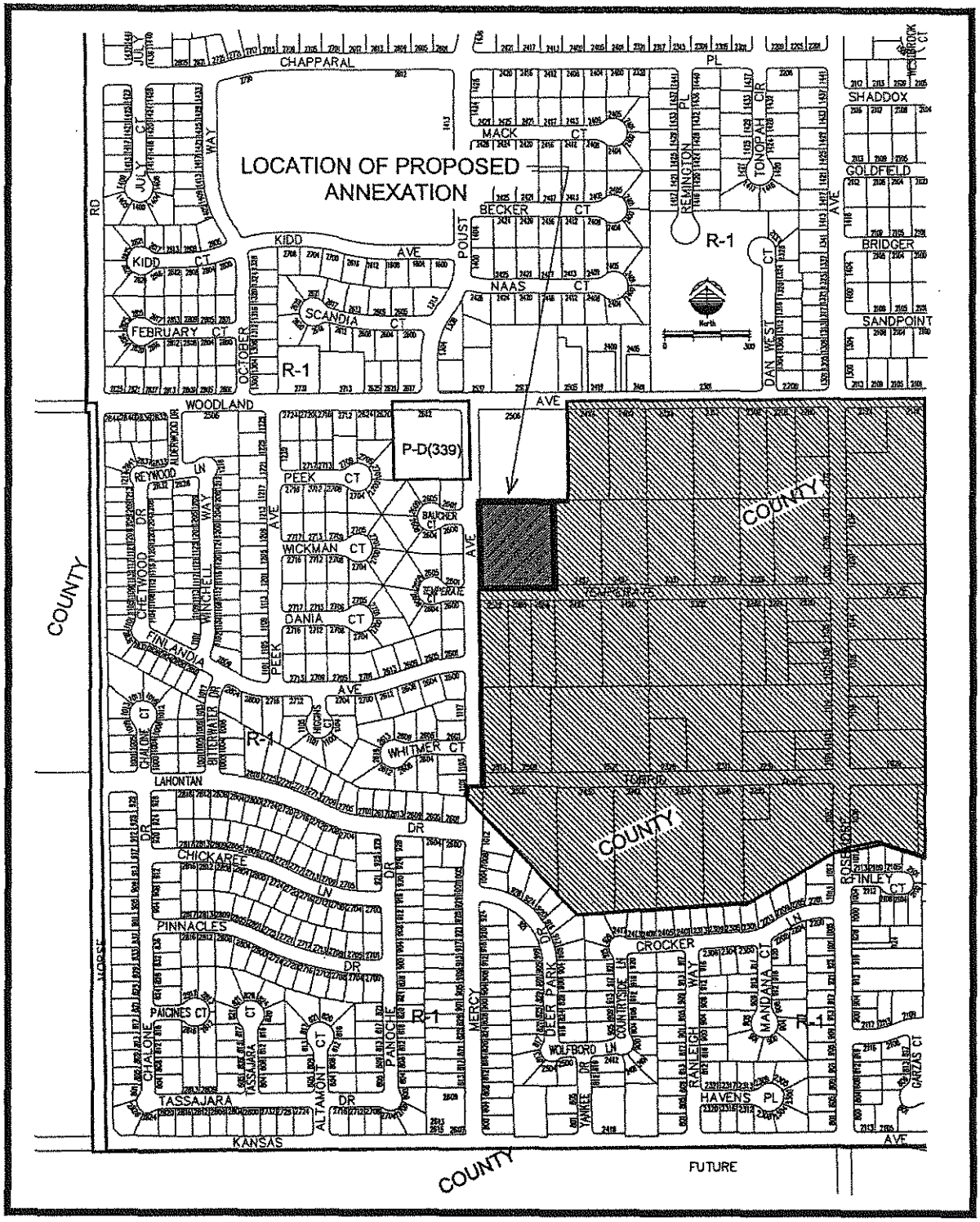
Exhibit "A"

LEGAL DESCRIPTION

Lot 3 in Block 6 of Pleasant Homes, as shown on the map thereof recorded on August 17th, 1922 in Volume 9 of Maps, page 67, Stanislaus County Records.

Exhibit "B"

ANNEXATION PROPOSAL MAP



North

AREA MAP OF PROPOSED ANNEXATION

Exhibit "C"

PLAN FOR SERVICE

2519 TEMPERATE REORGANIZATION
PLAN FOR PROVIDING SERVICES

Pursuant to Government Code Section 56653, the following Plan for Services to be extended to the affected territory has been prepared for the 2519 Temperate Reorganization.

The project site is part of the Baseline Developed Area, as described in the Modesto Urban Area General Plan, adopted August 15, 1999, and amended March 4, 2003. As part of the approval, community facilities and services were analyzed in detail in Initial Study Environmental Checklist (C&ED No. 2007-22). These services include traffic and circulation, waste water collection, water delivery, storm water drainage, solid waste disposal, schools, parks, fire protection, and police protection. The City of Modesto is a full service city that intends to provide the following services.

1. Traffic and Circulation: The bulk of the external roadway network is already constructed. The applicant or developer must provide minor dedication and construct roadway improvements along the project frontages to City standards.

2. Waste Water Collection: Upon reorganization, the site will annex to Modesto's Sewer District No. 1. Sewer service will be provided to the subject site from an existing six-inch line in Mercy Avenue adjacent to the site. The City does not anticipate a substantial demand for service at this site. Service will be extended upon development of the site at no cost to the City, as existing City fees will cover the cost.

3. Water Delivery: There is an adequate quantity of water to serve the residential development expected to occur on the property. The site will be served from an existing eight-inch water line in Mercy Avenue and an existing eight-inch water line in Temperate Avenue.

4. Storm Water Drainage: Storm water drainage for this project will be collected in existing rock wells near the project site. The rock wells have adequate capacity to serve the subject property.

5. Solid Waste Disposal: Weekly pickup will be extended to the annexation area upon the effective date of annexation.

6. Fire Protection: Upon reorganization, the annexation area will be detached from the Woodland Fire Protection District. The Modesto Fire Department has indicated that it can provide adequate service to the subject site following annexation.

7. Police Protection: The Modesto Police Department has indicated that it is able to provide adequate service to the subject site following annexation.

Level and range of services

The City of Modesto is a full service provider of municipal services and intends to provide the complete service for those areas identified above.

When can services be provided?

The above-described services can be provided upon the effective date of annexation.

Improvements required as a condition of reorganization

Roadway Dedication and Improvements necessary to bring Mercy and Temperate Avenues into conformance with City Standards.

How will services be financed?

Services will be financed through City fees.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-105

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDING SECTION 25-3-8 OF THE ZONING MAP TO PREZONE TO PREZONED LOW-DENSITY RESIDENTIAL ZONE (P-R-1), APPROXIMATELY 1.87 ACRES OF PROPERTY LOCATED ON THE NORTHEAST CORNER OF TEMPERATE AND MERCY AVENUES AND ANNEX SAID PROPERTY TO THE CITY OF MODESTO AND THE MODESTO SEWER DISTRICT NO. 1 AND DETACHMENT FROM THE WOODLAND FIRE PROTECTION DISTRICT (OWNER INITIATED – UNINHABITED)

WHEREAS, on August 15, 1995, by Resolution No. 95-409, the City Council of the City of Modesto certified the Master Environmental Impact Report ("EIR") for the Modesto Urban Area General Plan (SCH No. 1999082041), and

WHEREAS, on March 4, 2003, by Resolution No. 2003-122, the City Council of the City of Modesto certified the amendments to the Master EIR for the Modesto Urban Area General Plan (SCH No. 1999082041), and

WHEREAS, Temperate Enterprises, LLC, has filed an application requesting that 1.87 acres of property located on the northeast corner of Temperate and Mercy Avenues ("Property") be prezoned to Prezoned Low-Density Residential, (P-R-1), and

WHEREAS, the City of Modesto proposes to prezone the Property as requested and adopt a Resolution of Application to the Stanislaus County Local Agency Formation Commission for a proposed reorganization to annex the Property to the City of Modesto and the Modesto Sewer District No.1 and to detach the Property from the Woodland Fire Protection District, and

WHEREAS, the proposed prezoning designation and the Resolution of Application are hereafter collectively referred to as "the Projects", and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR 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 2007-22 reviewed the proposed amendment to the Zoning Map to prezone to P-R-1 project to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR, and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR and, 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 January 21, 2008, 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 February 12, 2008, 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 Projects, 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 Projects under consideration are described in Chapter II of the Master EIR.

2. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to The Projects or have otherwise been made conditions of approval of The Projects.

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. 1999082041), which analyzed the potential impacts of build out of the Baseline Developed Area.

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 MEIR.
    b. That no new or additional mitigation measures or alternatives are required.

5. The Initial Study, Environmental Assessment No. EA/C&ED 2007-22, 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 Community and Economic Development Director is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk, pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. 2007-22

For the proposed

2519 Temperate Reorganization
(Temperate Enterprises LLC, Applicant)

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

May 7, 2007

City of Modesto
Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the **2517 Temperate Reorganization** is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

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

1. It will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. No new or additional mitigation measures or alternatives are required.

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

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

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 MEIR (SCH# 1999082041) was 5 also consulted which lists both General Plan policies and mitigation measures for each area of environmental study.

II. PROJECT DESCRIPTION

A. Title: 2519 Temperate Reorganization

B. Address or Location: Northeast corner of Temperate and Mercy Avenues in a County "island" within the City of Modesto's Sphere of Influence

C. Applicant: Temperate Enterpirses
1628 Culpeper Avenue, Ste. A
Modesto, Ca. 95351

D. Application Contact Person: Dave Romano

City Project Manager: Josh Bridegroom, Senior Planner

Department:	Community & Economic Development Department
Phone Number:	(209) 577-5227
E-mail address:	jbridegroom@modestogov.com

E. Current General Plan Designation(s): (R), Residential

F. Current Zoning Classification(s): Stanislaus County has zoned the property A-2-10, Residential; the property is prezoned (P)M-1 (Light Residential)

G. Surrounding Land Uses:
West: Residential
North: Residential
East: Large Lot Residential
South: Large Lot Residential

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR:

This is an application to prezone to P-R-1 (Low-Density Residential) and annex 1.87 acres to the City of Modesto, Modesto Municipal Sewer District #1, and Modesto's Fire District and detach from the Woodland Fire Protection District to provide for the development of a seven-lot, single-family home subdivision. The subdivision is not part of the current application. The applicant will need to submit a separate application to subdivide the property, once the annexation has been approved.

I. Other Public Agencies Whose Approval is Required:

Local Agency Formation Commission

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.

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.

Josh Brickley — Project Manager

Senior Planner — Title

May 7, 2007 — Date

4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	X	☐
(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 this document.	X	☐
(3)	Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	X	☐
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	X	☐
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	X	☐
(6)	Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.	X	☐

Discussion:

(1) The City of Modesto is the Lead Agency for processing the requested land use entitlements (i.e.: prezoning and annexation).

(2) The subject project proposes improvements to a site located within the Baseline Developed Area. The site is comprises three lots which are occupied by a total of five dwellings and various accessory buildings.

(3) The Master EIR was last updated in March 2003. Since that update, there have been no changes to Federal, State, Regional and County regulations that have not resulted in less restrictive regulations.

(4) The subject site, 1.87 acres designated in the Urban Area General Plan as R (Residential), is proposed to be annexed to the City of Modesto. After the application proposals were referred to Trustee Agencies, no significant resources are identified in this proposal

(5) The subject area is located within the Modesto Urban Area General Plan in the Baseline Developed Area, as shown on Figure II-1 on page II-8 in the General Plan. All appropriate mitigation measures as listed in the Master EIR and attached to this document are incorporated into the project.

(6) A Global list of General Plan Policies and Mitigation Measures was reviewed (which is attached to this document) and appropriate Mitigation Measures will be required as part of the project's approval.

IV. ENVIRONMENTAL ANALYSIS

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

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

All environmental effects cited reflect 2025 build out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts:

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-1-6 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

The Master EIR for the Urban Area General Plan included the subject site. The annexation of property designated for residnetial uses is consistent with the Master EIR. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

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:

Where a project exceeds an additional 100 ADT contribution, as compared to the analysis in the Master EIR, a site access study will be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study will recommend new, project-specific mitigation measures. Where the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering and Transportation staff, a comprehensive traffic study will be required that will include off-site traffic impact analysis.

		YES	NO
(1)	The project would contribute more than an additional 100 average daily trips (ADT) to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR. City Engineering & Transportation Staff will review the project to determine whether the project contributes more than 100 ADT thresholds. Such Projects are presumed to generate more trips than assumed by the Master EIR.	☐	X
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	X
(3)	Result in inadequate emergency access.	☐	X
(4)	Result in inadequate parking capacity.	☐	X

Discussion:

(1) The project was referred to the Engineering and Transportation Division of the Public Works Department. Staff did not cite the need for a site access study.

(2) The project was referred to the Engineering and Transportation Department and the Transportation Division commented that the City's Standards Specifications require the abutting street network to be dedicated and improved to full City Street Standards when development is approved for the site. As a result, there will be no increase in hazards due to a design feature. Incompatible uses, such as farm equipment, are not anticipated through this annexation or future residential development that may occur on the property following annexation.

(3) The project was referred to the City of Modesto Police and Fire Departments. The City Fire Marshal and the Police Department indicated that those departments are able to provide adequate service to the site. When development is approved, specific conditions will be applied to that future development to ensure compliance with City development standards.

(4) Annexation and prezoning will have no effect on parking in the area. Future development on the site will be required to comply with City standards for parking.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected 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 NO_X 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 in 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 IV, Mitigation Measures Applied to Project.

Discussion:

Construction impacts would be less than significant with implementation of Mitigation Measure Air-1 (page V-2-24 in the MEIR). No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

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.	☐	X
(2)	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	☐	X
(3)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	X
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	X
(5)	The project would create objectionable odors affecting a substantial number of people.	☐	X

Discussion:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.

(2) Any subsequent application for development of the site with residential uses will be made to incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measure above).

(3) Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).

(4) The project is not a significant contributor to pollution levels. The main source of pollution that would come with future residential development is traffic related. Since the traffic impacts are within the scope of the MEIR, as supplemented by the MND, so are the traffic-related pollution concentration impacts. PM10 emissions created through the construction phase will be mitigated as called for by the MEIR by the measure listed above.

(5) The proposed project will not produce objectionable odors.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in exceedances of the City's Noise Significance Standards (see Table 3-3 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-3-9 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 IV, Mitigation Applied to Project.

Discussion:

The residential development that may occur following this annexation will be within the scope of the General Plan MEIR with respect to noise. The only significant noise that would occur as a result of the residential development on the site would be the temporary increase in noise levels as a result of construction activities. However, the MEIR provides mitigation measures N-4, N-5 and N-6 to address this impact. These will be carried down as conditions of approval on any subsequent application to develop the project with residential uses.

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.	☐	X
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	X
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	X
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	X

Discussion:

(1) The residential development that may occur following annexation will be required to comply with the standards for noise level and hours of operation established by the Modesto noise ordinance.

(2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan MEIR will be incorporated into future residential development on the site.

(3) The only permanent noise levels that may be produce by subsequent residential development would be associated with traffic. The increased traffic levels are within the scope of what the MEIR, as supplemented by the MND, 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 associated with subsequent residential development, but the noise mitigation measures called for by the General Plan will be incorporated into the conditions of approval for the project. The impact is less than significant.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts related 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-4-4 through V-4-8 in the MEIR.

Discussion:

The subject property is designated for Residential use and is not in agricultural production. The project site is also shown as lying within the Baseline Developed Area, as shown on page II-8 in the Urban Area General Plan. Policy AL-17 (MEIR, page V-4-7) states that if a subsequent project is within the Baseline Developed Area, the project is considered to have a minimal effect on the conversion of agricultural land and no mitigation is required. Thus, no new or additional mitigation measures or alternatives are required for the project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	☐	X
(3)	The project will conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	X
(4)	The project will Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use.	☐	X

Discussion:

(1) The Modesto Urban Area General Plan designates the site as R, Residential. No change in the Residential designation is proposed. The site is proposed to be prezoned to (P)R-1 and the site would be developed with Residential uses.

(2) The subject site is within the March, 2003, planning area boundary.

(3) The site is not zoned for agriculture, nor is there a Williamson Act contract on the property.

(4) The site is in the Baseline Developed Area, and, thus, is considered to have a minimal effect on the conversion of agricultural land.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer overdraft. 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 any 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 2020. Modesto will have 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 IV, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. Subsequent residential development that may occur will be required to incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts on 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.	☐	X
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	☐	X

Discussion:

(1) The subject site is designated as Residential in the Modesto Urban Area General Plan. It is located in an area that is developed with Residential uses. The proposed prezoning and annexation and are consistent with the City's General Plan.

(2) There is an adequate quantity of water to serve the Residential use expected to occur on the property, as demonstrated by a Will Serve letter dated (3 November, 2006) solicited by the applicant and provided by the City of Modesto, the water purveyor for the area..

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a)(MEIR mitigation SS-1, page V-6-2). Implementing the WMP, requiring the implementation of Best Management Practices for post-construction activities, and Urban Area General Plan policy V-D.2(a), 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 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 the Wastewater Master Plan MEIR 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-6-2 through V-6-7 of the MEIR. All feasible measures appropriate to the project are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

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.	☐	X
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	X

Discussion:

(1) The subject site is designated as Residential in the Modesto Urban Area General Plan. It is located in an area that is developed with Residential uses. The prezoning to (P)R-1 (Planned Low-Density Residential) and annexation will result in ultimate development of the site consistent with the City's General Plan.

(2) Annexation and prezoning of the site will be consistent with the existing Residential General Plan designation on the site, and the City has indicated with a Will Serve letter (dated 3 November, 2006) requested by the applicant that there is a reasonable certainty that adequate sewer service will be available to serve the property, consistent with City policy.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less than significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to 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-7-15 through V-7-21 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 IV, Mitigation Measures Applied to Project.

Discussion:

The project site lies outside the Biological Resource Study Area, shown on Figure V-7-1a in the MEIR. Therefore, no mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project.

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.	☐	X
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	X
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	X

Discussion:

(1) The subject site is designated as Residential in the Modesto Urban Area General Plan and is located in an area that is developed with Residential uses. The prezoning to (P)R-1 (Planned Low-Density Residential) and annexation are consistent with the City's General Plan.

(2) The site lies outside the Biological Resource Study Area and there is no specific information known that would suggest the possible presence of significant plant or animal species on or near the project site.

(3) The City has no policies or ordinances to protect biological resources that would apply to the project site, which lies well within the Modesto urbanized area and outside the Biological Resource Study Area.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. No impact would be expected to occur, since the buildings to be removed or demolished are not considered to have historical significance.

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 pages V-8-9 through V-8-14 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 IV, Mitigation Applied to Project.

Discussion:

The site proposed to be prezoned and annexed into the City of Modesto is occupied by an existing residence, but is otherwise vacant. It is not within any of the archeological resource areas identified by the MEIR. However, any new construction that may occur on the site, including the expansion or reconstruction of the existing structure or future application to subdivide the site for residential development, will be required to incorporate mitigation measure AH-8 from the General Plan. Compliance with this mitigation measure will ensure that the project is consistent with the analysis in the MEIR regarding archeological resources. This will be carried down as a condition of approval on this project.

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.	☐	X
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	X

Discussion:

(1) The subject site is designated as Residential in the Modesto Urban Area General Plan and is located in an area that is developed with Residential uses. The prezoning and annexation for this site are consistent with Residential designation in the General Plan.

(2) None of the buildings on the site are identified as a local landmark or other historic resource, thus no impacts are expected to occur.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less than significant.

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

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

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-3 through V-9-8 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 IV, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the prezoning and annexation. No new or additional mitigation measures or alternatives are required for the project. Subsequent residential development that may occur will be required to incorporate appropriate conditions of approval that satisfy City development standards.

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.	☐	X
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on or off site.	☐	X
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

Discussion:

(1) The subject site is designated as Residential in the Modesto Urban Area General Plan and is located in an area that is developed with Residential uses. Prezoning to Planned Low-Density Residential and the proposed Vesting Tentative Subdivision Map are consistent with the City's General Plan.

(2-3) The project does not include site development. However, any subsequent subdivision application would be required to meet City Standards and adhere to General Plan MEIR mitigation measure, SD-7, requiring the prevention of water pollution from urban runoff as established by the Central Valley Regional Water Quality Control Board.

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-10-4 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 IV, Mitigation Applied to Project.

Discussion:

The project site does not lie in an area having a potential for flooding, as Identified in the MEIR. No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project.

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.	☐	X
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	X
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.	☐	X
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

Discussion:

(1) The subject site, designated Residential in the Modesto Urban Area General Plan, is consistent with the City's General Plan and is located in an area that is developed with Residential uses.

(2) Development on the site will be required to comply with the Clean Water Act and the Porter-Cologne Act. The City will require adherence to any Clean Water Act requirements it deems appropriate.

(3) Future development on the site must comply with the City's Guidance Manual for New Development Storm Water Quality Control Measures. Compliance is ensured through review of building plans and building inspection.

(4) The site will be developed to City standards with full street improvements along the project's frontages. The appropriate design of the drain system will be verified by City staff when any subsequent application to subdivide the property is submitted.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. Impacts on parks and open space will be less than significant.

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. This impact is less than significant.

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

Parks and Open Space Mitigation Measure(s) pertinent to the proposed project are found on pages V-11-3 through V-11-9 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. All feasible measures appropriate to the project that will be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

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.	☐	X

Discussion:

(1) The subject site is designated Residential in the Modesto Urban Area General Plan and is located in an area that is developed with Residential uses. The prezoning and annexation are consistent with the City's General Plan.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, eight middle schools, and seven high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that increased enrollment 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-12-3 through V-12-7 in 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 IV, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the 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.	☐	X
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.	☐	X

Discussion:

(1) The subject site is designated Residential in the Modesto Urban Area General Plan, with which the proposal is consistent. The site is located in an area that is developed with Residential uses.

(2) Future development on the site will be required to comply with the provisions of SB 50/Proposition 1A and must pay schools fees in effect at the time the Vesting Tentative Subdivision Map is approved.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less than significant.

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. These policies reduce the impact to a less-than-significant level.

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

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-2 through V-13-4 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 IV, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the 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.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

Discussion:

(1) The subject site is designated Residential in the Modesto Urban Area General Plan and is located in an area that is developed with Residential uses. Future development on the site is expected to be Residential and, therefore, consistent with the City's General Plan.

(2) The proposed prezoning and annexation was referred to the Police Department. The Police Department did not indicated that any new or altered facilities would be required to serve the project or possible subdivision that may occur as a result thereof.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. Impacts on fire services of development in these areas will be less than significant.

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. This impact would be less than significant.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study.

Fire Services mitigation measure(s) pertinent to the proposed project are found on pages V-14-2 through V-14-5 of the MEIR. All feasible measures appropriate to the project that will 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 from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the 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.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

Discussion:

(1) The subject site is designated as Residential in the Modesto Urban Area General Plan and is located in an area that is developed with Residential uses. The annexation and proposed Vesting Tentative Subdivision Map are consistent with the City's General Plan.

(2) The Woodland Fire Protection District currently provides fire protection to the project site. The site must detach from the Woodland Fire Protection District and attach to the City of Modesto Fire Department service area as part of annexation, which will result in a reduction in revenue to the Woodland Fire Protection District (WFPD). The Local Agency Formation Commission has requested a financial analysis be included as part of the environmental review, however, the project site lies within the City of Modesto's Sphere of Influence and is anticipated in the City's General Plan and Master EIR to eventually annex to the City of Modesto and the City's service areas. Although the Woodland Fire Protection District would lose the revenue produced by these 3.19 acres, the WFPD can replace that revenue by increasing the assessment on the properties in its remaining service area. Additionally, the City of Modesto responds to emergency calls in this County island, providing redundancy and improving overall fire protection service to the island, therefore, no physical environmental impact on fire protection service would result from detachment from the WFPD and attachment to the Modesto Fire Department's service area. Further, reducing or eliminating the services provided by the WFPD to isolated pockets would be more cost-effective and efficient than providing services to disparate areas. The Modesto Fire Department has indicated that it can provide adequate service to the subject site. Future development on the site will be required to meet all City Fire safety requirements. Financial impacts on the Woodland Fire Protection District are not a CEQA concern.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: Since the project would exceed available landfill capacity, it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. The project will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. The impact would be less than significant at such time as the Fink Road Landfill expansion is approved.

Effect: The project makes a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. This impact is significant and unavoidable.

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

Solid Waste Mitigation Measure(s) pertinent to the proposed project are found on pages V-15-3 through 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 IV, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

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.	☐	X
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	X

Discussion:

(1) The subject site is designated Residential in the Modesto Urban Area General Plan. The site is located in an area that is developed with Residential uses. The annexation and prezoning and expected future Residential development are consistent with the City's General Plan.

(2) This project was referred to the Solid Waste Division of the City's Department of Public Works, which had no comment regarding this project's impact on solid waste disposal capacity.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less than significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under Federal, State, and County policies and regulations and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to this document.

Hazardous Materials Mitigation Measures pertinent to the project being analyzed in this Initial Study are found on pages V-16-5 through V-16-12 in the MEIR. Because the property is planned for Residential uses, it is possible that future property owners or building tenants may have hazardous materials on site. Mitigation measures from the MEIR will be applied to the Vesting Tentative Subdivision Map to ensure compliance will all appropriate regulations. 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:

Prezoning and Annexation do not generate hazardous materials. The future subdivision application will be required to incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts due to 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.	☐	X
(2)	The project does not comply with all applicable Federal, State, and County standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	☐	X
(3)	The project contains a contaminated site not identified as of March 2003.	☐	X
(4)	The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	X
(5)	The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	X

Discussion:

(1) The subject site is designated as Residential in the Modesto Urban Area General Plan and is located in an area that is developed with Residential uses. The project and future Residential development expected to occur on the site are consistent with the City's General Plan.

(2) The prezoning and annexation will not generate any hazardous materials, and it is unlikely that hazardous materials will be generated in conjunction with any future residential subdivision that may occur on the project site. However this will be further

assessed once an application to subdivision the land is received. If necessary, the map will be conditions in accordance with GP MEIR policies for the identification handling and storage of hazardous materials.

(3-5) The City's Final Master Environmental Impact Report lists hazardous materials sites and this project is not on or near any of those sites.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-5 through V-17-7 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 IV, Mitigation Measures Applied to Project:

Discussion:

Mitigation measures pertinent to the project are found on pages V-17-5 through V-16-12 in the MEIR. No new or additional mitigation measures or alternatives are required for the project. Any subsequent subdivision will incorporate appropriate conditions of approval that satisfy City development standards.

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. ☐ X

(2) The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. ☐ X

Discussion:

(1) The subject site is designated as Residential in the Modesto Urban Area General Plan and is located in an area that is developed with Residential uses. The annexation and Vesting Tentative Subdivision Map are consistent with the City's General Plan.

(2) According to the MEIR's physical description of the General Plan study area, the site is not located in area subject to landslide, lateral spreading, subsidence, liquefaction or collapse.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less than significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kiloWatt hours (kWh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less than significant.

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

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the 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.	☐	X

Discussion:

(1) The subject site is designated as Residential in the Modesto Urban Area General Plan. It is located in an area that is developed with Residential uses. The annexation and Vesting Tentative Subdivision Map are consistent with the City's General Plan.

Parking areas that will eventually be created to serve future development will be required to contain shade trees as required in the Modesto Municipal Code. Enforcement will occur through site plan review when building permits are applied for.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan.	☐	X
(3)	The project would physically divide an established community.	☐	X

Discussion:

(1) The subject site is designated as Residential in the Modesto Urban Area General Plan and is located in an area developed with Residential uses. The prezoning to Low-Density Residential is consistent with the Residential designation of the property. Annexation is consistent with expansion of the City described in the General Plan.

(2) The project involves annexation to the City consistent with expansion of the City anticipated in the General Plan. No amendment to the Modesto Urban Area General Plan is proposed.

(3) The project will result in the expansion of an existing Residential area; no community will be divided as part of this proposal. This is consistent with development anticipated in the Urban Area General Plan.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would have a substantial adverse effect on a scenic vista.	☐	X
(3)	The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	☐	X
(4)	The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	☐	X

Discussion:

(1) The subject site is designated as Residential in the Modesto Urban Area General Plan and is located in an area developed with Residential uses. The prezoning to Low-Density Residential and annexation is consistent with the Residential designation of the property.

(2-4) The project is located within an established Residential area and there are no scenic vistas of or from the area. The expansion of the existing Residential area is consistent with the type of development in the area.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1 (c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures 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 Measures:

None.

Air Quality Measures:

Mitigation Measure Air-1: PM10 Control Measures (page V-2-24 of the MEIR)

1. SJVUAPCD Regulation VIII Control Measures for Construction Emissions of PM-10. The following controls are required to be implemented at all construction sites:

   a. 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

   b. All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

   c. 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.

   d. With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

   e. 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.

   f. 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.)*

g. 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.

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

i. Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.

Noise Measures:

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

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

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

   B. An impact wrench, or other tool or equipment powered by compressed air.

   C. A hand-powered saw.

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

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

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

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

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

Agricultural Land Measures:

None

Water Supply Measures:

None

Sanitary Sewer Service Measures:

None

Sensitive Wildlife and Plant Habitat Measures:

None

Archaeological or Historic Sites Measures:

Mitigation Measure AH-8 (page V-8-13 of the MEIR)

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

Storm Drainage Measures:

Mitigation Measure SD-7 (page V-9-4 of the MEIR)

The City of Modesto shall prevent water pollution from urban storm runoff as established by the Central Valley Regional Water Quality Control Board for surface discharges and Environmental Protection Agency for underground injection. (General Plan Policy V-E.2[c])

Flooding and Water Quality Measures:

None

Parks and Open Space Measures:

None

Schools Measures:

None

Police Services:

None

Fire Services:

None

Generation of Solid Waste

None

Generation of Hazardous Materials

None

Potential for Landslides and Seismic Activity

None

Energy

None

Planning and Land Use

None

Aesthetics

None

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: ***None.***

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-106

A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH STANTEC FOR THE DEVELOPMENT OF THE GEOGRAPHIC INFORMATION SYSTEM (GIS) UPGRADE FOR THE SANITARY SEWER UTILITIES INVENTORY PROJECT IN AN AMOUNT NOT TO EXCEED $1,246,000, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

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, the WDR regulation contains requirements for monitoring, reporting, developing, and implementing Sanitary Sewer Management Plans (SSMPs), and

WHEREAS, one of the requirements of this new WDR is that the City develop and maintain a complete sanitary sewer utilities inventory by November 2, 2008, which includes details of each data component in a GIS format, and

WHEREAS, updating the current GIS System is also part of the overall infrastructure management strategy for the City, and

WHEREAS, the rapid growth that the City of Modesto has experienced for the past few years has resulted in the necessity for Wastewater Collections staff to work with outdated infrastructure maps which has been particularly problematic when trying to respond to emergency situations, and

WHEREAS, the new GIS data will enable crews to respond in a shorter time frame by being able to rapidly pinpoint structures in inclement weather or under other emergency conditions, and

WHEREAS, a faster structure location will also reduce impacts resulting from sanitary sewer overflows by enabling crews to clearly identify the problem point and then eliminate the cause, and

WHEREAS staff contacted the Information Technology (IT) Department to assist in the development of specifications for a Request for Qualifications (RFQ) for this GIS upgrade, and

WHEREAS, on October 9, 2007, the Council, by Resolution 2007-595 approved the RFQ for this project for $250,000, and

WHEREAS, at that time staff was not sure when the CIP would be approved for full funding of the project, and

WHEREAS, it was necessary to proceed with the RFQ in October 2007 in order to meet the WDR Compliance Schedule, and

WHEREAS, the Council, by motion, approved the CIP on January 8, 2008, and full funding of the GIS Upgrade Project was included, and

WHEREAS, the RFQ was sent to 13 Consultants, and five proposals were received, and

WHEREAS, staff has determined that the proposal from Stantec was the most qualified, and

WHEREAS, now that full funding is available, this allows the entire project to be completed at one time for an amount not to exceed $1,246,000, and

WHEREAS, staff has negotiated with Stantec to accomplish this project within the available funds, and

WHEREAS, funds are budgeted in the Primary CIP 6210-480-B122,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a professional services agreement with Stantec for development of

the Geographic Information System (GIS) upgrade for the sanitary sewer utilities inventory project in an amount not to exceed $1,246,000.

BE IT FURTHER RESOLVED that the Council hereby authorizes the Interim City Manager, or his designee, to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the12th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-107

A RESOLUTION APPROVING THE CHANGE OF 6210-480-B122 FROM A STAND ALONE CIP TO A PRIMARY CIP, AND TRANSFERRING $250,000 FROM 6210-480-5212-0235 TO 6210-480-B122-6052 TO FULLY FUND THE GEOGRAPHICAL INFORMATION SYSTEM (GIS) UPGRADE PROJECT.

WHEREAS, Council approved the funding for the Stand Alone CIP B122 GAP Analysis – WDR Compliance in the amount of $1,000,000 during the CIP FY07-08 process, and

WHEREAS, staff recommended changing CIP B122 from a Stand Alone CIP to a Primary CIP in order to utilize Secondary CIP's for all of the projects that will be funded for Waste Discharge Requirement (WDR) Compliance, and

WHEREAS, one of the requirement of the WDR is to develop and maintain a complete sanitary sewer utilities inventory, which also includes updating the current Geographic Information System (GIS) as part of the overall infrastructure management strategy for the City of Modesto, and

WHEREAS, under separate action, staff brought to Council the approval of an agreement with Stantec for GIS professional services in an amount not to exceed $1,246,000 for the development of the sanitary sewer utilities inventory and GIS upgrade, and

WHEREAS, it is necessary to transfer $250,000 from Wastewater Collection Operating Account No. 6210-480-5212-0235 (professional services) to CIP Account No. 6210-480-B122-6052 to fully fund the GIS upgrade project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the change of 6210-480-B122 from a stand alone CIP to a primary CIP.

BE IT FURTHER RESOLVED that the Council hereby authorizes the transfer of $250,000 from 6210-480-5212-0235 to 6210-480-B122-6052 to fully fund the GIS upgrade project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the12th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-108

A RESOLUTION REAPPOINTING JOSEPH TREVENA TO THE AIRPORT ADVISORY COMMITTEE

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

WHEREAS, the Economic Development Committee met on February 11, 2008, and recommended reappointment of JOSEPH TREVENA to the Airport Advisory Committee.

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

SECTION 1. JOSEPH TREVENA is hereby reappointed to the Airport 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 reappointed member of the Airport Advisory Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the26th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-109

A RESOLUTION REAPPOINTING RONALD JESKE TO THE BOARD OF BUILDING APPEALS

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

WHEREAS, the Economic Development Committee met on February 11, 2008, and recommended reappointment of RONALD JESKE to the Board of Building Appeals.

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

SECTION 1. RONALD JESKE is hereby reappointed to the Board of Building Appeals 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 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 26th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-110

A RESOLUTION REAPPOINTING DR. DOUGLAS N. CHADWICK AND DOROTHY S. GRIGGS TO THE CITIZENS ADVISORY COMMITTEE ON RECYCLING

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

WHEREAS, the Economic Development Committee met on February 11, 2008, and recommended reappointment of DOUGLAS N. CHADWICK and DOROTHY S. GRIGGS 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. DOUGLAS N. CHADWICK and DOROTHY S. GRIGGS are hereby reappointed to the Citizens Advisory Committee on Recycling with term expirations of January 1, 2012.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-111

A RESOLUTION REAPPOINTING LINDA KENYON TO THE CITIZENS HOUSING & COMMUNITY DEVELOPMENT COMMITTEE

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

WHEREAS, the Economic Development Committee met on February 11, 2008, and recommended reappointment of LINDA KENYON to the Citizens Housing & Community Development Committee.

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

SECTION 1. LINDA KENYON is hereby reappointed to the Citizens Housing & Community Development 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 reappointed member of the Citizens Housing & Community Development Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-112

A RESOLUTION REAPPOINTING BEV GRAHAM TO THE COMMUNITY QUALITIES FORUM

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

WHEREAS, the Economic Development Committee met on February 11, 2008, and recommended reappointment of BEV GRAHAM to the Community Qualities Forum.

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

SECTION 1. BEV GRAHAM is hereby reappointed to the Community Qualities Forum with term expirations of January 1, 2012.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-113

A RESOLUTION REAPPOINTING PHILIP S. ANSELMO JR. TO THE DISABLED ACCESS APPEALS BOARD

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

WHEREAS, the Economic Development Committee met on February 11, 2008, and recommended reappointment of PHILIP S. ANSELMO JR. to the Disabled Access Appeals Board.

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

SECTION 1. PHILIP S. ANSELMO JR. is hereby reappointed to the Disabled Access Appeals Board 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 reappointed member of the Disabled Access Appeals Board, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

022608/CMO/EPuckett

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-114

A RESOLUTION REAPPOINTING NORMA REED, TAMMY MAISETTI AND GEORGIA ANDERSON 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 February 11, 2008, and recommended reappointment of NORMA REED, TAMMY MAISETTI and GEORGIA ANDERSON to the Downtown Improvement District Advisory Board.

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

SECTION 1. NORMA REED, TAMMY MAISETTI and GEORGIA ANDERSON are hereby reappointed to the Downtown Improvement District Advisory Board with term expirations of January 1, 2012.

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 26th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-115

A RESOLUTION REAPPOINTING RYNE CONDER TO THE GOLF COURSES ADVISORY COMMITTEE

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

WHEREAS, the Economic Development Committee met on February 11, 2008, and recommended reappointment of RYNE CONDER, representing Creekside Golf Club, to the Golf Courses Advisory Committee.

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

SECTION 1. RYNE CONDER, representing Creekside Golf Club, is hereby reappointed to the Golf Courses Advisory Committee with term expiration of January 1, 2012.

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 26th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:
_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-116

A RESOLUTION REAPPOINTING RICHARD GAYTAN TO THE HUMAN RELATIONS COMMISSION

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

WHEREAS, the Economic Development Committee met on February 11, 2008, and recommended reappointment of RICHARD GAYTAN to the Human Relations Commission.

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

SECTION 1. RICHARD GAYTAN is hereby reappointed to the Human Relations 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 reappointed member of the Human Relations 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 26th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:
_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-117

A RESOLUTION REAPPOINTING BOB GAUSMAN 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 February 11, 2008, and recommended reappointment BOB GAUSMAN to the Local Cable Programming Committee.

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

SECTION 1. BOB GAUSMAN is hereby reappointed to the Local Cable Programming 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 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 26th of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-118

A RESOLUTION REAPPOINTING JEAN-PIERRE BATMALE 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 February 11, 2008, and recommended reappointment of JEAN-PIERRE BATMALE to the Solid Waste Advisory Committee.

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

SECTION 1. JEAN-PIERRE BATMALE is hereby reappointed to the Solid Waste 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 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 26th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:
_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-119

A RESOLUTION APPOINTING KEVIN YOUNG TO THE AIRPORT ADVISORY COMMITTEE

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

WHEREAS, the Economic Development Committee met on February 11, 2008, and recommended appointment of KEVIN YOUNG to the Airport Advisory Committee.

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

SECTION 1. KEVIN YOUNG is hereby appointed to the Airport 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 newly appointed member of the Airport Advisory Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-120

A RESOLUTION APPOINTING HENRIETTA SPARKMAN 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 February 11, 2008, and recommended appointment of HENRIETTA SPARKMAN to the Culture Commission.

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

SECTION 1. HENRIETTA SPARKMAN is hereby appointed to the Culture 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 newly appointed 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 26th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:
_____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-121

A RESOLUTION APPOINTING LINDA KENYON 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, WHEREAS, the Economic Development Committee met on February 11, 2008, and recommended appointment of LINDA KENYON, representing Muni Miners Golf, to the Golf Courses Advisory Committee.

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

SECTION 1. LINDA KENYON, representing Muni Miners Golf, is hereby appointed to the Golf Courses Advisory Committee with term expirations of January 1, 2012.

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 26th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:
_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-122

A RESOLUTION APPOINTING DUWAYNE STENGER 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 February 11, 2008, and recommended appointment of DUWAYNE STENGER to the Solid Waste Advisory Committee.

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

SECTION 1. DUWAYNE STENGER, with a term expiration of January 1, 2010, is hereby appointed to the Solid Waste Advisory Committee.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed 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 26th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

_____
SUSAN ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-123

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF TWO (2) PACKER TRUCKS FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO VALLEY PETERBILT, INC., TURLOCK, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF $351,306.

WHEREAS, packer trucks are used by the Community Forestry Division for pruned refuse collection and are replaced on a ten year cycle, and

WHEREAS, the current packer trucks have reached the end of there useful life and are scheduled with the California Air Board to be retired. The packer trucks do not meet air board emission requirements and must be replaced, and

WHEREAS, on August 14, 2007, the City Council by Resolution No. 2007-495 authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 07/08 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, two (2) packer trucks for the Community Forestry Division, pruned refuse collection were included in the FY 07/08 new vehicles and heavy equipment list authorized by Council, and

WHEREAS, on November 13, 2007, the Purchasing Division issued RFB No. 0708-14 for the purchase of two (2) packer trucks to twenty (20) prospective bidders, posted the bid on the City's web site and formally advertised as required by law, and

WHEREAS, on November 20, 2007, a bidders conference was held. One (1) company was in attendance, and

WHEREAS, on December 18, 2007, RFB's were formally opened in the City Clerk's office. Of the twenty (20) prospective bidders, two (2) companies chose to respond. Both bidders provided responsive and responsible bids, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of two (2) packer trucks to Valley Peterbilt, Inc., Turlock, CA, for the total estimated cost of $351,306, 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) packer trucks for the Public Works Department, Fleet Services Division conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in the following accounts for the purchase of two (2) packer trucks for FY 07/08, Account numbers 7210-480-5814-5807 and 7210-480-5814-5808,

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) packer trucks to Valley Peterbilt, Inc., Turlock, CA for a total estimated cost of $351,306.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a Purchase Order for a total estimated cost of $351,306.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-124

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF NINETEEN (19) CROWN VICTORIA POLICE INTERCEPTOR VEHICLES – 2008 MODEL YEAR, FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, BY "ACCESSING THE TERMS" OF A COMPETITIVELY BID CONTRACT WITH THE CITY OF SACRAMENTO, THROUGH DOWNTOWN FORD, SACRAMENTO, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF $516,826.

WHEREAS, the Public Works Department, Fleet Services Division has analyzed the maintenance cost of the Crown Victoria patrol sedans and determined the best time to replace the police sedans is on an 85,000 mile replacement cycle, and

WHEREAS, analysis done by City staff has shown that maintenance costs after 85,000 miles increase dramatically, and

WHEREAS, on July 10, 2007, the City Council approved Resolution No. 2007-411 authorizing the Purchasing Manager to "access the terms" of a competitively bid contract with the City of Sacramento to Downtown Ford, Sacramento, CA, for the purchase of fifteen (15) Crown Victoria police sedans for fiscal year 06/07 and the funds were rolled into fiscal year 07/08 for the purchase, and

WHEREAS, Downtown Ford offers a 5% prompt payment discount for net twenty days, and

WHEREAS, Fleet Services Division processed the payments within the twenty (20) day period and saved the City $20,000, and

WHEREAS, on August 14, 2007, the City Council approved Resolution No. 2007-495 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 07/08 through various competitive processes, with the Purchasing Division coming back to Council for award authorization and

WHEREAS, Nineteen (19) Crown Victoria patrol sedans were included in the FY 07/08 new vehicles and heavy equipment list authorized by Council, and

WHEREAS, on February 5, 2008, a request for quote was sent to Heritage Ford, a local vendor for pricing per Modesto Municipal Code (MMC) Section 8-3.206, and

WHEREAS, a cost analysis abstract was conducted to review the City of Sacramento Contract, the State of California Contract and the local vendor preference with Heritage Ford, and

WHEREAS, City staff determined that the local vendor was not competitively priced with other public agencies, and by "accessing the terms" of a competitively bid contract with the City of Sacramento, through Downtown Ford, Sacramento, CA, the City will select the bid that best suits the City's needs, and

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

WHEREAS, per Modesto Municipal Code Section 8-3.204(d) the Purchasing Manager may determine that a process other than the 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, by "accessing the terms" through the contract with the City of Sacramento, the purchase of this equipment will conform to MMC Section 8-3.204(d), and

WHEREAS, funds are budgeted and available in the following account for the purchase of nineteen (19) Crown Victoria Police Interceptor Vehicles, in FY 07/08, Account numbers 7210-480-5814-5757 and 7210-480-5811,

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 nineteen (19)

Crown Victoria Police Interceptor Vehicles – 2008 model year, for the Public Works Department, Fleet Services Division, by "accessing the terms" of a competitively bid contract with the City of Sacramento, through Downtown Ford, Sacramento, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a Purchase Order for a total estimated cost of $516,826.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-125

A RESOLUTION APPROVING A GRANT APPLICATION FOR $100,000 IN FUNDING FROM THE FEDERAL LAND AND WATER CONSERVATION FUND FOR THE PURPOSE OF REPLACING THE DAVIS PARK PICNIC SHELTER, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT APPLICATION DOCUMENTS

WHEREAS, the Congress under Public Law 88-578 has authorized the establishment of a Federal Land and Water Conservation Fund Grant-In-Aid Program and its political subdivisions for acquiring lands and developing facilities for public outdoor recreation purposes, and

WHEREAS, the California Department of Parks and Recreation is responsible for administration of the program in the State, setting up necessary rules and procedures governing applications by local agencies under the program, and

WHEREAS, said adopted procedures established by the California Department of Parks and Recreation require the City of Modesto to certify by resolution the approval of a grant application and the availability of eligible matching funds prior to submission of said grant application to the State, and

WHEREAS, the Davis Park Picnic Shelter Replacement Project (the "Project") is consistent with the most recent California Outdoor Recreation Plan (CORP), and

WHEREAS, the Project is compatible with the land use plans of all jurisdictions immediately surrounding the Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby:

1. Approves the filing of an Application for Land and Water Conservation Fund assistance; and

2. Certifies that the City of Modesto has matching funds from the following source: Funding from the City's M185 Park Infrastructure Preservation Account, and that the City can finance 100 percent of the Project, up to half of which may be reimbursed; and

3. Certifies that the Project is compatible with the land use plans of those jurisdictions immediately surrounding the Project; and

4. Appoints the Interim 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 26th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-125

A RESOLUTION APPROVING A GRANT APPLICATION FOR $100,000 IN FUNDING FROM THE FEDERAL LAND AND WATER CONSERVATION FUND FOR THE PURPOSE OF REPLACING THE DAVIS PARK PICNIC SHELTER, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT APPLICATION DOCUMENTS

WHEREAS, the Congress under Public Law 88-578 has authorized the establishment of a Federal Land and Water Conservation Fund Grant-In-Aid Program and its political subdivisions for acquiring lands and developing facilities for public outdoor recreation purposes, and

WHEREAS, the California Department of Parks and Recreation is responsible for administration of the program in the State, setting up necessary rules and procedures governing applications by local agencies under the program, and

WHEREAS, said adopted procedures established by the California Department of Parks and Recreation require the City of Modesto to certify by resolution the approval of a grant application and the availability of eligible matching funds prior to submission of said grant application to the State, and

WHEREAS, the Davis Park Picnic Shelter Replacement Project (the "Project") is consistent with the most recent California Outdoor Recreation Plan (CORP), and

WHEREAS, the Project is compatible with the land use plans of all jurisdictions immediately surrounding the Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby:

1. Approves the filing of an Application for Land and Water Conservation Fund assistance; and

2. Certifies that the City of Modesto has matching funds from the following source: Funding from the City's M185 Park Infrastructure Preservation Account, and that the City can finance 100 percent of the Project, up to half of which may be reimbursed; and

3. Certifies that the Project is compatible with the land use plans of those jurisdictions immediately surrounding the Project; and

4. Appoints the Interim 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 26th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-126

A RESOLUTION APPROVING AN AGREEMENT WITH MOORE, IACOFANO, GOLTSMAN INC. FOR PROFESSIONAL LANDSCAPE ARCHITECTURAL SERVICES FOR THE PHASE 1 UPDATE TO THE MASTER PLAN, DESIGN DEVELOPMENT REPORT AND ENVIRONMENTAL DOCUMENTATION FOR THE MARY E. GROGAN COMMUNITY PARK FOR AN ESTIMATED TOTAL COST OF $194,903.00, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Mary E. Grogan Park is a 43-acre Master Planned Community Park that is to be located on City-owned property in the Village One Community Planning Area in northeast Modesto, and

WHEREAS, the Park is currently master planned with a Design Development Report and supporting environmental documentation. Plans for the park include 7 lighted soccer fields, a softball field, family aquatics center, community center, on-site parking and picnic areas, and

WHEREAS, the Park was master planned in 2004, and

WHEREAS, the Modesto Police and Fire Departments offered to share expenses and economize on land and locate a 24-hour police precinct and fire station on the park site, and

WHEREAS, the proposed space requirements include 7,700 sq. ft. for the fire house, 20,500 sq. ft. for the police precinct, and 24,800 sq. ft. for the community center, and

WHEREAS, the work to be accomplished on this project consists of a revision of the existing Park Master Plan, Design Development Report (DDR) and Environmental Documentation, and

WHEREAS, a Request for Proposals (RFP) was distributed to over 200 architects, landscape architects, engineers and construction management firms in September 2007, and eighteen firms responded to the RFP and submitted proposals by the October 24, 2007 deadline, and

WHEREAS, a panel of six reviewed the proposals and selected five firms to be interviewed, and two firms were chosen for site visits to similar-type projects that each firm had completed within the past five years, and

WHEREAS, after visiting with each design team at their project site, the panelists determined that Moore, Iacofano, Goltsman Inc. was the most qualified design firm,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Moore, Iacofano, Goltsman Inc. for professional landscape architectural services for the Phase 1 Update to the Master Plan, Design Development Report and Environmental Documentation for the Mary E. Grogan Community Park for an estimated total cost of $194,903.00.

BE IT FURTHER RESOLVED that the Interim 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 February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-127

A RESOLUTION AMENDING THE FISCAL YEAR 2007-08 OPERATING BUDGET TO APPROPRIATE $80,000 FROM 0100-800-8000-8003, GENERAL FUND RESERVE, TO 0100-300-3020, 800 E. MORRIS DEMOLITION, TO FUND ACTIVITIES RELATED TO A FIRE AT THE CITY-OWNED BUILDING AT 800 E. MORRIS AVENUE IN MODESTO

WHEREAS, on October 14, 2007, firefighters responded to a fire at the old John Muir School (Modesto Community Service Center) at 800 E. Morris Avenue in T.B. Scott Park. The fire destroyed the building and most of its contents, primarily historical artifacts stored on the second floor, leaving the brick walls and little else, and

WHEREAS, staff immediately addressed the emergency presented by the unstable structure. Fencing was ordered to secure the site at a cost of $1,617 for six months, and a security service was put in place at a cost of $12,028 per month. The security service will continue to be on site 24 hours per day, seven days per week until the walls come down, and

WHEREAS, the City's Risk Manager arranged to have the City's insurance company come out to view the site and take pictures, and MID and PG&E were notified to disconnect their services, and the electrical connections for the irrigation timers at the park were moved, and

WHEREAS, Organization 3020 was established in FY 07-08 for the purpose of tracking expenses related to the fire and subsequent related actions, and

WHEREAS, this organization is in Agency 300, which also covers the Parks, Recreation and Neighborhoods Department's Administration, and

WHEREAS, Organization 3020 has a zero budget, and there is not sufficient funding in place to cover the expenses related to the fire, and

WHEREAS, any expenditures will be reimbursed through the insurance settlement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 07-08 operating budget to appropriate $80,000 from 0100-800-8000-8003, General Fund Reserve, to various objects in 0100-300-3020, 800 E. Morris Demolition, as more fully described in **Exhibit "A"** attached hereto and incorporated herein by reference, to fund the fire-related activities at the City-owned building at 800 E. Morris Avenue in Modesto.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the steps necessary 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 February, 2008 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Carolyn Eubank
Telephone No.: 577-5349
Department: Parks, Recreation and Neighborhoods
Fund Title: General

Council Action Date: 02.26.08
Resolution Number:
FY: 07-08
Transfer No.

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO					
APPROPRIATIONS					
FROM					
0100-800-8000-8003			($80,000)	($80,000)	General Fund Reserve
TO					800 E. Morris Demolition
0100-300-3020-0218			$2,000	$2,000	Equipment Pool Rental
0100-300-3020-0235		$58,848	$45,000	$103,848	Services Professional & Other
0100-300-3020-0255			$12,000	$12,000	Service Credits
0100-300-3020-0259			$15,000	$15,000	Intrafund Labor
0100-300-3020-0308			$2,500	$2,500	Tools Shop & Field
0100-300-3020-0360			$3,500	$3,500	Real Property M&R
			$80,000		

COMMENTS/JUSTIFICATION

This funding is needed to pay for activities other than the demolition contract related to the fire at the City-owned building at 800 E. Morris Avenue.

AUTHORIZATION (check if required)	SIGNATURE	DATE
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)		
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-128

A RESOLUTION APPROVING A LETTER OF SUPPORT TO BE SIGNED BY MAYOR JIM RIDENOUR FOR THE PROPOSED LEGISLATION INTRODUCED BY CONGRESSMAN DENNIS CARDOZA TO EXPAND THE SAN JOAQUIN RIVER NATIONAL WILDLIFE REFUGE TO INCLUDE THE DOS RIOS RANCH AT THE CONFLUENCE OF THE TUOLUMNE AND SAN JOAQUIN RIVERS

WHEREAS, the Honorable Dennis Cardoza introduced to Congress proposed legislation to expand the San Joaquin River National Wildlife Refuge to include the Dos Rios Ranch at the confluence of the Tuolumne and San Joaquin Rivers, and

WHEREAS, the City of Modesto is the lead agency of the Tuolumne River Regional Park Joint Powers Authority, and

WHEREAS, expansion of the San Joaquin River National Wildlife Refuge is a key component in further implementing the "Lower Tuolumne River Parkway Framework for the Future" document adopted by the Tuolumne River governing jurisdictions in 2005, and

WHEREAS, the proposed expansion will increase recreational and preservation opportunities on all sides of the confluence of the Tuolumne and the San Joaquin Rivers and will serve as a valuable asset to the public,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a letter of support to be signed by Mayor Jim Ridenour for the proposed legislation introduced by Congressman Dennis Cardoza to expand the San Joaquin River National Wildlife Refuge to include the Dos Rios Ranch at the confluence of the Tuolumne and San Joaquin Rivers.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-129

A RESOLUTION APPROVING A REQUEST FROM STANISLAUS PRIDE CENTER FOR AMPLIFIED MUSIC AT MANCINI BOWL, GRACEADA PARK, FOR STANISLAUS PRIDE DAY, TO BE HELD ON SEPTEMBER 27, 2008, FROM 2:00 PM TO 8:00 PM

WHEREAS, on October 12, 2007, the Parks, Recreation and Neighborhoods Department staff received a request from Stanislaus PRIDE Center for amplified music at Mancini Bowl, Graceada Park, for Stanislaus PRIDE Day, to be held on September 27, 2008, from 2:00 p.m. to 8:00 p.m, and

WHEREAS, in addition to the amplified music, the event will also include information booths and food vendors, and

WHEREAS, the use of amplified music requires approval from the City Council; and if the request for amplified music is approved, a team of staff members from the City of Modesto will meet with members of Stanislaus PRIDE Center to work out all requirements and details for the event, and

WHEREAS, Stanislaus PRIDE Center will be responsible for all fees related to this event, and

WHEREAS, the Safety and Communities Committee met on February 4, 2008, and supported staff's recommendation to approve the request from Stanislaus PRIDE Center for amplified music at Mancini Bowl, Graceada Park, for Stanislaus PRIDE Day, to be held on September 27, 2008, from 2:00 p.m. to 8:00 p.m.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the request from Stanislaus PRIDE Center for amplified music at

Mancini Bowl, Graceada Park, for Stanislaus PRIDE Day, to be held on September 27, 2008, from 2:00 p.m. to 8:00 p.m.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 26th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-130

A RESOLUTION APPROVING A REQUEST FROM JOHN BLACK OF JB SPECIAL EVENTS AND PROMOTIONS FOR AMPLIFIED MUSIC AT MANCINI BOWL, GRACEADA PARK, FOR THE MODESTO BLUES FESTIVAL EVENT TO BE HELD ON JUNE 14, 2008, FROM 1:00 PM TO 9:30 PM

WHEREAS, on December 26, 2007, the Parks, Recreation and Neighborhoods Department staff received a request from John Black of JB Special Events and Promotions for amplified music at Mancini Bowl, Graceada Park, for the Modesto Blues Festival event, to be held on June 14, 2008, from 1:00 p.m. to 9:30 p.m., and

WHEREAS, the event is part of the annual Graffiti Summer celebration and is free to all ages. In addition to the amplified music, the event will also include a small hotrod show with food and drink concessions as a "United Walk" activity designed to bring attention to mental illness issues in the community, and

WHEREAS, there will also be a beer garden for participants over the age of 21. JB Special Events and Promotions will provide security personnel at the beer garden area; and, if deemed necessary, Modesto Police Department will also provide staff, and

WHEREAS, the use of amplified music requires approval from the City Council; and if the request for amplified music is approved, a team of staff members from the City of Modesto will meet with members of John Black of JB Special Events and Promotions to work out all requirements and details for the event, and

WHEREAS, John Black of JB Special Events and Promotions will be responsible for all fees related to this event, and

WHEREAS, the Safety and Communities Committee met on February 4, 2008, and supported staff's recommendation to approve the request from John Black of JB Special Events and Promotions for amplified music at Mancini Bowl, Graceada Park, for the Modesto Blues Festival event to be held on June 14, 2008, from 1:00 p.m. to 9:30 p.m.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the request from John Black of JB Special Events and Promotions for amplified music at Mancini Bowl, Graceada Park, for the Modesto Blues Festival event to be held on June 14, 2008, from 1:00 p.m. to 9:30 p.m

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 26th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-131

A RESOLUTION AMENDING THE POLICE DEPARTMENT POSITION ALLOCATION AS ADOPTED BY THE CITY COUNCIL AS PART OF THE 2007/2008 BUDGET TO APPROVE AN ADDITIONAL POLICE CAPTAIN POSITION TO MANAGE THE STANISLAUS REGIONAL 911 COMMUNICATIONS CENTER EFFECTIVE MARCH 4, 2008, ELIMINATE ONE FULL-TIME POLICE LIEUTENANT POSITION EFFECTIVE MARCH 4, 2008 AND ONE EMERGENCY DISPATCH SERVICES DIRECTOR POSITION EFFECTIVE MAY 1, 2008.

WHEREAS, the City of Modesto and the County of Stanislaus entered into a Joint Exercise of Powers Agreement for Emergency Dispatch Services, and

WHEREAS, the Stanislaus Regional 911 Communication Center provides the citizens of both the City of Modesto and the County of Stanislaus with a vital link to law enforcement, ambulance and fire services, and

WHEREAS, the Agreement provides for the sharing of costs for dispatch services between the City, the County and other participating agencies, and

WHEREAS, the current Agreement provides for an Emergency Dispatch Services Director to manage and lead a centralized emergency dispatch operation for the Joint Powers Agency, and

WHEREAS, on November 3, 2004, the Council approved the new classification of Emergency Dispatch Director as a City of Modesto employee under contract with Stanislaus Regional 911 Joint Powers Agency, and

WHEREAS, the Joint Powers Agency is contractually obligated to reimburse the City for salary, benefits, retirement costs and a vehicle for this position, and

WHEREAS, on January 24, 2005, the City Council approved the Advisory Board of the Stanislaus Regional 911 Communications Center's request to fill its Deputy Director of Operations position with a Modesto Police Lieutenant, and

WHEREAS, the current Emergency Dispatch Services Director of the Communications Center has announced he will be vacating his position, and

WHEREAS, at the January 31, 2008 Joint Powers Agency Commission meeting, the Commission approved a proposal to replace the current Emergency Dispatch Services Director with a Captain's position from the Modesto Police Department, and

WHEREAS, the current cost of the Emergency Dispatch Director's salary is 9% higher than a Captain's salary; however, once benefit and retirement costs are factored into the Captain's position, the cost will exceed that of the Emergency Dispatch Director by approximately $3,600 a year, and

WHEREAS, the Joint Powers Agency will continue to reimburse the City for the Captain's salary, benefits, retirement costs and a vehicle, and

WHEREAS, the Commission approved replacing the Deputy Director of Operations, which has been filled by a Modesto Police Department Lieutenant, with a Lieutenant from the Stanislaus County Sheriff's Office,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Police Department position allocation as adopted by the City Council as part of the 2007/2008 budget to approve an additional Police Captain position to manage the Stanislaus Regional 911 Communications Center effective March 4, 2008, eliminate one full-time Police Lieutenant position effective March 4, 2008 and one Emergency Dispatch Services Director position effective May 1, 2008.

BE IT FURTHER RESOLVED that the Interim 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 26th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-132

A RESOLUTION AMENDING THE MODESTO POLICE DEPARTMENT'S 2007/08 BUDGET REDUCING EXPENDITURES BY $23,470 DUE TO PERSONNEL CHANGES THAT ARE REIMBURSED BY THE STANISLAUS REGIONAL 911 COMMUNICATIONS CENTER.

WHEREAS, the City of Modesto and the County of Stanislaus entered into a Joint Exercise of Powers Agreement for Emergency Dispatch Services, and

WHEREAS, the Stanislaus Regional 911 Communications Center provides the citizens of both the City of Modesto and the County of Stanislaus with a vital link to law enforcement, ambulance and fire services, and

WHEREAS, the Agreement provides for the sharing of costs for dispatch services between the City, the County and other participating agencies, and

WHEREAS, the current Agreement provides for an Emergency Dispatch Services Director to manage and lead a centralized emergency dispatch operation for the Joint Powers Agency, and

WHEREAS, on November 3, 2004, the Council approved the new classification of Emergency Dispatch Director as a City of Modesto employee under contract with Stanislaus Regional 911 Joint Powers Agency, and

WHEREAS, the Joint Powers Agency is contractually obligated to reimburse the City for salary, benefits, retirement costs and a vehicle for this position, and

WHEREAS, on January 24, 2005, the City Council approved the Advisory Board of the Stanislaus Regional 911 Communications Center's request to fill its Deputy Director of Operations position with a Modesto Police Lieutenant, and

WHEREAS, the current Emergency Dispatch Services Director of the Communications Center has announced he will be vacating the position, and

WHEREAS, at the January 31, 2008 Joint Powers Agency Commission meeting, the Commission approved a proposal to replace the current Emergency Dispatch Services Director with a Captain from the Modesto Police Department, and

WHEREAS, the current cost of the Emergency Dispatch Director's salary is 9% higher than a Captain's salary; however, once benefit and retirement costs are factored into the Captain's position, the cost will exceed that of the Emergency Dispatch Director by approximately $3,600 a year, and

WHEREAS, the Joint Power Agency will reimburse the City for the Captain's salary, benefits, retirement costs and a vehicle, and

WHEREAS, the Commission also approved replacing the Deputy Director of Operations, which has been filled by a Modesto Police Department Lieutenant, with a Lieutenant from the Stanislaus County Sheriff's Office, and

WHEREAS, due to the personnel changes approved by the Joint Powers Agency, the Modesto Police Department will no longer need a Lieutenant position to fill this assignment, and

WHEREAS, there are currently 13 Lieutenant authorized positions and once a Lieutenant is promoted to Captain, the department-authorized positions will be reduced to 12, and

WHEREAS, the Captain who will serve as the Emergency Dispatch Director of the Communications Center and will increase the authorized Captain positions from four to five (including the Assistant Chief),

WHEREAS, with the elimination of the Lieutenant and addition of a Captain as of March 4, 2008, and the elimination of the Director as of May 1, 2008, the Police Department budget for personnel costs can be reduced $23,470, and

WHEREAS, the revenue budget does not need to be adjusted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Modesto Police Department's 2007/08 budget reducing expenditures by $23,470 due to personnel changes that are reimbursed by the Stanislaus Regional 911 Communications Center.

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 26th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-133

A RESOLUTION APPROVING A GRANT APPLICATION FOR $337,200 IN FUNDING FROM THE ENVIRONMENTAL PROTECTION AGENCY (EPA) FOR DESIGN COMPLETION AND CONSTRUCTION OF A PORTION OF THE NINTH STREET STORM DRAIN, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE APPLICATION.

WHEREAS, the Ninth Street Storm Drain system is undersized causing localized flooding in the downtown area, and

WHEREAS, the Environmental Protection Agency (EPA) allocates funding to provide grants to local entities for storm drain improvements, and

WHEREAS, on January 14, 2003, by Resolution No. 2003-33 the City Council accepted an EPA Grant for $242,500 for the Design of the Ninth Street Storm Drain, and

WHEREAS, design is near completion for a relief pipeline located on Eighth Street with three connections to the existing Ninth Street Storm Drain pipeline, and

WHEREAS, the EPA is offering additional funding in the amount of $337,200 for design completion and constructing the first phase of the Ninth Street Storm Drain pipeline project, and

WHEREAS, if the application is approved and funded by the EPA, then a Grant Acceptance will be presented to Council at a later date, and

WHEREAS, the City of Modesto must follow administrative conditions to receive grant funding including using Federal funds for project approved expenses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Grant Application for $337,200 in funding from the Environmental Protection Agency (EPA) for design completion and construction of a portion of the Ninth Street Storm Drain.

BE IT FURTHER RESOLVED that the Interim City Manager, or his designee, is hereby authorized to execute and file the necessary applications, financial and accounting forms, and other documents required by EPA regulations for the City of Modesto to receive approval for grant funding of the Ninth Street Storm Drain project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-134

A RESOLUTION AMENDING THE FY 07-08 OPERATING AND CAPITAL IMPROVEMENT PROGRAM BUDGETS TO DECREASE ACCOUNT 0700-430-4380-0235 "ANNUAL SLURRY SEAL" BY TRANSFERRING $275,891 TO ACCOUNT 0700-800-8000-8003 "GAS TAX RESERVES, THEN TRANSFERRING THE SAME AMOUNT FROM ACCOUNT 0700-800-8000-8003 "GAS TAX RESERVES TO ACCOUNT 6280-800-8000-8003 "STORM DRAIN RESERVES", THEN TRANSFERRING THE SAME AMOUNT FROM ACCOUNT 6280-800-8000-8003 "STORM DRAIN RESERVES" TO CIP ACCOUNT 6280-430-N686-6053 "9TH STREET STORM DRAINAGE", REQUIRED AS CITY'S 45% SHARE OF MATCHING FUNDS ASSOCIATED WITH THE GRANT APPLICATION FOR FUNDING FROM THE ENVIRONMENTAL PROTECTION AGENCY (EPA) FOR THE NINTH STREET STORM DRAIN PROJECT.

WHEREAS, the City of Modesto will be required to provide 45% matching funds to the Environmental Protection Agency (EPA) Grant for the Ninth Street Storm Drain project in the amount of $275,891 which represents the City's share, and

WHEREAS, there are currently insufficient funds in Storm Drain and Gas Tax Reserves to cover the City matching funds for this project, and

WHEREAS, City matching funds are available from Operating Account 0700-430-4380-0235 "Annual Slurry Seal" in the amount of $275,891, and

WHEREAS, due to project savings from previous years and scheduled receipts of gasoline tax, the Annual Slurry Seal account can provide funding for the proposed Ninth Street Storm Drain matching funds and future allocations for overlay projects, and

WHEREAS, certain budgetary transactions are necessary to transfer funds in the amount of $275,891, to cover the City's 45% share of costs associated with the EPA Grant application for the Ninth Street Storm Drain project, and

WHEREAS, in order to fund the City's 45% share of costs associated with the EPA Grant application for the Ninth Street Storm Drain project, the current operating and Capital Improvement Program budgets must be amended by decreasing Account 0700-

430-4380-0235 "Annual Slurry Seal" by transferring $275,891 to Account 0700-800-8000-8003 "Gas Tax Reserves, then transferring the same amount from Account 0700-800-8000-8003 "Gas Tax Reserves to Account 6280-800-8000-8003 "Storm Drain Reserves", then transferring the same amount from Account 6280-800-8000-8003 "Storm Drain Reserves" to CIP Account 6280-430-N686-6053 "9th Street Storm Drainage",

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds as set forth herein to cover the City's 45% share of costs associated with the EPA Grant application for the Ninth Street Storm Drain project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-135

A RESOLUTION ACCEPTING THE WORK BY TEICHERT CONSTRUCTION FOR THE PROJECT TITLED "WOODLAND AVENUE IMPROVEMENTS AT CARPENTER ROAD" AS COMPLETE, AUTHORIZING THE ACTING 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 $189,465.54.

WHEREAS, a report has been filed by the Public Works Director that the project titled "Woodland Avenue Improvements at Carpenter Road" has been completed by Teichert Construction in accordance with the contract agreement dated February 27, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Woodland Avenue Improvements at Carpenter Road" is hereby accepted as complete from said contractor Teichert Construction, that the Acting 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 $189,465.54 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2008, 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, Acting City Clerk
(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-136

A RESOLUTION APPROVING A SECOND AMENDMENT TO THE AGREEMENT WITH KLEINFELDER WEST, INC. FOR CONTINUED WELL MONITORING AND REPORTING SERVICES, IN THE AMOUNT OF $14,072, FOR THE PROJECT TITLED "9TH STREET STORM DRAINAGE BASIN AT KANSAS-9TH-NEEDHAM," AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO THE AGREEMENT.

WHEREAS, during excavation of the 9th Street Storm Drainage Basin, as part of the Kansas-Needham Overhead construction, petroleum products were discovered that needed to be alleviated, and

WHEREAS, on April 22, 2005, the City entered into an Agreement with Kleinfelder West, Inc. for a Sensitive Receptor Survey and Limited Soil Sampling and Analysis at the request of Stanislaus County Department of Environment Resources (SCDER), and

WHEREAS, Kleinfelder has written a Corrective Action Plan (CAP) for the cleanup of the site, and

WHEREAS, on September 26, 2006, the First Amendment to the Agreement was executed for additional ground water monitoring 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 Kleinfelder West, Inc. to allow final closure, and

WHEREAS, staff recommends execution of a Second Amendment to the Agreement with Kleinfelder West, Inc. for services associated with the ground water monitoring,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Second Amendment to the Agreement with Kleinfelder West, Inc., in the amount of $14,070.00, thereby increasing the total not to exceed amount to $58,737.00, for consultant services in conjunction with groundwater monitoring.

BE IT FURTHER RESOLVED that the Interim 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 26th day of February, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-137

A RESOLUTION APPROVING AN AGREEMENT WITH STANTEC CONSULTING INC. TO PREPARE A FINAL PROJECT DESIGN FOR SCENIC LIFT STATION PROJECT IN AN AMOUNT NOT TO EXCEED $143,387, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City Council, on September 3, 2003, by Resolution 2003-521, approved an Agreement for Consultant Services with Stantec Consulting Inc. to complete the design for the rehabilitation of the Scenic Lift Station project, and

WHEREAS, the City Council, on September 26, 2006, by Resolution No. 2006-624, adopted a resolution changing the procedures that Public Works uses for projects with a total Capital Improvement Program budget of more than $1 million, and

WHEREAS, City directed Stantec Consulting Inc. (Stantec) to change the scope of services to develop a Preliminary Design Report when the anticipated budget of the Scenic Lift Station project exceeded $1 million dollars, and

WHEREAS, Stantec has satisfactorily completed preliminary engineering design services for the Scenic Lift Station project, and

WHEREAS, City staff recommends an agreement with the consulting firm of Stantec be approved to perform the final project design services as the City does not have the staffing level to design these projects and current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, selecting Stantec to complete the final design will maximize benefits to the City related to utilizing knowledge gained through the preliminary design effort, and

WHEREAS the Public Works Director has recommended a new agreement with Stantec to complete the final design, provide biddable documents, and provide bid period services for the Scenic Lift Station Project in an amount not to exceed $143,387, and

WHEREAS, Stantec will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Stantec Consulting Inc. to prepare a final project design for the Scenic Lift Station project in an amount not to exceed $143,387.

BE IT FURTHER RESOLVED that the Interim 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 February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-138

A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET BY APPROVING A TRANSFER OF FUNDS IN THE AMOUNT OF $70,000 FROM ACCOUNT 6210-800-8000-8003 "WASTEWATER FUND-RESERVES" TO CIP ACCOUNT 6210-430-B491-6010 "SCENIC SEWER LIFT STATION" IN ORDER TO FULLY FUND THE AGREEMENT WITH STANTEC CONSULTING INC. TO PERFORM THE REQUIRED FINAL DESIGN SERVICES TO COMPLETE THE SCENIC LIFT STATION PROJECT

WHEREAS, certain budgetary transactions are necessary to fully fund the agreement with Stantec Consulting Inc. (Stantec) in the amount of $143,387 to perform the required final design services to complete the Scenic Lift Station project, and

WHEREAS, to fully fund the agreement to prepare a final project design for the Scenic Lift Station in the not-to exceed amount of $143,387 for the identified scope of services, plus $14,339 for project administration services by City staff, the current Capital Improvement Program (CIP) budget must be amended by transferring $70,000 from Account 6210-800-8000-8003 "Wastewater Fund-Reserves" to CIP Account 6210-430-B491-6010 "Scenic Sewer Lift Station" to perform the required final design services to complete the Scenic Lift Station project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds as set forth herein to fully fund the agreement with Stantec to perform the required final design services to complete the Scenic Lift Station project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-139

A RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION TO THE FEDERAL AVIATION ADMINISTRATION TO IMPOSE, COLLECT AND USE A PASSENGER FACILITY CHARGE BY AIR CARRIERS ON PASSENGERS USING THE MODESTO CITY-COUNTY AIRPORT, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE APPLICATION.

WHEREAS, with the passage of the Aviation Safety and Capacity Act of 1990, Congress adopted a Passenger Facility Charge (PFC) program, and

WHEREAS, upon approval of the application by the Federal Aviation Administration (FAA), the nation's airports could collect a PFC fee not to exceed $3.00 per passenger enplaned by the airlines serving their communities, and

WHEREAS, PFC fees would be used to provide improvements for capacity, safety, and security of the air transportation system, to promote competition, reduce noise, and expand passenger facilities, and

WHEREAS, airlines are responsible for the collection of PFC fees and the FAA is responsible for the distribution of the funds, and

WHEREAS, once a sponsor's (City or other airport owner) application is approved, they are authorized to use PFC funds to match Airport Improvement Program (AIP) funds, or for other specific airport uses approved by the FAA, and

WHEREAS, the previous PFC application approved by the City Council, by Resolution No. 93-393A, on July 6, 1993, expired on March 1, 2005, and

WHEREAS, air carriers currently are not authorized to collect PFC fees on behalf of Modesto City-County Airport (MOD) passengers, and

WHEREAS, with FAA approval the air carrier will have the authority to collect PFC fess in the amount of $4.50 for each MOD passenger enplanement effective June 1, 2008, and

WHEREAS, with approval of a new PFC application, Modesto City-County Airport could receive approximately $395,134 per year in funds to be spent on federally-eligible airport improvement projects,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes submittal of an application to the Federal Aviation Administration to impose, collect, and use a Passenger Facility Charge by air carriers on passengers using the Modesto City-County Airport.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:
by _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-140

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "PHASE 1A TERTIARY WASTEWATER TREATMENT PROJECT MEMBRANE EQUIPMENT SYSTEM PROCUREMENT," ACCEPTING THE BID AND APPROVING A $4,532,484.00 CONTRACT WITH ZENON ENVIRONMENTAL CORPORATION FOR THE "PHASE 1A TERTIARY WASTEWATER TREATMENT PROJECT MEMBRANE EQUIPMENT SYSTEM PROCUREMENT," AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT.

WHEREAS, on February 13, 2007, by Resolution No. 2007-110 the Council approved an Agreement with Carollo Engineers, P.C., to complete the 35% design effort and a Preliminary Design Report for the Phases 1A and 1B Tertiary Wastewater Treatment Project, and

WHEREAS, on June 26, 2007, by Resolution No. 2007-379, the Council accepted the final Preliminary Design Report for the Phases 1A and 1B Tertiary Wastewater Treatment Project, and

WHEREAS, on July 3, 2007, by Resolution No. 2007-408, the Council approved an Agreement with Carollo Engineers, P.C., to prepare a final project design for the Phase 1A Tertiary Wastewater Treatment Project, and

WHEREAS, Carollo Engineers, P.C. has completed 90 percent of the design documents for the Phase 1A Tertiary Wastewater Treatment Project, and

WHEREAS, the City of Modesto provided bid packages to interested Membrane Bioreactor suppliers on October 15, 2007, received bids and qualifications on December 18, 2007, and opened bids from qualified suppliers on January 8, 2008, and

WHEREAS, the Public Works Director has recommended that the bid of $4,532,484.00 received from ZENON Environmental Corporation be accepted as the

lowest responsible bid and the contract be awarded to ZENON Environmental Corporation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the project titled "Membrane Equipment System Procurement for the Phase 1A Tertiary Wastewater Treatment Project," accepts the bid of ZENON Environmental Corporation in the amount $4,532,484.00, and hereby awards ZENON Environmental Corporation the contract.

BE IT FURTHER RESOLVED that the Interim 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 26th day of February 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-141

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 TIVOLI SPECIFIC PLAN PROJECT (STATE CLEARINGHOUSE NUMBER 2005072125) (DAVID ROMANO, NEWMAN ~ ROMANO LLC)

WHEREAS, David Romano ("Applicant") of Newman-Romano, LLC, filed applications that include the following: adoption of the Tivoli Specific Plan ("Project"), adoption of a General Plan Amendment, prezone to Specific Plan, annexation to the City of Modesto, a Facilities Master Plan and an Infrastructure Finance Plan, all to allow the development of 454 acres located north of Sylvan Avenue, south of future Claratina Avenue, East of Oakdale Road, west of Roselle Avenue ("the Property"), and

WHEREAS, the City of Modesto ("the City"), on July 21, 2005, 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 August 8, 2005, 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 Tivoli Specific Plan Project (State Clearinghouse Number 2005072125) ("DEIR") for public comment on October 12, 2006, 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 November 27, 2006, and

WHEREAS, during the 45-day public comment period the City received thirty one 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 Tivoli Specific Plan Project (State Clearinghouse Number 2005072125) ("FEIR") prepared pursuant to Section 15089 of the CEQA Guidelines, and

WHEREAS, the FEIR was published and distributed on January 8, 2008, and consists of the Draft EIR, a list of commentors, 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: adoption of the Tivoli Specific Plan, adoption of a General Plan Amendment, prezoning the project site to Prezoned Specific Plan (P-SP), annexation of the project site to the City of Modesto, adoption of a Facilities Master Plan and an Infrastructure Finance Plan, formation of a

Community Facilities District, approval of a Development Agreement, and subsequent entitlements, and

WHEREAS, a Community Facilities District and subsequent entitlements will be filed at a future date and a Development Agreement may be filed at a future date, 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 January 28, 2008, 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. 2008-03, 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 February 26, 2008, 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 Tivoli Specific Plan Project (SCH No. 2005072125) 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, Utilities and Service Systems, and Population and Housing; and

      - that the Project will contribute to significant, unavoidable cumulative impacts to Agricultural Resources, Air Quality, Noise, and Utilities and Service Systems.

      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. Land Use Objectives

a. The project would foster distinctive, attractive developments with a strong sense of place.

b. The project would provide development consistent with the Neotraditional Planning Principles provided in Section III-C (3) of the Modesto Urban Area General Plan. The primary concept is to provide a complete and integrated community with housing, work places, commercial and retail services, schools, parks, and civic facilities essential to the daily life of the residents.

c. The project would create a range of housing opportunities and choices with multi-family and/or affordable housing in compliance with the regional housing needs consistent with the Housing Element.

d. The project would enhance the City's economic base through increased sales tax revenue.

e. The project would provide a regional commercial development to serve the east side of the City in a timely manner. To locate regional commercial development along or near regional transportation corridors.

f. The project would provide commercial and institutional services and employment on the east side of the City to reduce travel time.

ii. Circulation Objectives

a. The project would provide acceptable levels of traffic service on roadways consistent with the General Plan policies and Level of Service standards.

b. The project would create neighborhoods that encourage pedestrian and bicycle use and link to the commercial, school, and park sites.

iii. Public Facilities and Services Objectives

a. The project would ensure public facilities and services are adequately planned and provided with development.

b. The project would ensure that a financing plan is provided with funding mechanisms for the provision of adequate public facilities and services.

4. The Mitigation and Monitoring and Reporting Program for the Tivoli Specific Plan 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. Further, the Council recognizes that it has made changes to the Specific Plan itself in its approval of it. This Council hereby finds and determines that such changes and additional information are not significant new information as that term is defined under the provisions of the California Environmental Quality Act, because such changes and additional 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 commenters to 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 Tivoli Specific Plan Project (SCH No. 2005072125), 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 specific plan (File No. P-EIR-04-002). 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 26th day of February, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ACALA WOOD, City Attorney

Exhibit "A"

FINDINGS & STATEMENTS ON THE TIVOLI SPECIFIC PLAN EIR

TIVOLI SPECIFIC PLAN PROJECT
ENVIRONMENTAL IMPACT REPORT (SCH# 2005072125)

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 has prepared a Final Environmental Impact Report (the "FEIR") for the Tivoli Specific Plan Project and other related approvals described below (collectively, the "Project"). 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 provides for the mixed-use development by approximately 2017 of a 454-acre area, including 286 acres of residential development for a total of 3,241 residential dwelling units, 14 acres of neighborhood-serving commercial, 6 acres of general commercial, 67 acres of regional-serving commercial, 2 acres of professional office space, a 14-acre elementary school site, approximately 30 acres of parks and open space, 4 acres of public infrastructure, and approximately 31 acres of interior collector roadways. The Project also includes provisions to improve existing traffic and circulation conditions, with construction of new arterial and collector streets for better vehicular circulation and linkages to the existing circulation system and transit services.

The Project site is located in an unincorporated area of Stanislaus County, within the City's Sphere of Influence.

The approvals necessary for implementation of the Tivoli Specific Plan include:

1. Adoption of General Plan amendment to:

A. Reclassify a portion of the project site from Village Residential (VR) to Regional Commercial (RC);

B. Allow commercial development for the Village Residential designation in the Tivoli Specific Plan to exceed the recommended 4 percent;

C. Allow for the Tivoli Specific Plan neighborhood center that combines a neighborhood park and elementary school;

D. Reclassify Claratina Avenue from a four-lane Class B Expressway to a six-lane Principal Arterial with a Class I bike path from Oakdale Road to Roselle Avenue;

E. Change Sylvan Avenue from a six-lane Principal Arterial to a four-lane Minor Arterial with bike lanes from Oakdale Road to Roselle Avenue;

F. Include Class II bike lanes along Oakdale Road from Sylvan Avenue to Claribel Avenue; and

G. Amend the Roselle/Claribel Comprehensive Planning District to allow the Tivoli Specific Plan to exceed the minimum recommended density of 5.1 units per gross acre.

2. Prezoning of the Project site to a Specific Plan Overlay.

3. Annexation of the Project site into the City of Modesto including approval by the Local Agency Formation Commission.

4. Adoption of a Facilities Master Plan and an Infrastructure Finance Plan for the Tivoli Specific Plan area.

5. Formation of a Community Facilities District to fund the construction of "backbone" public infrastructure, maintenance of applicable public facilities, and applicable public services.

6. Approval of a Development Agreement to guide development within the Tivoli Specific Plan area.

7. Subsequent entitlements, including abandonment of a portion of Mable Avenue and approval of Area Plans, Final Development Plans, tentative maps, Conditional Use Permits, and other City entitlement approvals.

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 FEIR, and Turnstone prepared the FEIR under the supervision and at the direction of the City of Modesto Community and Economic Development Department.

- 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 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 Tivoli Specific Plan project would introduce a new land use designation and zoning districts in proximity to existing residential, commercial, and agricultural uses, creating the potential for land use compatibility conflicts.

- Impact A.2 – The proposed Tivoli Specific Plan project would introduce new residential, commercial, office, and school uses in

proximity to ongoing agricultural operations, including the keeping of farm animals, creating the potential for land use compatibility conflicts.

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. **Visual Resources**

   - Impact C.1 – Development of the project would change the existing agricultural visual character of the project site.

   - Impact C.2 – Proposed commercial development under the Tivoli Specific Plan would require higher levels of outdoor lighting than surrounding residential development, creating the potential for glare on nearby residential properties.

4. **Air Quality**

   - Impact E.3 – Motor vehicle emissions would locally contribute to elevated concentrations of carbon monoxide.

   - Impact E.4 – Emissions during project operation would cause sensitive receptors to be exposed to TAC's.

   - Impact E.5 – Emissions of objectionable odors could occur during project operation.

5. **Noise**

   - Impact F.1 – Increased project-related traffic could cause substantial noise increases for existing sensitive receptors in the project vicinity.

6. **Hazards**

   - Impact G.1 – Demolition of existing buildings could cause release of hazardous materials causing potential hazards to the public and environment.

   - Impact G.3 – Transportation of contaminated soil and/or building materials removed from the project site could result in accidental release of hazardous materials.

7. **Biological Resources**

- Impact H.1 – Implementation of the Tivoli Specific Plan could result in loss of foraging habitat for White-tailed Kites and Northern Harriers.

- Impact H.2 – Implementation of the Tivoli Specific Plan could result in loss of breeding and foraging habitat for Tricolored Blackbirds and Loggerhead Shrikes.

8. **Hydrology and Water Quality**

- Impact I.5 – Implementation of the proposed project could place housing in a FEMA-designated floodplain.

- Impact I.6 – Implementation of the proposed project could place new development within an area potentially subject to dam failure inundation.

- Impact I.7 – Implementation of the project could result in depletion of groundwater resources.

9. **Community Services**

- Impact K.1 – Development of the proposed 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 accidents near the site.

- Impact K.2 – Development of the proposed project site would result in an increase in emergency response call volumes which require an emergency response unit to arrive within six minutes.

- Impact K.4 – Development of the commercial and high density residential components of the proposed project with building heights over 30 feet could result in insufficient water pressure for firefighting.

10. **Utilities and Services Systems**

- Impact L.4 – Construction of several of the proposed collection system and treatment plant improvements could have visual impacts at their locations.

- Impact L.5 – Construction of the new wastewater collection and treatment facilities could impact traffic near the project site or near the Primary or Secondary Plants.

- Impact L.8 – Emissions during project operation could cause sensitive receptors to be exposed to toxic air contaminants.

- Impact L.9 – Emissions of objectionable odors could occur during project operation.

- Impact L.10 – Construction and operation of the new wastewater facilities to support development on the Tivoli site would result in changes in local noise levels.

- Impact L.12 – Increased use of chlorine and sulfur dioxide at the Secondary Plant could expose workers and the public to accidental release of toxic gases.

- Impact L.13 – Additional solid waste would be generated by new, near-term wastewater treatment facilities.

- Impact L.20 – Implementation of the proposed project may result in surface water quality degradation due to pollutant loading associated with treated effluent discharges.

- Impact L.24 – Construction of the near-term tertiary treatment facilities would provide wastewater treatment capacity for population growth that could cause the City to exceed its population projections.

11. Water Supply

- Impact M.1 – Implementation of the Tivoli Specific Plan could increase the demand for potable water.

- Impact M.3 – Development of the proposed project could contribute to cumulative demand for potable water in the Modesto Water Service Area.

- Impact M.4 – Development of the proposed project would not contribute substantially to the potential for regional cumulative demand to result in overdraft of groundwater supplies.

12. Population and Housing

- Impact N.2 – Development of the proposed project would increase the number of jobs located within the City which could affect the demand for housing.

- Impact N.3 – Development of the proposed Tivoli Specific Plan could contribute to substantial growth in undeveloped areas and require extension of major infrastructure.

I. Findings and Recommendations Regarding Significant Environmental Impacts

A detailed analysis of the potential environmental impacts and the proposed mitigation measures for the Tivoli Specific Plan Project is set forth in Sections IV.A through IV.N of the DEIR, as incorporated into the FEIR. The DEIR evaluated the Project's potential environmental impacts in 14 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) the 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.6 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 Mitigation Measure B.1, which could possibly provide for contribution to the Farmland Conservancy Fund or an equivalent funding program, might partially compensate for the loss of prime farmland, it is not feasible to fully mitigate this impact, which will remain significant even with mitigation.

(ii) **Remaining Impacts.** As explained above, although implementation of Mitigation Measure B.1 might partially mitigate the environmental effects of the permanent loss of Prime Farmland, such impacts would 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 agricultural land in the Modesto area and in eastern Stanislaus County.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.B.9 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 (p. IV.B.9 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 Mitigation Measure B.3, which could possibly provide for contribution to the Farmland Conservancy Fund or an equivalent funding program, might partially compensate for the Project's incremental contribution to the cumulative loss of prime agricultural land in the Modesto area and in eastern Stanislaus County, it is not feasible to fully mitigate this impact, which will remain significant even with mitigation.

(ii) **Remaining Impacts.** As explained above, although implementation of Mitigation Measure B.3 might partially mitigate the Project's incremental contribution to the cumulative loss of prime agricultural land in the Modesto area and in eastern Stanislaus County, such impacts would 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 its incremental contribution to the cumulative loss of prime agricultural land in the Modesto area and in eastern Stanislaus County, as set forth in the Statement of Overriding Considerations below.

IV.D. Transportation and Circulation

Impact D.1 Construction and occupancy of Phase 1 of the proposed project would result in significant impacts at study intersections adjacent to and near the Project site in 2012.

a) **Potential Impact.** The potential impacts related to construction and occupancy of Phase 1 of the Project at study intersections adjacent to and near the Project site in 2012 are described and discussed on pages IV.D.29 and IV.D.30 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:

The City shall implement FEIR Mitigation Measures D.1d, D.1f, D.1*l*, and D1.n. In addition, the City shall attempt to implement Mitigation Measures D.1a, D.1b, D.1c., D.1e., D.1g., D.1h, D.1i, D.1k, D.1m, D.1p, D.1q, and D.1r, but these measures have been identified as potentially infeasible, and there is a strong chance that the City will not be able to successfully implement these mitigation measures in sufficient time to fully mitigate the traffic impacts they are designed to mitigate. Finally, the City shall also attempt to implement part of Mitigation Measure D.1j, insofar as it calls for addition of a second northbound and southbound left turn lane, but this measure is likewise potentially infeasible. (pp. IV.D.30 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 Measures D.1a through D.1r require construction or installation of a set of traffic improvements that would improve LOS at the eighteen impacted intersections analyzed in the EIR. In some cases, the improvement would only bring LOS to D, which would meet City of Modesto standards for acceptable operations but would not meet Stanislaus County standards. Nonetheless, because the City's adopted standard is LOS D, the City Council finds traffic impacts to be insignificant so long as at least LOS D is achieved.

However, as explained in the Table "Potentially Infeasible or Rejected Traffic Mitigation Measures and Explanation for Infeasibility or Rejection" (attached hereto as Exhibit A1 and incorporated herein by reference) (hereafter "the Table"), and as further described below, certain of these mitigation measures are either infeasible or are potentially infeasible. As to many of the referenced intersections, this project is only responsible for a small percentage of the overall traffic impact, and thus, can only

be required to pay its fair proportional share of the intersection improvements necessary to mitigate the cumulative traffic impact. Where the project only contributes to a relatively small percentage of the overall traffic impact, the City cannot lawfully require the project to pay for the entire traffic improvement, but is instead requiring the project to pay a development fee as part of the City's Capital Facilities Fee (CFF) program. The proceeds of the CFF fee are programmed to be used for many (but not all) of these improvements. Because the City cannot guarantee that full funding will be available for each of the improvements in time to mitigate the traffic impact in question, many of the measures are deemed potentially infeasible, insofar as they may not be timely implemented, and thus there may be a period of time in which the traffic facility in question will not comply with the City's traffic standards. Thus, in such cases, the mitigation measure is identified as "potentially infeasible," even though the project is being required to pay its fair share of the measure.

In some cases, as noted in the Table, certain of the mitigation measures are not already programmed to be funded by proceeds from the CFF fee. As to these measures, the City has no program in place to fund the necessary mitigation measure, and thus the measure is deemed potentially infeasible. The City will periodically review its CFF program to consider including additional traffic improvements, but, because of the uncertainty of funding the full cost of the mitigation measure, the measure is deemed potentially infeasible.

In some cases, as noted in the Table, certain of the mitigation measures are not within the jurisdiction of the City, either because the traffic facility in question is under the jurisdiction of CalTrans, or because it is located within the County or within the City of Riverbank. The City's CFF program still will provide funding for some of these improvements (specifically, some of the improvements under CalTrans' and the County's jurisdiction), in order to pay for the City's fair share of such improvements. Currently, no funding mechanism exists by which development within the City of Modesto can contribute to traffic improvements within the City of Riverbank, just as no mechanism exists by which development within the City of Riverbank contributes to funding of traffic improvements within the City of Modesto. Development of such a mechanism would require negotiations between the two agencies to figure out if an acceptable, bilateral funding arrangement could be developed. If such an arrangement were to be developed, then project development could be conditioned on payment towards such improvements at the time of tentative map approval for individual subdivisions within the project area.

Mitigation Measure D.1j. calls for both addition of a second northbound and southbound left turn lane as well as fourth northbound and southbound through lanes at the intersection of McHenry Avenue at Sylvan Avenue. The City Council finds that the addition of the fourth northbound and southbound through lanes is physically infeasible, as it would require acquisition of private property which is already developed with other uses. As a matter of policy, the Council finds that such acquisition would unduly interfere with private property rights. The remainder of Mitigation Measure D.1j is potentially infeasible for the reasons set forth in the Table, but the City will attempt to implement this portion of Mitigation Measure D.1j.

Thus, for all of the reasons described above, certain of the Mitigation Measures D.1a through D.1r are identified as "infeasible" or "potentially infeasible," as described in detail in the Table. These measures shall be implemented only to the extent that they are feasible.

Therefore, for the reasons set forth above and in the Table, the impacts identified in Impact D.1 at the intersections of Coffee Road/Clarantina Avenue, Coffee Road/Mable Avenue, Oakdale Road/Mable Avenue, and Oakdale Road/Sylvan Avenue shall be mitigated to a level of insignificance. All remaining impacts at other intersections identified in Impact D.1 will remain significant even with mitigation. More specifically, although the mitigation measures identified above would reduce the impacts of buildout of the Project on traffic at the study intersections in 2012, the impacts at the following intersections remains significant:

Claus Road at Briggsmore Avenue (Mitigation Measure D.1a)
Claus Road at Milnes Road (Mitigation Measure D.1b)
Claus Road at Sylvan Avenue (Mitigation Measure D.1c)
Coffee Road at Claribel Avenue (Mitigation Measure D.3h)
Coffee Road at Sylvan Avenue (Mitigation Measure D.1e)
McHenry Avenue at Claribel Road (Mitigation Measure D.1h)
McHenry Avenue at Claratina Avenue (Mitigation Measure D.1i)
McHenry Avenue at Sylvan Avenue (Mitigation Measure D.1j)
Oakdale Road at Claribel Road (Mitigation Measure D.1k)
Oakdale Road at Morrill Avenue (Mitigation Measure D.1m)
Roselle Avenue at Belharbour Drive (Mitigation Measure D.1p)

Roselle Avenue at Claribel Road (Mitigation Measure D.1q)
Terminal Avenue at Claribel Road (Mitigation Measure D.1r)

(ii) **Remaining Impacts.** As explained above, although implementation of Mitigation Measures D.1a through D.1r would reduce the impacts identified above, many of these measures are infeasible or potentially infeasible, and most such impacts would thus remain significant even with mitigation. 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 Phase 1 of the Project on traffic at the study intersections in 2012, as set forth in the Statement of Overriding Considerations below.

Impact D.2 Construction and occupancy of Phase 1 of the proposed project would result in significant impacts on roadway segments adjacent to and near the project site in 2012.

a) **Potential Impact.** The potential impacts of the Project related to construction and occupancy of Phase 1 of the Project on roadway segments adjacent to and near the Project site in 2012 are described and discussed on page IV.D.37 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 through D.2c (pp. IV.D.37 through IV.D.38).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measures D.2a through D.2c require the Project developers to increase the number of lanes along specific roadway segments that will be impacted by the Project. Together with the intersection mitigation measures identified in Mitigation Measures D.1a through D.1r above, implementation of these mitigation measures will substantially lessen or avoid the impacts of the Project related to construction and occupancy of Phase 1 of the Project on roadway segments adjacent to and near the Project site in 2012.

Impact D.3 Buildout of the proposed project would result in significant impacts at study intersections adjacent to and near the project site in 2017.

a) **Potential Impact.** The potential impacts related to buildout of the Project at study intersections adjacent to and near the Project site in 2017 are described and discussed on pages IV.D.42 and IV.D.45 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:

The City shall implement FEIR Mitigation Measures D.3a, D.3g, D.3l, D.3m, D.3p, and D.3s. In addition, the City shall attempt to implement Mitigation Measures D.3b, D.3c, D.3d., D.3e., D.3f., D.3h, D.3j, D.3k, D.3n, D.3o, D.3q, D.3r, and D.3t, but these measures have been identified as potentially infeasible, and there is a strong chance that the City will not be able to successfully implement these mitigation measures in sufficient time to fully mitigate the traffic impacts they are designed to mitigate. (pp. IV.D.45 through IV.D.53 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 Measures D.3a through D.3t provide for construction or installation of a set of traffic improvements that would improve LOS at the twenty impacted intersections analyzed in the EIR.

However, as explained in the Table "Potentially Infeasible Traffic Mitigation Measures and Explanation for Infeasibility," and as further described below, certain of these mitigation measures are either infeasible or are potentially infeasible. As to many of the referenced intersections, this project is only responsible for a small percentage of the overall traffic impact, and thus, can only be required to pay its fair proportional share of the intersection improvements necessary to mitigate the cumulative traffic impact. Where the project only contributes to a relatively small percentage of the overall traffic impact, the City cannot lawfully require the project to pay for the entire traffic improvement, but is instead requiring the project to pay a development fee as part of the City's Capital Facilities Fee (CFF) program. The proceeds of the CFF fee are programmed to be used for many (but not all) of these improvements. Because the City cannot guarantee that full funding will be available for each of the improvements in time to mitigate the traffic impact in question, many of the measures are deemed potentially infeasible, insofar as they may not be timely implemented, and

thus there may be a period of time in which the traffic facility in question will not comply with the City's traffic standards. Thus, in such cases, the mitigation measure is identified as "potentially infeasible," even though the project is being required to pay its fair share of the measure.

In some cases, as noted in the Table, certain of the mitigation measures are not already programmed to be funded by proceeds from the CFF fee. As to these measures, the City has no program in place to fund the necessary mitigation measure, and thus the measure is deemed potentially infeasible. The City will periodically review its CFF program to consider including additional traffic improvements, but, because of the uncertainty of funding the full cost of the mitigation measure, the measure is deemed potentially infeasible.

In some cases, as noted in the Table, certain of the mitigation measures are not within the jurisdiction of the City, either because the traffic facility in question is under the jurisdiction of CalTrans, or because it is located within the County or within the City of Riverbank. The City's CFF program still will provide funding for some of these improvements (specifically, some of the improvements under CalTrans' and the County's jurisdiction), in order to pay for the City's fair share of such improvements. Currently, no funding mechanism exists by which development within the City of Modesto can contribute to traffic improvements within the City of Riverbank, just as no mechanism exists by which development within the City of Riverbank contributes to funding of traffic improvements within the City of Modesto. Development of such a mechanism would require negotiations between the two agencies to figure out if an acceptable, bilateral funding arrangement could be developed. If such an arrangement were to be developed, then project development could be conditioned on payment towards such improvements at the time of tentative map approval for individual subdivisions within the project area.

Mitigation Measure D.3i. calls for measures which would require acquisition of private property which is already developed with other uses, and which is thus not physically feasible. As a matter of policy, the Council finds that such acquisition would unduly interfere with private property rights.

Thus, for all of the reasons described above, certain of the Mitigation Measures D.3a through D.3t are identified as "infeasible" or "potentially infeasible," as described in detail in the Table. These measures shall be implemented only to the extent that they are feasible.

Therefore, for the reasons set forth above and in the Table, the impacts identified in Impact D.3 at the intersections of Claus Road/Briggsmore Avenue, Coffee Road/Clarantina Avenue, McHenry Road/Sylvan Avenue, Oakdale Road/Bridgewood Way, Oakdale Road/Sylvan Avenue and Roselle Avenue/Tivoli Road C shall be mitigated to a level of insignificance. All remaining impacts at other intersections identified in Impact D.3 will remain significant even with mitigation. More specifically, although the mitigation measures identified above would reduce the impacts of buildout of the Project on traffic at the study intersections in 2017, the impacts at the following intersections remains significant:

Claus Road at Claribel Road (Mitigation Measure D.3b)
Claus Road at Floyd Avenue (Mitigation Measure D.3c)
Claus Road at Milnes Road (Mitigation Measure D.3d)
Claus Road at Plainview Road (Mitigation Measure D.3e)
Claus Road at Sylvan Avenue (Mitigation Measure D.3f)
Coffee Road at Claribel Avenue (Mitigation Measure D.3h)
Coffee Road at Sylvan Avenue (Mitigation Measure D.3i)
McHenry Avenue at Claribel Road (Mitigation Measure D.3j)
McHenry Avenue at Claratina Avenue (Mitigation Measure D.3k)
Oakdale Road at Briggsmore Avenue (Mitigation Measure D.3n)
Roselle Avenue at Belharbour Drive (Mitigation Measure D.3q)
Roselle Avenue at Claribel Road (Mitigation Measure D.3r)
Terminal Avenue at Claribel Road (Mitigation Measure D.3t)

(ii) **Remaining Impacts.** As explained above, although implementation of Mitigation Measures D.3a through D.3t would reduce the impacts identified above, many of these measures are infeasible or potentially infeasible, and most such impacts would thus remain significant even with mitigation. 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 buildout of the Project on traffic at the study intersections in 2017, as set forth in the Statement of Overriding Considerations below.

Impact D.4. Buildout off the proposed project would result in significant impacts on roadway segments adjacent to and near the project site in 2017.

a) **Potential Impact.** The potential impacts of the Project related to buildout of the Project on roadway segments adjacent to and near the Project site in 2017 are described and discussed on page IV.D.53 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.4 (pp. IV.D.53 and IV.D.54).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure D.4 will substantially lessen or avoid the impact identified above by requiring implementation of Mitigation Measure D.2a to improve the level of service on the roadway segment of Claratina Avenue from McHenry Avenue to Tivoli Road A.

Impact D.5 The project would contribute to significant impacts at study intersections adjacent to and near the project site in 2025.

a) **Potential Impact.** The potential impacts of the Project at study intersections adjacent to and near the Project site in 2025 are described and discussed on pages IV.D.57 through IV.D.60 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:

The City shall implement FEIR Mitigation Measures D.5g, D.5m, D.5t, and D.5u. In addition, the City shall attempt to implement Mitigation Measures D.5a, D.5b, D.5d, D.5e, D.5h, D.5p, D.5q, D.5r, D.5s, and D.5v, but these measures have been identified as potentially infeasible, and there is a strong chance that the City will not be able to successfully implement these mitigation measures in sufficient time to fully mitigate the traffic impacts they are designed to mitigate. Finally, the City shall also attempt to implement those portions of Mitigation Measures D.5c, D.5f, D.5i, D.5l, and D.5n which have not been identified as physically infeasible, but those measures are likewise potentially infeasible. (pp. IV.D.60 through IV.D.70 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 Measures D.5a through D.5v provide for construction or installation of a set of traffic improvements that would improve LOS at the twenty-two impacted intersections analyzed in the EIR.

However, as explained in the Table "Potentially Infeasible Traffic Mitigation Measures and Explanation for Infeasibility," and as further described below, certain of these mitigation measures are either infeasible or are potentially infeasible. As to many of the referenced intersections, this project is only responsible for a small percentage of the overall traffic impact, and thus, can only be required to pay its fair proportional share of the intersection improvements necessary to mitigate the cumulative traffic impact. Where the project only contributes to a relatively small percentage of the overall traffic impact, the City cannot lawfully require the project to pay for the entire traffic improvement, but is instead requiring the project to pay a development fee as part of the City's Capital Facilities Fee (CFF) program. The proceeds of the CFF fee are programmed to be used for many (but not all) of these improvements. Because the City cannot guarantee that full funding will be available for each of the improvements in time to mitigate the traffic impact in question, many of the measures are deemed potentially infeasible, insofar as they may not be timely implemented, and thus there may be a period of time in which the traffic facility in question will not comply with the City's traffic standards. Thus, in such cases, the mitigation measure is identified as "potentially infeasible," even though the project is being required to pay its fair share of the measure.

In some cases, as noted in the Table, certain of the mitigation measures are not already programmed to be funded by proceeds from the CFF fee. As to these measures, the City has no program in place to fund the necessary mitigation measure, and thus the measure is deemed potentially infeasible. The City will periodically review its CFF program to consider including additional traffic improvements, but, because of the uncertainty of funding the full cost of the mitigation measure, the measure is deemed potentially infeasible.

In some cases, as noted in the Table, certain of the mitigation measures are not within the jurisdiction of the City, either because the traffic facility in question is under the jurisdiction of CalTrans, or because it is located within the County or within the City of Riverbank. The City's CFF program still will provide

funding for some of these improvements (specifically, some of the improvements under CalTrans' and the County's jurisdiction), in order to pay for the City's fair share of such improvements. Currently, no funding mechanism exists by which development within the City of Modesto can contribute to traffic improvements within the City of Riverbank, just as no mechanism exists by which development within the City of Riverbank contributes to funding of traffic improvements within the City of Modesto. Development of such a mechanism would require negotiations between the two agencies to figure out if an acceptable, bilateral funding arrangement could be developed. If such an arrangement were to be developed, then project development could be conditioned on payment towards such improvements at the time of tentative map approval for individual subdivisions within the project area.

As is further identified in the Table, some of the measures are not physically feasible because they would require acquisition of private property which is already developed with other uses. As a matter of policy, the Council finds that such acquisition would unduly interfere with private property rights. Other measures are not feasible because of the substantial cost which would be involved.

Thus, for all of the reasons described above, certain of the Mitigation Measures D.5a through D.5v are identified as "infeasible" or "potentially infeasible," as described in detail in the Table. These measures shall be implemented only to the extent that they are feasible.

Therefore, for the reasons set forth above and in the Table, the impacts identified in Impact D.5 at the intersections of Coffee Road/Clarantina Avenue, Oakdale Avenue/Bridgewood Way, Roselle Avenue/Tivoli Road C, and Roselle Avenue/Tivoli Road D shall be mitigated to a level of insignificance. All remaining impacts at other intersections identified in Impact D.5 will remain significant even with mitigation. More specifically, although the mitigation measures identified above would reduce the impacts of buildout of the Project on traffic at the study intersections in 2017, the impacts at the following intersections remains significant:Claus Road at Briggsmore Avenue (Mitigation Measure D.5a)
Claus Road at Claribel Road (Mitigation Measure D.5b)
Claus Road at Floyd Avenue (Mitigation Measure D.5c)
Claus Road at Milnes Avenue (Mitigation Measure D.5d)
Claus Road at Plainview Road (Mitigation Measure D.5e)
Claus Road at Sylvan Avenue (Mitigation Measure D.5f)

Coffee Road at Claribel Road (Mitigation Measure D.5h)
Coffee Road at Sylvan Avenue (Mitigation Measure D.5i)
McHenry Avenue at Claribel Road (Mitigation Measure D.5j)
McHenry Avenue at Claratina Avenue (Mitigation Measure D.5k)
McHenry Avenue at Sylvan Avenue (Mitigation Measure D.5l)
Oakdale Road at Briggsmore Avenue (Mitigation Measure D.5n)
Oakdale Road at Claratina Avenue (Mitigation Measure D.5o)
Oakdale Road at Sylvan Avenue (Mitigation Measure D.5p)
Oakdale Road at Morrill Road (Mitigation Measure D.5q)
Roselle Avenue at Belharbour Drive (Mitigation Measure D.5r)
Roselle Avenue at Claribel Road (Mitigation Measure D.5s)
Terminal Avenue at Claribel Road (Mitigation Measure D.5v)

(ii) **Remaining Impacts.** As explained above, although implementation of Mitigation Measures D.5a through D.5v would reduce the impacts identified above, many of these measures are infeasible or potentially infeasible, and most such impacts would thus remain significant even with mitigation. 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 on traffic at the study intersections in 2025, as set forth in the Statement of Overriding Considerations below.

Impact D.6 Buildout of the proposed project, in combination with other cumulative growth in the Modesto General Plan area, would result in significant impacts on roadway segments adjacent to and near the project site in 2025.

a) **Potential Impact.** The potential impacts of buildout of the Project, in combination with other cumulative growth in the Modesto General Plan area, on roadway segments adjacent to and near the Project site in 2025 are described and discussed on page IV.D.70 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 D.6 (pp. IV.D.70).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure D.6 will substantially lessen or avoid the impacts identified above by requiring the project developers to add a second eastbound and

westbound lane on Claratina Avenue between McHenry Avenue and Oakdale Road to ensure that this roadway segment will operate at an acceptable LOS D or better in both directions.

IV.E. Air Quality

Impact E.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 identified above is described and discussed on pages IV.E.17 and IV.E.18 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 E.1 (pp. IV.E.18 and IV.E.19 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.1 requires that the construction plans for each group of building permits incorporate a set of best-practices promulgated by the San Joaquin Valley Air Pollution Control District (the "District") to minimize emissions during construction. Although implementation of this mitigation measure would reduce the impact of construction-related PM_{10} and of ozone precursors from construction equipment exhaust, 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 construction to existing violations of ambient air quality standards in the region, as set forth in the Statement of Overriding Considerations below.

Impact E.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 identified above is described and discussed on pages IV.E.19 and 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.2a through E.2c (pp. IV.E.22 and IV.E.23 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.2a requires the project developers to incorporate into the site design a set of provisions to reduce emissions from motor vehicles. Mitigation Measure E.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 E.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 E.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.E.26 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 E.6 (p. IV.E.26 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.1 (requiring that the construction plans for each group of building permits incorporate a set of best-practices promulgated by the District to minimize emissions during construction) and E.2 Mitigation Measures E.2a through E.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 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 E.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.E.26 through IV.E.28 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 E.7 (p. IV.E.28 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 through E.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 s.

IV.F. Noise

Impact F.2. Future traffic could cause substantial noise levels for sensitive receptors in the Tivoli Specific Plan area.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.F.18 and IV.F.19 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 F.2a and F.2b (pp. IV.F.20 and IV.F.21 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure F.2a requires the project developers to design and construct 8-foot-tall earthen berms or sound walls for residences adjacent to major roadways, which should provide approximately 8 dB to 10 dB of noise reduction, reducing exterior noise conditions to 60 dB at the residential property lines. With such sound barriers in place, compliance with Building Code requirements should ensure that interior noise levels are reduced to 45 dB or less. Mitigation Measure F.2b requires the developers to

provide shielding for outdoor use areas by locating these areas behind buildings that are adjacent to major roadways. Together, these mitigation measures will substantially lessen or avoid Project impacts related to the noise levels of future traffic for sensitive receptors in the Tivoli Specific Plan area.

Impact F.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.F.21 and IV.F.22 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 Measures F.3 (pp. IV.F.22 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.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 for submission to the City prior to approval of building permits. The mitigation measure details the contents required for inclusion in such a report, including calculation of the expected noise levels a the nearest residential property lines, determination of whether such noise levels would exceed City standards, and identification of means to reduce exterior noise levels to 60 dB.

Impact F.4. 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.F.23 through IV.F.25 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 Measures F.4 (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: Implementation of Mitigation Measure

F.4 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 or educational uses and to identify a complete list of measures what will reduce noise levels at the nearest residential property line to 60 dB or less.

Impact F.5. 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.F.26 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:

No feasible mitigation measures are available to avoid the impact identified above.

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** No feasible mitigation measures are available to avoid the impact identified above.

(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.G. Hazards

Impact G.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.G.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 G.2 (p. IV.G.8 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 G.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.

IV.H. Biological Resources

Impact H.3. Implementation of the Tivoli Specific Plan would result in loss of wetland habitat.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.H.14 and IV.H.15 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.3 (p. IV.H.15 of the DEIR, as amended in the FEIR in response to Comment D.4).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Implementation of Mitigation Measure H.3 will substantially lessen or avoid the impact identified above by requiring the developers to develop and implement a wetland mitigation strategy based on the *Department of Fish and Game Recommended Wetland Definition, Mitigation Strategies and Habitat Value Assessment Methodology* and subject to CDFG review and approval.

Impact H.4. Implementation of the Tivoli Specific Plan could disturb nesting Swainson's Hawks.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.H.15 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.4 (pp. IV.H.15 and IV.H.16 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.4 will substantially lessen or avoid the impact identified above by requiring that a qualified ornithologist conduct pre-construction surveys of the project site and adjacent areas within 0.5 miles of the project site and establishing a protocol to ensure that, if a nest site is found, the developers consult with CDFG to ensure that construction does not result in nest disturbance.

Impact H.5. Implementation of the Specific Plan would result in loss of Swainson's Hawk foraging habitat.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.H.16 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.5 (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: Implementation of Mitigation Measure H.5 will substantially lessen or avoid the impact identified above by requiring the provision of offsite Habitat Management lands as described in the CDFG's *Staff Report regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California.*

Impact H.6. 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 page IV.H.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 H.6a and H.6b (pp. IV.H.18 and IV.H.19 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure H.6a 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 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 H.7. 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 pages IV.H.19 and IV.H.20 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.7 (p. IV.H.20 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure H.7 incorporates by reference Mitigation Measures H.3 (compensation for loss of wetlands), H.4 (pre-construction surveys to avoid nest disturbance), H.5 (compensation for loss of foraging habitat), and H.6a (implementation of CDFG guidelines to avoid and minimize impacts to Burrowing Owls) and H.6b (compensation for loss of Burrowing Owls), all described more fully above. Implementation of these mitigation measures will substantially lessen or avoid the cumulative impact identified above.

IV.I. Hydrology and Water Quality

Impact I.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.I.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 I.1 (pp. IV.I.11 and IV.I.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 I.1 will substantially lessen 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 I.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.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.I.12 and IV.I.13 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 I.2 (pp. IV.I.13 and IV.I.14 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 I.2 will substantially lessen or avoid the impact described above by mandating that the Project meet all requirements of the current Municipal NPDES Permit. Specifically, the measure requires that a drainage plan be prepared and reviewed by the City Public Works Department prior to approval of a grading plan, that each drainage plan include features and operational BMP's to reduce potential impacts to surface water quality, that the final design include measures to mitigate potential water quality degradation from runoff, and that an operations and maintenance plan be developed and implemented to avoid degradation of water quality in perpetuity.

Impact I.3. Implementation of the project could alter drainage patterns at the site potentially exceeding the capacity of existing conveyances and causing localized flooding.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.I.14 and IV.I.15 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 I.3a and I.3b (pp. IV.I.15 and IV.I.16 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 Main Canal, or in the alternative, undertake supplemental CEQA review of any other proposed stormwater drainage design proposals. 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 I.3a and I.3b will substantially lessen or avoid the impact described above.

Impact I.4. Implementation of the project could place people and housing within an area subject to sheet flooding.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.I.16 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 Measures I.4 (pp. IV.I.16 and IV.I.17 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 I.4 will substantially lessen or avoid the impact identified above by requiring the Project proponent to: (a) submit for City Public Works Department review and approval proposed design-level sheetflow routing solutions prior to approval of any grading plans; (b) ensure that finished floor elevations be a minimum of one foot above the elevation of 100-year sheetflow flooding; and (c) contribute their fair share to the proposed northeast flood control solution.

Impact I.8. Existing water supply wells within the Specific Plan area, if not properly managed or decommissioned, could be damaged during construction, potentially allowing impacts to groundwater quality.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.I.18 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 Measures I.8 (pp. IV.I.18 and IV.I.19 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 I.8 will substantially lessen or avoid the impact identified above by requiring completion of a well survey prior to the approval of a grading plan and requiring that water supply wells either be abandoned in compliance with applicable state and local regulations or properly sealed to prevent infiltration of water-borne contaminants.

IV.J. Geology, Soils and Seismicity

Impact J.1. Structures or property at the project could be adversely affected by expansive soils or by settlement of project soils.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.J.6 and IV.J.7 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 J.1 (p. IV.J.7 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 J.1 will substantially lessen or avoid the impact identified above by directing designers of foundations and improvements to consider the condition of the underlying soils and directing developers to have licensed professionals prepare for the City Building Department's review and approval a design-level geotechnical report, to include measures to ensure mitigation of potential damages related to expansive soils and non-uniformly compacted fill.

Impact J.2. Differential settlement at the project site could result in damage to project buildings and other improvements.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.J.7 and IV.J.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 J.2 (p. IV.J.8 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 J.2 will substantially lessen or avoid the impact identified above by requiring that prior to issuance of a grading permit, a site-specific grading plan be prepared by a licensed professional and submitted to the City Building Official for review and approval and requiring that such plan include specific measures to mitigate potential settlement associated with fill placement and areas of different fill thickness.

IV.K. Community Services

Impact K.3. Development of the proposed project site would result in an increase in full alarm call volumes which require an effective response force to arrive within ten minutes.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.K.14 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 K.3 (pp. IV.K.14 and IV.K.16 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.3 will substantially lessen or avoid the impact identified above by requiring the project developers to fund the construction of a Modesto Fire Department Fire Station to house an engine company and a truck company to serve the northeast area of the Tivoli Specific Plan.

IV.L. Utilities and Services Systems

Impact L.1. The City's wastewater collection system would not have adequate capacity to serve the project.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.27 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 L.1 (p. IV.L.28 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 L.1 will substantially lessen or avoid the impact identified above by requiring the project developers to install all on-site collection system

improvements necessary to serve the development, to pay for their fair share of the required off-site collection system improvements, and to fund and install all necessary off-site infrastructure.

Impact L.2. The project would generate wastewater in excess of the near-term disposal capacity for treated effluent from the Secondary Plant.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.L.28 through IV.L.29 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 L.2 (p. IV.L.28 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 L.2 requires the project applicants to contribute their fair share of the costs of necessary wastewater treatment and disposal facilities. Although implementation of this measure could reduce the impact identified above, it is not certain that adequate funding will be secured in time to complete the treatment and disposal facility improvements prior to development, nor is it certain that the RWQCB will issue the new NPDES permit to allow the City to commence tertiary treatment in a timely manner. Therefore, the mitigation measure identified above may not substantially lessen or avoid this impact, which would 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 generation of wastewater in excess of the near-term disposal capacity for treated effluent from the Secondary Plant, as set forth in the Statement of Overriding Considerations below.

Impact L.3. Implementation of the near-term tertiary treatment facilities at the Secondary Plant would directly result in the permanent loss of Prime Farmland.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.L.31 and IV.L.32 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 L.3 (p. IV.L.32 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 L.3 incorporates by reference Mitigation Measure B.1, which requires developers of prime farmland to contribute to the Farmland Conservancy Fund, or to an equivalent program for funding farmland preservation in Stanislaus County. Although implementation of this measure could reduce the impact identified above, it will not substantially lessen or avoid this impact, which would 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 permanent loss of Prime Farmland resulting from implementation of the near-term tertiary treatment facilities at the Secondary Plant, as set forth in the Statement of Overriding Considerations below.

Impact L.6. Emissions of criteria pollutants during construction of wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.34 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 L.6 (p. IV.L.34 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 L.6 basically re-states Mitigation Measure E.1, making the City of Modesto responsible for ensuring that the construction plans incorporate a set of best-practices promulgated by the San Joaquin Valley Air Pollution Control District (the "District") to minimize emissions during construction. Although implementation of this mitigation measure would reduce the increase in emissions during construction of wastewater system improvements, there would still be a net increase in emissions, and the impact 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 emissions of criteria pollutants during construction of wastewater system improvements contributing to existing violations of the ambient air quality standards in the region, as set forth in the Statement of Overriding Considerations below.

Impact L.7. Emissions of criteria pollutants during operation of the proposed wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.35 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 L.7 (p. IV.L.35 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 L.7 requires that the City abide by permit limits imposed by the SJVAPCD to reduce pollutant emissions from diesel-powered engines for emergency power generation. Although implementation of this measure would reduce the impact identified above, it will not substantially lessen or avoid this impact, which will 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 emissions of criteria pollutants during operation of wastewater system improvements contributing to existing violations of the ambient air quality standards in the region, as set forth in the Statement of Overriding Considerations below.

Impact L.11. Excavation for installation of wastewater system improvements 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 pages IV.L.38 and IV.L.39 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 L.11 (p. IV.L.39 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 L.11 will substantially lessen or avoid the impact identified above by requiring the City to use reasonable means to determine the presence of soil or groundwater contamination prior to excavation, and if such contamination is discovered, requiring the City to remediate it.

Impact L.14. Impacts to Biological Resources and Regulated Habitats of Dry Creek and Tuolumne River.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.44 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 L.14 (pp. IV.L.44 and IV.L.45 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 L.14 will substantially lessen or avoid the impact identified above by

requiring that pre-construction surveys be conducted prior to project-related activities that may impact the resources of Dry Creek or the Tuolumne River and requiring coordination with the US Army Corps of Engineers, the US Fish and Wildlife Service, the California Department of Fish and Game, and the City of Modesto to ensure that any Project impacts are reduced to a less-than-significant level.

Impact L.15. Loss of Swainson's Hawk Foraging Habitat.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.L.45 and IV.L.46 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 L.15 (p. IV.L.46 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure L.15 incorporates by reference Mitigation Measures H.4 and H.5. Implementation of Mitigation Measure L.15 will substantially lessen or avoid the impact identified above by: 1) requiring that a qualified ornithologist conduct pre-construction surveys of the project site and adjacent areas within 0.5 miles of the project site; 2) establishing a protocol to ensure that, if a Swainson's Hawk nest site is found, the developers consult with CDFG to ensure that construction does not result in nest disturbance; and 3) requiring the provision of offsite Habitat Management lands as described in the CDFG's *Staff Report regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California.*

Impact L.16. Loss of Occupied Burrowing Owl Habitat.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.46 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 L.16 (p. IV.L.46 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure L.16 incorporates by reference Mitigation Measures H.6a (requiring preparation of a habitat assessment on the project site and within a 500-foot buffer zone prior to the start of construction and, in the event that suitable Burrowing

Owl habitat is discovered, requiring implementation of a set of mitigation measures designed by CDFG to avoid disturbance, injury or death of owls) and H.6b (requiring that, in the event that it is infeasible to avoid development of occupied Burrowing Owl habitat, the developers provide habitat compensation on off-site mitigation lands). Implementation of Mitigation Measure L.15 will substantially lessen or avoid the impact identified above.

Impact L.17. Disturbance of Nesting Raptors.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.L.46 and IV.L.47 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 L.17 (pp. IV.L.46 and IV.L.47 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure L.17 incorporates by reference Mitigation Measures H.4. Implementation of Mitigation Measure L.17 will substantially lessen or avoid the impact identified above by requiring that a qualified ornithologist conduct pre-construction surveys of the project site and adjacent areas within 0.5 miles of the project site and establishing a protocol to ensure that, if a raptor nest site is found, the developers consult with CDFG to ensure that construction does not result in nest disturbance.

Impact L.18. Impacts to Regulated Habitats Associated with Improvements to the Secondary Plant.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.47 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 L.18a and L.18b (pp. IV.L.47 and IV.L.48 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure L.18a requires the City to use microtunneling techniques to go under the east-west slough to the north of the proposed 2.3 mgd of tertiary treatment, rather than crossing it at the surface. Mitigation Measure L.18b mandates pre-

construction surveys prior to activities that might impact wetland areas and those areas potentially under the jurisdiction of the Army Corps of Engineers and/or the California Department of Fish and Game and further requires coordination with those agencies to ensure the implementation of adequate measures to mitigate impacts to riparian and aquatic resources. Implementation of these mitigation measures will substantially lessen or avoid the impacts identified above.

Impact L.19. Construction activities could result in degradation of water quality by reducing the quality of storm water runoff.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.48 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 L.19 (p. IV.L.49 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 L.19 will substantially lessen or avoid the impact identified above by requiring the City to prepare a Stormwater Pollution Prevention Plan to reduce potential impacts to surface water quality during the wastewater system construction period.

Impact L.21. The Tivoli Lift Station, Sonoma Trunk extension, and smaller collector pipes in the Specific Plan area could be adversely affected by expansive soils or by settlement of project soils.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.51 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 L.21 (p. IV.L.51 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 L.21 will substantially lessen or avoid the impact identified above by requiring preparation of a design-level geotechnical investigation, which will include measures to minimize potential damages related to expansive soils and non-uniformly compacted fill, for the review and approval of the City Engineer, and specifically requiring implementation of all such measures.

Impact L.22. Differential settlement at the project site could result in damage to wastewater system improvements.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.51 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 L.22 (pp. IV.L.51 and IV.L.52 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 L.22 will substantially lessen or avoid the impact identified above by requiring preparation of a site-specific grading plan for review by the City Engineer prior to issuance of a grading permit and requiring that the grading plan include specific measures to mitigate potential settlement associated with fill placement and areas of different fill thickness in relation to the then-existing wastewater collection facilities.

Impact L.23. Extension of the Sonoma Trunk and construction of the "downstream" collection system improvements would provide wastewater collection capacity for population growth that could cause the City to exceed its population projections.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.53 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:

No feasible mitigation measures are available to avoid the impact identified above.

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** No feasible mitigation measures are available to avoid the impact identified above.

(ii) **Remaining Impacts.** Because there are no feasible measures available to 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 significant adverse impacts of the Project relating to extension of the Sonoma Trunk and construction of the "downstream" collection system improvements providing wastewater collection capacity for population growth that could cause the City to exceed its population projections, as set forth in the Statement of Overriding Considerations below.

Impact L.25. The City's wastewater collection and treatment system would not have adequate capacity to serve the project, along with anticipated cumulative development.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.L.55 and IV.L.56 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 L.25 (pp. IV.L.56 and IV.L.57 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 L.25 incorporates by reference Mitigation Measures L.1 (requiring the project applicants to install on-site collection system improvements prior to or concurrent with the development and requiring them to contribute toward their fair share of off-site collection system improvements) and L.2 (requiring project applicants to contribute toward their fair share of wastewater treatment and disposal facilities). However, because the new rate and fee program has not yet been adopted nor bonds issued for any of the near term treatment or disposal improvements and because the City cannot commence tertiary treatment without a new NPDES permit from the RWQCB, the City cannot be certain that adequate funding to pay for necessary collection system improvements will be available in a timely manner nor that necessary treatment and disposal infrastructure will be permitted prior to development. Therefore, the City cannot find that Mitigation Measure L.25 will substantially lessen or avoid this impact, which will 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 capacity of the City's wastewater collection and treatment system to serve the Project in combination with anticipated cumulative development, as set forth in the Statement of Overriding Considerations below.

Impact L.26. Implementation of the proposed project would incrementally contribute to the cumulative loss of prime agricultural land in the Modesto area and in eastern Stanislaus County.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.57 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 L.26 (p. IV.L.57 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 L.26 incorporates by reference Mitigation Measures B.3, which in turn incorporates by reference Mitigation Measure B.1 (providing for contribution to the California Farmland Conservancy fund or an equivalent program to fund farmland preservation projects in Stanislaus County). However, although such contribution would partially compensate for the loss of prime farmland, it is not feasible to fully mitigate this cumulative impact, which will 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 incremental contribution to the cumulative loss of prime agricultural land in the Modesto area and in eastern Stanislaus County, as set forth in the Statement of Overriding Considerations below.

Impact L.27. The wastewater treatment facilities would cause a cumulatively considerable net increase in pollutants for which the San Joaquin Valley is designated as nonattainment.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.L.57 and IV.L.58 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 L.27 (p. IV.L.58 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 L.27 incorporates by reference Mitigation Measure E.2a (requiring the project developers to incorporate into the site design a set of provisions to reduce emissions from motor vehicles), E.2b (requiring 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), and E.2c (requiring the project developers to incorporate into the site design a set of provisions to reduce emissions from energy consumption). Although these measures would reduce the cumulative impact identified above, it is not feasible to fully mitigate this cumulative impact, which will 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 incremental contribution to the contribution of the wastewater treatment facilities to a cumulatively considerable net increase in pollutants for which the San Joaquin Valley is designated as nonattainment, as set forth in the Statement of Overriding Considerations below.

Impact L.28. Cumulative Loss of Swainson's Hawk and Burrowing Owl Habitat.

a) **Potential Impact.** The impact identified above is described and discussed on page IV.L.58 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 L.58 (p. IV.L.58 of the DEIR).

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that: Mitigation Measure L.28 incorporates by reference Mitigation Measure L.15, which in turn incorporates by reference Mitigation Measures H.4 (requiring that a qualified ornithologist conduct pre-construction surveys of the project site and adjacent areas within 0.5 miles of the project site and establishing a protocol to ensure that, if a nest site is found, the developers consult with CDFG to ensure that construction does not result in nest disturbance) and H.5 (requiring the provision of offsite Habitat Management lands as described in the CDFG's *Staff Report regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California*), and Mitigation Measure L.16, which in turn incorporates by reference Mitigation Measures H.6a (requiring preparation of a habitat assessment on the project site and within a 500-foot buffer zone prior to the start of construction and further requiring, in the event that suitable Burrowing Owl habitat is discovered, implementation of a set of mitigation measures designed by CDFG to avoid disturbance, injury or death of owls) and H.6b (requiring, in the event that it is infeasible to avoid development of occupied Burrowing Owl habitat, that the developers provide habitat compensation on off-site mitigation lands). Implementation of these measures together will substantially lessen or avoid the Project's contribution to the cumulative loss of Swainson's Hawk and Burrowing Owl Habitat.

IV.M. Water Supply

Impact M.2. Demand from the project would cause low water pressure problems within the City's water system.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.M.14 and IV.M.15 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 M.2 (p. IV.M.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 M.2 will substantially lessen or avoid the impact identified above by

requiring installation of two additional wells with a combined capability to meet or exceed the Project's water demand.

IV.N. Population and Housing

Impact N.1. Development of the proposed project would directly induce population growth that could cause the City to exceed its population projections.

a) **Potential Impact.** The impact identified above is described and discussed on pages IV.N.10 and IV.N.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:

No feasible mitigation measures are available to avoid the impact identified above.

c) **Findings.** Based on the FEIR and the entire record before the City, the City Council finds that:

(i) **Effects of Mitigation.** No feasible mitigation measures are available to avoid the impact identified above.

(ii) **Remaining Impacts.** Because there are no feasible measures available to 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 significant adverse impacts of the Project relating to population growth in excess of projections, as set forth in the Statement of Overriding Considerations below.

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 eleven specific objectives for the Project (pages III.2 and III.3):

Land Use Objectives

1. To foster distinctive, attractive developments with a strong sense of place.

2. To provide development consistent with the Neotraditional Planning Principles provided in Section III-C (3) of the Modesto Urban Area General Plan. The primary concept is to provide a complete and integrated community with housing, work places, commercial and retail services, schools, parks, and civic facilities essential to the daily life of the residents.

3. To create a range of housing opportunities and choices with multi-family and/or affordable housing in compliance with the regional housing needs consistent with the Housing Element.

4. To enhance the City's economic base through increased sales tax revenue.

5. To provide a regional commercial development to serve the east side of the City in a timely manner.

6. To locate regional commercial development along or near regional transportation corridors.

7. To provide commercial and institutional services and employment on the east side of the City to reduce travel time.

Circulation Objectives

8. To provide acceptable levels of traffic service on roadways consistent with the General Plan policies and Level of Service standards.

9. To create neighborhoods that encourage pedestrian and bicycle use and link to the commercial, school, and park sites.

Public Facilities and Service Objectives

10. To ensure public facilities and services are adequately planned and provided with development.

11. To ensure that a financing plan is provided with funding mechanisms for the provision of adequate public facilities and services.

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 through VI.3 of the DEIR. The No Development 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 Tivoli Specific Plan but would instead remain in agricultural, residential, and commercial uses according to current County land use designation and zoning. Although the No Project Alternative would avoid the Project's significant impacts, it would not further the City's Project objectives of fostering distinctive, attractive development in the Specific Plan area; promoting development of a complete and integrated community with housing, work places, commercial and retail services, public facilities and necessary infrastructure; enhancing the City's economic base; and encouraging regional commercial development to serve the east side of the City along or near regional transportation corridors.

2. Existing General Plan Alternative

a) Findings. The Existing General Plan Alternative is discussed at pages VI.3 through VI.16 of the DEIR. The Existing General Plan Alternative is rejected as an alternative, because it would not feasibly achieve the objectives of the Project.

b) Explanation. The Existing General Plan Alternative would result in the City's annexation of the Project and development as part of the Roselle-Claribel Comprehensive Planning District. Although the Existing General Plan Alternative would result in somewhat reduced impacts as compared to the Project, it would also produce approximately 2,648 fewer housing units and 1,665 fewer jobs than the proposed project. Thus the Existing General Plan Alternative would not achieve the objectives of the proposed Project related to developing a complete and integrated community that would substantially contribute to meeting the City's housing needs and to promoting economic development and job creation in the Tivoli area.

3. Reduced Footprint Alternative.

a) Findings. The Reduced Footprint Alternative is discussed at pages VI.16 through VI.28 of the DEIR. The Reduced Footprint Alternative is rejected as an alternative, because it would not feasibly achieve the objectives of the Project.

a) Explanation. Under the Reduced Footprint Alternative, the western 234 acres of the Project site would be developed as proposed for the Project, but with fewer residential units, while the eastern 220 acres of the Project site would remain in existing agricultural and residential uses. Although the Reduced Footprint 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 result in approximately 6,827 fewer dwelling units and 337 fewer jobs than the proposed Project. Thus, like the Existing General Plan Alternative, the Reduced Footprint Alternative would not achieve the objectives of the proposed Project related to developing a complete and integrated community that would substantially contribute to meeting the City's housing needs and to promoting economic development and job creation in the Tivoli area.

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 eastern Stanislaus County.
- IV.D.1 – Transportation and Circulation – Construction and occupancy of Phase 1 of the proposed project would result in significant impacts at study intersections adjacent to and near the Project site in 2012.

- IV.D.3 – Transportation and Circulation – Buildout of the proposed project would result in significant impacts at study intersections adjacent to and near the project site in 2017.

- IV.D.5 – Transportation and Circulation – The project would contribute to significant impacts at study intersections adjacent to and near the project site in 2025.

- IV.E.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.E.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.E.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.E.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.F.5 – Noise – Cumulative development could lead to noise conflicts between incompatible land uses.

- IV.L.2 – Utilities and Service Systems – The project would generate wastewater in excess of the near-term disposal capacity for treated effluent from the Secondary Plant.

- IV.L.3 – Utilities and Service Systems – Implementation of the near-term tertiary treatment facilities at the Secondary Plant would directly result in the permanent loss of Prime Farmland.

- IV.L.6 – Utilities and Service Systems – Emissions of criteria pollutants during construction of wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region.

- IV.L.7 – Utilities and Service Systems – Emissions of criteria pollutants during operation of the proposed wastewater system improvements would contribute to existing violations of the ambient air quality standards in the region.

- IV.L.23 – Utilities and Service Systems – Extension of the Sonoma Trunk and construction of the "downstream" collection system improvements

would provide wastewater collection capacity for population growth that could cause the City to exceed its population projections.

- IV.L.25 – Utilities and Service Systems – The City's wastewater collection and treatment system would not have adequate capacity to serve the project, along with anticipated cumulative development.

- IV.L.26 – Utilities and Service Systems – Implementation of the proposed project would incrementally contribute to the cumulative loss of prime agricultural land in the Modesto area and in eastern Stanislaus County.

- IV.L.27 – Utilities and Service Systems – The wastewater treatment facilities would cause a cumulatively considerable net increase in pollutants for which the San Joaquin Valley is designated as nonattainment.

- IV.N.1 – Population and Housing – Development of the proposed project would directly induce population growth that could cause the City to exceed its population projections.

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 Tivoli Specific Plan provides an area-specific comprehensive framework for attractive and distinctive development within the Tivoli Specific Plan area that is consistent with the goals and policies of the General Plan.

2. Housing. The Tivoli Specific Plan designates approximately 286 acres for residential development, allowing a maximum of 3,241 dwelling units in a variety of residential housing types and configurations. As much as 50% of the dwelling units may be developed as Medium Density, at 8 to 18 units per acre, and Medium High Density Residential, at 18 to 24 units per acre. The Medium High Density Residential designation is intended to provide 924 units to meet the Project's share of affordable housing consistent with the City's Housing Element. The variety and range of housing types allowed under the Specific Plan will increase opportunities for entry level and step-up housing.

3. **Infrastructure Needs.** The Tivoli Specific Plan provides for the public facilities and infrastructure necessary to support growth consistent with the General Plan and the Tivoli Specific Plan, including by identifying a financing strategy and funding mechanisms to pay for such facilities and infrastructure. The Specific Plan emphasizes a grid-oriented street network that provides direct walking connections between residential areas, parks, schools, and major commercial areas. All streets are designed to be pedestrian-friendly with ample street landscaping and sidewalks. Parkway planter strips along all collector level (and above) streets will allow for canopy shade trees to be planted adjacent to the street edges.

4. **Parks and Open Space.** The Tivoli Specific Plan provides for an approximately 19-acre dual-use basin and neighborhood park adjacent to an elementary school site and additional small neighborhood greens/parks in residential districts as appropriate. The paseos along primary collector streets will offer appealing pedestrian linkages to the centrally located basin/park.

5. **Economic Development and Job Creation.** The Tivoli Specific Plan provides for commercial and institutional development that will serve the east side of Modesto, will be located along or near regional transportation corridors, and will create job opportunities for area residents.

6. **Public Revenues.** The Tivoli Specific Plan provides for new regional commercial development opportunities on the east side of Modesto, which in turn will enhance the City's economic base through increased property and sales tax revenue.

TIVOLI SPECIFIC PLAN
POTENTIALLY INFEASIBLE OR REJECTED TRAFFIC MITIGATION MEASURES AND EXPLANATION FOR INFEASIBILITY OR REJECTION

Project Impact		Mitigation Measure	Explanation for Infeasibility or Rejection
Transportation and Circulation			
D.1	Construction and occupancy of Phase 1 of the proposed project would result in significant impacts at study intersections adjacent to and near the project site in 2012.	**D.1a. Claus Road at Briggsmore Avenue:** Widen the intersection by adding a third northbound through lane and a third southbound through lane. Adjust signal timing to allow for overlap on all approaches.	This mitigation measure is potentially infeasible. The City of Modesto has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available by 2012 for the City to construct the improvements. As a result, the intersection could operate poorly for a substantial period of time.
		D.1b. Claus Road at Milnes Road: Signalize the intersection. Add an exclusive northbound through lane to the intersection. The City shall establish a mechanism for developers to pay a fair share of the cost of these improvements.	This mitigation measure is potentially infeasible. Stanislaus County has identified funding for a traffic signal and some intersection improvements. The City of Modesto has established a Capital Facilities Fees program (CFF) to cover the cost of improvements to Claus Road but not Milnes Road at this intersection, to which the project sponsors would be required to contribute. Project sponsors would also be required to contribute to the cost of improvements not already funded; however, a funding mechanism must be developed. The project's fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available by 2012 when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
	(continued)	**D.1c. Claus Road at Sylvan Avenue:** Add a second eastbound left turn lane, a second northbound left turn lane, and a second southbound through lane. Adjust signal timing to allow for overlap on all approaches.	This mitigation measure is potentially infeasible. The City of Modesto has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available by 2012 for the City to construct the improvements. As a result, the intersection could operate poorly for a substantial period of time.

Project Impact		Mitigation Measure	Explanation for Infeasibility or Rejection
	(continued)	**D.1e. Coffee Road at Claribel Road:** Widen the intersection by adding exclusive left- and right-turn lanes to the northbound and westbound approaches and two exclusive left- and right-turn lanes to the eastbound and westbound approaches. Convert shared lanes to exclusive through lanes at all four approaches and signalize the intersection.	This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the Coffee Road/Claribel Road intersection, which is under the jurisdiction of Stanislaus County. The City has established a Capital Facilities Fees program (CFF) for its share of the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available by 2012 when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
		D.1g. Coffee Road at Sylvan Avenue: Add exclusive eastbound right turn lane.	This mitigation measure is potentially infeasible. The City of Modesto has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available by 2012 when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
		D.1h. McHenry Avenue at Claribel Road (Claribel Road becomes Kiernan Avenue west of McHenry Avenue): Add second left turn lanes on northbound and southbound approaches; add second and third through lanes on eastbound and westbound approaches.	This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the McHenry Avenue (SR 108) and Claribel Road (Kiernan Avenue/SR 219 west of McHenry Avenue) intersection, which is under the jurisdiction of Caltrans. The City has established a Capital Facilities Fees program (CFF) to cover its share of the cost of intersection improvements, to which the project sponsors would be required to contribute. The County PFF program and Caltrans includes funding for improvements to SR 108 and SR 219, respectively. The project's fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available by 2012 when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
	(continued)		

Project Impact		Mitigation Measure	Explanation for Infeasibility or Rejection
	(continued)	**D.1i. McHenry Avenue and Claratina Avenue:** Add third and fourth northbound and southbound through lanes. Add third eastbound and westbound through lanes.	This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the McHenry Avenue/Claratina Avenue intersection, which is under the jurisdiction of Caltrans. The City has established a Capital Facilities Fees program (CFF) for its share of the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available by 2012 when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
	(continued)	**D.1j. McHenry Avenue at Sylvan Avenue:** Add second northbound and southbound left turn lane; add fourth northbound and southbound through lanes.	This mitigation measure is not feasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the McHenry Avenue/Sylvan Avenue intersection, which is under the jurisdiction of Caltrans. The City has established a Capital Facilities Fees program (CFF) for its share of the cost of some of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. The CFF does not include the fourth northbound and southbound through lanes. In addition, substantial acquisition of private property would be necessary to add the fourth through lane in the north-south direction. This measure would affect developed land uses. While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available by 2012 when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.

Project Impact		Mitigation Measure	Explanation for Infeasibility or Rejection
	(continued)	**D.1k. Oakdale Road at Claribel Road:** Add a second northbound exclusive left turn lane and second southbound through lane; add second and third eastbound and westbound through lanes.	This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the Oakdale Road/Claribel Road intersection, which is under the jurisdiction of the City of Riverbank and Stanislaus County. In the future a portion of the intersection may be within the City's jurisdiction following annexation. Therefore, the City has established a Capital Facilities Fees program (CFF) for its share of the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available by 2012 when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
		D.1m. Oakdale Road at Morrill Avenue: Add exclusive southbound and northbound left turn lanes. Signalize the intersection.	This mitigation measure is potentially infeasible. The Oakdale Road and Morrill Avenue intersection is outside the jurisdiction of the City. The City does not have jurisdiction to design and construct improvements at this location. The City of Riverbank and Stanislaus County have the funds to signalize the intersection and make other improvements; however the funding may not be sufficient to fully mitigate impacts at this location. Since funding for the construction of all improvements necessary to fully mitigate this impact is not identified and the intersection is outside of the City's jurisdiction, there can be no assurance that this intersection could operate at an acceptable LOS.
	(continued)	**D.1p. Roselle Avenue at Belharbour Drive:** Add northbound and southbound exclusive left- and right-turn lanes, and signalize the intersection.	This mitigation measure is potentially infeasible. The City of Modesto has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. Construction of the road improvements is anticipated to occur because funding is available as part of the project to install a roundabout at Roselle Avenue and Floyd Avenue. However, funding to signalize the intersection has not been identified and there can be no assurance that the measure would be available by 2012 when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.

Project Impact		Mitigation Measure	Explanation for Infeasibility or Rejection
	(continued)	**D.1q. Roselle Avenue at Claribel Road:** Add exclusive left turn lanes on all approaches to the intersection. Add northbound and southbound exclusive right turn lanes. Add a second, exclusive through lane on eastbound and westbound approaches to the intersection.	This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the Roselle Avenue/Claribel Road intersection, which is under the jurisdiction of Stanislaus County. The City has established a Capital Facilities Fees program (CFF) for its share of the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available by 2012 when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
		D.1r. Terminal Avenue at Claribel Road: Add exclusive left turn lanes at all four approaches to the intersection. Add a second eastbound through lane, and signalize the intersection.	This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these intersection improvements to the Terminal Avenue/Claribel Road intersection, which is under the jurisdiction of Stanislaus County. The City has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
D.3	Buildout of the proposed project would result in significant impacts at study intersections adjacent to and near the project site in 2017. ***(continued)***	**D.3b. Claus Road at Claribel Road:** Add second southbound through lane; add second northbound left turn lane; add second eastbound right turn lane; and add second westbound through lane.	This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the Claus Road/Claribel Road intersection, which is under the jurisdiction of Stanislaus County. The County has adopted a Public Facilities Fee (PFF) program that includes improving Claus Road to six lanes from Claribel Road to Terminal Avenue, to which the project sponsors would have to contribute. The specific improvements are not known and a mechanism must be developed so that the project sponsors could pay a fair share contribution to the PFF. The project's fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.

Project Impact		Mitigation Measure	Explanation for Infeasibility or Rejection
	(continued)	**D.3c. Claus Road at Floyd Avenue:** Add second northbound and southbound through lanes; add second northbound left turn lane.	This mitigation measure is potentially infeasible. The City has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
		D.3d. Claus Road at Milnes Road: Add second northbound and southbound through lanes and signalize the intersection.	This mitigation measure is potentially infeasible. Stanislaus County has identified funding for a traffic signal and some intersection improvements. The City of Modesto has established a Capital Facilities Fees program (CFF) to cover the cost of improvements to Claus Road but not Milnes Road at this intersection, to which the project sponsors would be required to contribute. Project sponsors would also be required to contribute to the cost of improvements not already funded; however, a funding mechanism must be developed. The project's fair share would be a small portion of the total cost. While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
	(continued)	**D.3e. Claus Road at Plainview Road:** Add southbound and northbound exclusive left-turn lanes and a second northbound and southbound through lane. Signalize the intersection.	This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the Claus Road/Plainview Road intersection, which is under the jurisdiction of Stanislaus County. The County has adopted a Public Facilities Fee (PFF) program that includes improving Claus Road to six lanes from Claribel Road to Terminal Avenue, to which the project sponsors would have to contribute. The specific improvements are not known and a mechanism must be developed so that the project sponsors could pay a fair share contribution to the cost of improvements not covered. The project's fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.

Project Impact	Mitigation Measure	Explanation for Infeasibility or Rejection
(continued)	**D.3f. Claus Road at Sylvan Avenue:** Add second eastbound right turn lane.	This mitigation measure is potentially infeasible. The City has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
	D.3h. Coffee Road at Claribel Avenue: Convert existing lanes to exclusive through lanes. Add second exclusive through lane in the southbound direction and second and third exclusive through lanes in the eastbound and westbound directions. Add one exclusive southbound left turn lane and two exclusive left turn lanes for the westbound, northbound and eastbound directions. Add exclusive right-turn lanes at all four approaches to the intersection. Signalize the intersection, and implement overlap phasing for the northbound right turn lane.	This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the Coffee Road/Claribel Road intersection, which is under the jurisdiction of Stanislaus County. The City has established a Capital Facilities Fees program (CFF) for its share of the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
(continued)	**D.3i. Coffee Road at Sylvan Road:** Add exclusive southbound, eastbound and westbound right turn lanes.	This mitigation measure is not feasible. Implementation would require acquisition of private property with developed land uses and subsequent demolition and loss of the existing land uses. The City of Modesto has established a Capital Facilities Fees program (CFF) to cover the cost of some of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. The CFF does not include the exclusive southbound right turn lane. While construction of some intersection improvements is anticipated to occur as the City builds out, not all improvements are physically possible to accommodate. As a result, the intersection could operate poorly for a substantial period of time.

Project Impact		Mitigation Measure	Explanation for Infeasibility or Rejection
	(continued)	**D.3j. McHenry Avenue at Claribel Road (Claribel Road becomes Kiernan Avenue west of McHenry Avenue):** Add second left turn lanes on eastbound and westbound approaches; add third through lane on northbound and southbound approaches; and add fourth through lane on westbound approach.	This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the McHenry Avenue (SR 108) and Claribel Road (Kiernan Avenue/SR 219 west of McHenry Avenue) intersection, which is under the jurisdiction of Caltrans. The City has established a Capital Facilities Fees program (CFF) to cover its share of the cost of intersection improvements, to which the project sponsors would be required to contribute. The County PFF program and Caltrans includes funding for improvements to SR 108 and SR 219, respectively. The project's fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
		D.3k. McHenry Avenue at Claratina Avenue: Add second left turn lane on all approaches; add exclusive right turn lane on northbound, southbound, and westbound approaches; change signal timing to overlapping phasing on all approaches.	This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the McHenry Avenue/Claratina Avenue intersection, which is under the jurisdiction of Caltrans. The City has established a Capital Facilities Fees program (CFF) to cover its share of the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
	(continued)	**D.3n. Oakdale Road at Briggsmore Avenue:** Add third eastbound and westbound through lanes. Implement overlapping signal phasing on the northbound, westbound, and eastbound approaches.	This mitigation measure is potentially infeasible. The City has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.

Project Impact		Mitigation Measure	Explanation for Infeasibility or Rejection
	(continued)	**D.3o. Oakdale Road at Morrill Road:** Implement Measure D.1m.	Mitigation Measure D.1m is potentially infeasible. The Oakdale Road and Morrill Avenue intersection is outside the jurisdiction of the City. The City does not have jurisdiction to design and construct improvements at this location. The City of Riverbank and Stanislaus County have the funds to signalize the intersection and make other improvements; however the funding may not be sufficient to fully mitigate impacts at this location. Since funding for the construction of all improvements necessary to fully mitigate this impact is not identified and the intersection is outside of the City's jurisdiction, there can be no assurance that this intersection could operate at an acceptable LOS.
		D.3q. Roselle Avenue at Belharbour Drive: Implement Measure D.1p.	Mitigation Measure D.1p is potentially infeasible. The City of Modesto has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. Construction of the road improvements is anticipated to occur because funding is available as part of the project to install a roundabout at Roselle Avenue and Floyd Avenue. However, funding to signalize the intersection has not been identified and there can be no assurance that the measure would available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
	(continued)	**D.3r. Roselle Avenue at Claribel Road:** Add one exclusive left turn lane on the northbound and southbound approaches and two exclusive left turn lanes on the eastbound and westbound approaches to the intersection. Add a second exclusive through lane on the southbound approach and second and third exclusive through lanes on the eastbound and westbound approaches. Add exclusive right turn lanes on all approaches. Signalize the intersection.	This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the Roselle Avenue/Claribel Road intersection, which is under the jurisdiction of Stanislaus County. The City has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.

Project Impact		Mitigation Measure	Explanation for Infeasibility or Rejection
	(continued)	**D.3t. Terminal Avenue at Claribel Road:** Add second through lanes on the eastbound and westbound approaches. Add exclusive left turn lanes on all approaches. Signalize the intersection	This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these intersection improvements to the Terminal Avenue/Claribel Road intersection, which is under the jurisdiction of Stanislaus County. The City has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
D.5	The project would contribute to significant impacts at study intersections adjacent to and near the project site in 2025. ***(continued)***	**D.5a. Claus Road at Briggsmore Avenue:** Add a second eastbound and third westbound through lane and a second southbound right turn lane.	This mitigation measure is potentially infeasible. The City of Modesto has established a Capital Facilities Fees program (CFF) to cover the cost of a grade-separated interchange at this location, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.

Project Impact	Mitigation Measure	Explanation for Infeasibility or Rejection
(continued)	**D.5b. Claus Road at Claribel Road:** Add a second left turn lane on the northbound, eastbound, and westbound approaches; add a third through lane on the southbound and westbound approaches. Provide a free right turn lane on the eastbound approach; provide a second southbound right turn lane.	This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the Claus Road/Claribel Road intersection, which is under the jurisdiction of Stanislaus County. The County has adopted a Public Facilities Fee (PFF) program that includes improving Claus Road to six lanes from Claribel Road to Terminal Avenue. The specific improvements are not known and a mechanism must be developed so that the project sponsors could pay a fair share contribution to the PFF. The project's fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
	D.5c. Claus Road at Floyd Avenue: Add second exclusive left turn lanes on all approaches; add second eastbound through lane and second and third northbound, southbound and westbound through lanes; add second eastbound and westbound right turn lanes; operate all right turns with overlap signal phasing.	This mitigation measure is not physically feasible because it would require removing recently constructed or approved residential developments adjacent to Floyd Avenue. The City has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvementa are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
(continued)	**D.5d. Claus Road at Milnes Road:** Add two exclusive southbound through lanes and a second and third exclusive southbound lanes. Signalize the intersection.	This mitigation measure is potentially infeasible. Stanislaus County has identified funding for a traffic signal. The City CFF program does not cover the cost of other improvements at this intersection. Project sponsors would be required to contribute their fair share of the cost of intersection improvements not already funded; however, a funding mechanism must be developed. The project's fair share would be a small portion of the total cost. While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.

Project Impact		Mitigation Measure	Explanation for Infeasibility or Rejection
	(continued)	**D.5e. Claus Road at Plainview Road:** Add exclusive left turn lanes at all approaches to the intersection. Add second and third exclusive through lanes on the northbound and southbound approaches. Signalize the intersection.	This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the Claus Road/Plainview Road intersection, which is under the jurisdiction of Stanislaus County. The County has adopted a Public Facilities Fee (PFF) program that includes improving Claus Road to six lanes from Claribel Road to Terminal Avenue, to which the project sponsor would have to contribute. The specific improvements are not known and a mechanism must be developed so that the project sponsors could pay a fair share contribution to the cost of improvements not covered. The project's fair share would be a small portion of the total cost. While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
	(continued)	**D.5f. Claus Road at Sylvan Avenue:** Add a third southbound through and a separate southbound right turn lane. Add a second eastbound left turn lane and provide a free eastbound right turn lane.	This mitigation measure is not physically feasible because it would require acquisition of private property with developed land uses, requiring demolition and loss of existing land uses. The City has established a Capital Facilities Fees program (CFF) to cover the cost of some of these measures, to which the project sponsors would be required to contribute. The CFF does not include the third southbound through lane, and the acquisition of developed property was not assumed in the City's cost estimates for improvements. The project's fair share would be a small portion of the total cost. While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.

Project Impact		Mitigation Measure	Explanation for Infeasibility or Rejection
	(continued)	**D.5h. Coffee Road at Claribel Avenue:** Add three exclusive left turn lanes on the northbound approach and two exclusive left turn lanes at the other three approaches. Add second northbound and southbound through lanes and 3 additional through lanes at the eastbound and westbound approaches. Add exclusive right turn lanes on all approaches. Signalize the intersection. Implementation of these measures would result in LOS D in the a.m. and p.m. peak hours.	This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the Coffee Road/Claribel Road intersection, which is under the jurisdiction of Stanislaus County. The City has established a CFF program to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
	(continued)	**D.5i. Coffee Road at Sylvan Avenue:** Add exclusive southbound, eastbound, and westbound right turn lanes.	This mitigation measure is not physically feasible because it would require acquisition of private property with developed land uses, requiring demolition and loss of existing land uses. The City has established a Capital Facilities Fees program (CFF) to cover the cost of some of these measures, to which the project sponsors would be required to contribute. The CFF does not include the exclusive southbound right turn lane, and the acquisition of developed property was not assumed in the City's cost estimates for intersection improvements. The project's fair share would be a small portion of the total cost. While improvements are anticipated to occur as the City builds out, not all improvements are physically feasible.

Project Impact		Mitigation Measure	Explanation for Infeasibility or Rejection
	(continued)	**D.5j. McHenry Avenue at Claribel Road (Claribel Road becomes Kiernan Avenue west of McHenry Avenue):** Require a Grade-Separated Interchange or Split Diamond.	This mitigation measure is not feasible because of the substantial cost. The project's contribution to traffic would not be substantial enough to support a requirement that project sponsors contribute the full cost of construction. In addition, the City does not have jurisdiction to design or construct improvements because portions of this intersection are under the jurisdiction of Caltrans. Caltrans may have available funds for improvements on McHenry Avenue (SR 108) and Claribel Road/Kiernan Avenue (SR 219 west of the intersection). The City has established a Capital Facilities Fees program (CFF) to provide it share of the cost of these measures, to which the project sponsors are required to contribute. Funding from Caltrans in combination with the project's fair share contribution as well as contributions from other expected developments that would result in new traffic at this intersection, may not be sufficient to acquire the necessary private property and construct the necessary improvements. While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS.
		D.5k. McHenry Avenue at Claratina Avenue: Require a Grade-Separated Interchange or Spilt Diamond.	This mitigation measure is not feasible because of the substantial cost. The project's contribution to traffic would not be substantial enough to support a requirement that project sponsors contribute the full cost of construction. In addition, the City does not have jurisdiction to design or construct improvements because portions of this intersection are under the jurisdiction of Caltrans. Caltrans may have available funds for improvements on McHenry Avenue (SR 108). The City has established a Capital Facilities Fees program (CFF) for its share of the cost of improving this intersection, to which the project sponsors would be required to contribute. Funding from Caltrans in combination with the project's fair share contribution as well as contributions from other expected developments that would result in new traffic at this intersection, may not be sufficient to acquire the necessary private property and construct the necessary improvements. While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
	(continued)		

Project Impact		Mitigation Measure	Explanation for Infeasibility or Rejection
	(continued)	**D.5l. McHenry Avenue at Sylvan Avenue:** Add a fourth through lane on eastbound and westbound approaches; provide right turn lanes on northbound and westbound approaches.	This mitigation measure is not feasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the McHenry Avenue/Sylvan Avenue intersection, which is under the jurisdiction of Caltrans. The City has established a Capital Facilities Fees program (CFF) for its share of the cost of some improvements to the intersection. The CFF does not include a fourth through lane in the east-west direction. Project sponsors would be required to contribute to the CFF; however, the project's fair share would be a small portion of the total cost. In addition, substantial acquisition of private property would be necessary to implement all of the improvements requiring the demolition and removal of developed land uses. The acquisition of developed property was not assumed in the City's cost estimates for intersection improvements. While improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
	(continued)	**D.5n. Oakdale Road at Briggsmore Avenue:** Provide third and fourth northbound lanes; provide a fourth southbound through lane; provide a separate southbound right turn lane.	This mitigation measure is not feasible. The City has established a Capital Facilities Fees program (CFF) to cover the cost of some of these measures, to which the project sponsors would be required to contribute. The CFF does not include the fourth northbound lane or the fourth southbound lane. The project's fair share would be a small portion of the total cost. In addition, substantial acquisition of private property would be necessary to implement all of the improvements requiring the demolition and removal of developed land uses. The acquisition of developed property was not assumed in the City's cost estimates for intersection improvements. While some improvements are anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.

Project Impact		Mitigation Measure	Explanation for Infeasibility or Rejection
	(continued)	**D.5o. Oakdale Road at Claratina Avenue:** The project developers shall add a second southbound left turn lane and second right turn lanes in the southbound and eastbound directions. Add fourth northbound and westbound, and third and fourth southbound through lanes. Add a third northbound left turn lane.	This mitigation measure is infeasible. The fourth through lanes and third northbound left turn lane, and second right turn lanes in the southbound and eastbound directions are infeasible at this location, because in would require up to 15 lanes, including up to four through lanes, three left turn lanes, and two right turn lanes in each direction. Intersections with this number of lanes do not operate efficiently and would be wider than major freeways. The number of lanes would exceed the City of Modesto standards for local arterials.
		D.5p. Oakdale Road at Sylvan Avenue: The project developers shall add third eastbound and westbound through lanes. The project developers shall add a separate right turn lane on northbound and southbound approaches and provide funding support for the City to implement overlap signal phasing on eastbound right turn lanes. Add fourth northbound and southbound through lanes.	This mitigation measure is potentially infeasible. The City has established a Capital Facilities Fees program (CFF) to cover the cost of some of these measures, to which the project sponsors would be required to contribute. The CFF does not include the fourth northbound and southbound through lanes at this location because it is not physically feasible to accommodate them. The inclusion of these improvements would require substantial acquisition of private property and removal of existing commercial buildings and loss of these existing land uses at this intersection. The acquisition of developed property was not assumed in the City's cost estimates for intersection improvements. The total number of lanes would exceed the City of Modesto standards for local arterials and would not operate efficiently.
	(continued)	**D.5q. Oakdale Road at Morrill Road:** Add exclusive left- and right-turn lanes on the northbound and southbound approaches. Add a second exclusive southbound through lane. Signalize the intersection.	This mitigation measure is potentially infeasible. The Oakdale Road and Morrill Avenue intersection is outside the jurisdiction of the City. The City does not have jurisdiction to design and construct improvements at this location. The City of Riverbank and Stanislaus County have the funds to signalize the intersection and make other improvements; however the funding may not be sufficient to fully mitigate impacts at this location. Since funding for the construction of all improvements necessary to fully mitigate this impact is not identified and the intersection is outside of the City's jurisdiction, there can be no assurance that this intersection could operate at an acceptable LOS.

Project Impact		Mitigation Measure	Explanation for Infeasibility or Rejection
	(continued)	**D.5r. Roselle Avenue at Belharbour Drive:** Implement mitigation measure D.1p.	Mitigation Measure D.1p is potentially infeasible. The City of Modesto has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. Construction of the road improvements is anticipated to occur because funding is available as part of the project to install a roundabout at Roselle Avenue and Floyd Avenue. However, funding to signalize the intersection has not been identified and there can be no assurance that the measure would available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.
		D.5s. Roselle Avenue at Claribel Road: Add exclusive left turn lanes to the northbound and southbound approaches, and add two exclusive left turn lanes to the eastbound and westbound approaches to the intersection. Add one additional exclusive through lane to the northbound and southbound approaches and three additional exclusive through lanes to the eastbound and westbound approaches. Add exclusive right turn lanes to all approaches with overlap signal phasings, and signalize the intersection.	This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these improvements to the Roselle Avenue/Claribel Road intersection, which is under the jurisdiction of Stanislaus County. The City has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the improvements are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.

Project Impact		Mitigation Measure	Explanation for Infeasibility or Rejection
		D.5v. Terminal Avenue at Claribel Road: Add exclusive left-turn lanes on all approaches to the intersection. Add two additional through lanes on the eastbound and westbound approaches. Signalize the intersection.	This mitigation measure is potentially infeasible. The City of Modesto does not have the jurisdiction to design or construct these intersection improvements to the Terminal Avenue/Claribel Road intersection, which is under the jurisdiction of Stanislaus County. The City has established a Capital Facilities Fees program (CFF) to cover the cost of these measures, to which the project sponsors would be required to contribute. The project's fair share would be a small portion of the total cost. While construction of some of these improvements is anticipated to occur as the City builds out, there can be no assurance that sufficient funds would be available when the measures are needed to maintain an acceptable LOS. As a result, the intersection could operate poorly for a substantial period of time.

Exhibit "B"

MITIGATION MONITORING AND REPORTING PROGRAM

TIVOLI SPECIFIC PLAN 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 Tivoli Specific Plan area, the City Council will consider creation of a farmland mitigation program to determine whether such a program could feasibly provide partial mitigation of the loss of prime farmland.	City of Modesto and Project Developers	Prior to any actual development in the Tivoli Specific Plan area, the City Council will consider creation of a farmland mitigation program to determine whether such a program could feasibly provide partial mitigation of the loss of prime farmland. Project Developers shall be responsible for applicable mitigation measures from an approved farmland mitigation program.	Community and Economic Development Department shall prepare or manage the preparation of a farmland mitigation program at the direction of the City Council.	The consideration of a farmland mitigation program shall be prior to building permit issuance.
B.3. Prior to any actual development in the Tivoli Specific Plan area, the City Council will consider creation of a farmland mitigation program to determine whether such a program could feasibly provide partial mitigation of 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.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Transportation and Circulation[1]				
D.1d. Coffee Road at Claratina Avenue: At 75 percent buildout of the Tivoli Specific Plan area, the City shall conduct a traffic study, to be funded by the project developers, to determine the adequacy of the roundabout as intersection traffic control. If the approach volumes exceed the roundabout capacity, the project developers shall either add an additional lane to the roundabout or signalize the intersection.	Project Developers and City of Modesto	Project Developers shall fund the traffic study and if necessary be responsible for the road improvement plans and construction for the intersection of Coffee Road and Claratina Avenue. City of Modesto shall conduct the traffic study.	City Engineer shall review and approve required road improvement plans. Public Works Department shall inspect and accept required improvements. Traffic engineer shall review and approve the traffic study.	City of Modesto shall conduct the traffic study at 75 percent of buildout. Project developer shall provide required improvement plans prior to grading or building permit, whichever occurs first, at 75 percent of buildout. All required improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, at 75 percent of buildout or as determined by the Facilities Master Plan (FMP) and Infrastructure Financing Plan (IFP).
D.1f. Coffee Road at Mable Avenue: The City shall add exclusive westbound left and right turn lanes.	City of Modesto	Project Developers shall contribute their fair share of the cost of implementation by paying into the Capital Facilities Fee Fund.	Public Works Department shall construct improvements.	All improvements shall be completed within five years of the first development of Phase I or completion of Phase I, whichever occurs first.

[1] The analysis of traffic impacts is based on an assumed project buildout in ten years. Phase I is assumed to build out in five years or by 2012 and Phase II is assumed to build out in an additional five years or by 2017. If development proceeds slower than the assumed buildout schedule, then the timing of the mitigation measures may be revised.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
D.1*l*. Oakdale Road at Mable Avenue: The project developers shall add a second southbound through lane.	Project Developers	Project Developers shall be responsible for the road improvement plans and construction for the intersection of Oakdale Road and Mable Avenue.	City Engineer shall review and approve road improvement plans. Public Works Department shall inspect and accept improvements.	For development that triggers the requirement for this improvement, provide improvement plans prior to grading or building permit, whichever occurs first. All improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, of the first phase of development or as determined by the FMP and IFP.
D.1n. Oakdale Road at Sylvan Avenue: The project developers shall add a second eastbound left lane and third southbound through lane.	Project Developers	Project Developers shall be responsible for the road improvement plans and construction for the intersection of Oakdale Road and Sylvan Avenue.	City Engineer shall review and approve road improvement plans. Public Works Department shall inspect and accept improvements.	For development that triggers the requirement for this improvement, provide improvement plans prior to grading or building permit, whichever occurs first. All improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, of the first phase of development or as determined by the FMP and IFP.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
D.2a. Claratina Avenue between McHenry Avenue and Oakdale Road: The project developers shall add a second eastbound lane and a second westbound lane.	Project Developers	Project Developers shall be responsible for the road improvement plans and construction for the segment of Claratina Avenue between McHenry Avenue and Oakdale Road.	City Engineer shall review and approve road improvement plans. Public Works Department shall inspect and accept improvements.	Provide improvement plans prior to street construction as described below. All improvements shall be completed concurrent with development of Phase I or as determined by the FMP and IFP.
D.2b. Sylvan Avenue between Roselle Avenue and Oakdale Road: The project developers shall add a second westbound lane.				Completed by Traffic Operations on December 20, 2006.
D.2c. Oakdale Road between Sylvan Avenue and Claratina Avenue: The project developers shall improve the southbound direction to three lanes between Sylvan Avenue and Claratina Avenue. (Improvements to the northbound direction to three lanes are assumed to be part of the project, to be implemented by project developers, and therefore do not need to be identified in this mitigation measure.)	Project Developers	Project Developers shall be responsible for the road improvement plans and construction for the segment of Oakdale Road between Sylvan Avenue and Claratina Avenue.	City Engineer shall review and approve road improvement plans. Public Works Department shall inspect and accept improvements.	For development that triggers the requirement for this improvement, provide improvement plans prior to grading or building permit, whichever occurs first. All improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, of the first phase of development or as determined by the FMP and IFP.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
D.3g. Coffee Road at Claratina Road: Implement Mitigation Measure D.1d, to conduct a traffic study at 75 percent buildout, to be funded by project developers, to determine the adequacy of the intersection traffic control. As with Measure D.1d, if the approach volumes exceed the roundabout capacity, the project developers shall either add an additional lane to the roundabout or signalize the intersection.	Project Developers and the City of Modesto	Project Developers shall fund the traffic study and if necessary be responsible for the road improvement plans and construction for the intersection of Coffee Road and Claratina Avenue. City of Modesto shall conduct the traffic study.	City Engineer shall review and approve required road improvement plans. Public Works Department shall inspect and accept required improvements. Traffic Engineer shall review and approve the traffic study.	City of Modesto shall conduct the traffic study at 75 percent of buildout. Project developers shall provide required improvement plans prior to grading or building permit, whichever occurs first, at 75 percent of buildout. All required improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, at 75 percent of buildout or as determined by the FMP and IFP.
D.3l. McHenry Avenue at Sylvan Avenue: The City of Modesto will add a third eastbound through lane and a third westbound through lane.	City of Modesto	Project Developers shall contribute their fair share of the cost of implementation by paying into the Capital Facilities Fee program.	Public Works Department shall construct improvements.	All improvements shall be completed within five years of the first development of Phase I or completion of Phase I, whichever occurs first.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
D.3m. Oakdale Road at Bridgewood Way: The project developers shall provide an exclusive eastbound right turn lane with signal overlap.	Project Developers	Project Developers shall be responsible for the road improvement plans and construction for the intersection of Oakdale Road and Bridgewood Way.	City Engineer shall review and approve road improvement plans. Public Works Department shall inspect and accept improvements.	For development that triggers the requirement for this improvement, provide improvement plans prior to grading or building permit, whichever occurs first. All improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, of the second phase of development or as determined by the FMP and IFP.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
D.3p. Oakdale Road at Sylvan Avenue: The project developers shall add a third northbound through lane. The project developers shall fund actions by the City to change signal timing, implementing overlap phasing on the eastbound approach.	Project Developers	Project Developers shall be responsible for the road improvement plans and construction for the intersection of Oakdale Road and Sylvan Avenue to the City Engineer. Project Developers shall fund City actions to change signal timing and to implement overlap phasing on the eastbound approach.	City Engineer shall review and approve road improvement plans. Public Works Department shall inspect and accept improvements.	For development that triggers the requirement for this improvement, provide improvement plans prior to grading or building permit, whichever occurs first. All improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, of the second phase of development or as determined by the FMP and IFP.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
D.3s. Roselle Avenue at Tivoli Road C: Fund a traffic study at 75 percent buildout to determine the adequacy of the intersection traffic control. If the approach volumes exceed the roundabout capacity, the project developers shall either add an additional lane to the roundabout or signalize the intersection.	Project Developers and City of Modesto	Project Developers shall fund the traffic study and if necessary be responsible for the road improvement plans and construction for the intersection of Roselle Avenue and Tivoli Road C. City of Modesto shall conduct the traffic study.	City Engineer shall review and approve required road improvement plans. Public Works Department shall inspect and accept required improvements. Traffic Engineer shall review and approve the traffic study.	City of Modesto shall conduct the traffic study at 75 percent of buildout. Project Developers shall provide required improvement plans prior to grading or building permit, whichever occurs first, at 75 percent of buildout. All required improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, at 75 percent of buildout or as determined by the FMP and IFP.
D.4. Claratina Avenue from McHenry Avenue to Oakdale Road: Implement Mitigation Measure D.2a to add a second eastbound lane and a second westbound lane	Project Developers	Project Developers shall be responsible for the road improvement plans and construction for the segment of Claratina Avenue between McHenry Avenue and Oakdale Road.	City Engineer shall review and approve road improvement plans. Public Works Department shall inspect and accept improvements.	Provide improvement plans prior to street construction as described below. All improvements shall be completed concurrent with development of Phase II or as determined by the FMP and IFP.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
D.5g. Coffee Road at Claratina Avenue: Implement Mitigation Measure D.1d, to conduct a traffic study, at the project developers' expense at 75 percent buildout to determine the adequacy of the intersection traffic control. As with Measure D.1d, if the approach volumes exceed the roundabout capacity, the project developers shall either add an additional lane to the roundabout or signalize the intersection.	Project Developers and City of Modesto	Project Developers shall fund the traffic study and if necessary be responsible for the road improvement plans and construction for the intersection of Coffee Road and Claratina Avenue. City of Modesto shall conduct the traffic study.	City Engineer shall review and approve required road improvement plans. Public Works Department shall inspect and accept required improvements. Traffic Engineer shall review and approve the traffic study.	City of Modesto shall conduct the traffic study at 75 percent of buildout. Project Developers shall provide required improvement plans prior to grading or building permit, whichever occurs first, at 75 percent of buildout. All required improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, at 75 percent of buildout or as determined by the FMP and IFP.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
D.5m. Oakdale Avenue at Bridgewood Way: The project developers shall provide an exclusive eastbound right turn lane with signal overlap.	Project Developers	Project Developers shall be responsible for the road improvement plans and construction for the intersection of Oakdale Road and Bridgewood Way.	City Engineer shall review and approve road improvement plans. Public Works Department shall inspect and accept improvements.	For development that triggers the requirement for this improvement, provide improvement plans prior to grading or building permit, whichever occurs first. All improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, of the second phase of development or as determined by the FMP and IFP.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
D.5t. Roselle Avenue at Tivoli Road C: At 75 percent build-out, the City shall conduct a traffic study, funded by project developers, to determine the adequacy of the intersection traffic control. As with Measure D.1d, if the approach volumes exceed the roundabout capacity, the project developers shall either add an additional lane to the roundabout or signalize the intersection.	Project Developers and City of Modesto	Project Developers shall fund the traffic study and if necessary be responsible for the road improvement plans and construction for the intersection of Roselle Avenue and Tivoli Road C. City of Modesto shall conduct the traffic study.	City Engineer shall review and approve required road improvement plans. Public Works Department shall inspect and accept required improvements. Traffic Engineer shall review and approve the traffic study.	City of Modesto shall conduct the traffic study at 75 percent of buildout. Project Developers shall provide required improvement plans prior to grading or building permit, whichever occurs first, at 75 percent of buildout. All required improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, at 75 percent of buildout or as determined by the FMP and IFP.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
D.5u. Roselle Avenue at Tivoli Road D: At 75 percent build-out, the City shall conduct a traffic study, funded by the project developers, to determine the adequacy of the intersection traffic control. As with Measure D.1d, if the approach volumes exceed the roundabout capacity, the project developers shall either add an additional lane to the roundabout or signalize the intersection.	Project Developers and City of Modesto	Project Developers shall fund the traffic study and if necessary be responsible for the road improvement plans and construction for the intersection of Roselle Avenue and Tivoli Road D. City of Modesto shall conduct the traffic study.	City Engineer shall review and approve required road improvement plans. Public Works Department shall inspect and accept required improvements. Traffic Engineer shall review and approve the traffic study.	City of Modesto shall conduct the traffic study at 75 percent of buildout. Project Developer shall provide required improvement plans prior to grading or building permit, whichever occurs first, at 75 percent of buildout. All required improvements shall be completed prior to the first final map recordation or certificate of occupancy, whichever occurs first, at 75 percent of buildout or as determined by the FMP and IFP.
D.6. The project developers shall add a second eastbound and westbound lane on Claratina Avenue between McHenry Avenue and Oakdale Road.	Project Developers	Project Developers shall be responsible for the road improvement plans and construction for the segment of Claratina Avenue between McHenry Avenue and Oakdale Road.	City Engineer shall review and approve road improvement plans. Public Works Department shall inspect and accept improvements.	Provide improvement plans prior to street construction as described below. All improvements shall be completed concurrent with development of Phase II or as determined by the FMP and IFP.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Air Quality				
E.1. The construction plans for each group of building permits shall incorporate the following recommendations from the District to minimize emissions during construction phases:				
• The project developers shall review Regulation VIII of the San Joaquin Valley Air Pollution Control District regulations and submit a compliance plan to the City of Modesto prior to commencing any phase of construction. The compliance plan must demonstrate that the current requirements of Regulation VIII will be implemented.	Project Developers	Project Developers shall review Regulation VIII and submit a compliance plan to the City of Modesto's Community and Economic Development Department. 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 Community and Economic Development Department prior to the issuance of a grading or building permit, whichever occurs first.
• Prior to the issuance of construction contracts, the project developers shall perform a review of new technology, as it relates to heavy-duty equipment, to determine what, if any, advances in emissions reduction are available for use. It is anticipated that in the near future both NO_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.	Project Developers shall report to the Community and Economic Development Director 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
• 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. ***(cont'd.)***	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 Community and Economic Development Director.	The building permit submittal shall identify slope measurements. Implement measures throughout the construction duration.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
• 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.	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 Community and Economic Development Director.	The washers shall be provided prior to issuance of grading or building permit, whichever occurs first. Implement measures throughout the construction duration.
• The project developers shall install windbreaks at windward sides of construction areas, if necessary to prevent wind-blown dust. ***(cont'd.)***	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 Community and Economic Development Director.	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.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
• 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 Community and Economic Development Director 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 Community and Economic Development Director.	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 Community and Economic Development Director.	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 Community and Economic Development Director 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 Community and Economic Development Director 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. ***(cont'd.)***	Project Developers	The construction foreman or liaison shall comply with traffic control programs to curtail construction activities during periods of high ambient pollutant concentrations based on advisories from the SJVAPCD, such as on declared 'Spare the Air' days.	The construction foreman or liaison shall curtail or cease construction activity based on SJVAPCD advisories.	During advisory periods, such as 'Spare the Air' days, construction activity shall be curtailed or stopped.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
• 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.	Community and Economic Development Department 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.
E.2a. The site design shall fulfill the following requirements to reduce emissions from motor vehicle activity:				
• The project developers shall incorporate improvements for transit service, including bus turnouts, transit loading areas, and shelters. ***(cont'd.)***	Project Developers	Project Developers shall be responsible for a plan for bus turnouts, loading and shelters along perimeter streets to the Community and Economic Development Department.	The Transit Manager and City Engineer shall review and approve the plan.	Review and approval of transit service improvements shall occur before approval of each Final Development Plan. All improvements shall be completed prior to certificate of occupancy of the first phase of development or as determined by the FMP and IFP.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
• 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.	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 the plans.	Review and designation of pedestrian and bicycle facilities shall occur before approval of each Final Development Plan. All improvements shall be completed prior to certificate of occupancy of each project.
• 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 the plans.	Review of on-site bicycle storage and parking facilities shall occur before approval of each Final Development Plan. All improvements shall be completed prior to certificate of occupancy of each project.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
E.2b. The project developers shall prepare a trip reduction plan to reduce emissions from motor vehicle activity. The plan shall be reviewed and approved by the City of Modesto prior to occupation of each element 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 would be implemented: • Provision of 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; • Employer subsidies for transit passes and incorporation of transit stop facilities into site design; • 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 4 percent of parking for carpoolers and hybrid or other clean-fuel vehicles; and • Encouraging employers to experiment with telecommuting options, where feasible.	Project Developers	Project Developers shall submit trip reduction plans, and ensure, at a minimum, that all of the required elements are included in the plan. Project Developers shall ensure that all measures detailed in the trip reduction plan are being carried out.	The trip reduction plan shall be submitted for review and approval by the Community and Economic Development Department prior to certificate of occupancy of each phase of the project. The Project Developers shall submit status results of the trip reduction plan in an annual report to the Community and Economic Development Director.	The trip reduction plan shall be submitted and approved prior to certificate of occupancy of each applicable project. Implement measures according to the plan.
E.2c. The site design shall fulfill the following requirements to reduce emissions from energy consumption:				
• The project developers shall incorporate energy efficient building design features including automated control systems for heating and air conditioning and overall energy efficiency at least 10 percent beyond the requirements of the California Energy Code (Title 24, California Code of Regulations), using features such as increased wall and ceiling insulation beyond Energy Code requirements, light colored roof materials to reflect heat, and energy efficient lighting and lighting controls. ***(cont'd.)***	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 required energy efficiency measures are included.	Prior to building permit issuance of each project, construction plans shall show that all energy efficient measures are included. Implement measures prior to certificate of occupancy.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
• The project developers shall design buildings with windows and/or skylights oriented to maximize natural cooling and heating in accordance with the California Energy Commission's 2005 Building Energy Efficiency Standards.	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 required energy efficiency measures are included.	Prior to building permit issuance of each project, construction plans shall show that all energy efficient measures are included. Implement measures prior to certificate of occupancy
• The project developers shall incorporate approved deciduous trees to provide shade on the south- and west-facing sides of buildings.	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.
E.6. See Mitigation Measures E.1, E.2a, E.2b, and E.2c	Same as Mitigation Measures E.1, E.2a, E.2b, and E.2c.	Same as Mitigation Measures E.1, E.2a, E.2b, and E.2c.	Same as Mitigation Measures E.1, E.2a, E.2b, and E.2c.	Same as Mitigation Measures E.1, E.2a, E.2b, and E.2c
E.7. See Mitigation Measure E.2a, E.2b, and E.2c.	Same as Mitigation Measure E.2a, E.2b, and E.2c.	Same as Mitigation Measure E.2a, E.2b, and E.2c.	Same as Mitigation Measure E.2a, E.2b, and E.2c.	Same as Mitigation Measure E.2a, E.2b, and E.2c.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Noise				
F.2a. Design and implement new barriers for noise control at exterior locations of proposed residential development adjacent to major roadways.	Project Developers	Project Developers shall submit construction plans showing the location and design features of noise control barriers and implement the features.	The Community and Economic Development Department shall review and approve all construction plans to ensure that all noise control features are included.	Prior to building permit issuance of each project, construction plans shall show all noise control features are included. The noise control features shall be installed prior to certificate of occupancy.
F.2b. Provide shielding for outdoor use areas by locating these areas behind buildings adjacent to major roadways.	Project Developers	Project Developers shall submit construction plans showing the location and design features of noise reduction features and implement the features.	The Community and Economic Development Department shall review and approve all construction plans to ensure that all noise reduction features are included.	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.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
F.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 review the development project during the design phase, prior to approval of building permits. • Submit a report to the City by the acoustical engineer that calculates the noise levels at the nearest residential property lines that would result from proposed mechanical equipment, determines whether noise levels would exceed the City's Normally Acceptable standards, and identifies means to reduce exterior noise levels to an Ldn of 60 dB. • Noise reduction measures that must be considered by the acoustical engineer include: - use of acoustical silencers on inlet and discharge openings of mechanical equipment, - installation of parapets or enclosures with louvers or other barriers to shield noise, - orientation of equipment so that it faces away from sensitive receptors, - orientation or setback of buildings to increase distance from sensitive receptors. • Other noise reduction measures that would accomplish the same or similar purposes should be included if applicable to the particular building proposed.	Project Developers	Project Developers shall submit a noise report to the Community and Economic Development Department and implement the features.	The Community and Economic Development Department shall review and approve the noise report.	A noise report shall be provided and approved prior to approval of each applicable Final Development Plan. 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.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
F.4. 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 or educational 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 Ldn of 60 dB: • Limiting loading and exterior warehouse activities to daytime hours from 8:00 a.m. to 7:00 p.m. • Requiring loading and trash compacting and collection activities to be fully enclosed. • Establishing minimum setback distances from rear yards for single family residences and from common open space for multi-family residential buildings for locations of commercial 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 the noise report.	A noise report shall be provided and approved prior to approval of each applicable Final Development Plan. Prior to building permit issuance, construction plans shall show all noise reduction features are included. The noise reduction features shall be implemented prior to certificate of occupancy.
Hazards				
G.2. Conduct remaining 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 and implement the remediation.	The Community and Economic Development Department shall review and approve the Phase I Environmental Site Assessments.	Conduct Phase I Environmental Site Assessments prior to issuance of grading or building permit, whichever occurs first. Remediation shall be implemented prior to issuance of grading or building permit or as determined by the Phase I ESA.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Biological Resources				
H.3. When wetland habitat cannot be avoided, any reduction in the 2.51 acres of wetlands will be compensated for, at a minimum ratio of 1:1, by the project proponents by implementing one of the four mitigation alternatives described in the *Department of Fish and Game Recommended Wetland Definition, Mitigation Strategies, and Habitat Value Assessment Methodology*: In-kind, On-site; In-kind, Off-site; Out-of-kind, On-site; or Out-of-kind, Off-site. The project sponsors are responsible for submitting their specific wetland mitigation strategy to CDFG for review and gain approval prior to issuance of a building permit. The wetland mitigation strategy shall include providing additional land for the dual use park/basin if the mitigation occurs on-site. Should the project sponsor select an off-site strategy that affects USACE or CDFG regulated habitats, the project sponsor shall be responsible for obtaining all necessary permits. The project sponsors would also be responsible for obtaining Streambed Alteration Agreements from CDFG if they are determined to be required for removing agricultural irrigation ditches.	Project Developers	Project Developers shall retain a qualified biologist to develop and implement a wetland mitigation strategy to compensate for the loss of wetlands.	CDFG shall review and approve the wetland mitigation strategy.	Provide approved wetland mitigation strategy prior to approval of an Area Plan for any project containing or directly adjacent to the wetlands. Implement wetland mitigation strategy prior to issuance of a grading or building permit, whichever occurs first.
H.4. Pre-construction surveys to avoid nest disturbance. In order to assure that nesting Swainson's Hawks will not be disturbed by construction, a qualified ornithologist shall conduct pre-construction surveys of the project site and adjacent areas within 0.5 miles of the project site. Survey Period I occurs from January 1 to March 20, Period II from March 21 to April 5, Period III from April 6 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 11 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.	Project Developers	Project Developers shall retain a qualified ornithologist to conduct pre-construction surveys of project site and adjacent areas within 0.5 mile of project site during at least two of the survey periods identified. Identify and implement appropriate mitigation measures.	CDFG shall review and approve the pre-construction surveys to ensure that project initiation will not result in nest disturbance.	Prior to issuance of the first grading or building permit, whichever occurs first.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
H.5. Compensation for loss of foraging habitat. Loss of 297.5 acres of foraging habitat for Swainson's Hawks shall be mitigated by providing offsite Habitat Management (HM) lands as described in the CDFG's *Staff Report regarding Mitigation for Impacts to Swainson's Hawks (Buteo swainsoni) in the Central Valley of California* because the site was confirmed to be foraging habitat for Swainson's Hawks through direct observation and is likely within ten miles of an active nest (used during one or more of the last five years).	Project Developer	Project Developer shall provide and implement mitigation plans in accordance with CDFG requirements.	CDFG shall review and approve the habitat mitigation strategy.	Provide approved habitat mitigation strategy prior to approval of the first Final Development Plan. Implement habitat mitigation strategy prior to issuance of the first grading or building permit, whichever occurs first.
The acreage of off-site management lands to be provided will depend on the distance between the project site and the nearest active nest site. The 1994 CDFG staff report states: • Projects within one mile of an active nest tree shall provide: – One acre of HM land (at least 10% of the HM land requirements shall be met by fee title acquisition or a conservation easement allowing for the active management of the habitat, with the remaining 90% of the HM lands protected by a conservation easement [acceptable to the Department] on agricultural lands or other suitable habitats that provide foraging habitat for Swainson's Hawk) for each acre of development authorized (1:1 ratio); or – One-half acre of HM land (all of the HM land requirements shall be met by fee title acquisition or a conservation easement [acceptable to the Department] which allows for the active management of the habitat for prey production on the HM lands) for each acre of development authorized (0.5:1 ratio). ***(cont'd.)***				

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
• Projects within 5 miles of an active nest tree but greater than 1 mile from the nest tree shall provide 0.75 acres of HM land for each acre of urban development authorized (0.75:1 ratio). All HM lands protected under this requirement may be protected through fee title acquisition or conservation easement (acceptable to the department) on agricultural lands or other suitable habitats that provide foraging habitat for Swainson's Hawks.				
• Projects within 10 miles of an active nest tree but greater than 5 miles from an active nest tree shall provide 0.5 acres of HM land for each acre of urban development authorized (0.5:1 ratio). All HM lands protected under this requirement may be protected through fee title acquisition or conservation easement (acceptable to the Department) on agricultural lands or other suitable habitats that provide foraging habitat for Swainson's Hawks.				
• Management Authorization holders/project sponsors shall provide for the long-term management of the HM lands by funding a management endowment (the interest on which shall be used for managing the HM lands) at the rate of $400 per HM acre. ***(cont'd.)***				

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Current records within the CNDDB are more than five years old, so they alone cannot be used to confirm a mitigation ratio for the loss of approximately 298 acres of foraging habitat. The CNDDB records do, however, provide guidance. The mitigation ratio depends on whether the project site is within one of three zones: 1) less than a mile; 2) between one and five miles; or 3) between five and ten miles. Nests have been recorded within the riparian habitats along both the Stanislaus River and Tuolumne River within ten miles of the project site. Even though the existing records along these rivers are more than five years old, active unpublished nests along these rivers within the last five years are nearly certain to have occurred. Therefore, this analysis assumes that active Swainson's Hawks nests are present within ten miles of the project site. Nest season surveys for Swainson's Hawks should be conducted to confirm whether an active nest occurs within one of the closer zones. Assuming that nests are present within ten miles, however, reduces the area requiring nest-season surveys from 314.2 square miles to 78.5 square miles; the area within 5 miles of the project site.				

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
H.6a. Implementation of formal CDFG guidelines (Staff Report on Burrowing Owl Mitigation) to avoid and minimize impacts to Burrowing Owls. In conformance with federal and state regulations regarding the protection of raptors, a habitat assessment in accordance with CDFG guidelines for Burrowing Owls should be completed prior to the start of construction. Burrowing Owl habitat on the project site and within a 500-foot (150 m) buffer zone should be assessed. If the habitat assessment concludes that the site and immediate vicinity lack suitable Burrowing Owl habitat, no additional action would be warranted. However, if suitable habitat is located on, or immediately adjacent to, the site, all Burrowing Owl habitat should be mapped at an appropriate scale, and the following mitigation measures should be implemented: 1. In conformance with federal and state regulations regarding the protection of raptors, a pre-construction survey for Burrowing Owls, in conformance with CDFG guidelines, should be completed no more than 30 days prior to the start of construction within suitable habitat. Three additional surveys should also be completed per CDFG guidelines prior to construction. 2. No Burrowing Owls will be evicted from burrows during the nesting season (February 1 through August 31). Eviction outside the nesting season may be permitted pending evaluation of eviction plans and receipt of formal written approval from the CDFG authorizing the eviction. 3. A 250-foot (76 m) buffer, within which no new activity will be permissible, will be maintained between project activities and nesting Burrowing Owls during the nesting season. This protected area will remain in effect until August 31, or at the CDFG's discretion and based upon monitoring evidence, until the young owls are foraging independently. 4. If accidental take (disturbance, injury, or death of owls) occurs, the CDFG will be notified immediately.	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
H.6b. Compensation for loss of Burrowing Owl habitat. If pre-construction surveys determine that Burrowing Owls occupy the site and avoiding development of occupied areas is not feasible, then habitat compensation on off-site mitigation lands should be implemented. Habitat Management (HM) lands comprising existing Burrowing Owl foraging and breeding habitat should be acquired and preserved. An area of 6.5 acres (2.6 ha) (the amount of land found to be necessary to sustain a pair or individual owl) should be secured for each pair of owls, or individual in the case of an odd number of birds. As part of an agreement with the CDFG, the project applicant should secure the performance of its mitigation duties by providing the CDFG with security in the form of funds that would: • Allow for the acquisition and/or preservation of 6.5 acres (2.6 ha) of HM lands; • Provide initial protection and enhancement activities on the HM lands, potentially including, but not limited to, such measures as fencing, trash clean-up, artificial burrow creation, grazing or mowing, and any habitat restoration deemed necessary by CDFG; • Establish an endowment for the long-term management of the HM lands; and • Reimburse the CDFG for reasonable expenses incurred as a result of the approval and implementation of this agreement. Pending CDFG approval, HM lands providing foraging habitat for Swainson's Hawks (see "Loss of Swainson's Hawk Foraging Habitat" below) may also be used to mitigate impacts to Burrowing Owls provided the HM lands provide existing Burrowing Owl foraging and breeding habitat.	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.	Prior to issuance of the first grading or building permit, whichever occurs first.
H.7. Same as Mitigation Measures H.3, H.4, H.5, H.6a, and H.6b.	Same as Mitigation Measures H.3, H.4, H.5, H.6a, and H.6b.	Same as Mitigation Measures H.3, H.4, H.5, H.6a, and H.6b.	Same as Mitigation Measures H.3, H.4, H.5, H.6a, and H.6b.	Same as Mitigation Measures H.3, H.4, H.5, H.6a, and H.6b.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Hydrology and Water Quality				
I.1. The project proponent shall prepare a SWPPP for each development project under the Specific Plan (or one master SWPPP for all development) designed to reduce potential impacts to surface water quality through the construction period of all of the project components (whether or not the particular portion of the project disturbs more than one acre). The SWPPP shall emphasize measures designed to minimize erosion and off-site sedimentation.	Project Developers	Project Developers shall prepare and implement SWPPP.	The City Engineer shall review 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.
It is not required that the SWPPP be submitted to the RWQCB, but must be maintained on-site and made available to RWQCB staff upon request. The SWPPP shall include: • Specific and detailed BMPs designed to mitigate construction-related pollutants. At minimum, BMPs shall include practices to minimize the contact of construction materials, equipment, and maintenance supplies (e.g., fuels, lubricants, paints, solvents, adhesives) with storm water. The SWPPP shall specify properly designed, centralized storage areas that keep these materials out of the rain.	Project Developers	Project Developers shall maintain copy of the SWPPP on the construction site and implement the SWPPP.	The City of Modesto shall inspect on a periodic basis in accordance with the provisions set forth in the City's NPDES permit.	SWPPP shall be prepared prior to excavation or grading permits are issued and shall be implemented during grading and construction for each project.
• An important component of the storm water quality protection effort is knowledge of the site supervisors and workers. To educate on-site personnel and maintain awareness of the importance of storm water quality protection, site supervisors shall conduct regular tailgate meetings to discuss pollution prevention. The frequency of the meetings and required personnel attendance list shall be specified in the SWPPP.		Project Developers shall prepare a drainage plan and conduct inspections to ensure approved design is being implemented.	The City Engineer shall review and approve drainage plan.	Provide drainage plan prior to approval of the grading plan. Drainage plan shall be implemented during grading and construction for each project.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
• The SWPPP shall specify a monitoring program to be implemented by the construction site supervisor, and must include both dry and wet weather inspections. In addition, in accordance with State Water Resources Control Board Resolution No. 2001-046, monitoring would be required during the construction period for pollutants that may be present in the runoff that are "not visually detectable in runoff."				
• The City staff shall review and approve project SWPPP prior to developer obtaining a Grading and Building Permit. Project SWPPP shall include and adequately address all elements in the State General Construction Permit (Waste Discharge Requirements for Discharges of Stormwater Runoff Associated with Construction Activity, State Water Resources Control Board Order Number 99-08-DWQ).				
• BMPs designed to reduce erosion of exposed soil may include, but are not limited to, soil stabilization controls, watering for dust control, perimeter silt fences, placement of hay bales, and sediment basins. The potential for erosion is generally increased if grading is performed during the rainy season as disturbed soil can be exposed to rainfall and storm runoff. If grading must be conducted during the rainy season, the primary BMPs selected shall focus on erosion control; that is, keeping sediment on the site. End-of-pipe sediment control measures (e.g., basins and traps) shall be used only as secondary measures. Entry and egress from the excavation area shall be carefully controlled to minimize off-site tracking of sediment. Vehicle and equipment wash-down facilities shall be designed to be accessible and functional during both dry and wet conditions.				

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
I.2. The City shall ensure that development under the proposed project meets all the requirements of the current Municipal NPDES Permit (NPDES Permit No. R5-2002-0132 as amended by Order No. R5-2003-0182) for operation-phase water quality treatment. The drainage plan for each proposed development under the Specific Plan shall include features and operational BMPs to reduce potential impacts to surface water quality associated with operation of the project. The final design shall include measures designed to mitigate potential water quality degradation of runoff from all portions of the completed development. In general, "passive," low-maintenance BMPs (e.g., grassy swales, porous pavements) are preferred over active filtering or treatment systems. An operations and maintenance plan shall be developed and implemented to inspect and maintain BMPs in perpetuity.	Project Developers	Project Developers shall prepare a site drainage plan or require construction contractor to prepare plan. Implement plan.	City Engineer shall review and approve drainage plans.	Drainage plan shall be prepared prior to issuance of a grading permit and shall be implemented during grading and construction for each project.
The final design team for the development project shall review and incorporate as many concepts as practicable from the City's *Guidance Manual for New Development Stormwater Quality Control Measures, Start at the Source, Design Guidance Manual for Stormwater Quality Protection* and the *California Stormwater Quality Association's Stormwater Best Management Practice Handbook, Development and Redevelopment.* BMPs to be implemented by the developers within the plan area may include, but are not limited to, the BMPs described below for the construction and operation phases of the projects:				
During the Construction Phase • Erosion control BMPs may include preservation of existing vegetation, use of hydraulic mulch, hydroseeding, soil binders, earth dikes and drainage swales, velocity dissipation devices and implementation of channel bank stabilization techniques; • Temporary sediment control BMPs may include use of silt fences, sediment traps, sediment basins, check dams, fiber rolls, and drainage inlet protection; ***(cont'd.)***				

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
During the Operation Phase • Permanent operation-phase BMPs may include: minimization of directly connected impervious surfaces, use of permeable pavements or unit pavers, grassy bioswales, stormwater planters, covering of refuse handling areas, stenciling drainage inlets, wet ponds, and detention basins.				
At a minimum, runoff from all components of the project shall receive some level of treatment prior to discharging to the detention basins. Runoff would then be detained in the basins prior to being pumped into the Modesto Irrigation District's canal.				
I.3a. As a condition of approval of the final grading and drainage plans for the first project proposed in the plan area, the developer must acquire written approval from the MID to discharge runoff to the MID Main Canal (up to 5.0 cfs), and provide this documentation to the City of Modesto Public Works Department. If this first project, or any subsequent projects, propose to use some alternative stormwater drainage design that does not require discharge to the MID Main Canal, then additional supplemental CEQA review shall be conducted for these projects. Should MID not approve discharge to its facility an alternative design may include infiltration trenches at the bottom of the proposed ponds in combination with retention and/or retention of a higher volume (100-yr 6-day) frequency storm runoff. This design may increase the size of the detention basin(s), thus requiring additional land to be utilized for drainage, land that otherwise would be occupied by structures or parking.	Project Developers	Project Developers shall be responsible for plans to discharge runoff to the MID Main Canal. The developer must acquire written approval from the MID or the City of Modesto and Modesto Irrigation District must enter into an agreement to discharge water in to the MID Main Canal. Alternative stormwater drainage design must be approved if MID approval is not obtained.	City Engineer shall coordinate the agreement with MID and develop an alternative design if necessary.	Securing MID approval to discharge runoff into the MID Main Canal shall be completed and implemented or an approved alternative design shall be implemented prior to approval of the first final grading and drainage plans or as determined by the FMP and IFP.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
I.3b. As a condition of approval of the final grading and drainage plans for all projects proposed within the plan area it must be demonstrated through detailed hydraulic analysis that implementation of the proposed drainage plans will: • Include adequately sized detention facilities to accommodate anticipated runoff associated with the 100-year storm event. A licensed professional engineer shall prepare the final drainage plan for the project and plans must be submitted to the City of Modesto Public Works for review and approval. • Include drainage components that are designed in compliance with City of Modesto standards. The grading and drainage plans shall be reviewed for compliance with these requirements by the Department of Public Works; and • Establish a funding mechanism for maintenance and annual inspections of the detention basin, drainage ditches, and drainage inlets. Any accumulation of sediment or other debris shall be promptly removed. An annual report documenting the inspection and any remedial action conducted shall be submitted to the City of Modesto Public Works Department for review.	Project Developers	Prepare site drainage plan or require construction contractor to prepare plan. Project Developers shall implement plan.	City Engineer	The final grading and drainage plans shall be approved prior to issuance of a grading permit and shall be implemented prior to acceptance of improvements or issuance of building permit, whichever occurs first, or where appropriate as determined by the FMP and IFP. An alternative temporary retention basin may be considered for regional commercial development.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
I.4. The Tivoli Specific Plan project proponent shall: • Design and construct the proposed on-site development so that the sheetflow flooding generated from the upstream watershed that can occur in the region will be safely passed through the proposed development. These flows shall be contained within the streets and be dispersed on the downstream side of the project site in a manner that does not concentrate or increase flows, ensuring that the potential for increased erosion or flooding downstream is minimized. • Ensure that finished floor elevations of all residential, commercial, and industrial structures be a minimum of one foot above the elevation of 100-year sheetflow flooding. • Contribute their fair share of the cost to design and construct the proposed northeast flood control solution.	Project Developers	Prepare site drainage plan or require construction contractor to prepare plan. Project Developers shall implement plan. Project Developers shall contribute fair share of infrastructure costs into a fund.	City Engineer	The final grading and drainage plans shall be approved prior to issuance of a grading permit and shall be implemented prior to acceptance of improvements or certificate of occupancy, whichever occurs first.
I.8. Prior to approval of a grading plan for development of a particular parcel of the Specific Plan area, a well survey shall be conducted to determine the location and characteristics of each well for that particular parcel. The survey shall be conducted and documented by a State-registered geologist or engineer, and the results 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 approval of a grading permit for development of the Specific Plan area and shall be implemented prior to certificate of occupancy.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Geology, Soils, and Seismicity				
J.1. In locations underlain by expansive soils and/or non-engineered fill, the designers of foundations and improvements (including sidewalks, roads, and utilities) shall consider these conditions. The design-level geotechnical investigation, to be prepared by licensed professionals and approved by the City Building Department, shall include measures to ensure potential damages related to expansive soils and non-uniformly compacted fill are minimized. Mitigation options may range from removal of the problematic soils and replacement, as needed, with properly conditioned and compacted fill, to design and construction of improvements to withstand the forces exerted during the expected shrink-swell cycles and settlements.	Project Developers	Project Developers shall retain a licensed professional to prepare a geotechnical report and implement the measures.	Building Division shall review and approve the geotechnical report.	The geotechnical report shall be prepared and approved prior to the issuance of grading or building permit, whichever occurs first. Implement mitigation measures during construction.
J.2. Prior to issuance of a grading permit, a site-specific grading plan shall be prepared by a licensed professional and submitted to the City Building Department for review and approval. The plan shall include specific recommendations for mitigating potential settlement associated with fill placement and areas of different fill thickness.	Project Developers	Project Developers shall retain a licensed professional to prepare site-specific grading plans and implement the plans.	Building Division shall review and approve the site-specific grading plans.	The site specific grading plan shall be prepared and approved prior to issuance of a grading permit. Implement recommended measures during construction.
Community Services				
K.3. Prior to development of the northeast area of the Tivoli Specific Plan, project developers must provide the necessary funding for the construction of a Modesto Fire Department Fire Station to house an engine company and a truck company.	Project Developers	Project Developers shall provide funding for the construction of a fire station when development occurs in the northeast portion of the Tivoli Specific Plan.	Community and Economic Development Department and Modesto Fire Department	Funding to be provided prior to issuance of a building permit.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
Utilities and Services Systems				
L.1. Prior to or concurrent with development, the project sponsors and any project applicants for future development in the Tivoli Specific Plan area shall install all on-site collection system improvements which are necessary to serve the development. Prior to issuance of a building permit, the project applicants will be required to contribute toward their fair share of the required off-site collection system improvements through payment of future capacity charges, as adopted by the City or through an equivalent funding measure. In addition, prior to or concurrent with development, the project developers shall fund and install all off-site infrastructure which are necessary to serve the development.	Project Developers	Project Developers shall be responsible for installation of on-site collection system improvements and shall contribute a fair share of the costs to construct off-site collection system improvements. Project Developers shall fund and construct all off-site infrastructure necessary to serve the project site.	City Engineer shall review and approve infrastructure improvements to ensure that the City's Standard Specifications are incorporated.	All improvements shall be completed prior to issuance of the first building permit of Phase I or as determined by the FMP and IFP.
L.2. Prior to issuance of a building permit, the project applicants will be required to contribute toward their fair share of the required wastewater treatment and disposal facilities through payment of future capacity charges, as adopted by the City, or through an equivalent funding measure. In addition, the City cannot commence tertiary treatment without a new NPDES permit from the RWQCB. The RWQCB is encouraged to issue the new NPDES permit in a manner that would allow for successful implementation of the City's proposed tertiary treatment. While the City is optimistic that an appropriate NPDES permit will eventually be issued, this action is beyond the City's jurisdiction and control and therefore the City cannot assure that the necessary treatment and disposal infrastructure will be permitted prior to development.	Project Developers and City of Modesto	City of Modesto shall ensure that Project Developers contribute a fair share of the costs to construct wastewater treatment and disposal system improvements. City of Modesto shall be responsible for obtaining a new NPDES permit.	Department of Public Works	Prior to issuance of any building permit.
L.3. Same as Mitigation Measure B.1. Compensation for 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.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
L.11. Prior to excavation for construction for the improvements to the wastewater collection and treatment systems for near-term development, the City shall use reasonable means to determine the presence of soil or groundwater contamination. Those reasonable means may consist of tracer gas surveys, soil or groundwater sampling, and/or conducting a Phase I Environmental Site Assessment and, if necessary, a Phase II assessment, in accordance with the most recent ASTM International standard. Where the results of these studies indicate that soil or groundwater contamination is present, any necessary remediation shall be conducted.	City of Modesto	City of Modesto shall retain a registered environmental assessor to conduct Phase I Environmental Site Assessments.	The Public Works Department shall review and approve the Phase I Environmental Site Assessments.	Conduct Phase I Environmental Site Assessments prior to issuance of any construction contract. Implement prior to start of construction.
L.14. Pre-Construction Surveys and Agency Coordination. Pre-construction surveys should be conducted prior to project-related activities that may impact the resources of Dry Creek or the Tuolumne River in order to identify significant impacts. If Dry Creek, the Tuolumne River, or their tributaries are impacted by project activities, U.S. Army Corps of Engineers (USACE) permits and a Streambed Alteration Agreement from the California Department of Fish and Game (CDFG) would be required. If regulated habitats are impacted by project activities, USACE permits and a Streambed Alteration Agreement from CDFG would be required. Early consultation with the USACE and CDFG is recommended to determine adequate protocols, as project modification and/or mitigation measures may be necessary and would require agency approval.	City of Modesto and Project Biologist	Retain qualified biologist to conduct pre-construction surveys for projects that would impact Dry Creek and Tuolumne River and obtain USACE permit and Streambed Alteration.	CDFG shall review pre-construction surveys. USACE, USFWS, and any other affected agencies will review permit applications.	Conduct surveys prior to issuance of any construction contract. Implement prior to start of construction.
L.15. Implement Mitigation Measure H.4 and Mitigation Measure H.5.	See Mitigation Measures H.4 and H.5.	See Mitigation Measures H.4 and H.5.	See Mitigation Measures H.4 and H.5.	See Mitigation Measures H.4 and H.5.
L.16. Implement Mitigation Measures H.6a and H.6b.	See Mitigation Measures H.6a and H.6b.	See Mitigation Measures H.6a and H.6b.	See Mitigation Measures H.6a and H.6b.	See Mitigation Measures H.6a and H.6b.
L.17. Implement Mitigation Measure H.4.	See Mitigation Measure H.4.	See Mitigation Measure H.4.	See Mitigation Measure H.4.	See Mitigation Measure H.4.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
L.18a. Microtunnel under slough near 2.3 mgd of tertiary treatment.	Public Works Department and Construction Contractor Representative	Prepare monitoring and contingency plan for micro-tunneling or require construction contractor to prepare plan. Implement plan.	Public Works Department shall construct in accordance with City's Standard Specifications.	Plan shall be prepared prior to commencement of micro-tunneling under a riparian area or other identified wetland and shall be implemented during micro-tunneling.
L.18b. Pre-Construction Surveys and Agency Coordination. This mitigation measure pertains to microtunneling across the east-west slough north of the proposed 2.3 mgd of tertiary treatment (including the construction access portals) and also pertains to any wetlands or canals that might be crossed by proposed piping between the tertiary facilities and the rest of the Secondary Plant. Pre-construction surveys should be conducted prior to project-related activities that may impact wetland areas and those areas potentially under the jurisdiction of the USACE and/or CDFG in order to identify significant impacts. If these areas would be impacted by project activities, USACE permits and a Streambed Alteration Agreement from CDFG would be required. These agencies would request adequate measures to offset impacts to riparian and aquatic resources. Early consultation with the USACE and CDFG is recommended to determine adequate protocol, as project modification and/or mitigation measures may be necessary and would require agency approval.	See Mitigation Measure L.14.	See Mitigation Measure L.14.	See Mitigation Measure L.14.	See Mitigation Measure L.14.
L.19. The City shall prepare a Stormwater Pollution Prevention Plan (SWPPP) designed to reduce potential impacts to surface water quality through the construction period of the wastewater system components (whether or not the particular portion of the project disturbs more than one acre). The SWPPP shall emphasize measures designed to minimize erosion and off-site sedimentation.	See Mitigation Measure I.1.	See Mitigation Measure I.1.	See Mitigation Measure I.1.	See Mitigation Measure I.1.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
L.21. In locations underlain by expansive soils and/or non-engineered fill, the designers of the Tivoli Lift Station and sewer pipes shall consider these conditions. The design-level geotechnical investigation, to be prepared by licensed professionals and approved by the City Engineer, shall include measures to ensure potential damages related to expansive soils and non-uniformly compacted fill are minimized. Mitigation options may range from removal of the problematic soils and replacement, as needed, with properly conditioned and compacted fill, to design and construction of improvements to withstand the forces exerted during the expected shrink-swell cycles and settlements.	Project Developers	Project Developers shall be responsible for a geotechnical analysis that must be prepared by a licensed professional and shall implement the measures.	City Engineer shall review and approve the geotechnical analysis.	Prepare and approve geotechnical analysis prior to approval of final grading and drainage plans. Implement recommended measures prior to the issuance of the first building permit or where appropriate as determined by the FMP and IFP.
L.22. Prior to issuance of a grading permit for each development site in the Tivoli Specific Plan area, a site-specific grading plan shall be prepared by a licensed professional and submitted to the City Engineer for review and approval. The grading plan shall include specific recommendations for mitigating potential settlement associated with fill placement and areas of different fill thickness in relation to then-existing wastewater collection facilities. In addition, the City shall inspect sewer lines after adjacent construction has been completed and shall remedy any differential settlement of wastewater collection facilities.	Project Developers	Prepare site drainage plan or require construction contractor to prepare plan. Project Developers shall implement plan.	City Engineer	The final grading and drainage plans shall be approved prior to the issuance of a grading permit. Implement the plan prior to acceptance of improvements or the first certificate of occupancy, whichever occurs first, or where appropriate as determined by the FMP and IFP.
L.25. Implement Mitigation Measures L.1 and L.2.	See Mitigation Measures L.1 and L.2	See Mitigation Measures L.1 and L.2	See Mitigation Measures L.1 and L.2	See Mitigation Measures L.1 and L.2
L.26. Same as Mitigation Measure B.3.	See Mitigation Measure B.3.	See Mitigation Measure B.3.	See Mitigation Measure B.3.	See Mitigation Measure B.3.

Mitigation Measure	Mitigation Responsibility	Monitoring Actions	Monitoring / Reporting Responsibility	Schedule
L.27. See mitigation measures listed under Impact E.2.	See Mitigation Measure E.2.	See Mitigation Measure E.2.	See Mitigation Measure E.2.	See Mitigation Measure E.2.
L.28. See mitigation measures listed under Impacts L.15 and L.16.	See Mitigation Measures L.15 and L.16.	See Mitigation Measures L.15 and L.16.	See Mitigation Measures L.15 and L.16.	See Mitigation Measures L.15 and L.16.
Water Supply				
M.2. In order to maintain adequate water pressure in the City's delivery system, it would be necessary to install two new wells that would have a combined capability to meet or exceed the project's peak-hour demand of 2,160 gallons per minute and maximum-day demand of approximately 6.57 af/day. One well must be fully developed and operational by the time of the initial project development. The second well must be provided and operational during the second phase of development or as determined by the City of Modesto. One or both of these wells could be located within the Tivoli Specific Plan area; however, it may be necessary to reduce the extent of residential or commercial development in order to accommodate the wells, pumps, distribution system, and groundwater treatment facilities. One of the wells may instead be installed east of the project area as is currently expected with the Grogan Well site. Installation and development of the wells would not create any new impacts within the Tivoli Specific Plan area; installation east of the project area would involve typical construction impacts such as temporary, localized noise and dust production.	Project Developers	Project Developers shall be responsible for providing/funding the wells. Wells are installed by the City of Modesto.	The City Engineer shall review and approve the proposed wells.	First well to be developed and operational prior to the issuance of the first building permit of the first phase of development or as determined by the FMP and IFP. Second well to be developed and operational prior to or concurrent with the issuance of the first building permit of the second phase of development or as determined by the FMP and IFP.

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 Tivoli that triggers that the 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.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-142

A RESOLUTION APPROVING AN AMENDMENT TO THE MODESTO URBAN AREA GENERAL PLAN REGARDING THE TIVOLI SPECIFIC PLAN LOCATED NORTH OF SYLVAN AVENUE, SOUTH OF FUTURE CLARATINA AVENUE, EAST OF OAKDALE ROAD, WEST OF ROSELLE AVENUE (DAVID ROMANO, NEWMAN ~ ROMANO LLC)

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, 2005-069 and 2007-066 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, David Romano ("Applicant") of Newman-Romano, LLC, submitted the Tivoli Specific Plan ("Project") application (File No. P-SPL-04-003) for the development of 454 acres located north of Sylvan Avenue, south of future Claratina Avenue, East of Oakdale Road, west of Roselle 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-04-003) for the following:

1. To reclassify a portion of the project site from Village Residential (VR) to Regional Commercial (RC) (amendment to, Exhibit III-18, Roselle/Claribel Comprehensive Planning District, 3.a. and the figure).

2. To allow commercial development for the Village Residential designation in the Tivoli Specific Plan to exceed the recommended 4 percent (amendment to, Exhibit III-18, Roselle/Claribel Comprehensive Planning District, 4.b.).

3. To amend the Roselle/Claribel Comprehensive Planning District to allow the Tivoli Specific Plan to exceed the overall recommended density of 5.1 dwelling units per gross acre (amendment to, Exhibit III-18, Roselle/Claribel Comprehensive Planning District, 4.b.).

4. To allow for the Tivoli Specific Plan neighborhood center focus that combines a neighborhood park and elementary school (amendment to, Exhibit III-18, Roselle/Claribel Comprehensive Planning District, 4.b.).

5. To reclassify Claratina Avenue from a four-lane Class B Expressway to a six-lane Principal Arterial, with a Class I bike path, from Oakdale Road to Roselle Avenue (amendment to, Figure V-1, Circulation and Transportation Diagram).

6. To change Sylvan Avenue from a six-lane Principal Arterial to a four-lane Minor Arterial, with bike lanes, from Oakdale Road to Roselle Avenue (amendment to, Figure V-1, Circulation and Transportation Diagram).

7. To include Class II bike lanes along Oakdale Road from Sylvan Avenue to Claribel Avenue, and

WHEREAS, The General Plan was amended to add a Class I bike path along Claratina Avenue including between Oakdale Road to Roselle Avenue, to add Class II bike lanes along Sylvan Avenue from Oakdale Road to Claus Road, to add Class II bike lanes along Oakdale Road from Sylvan Avenue to Claribel Avenue by City Council Resolution No. 2007-066 on January 9, 2007. This General Plan Amendment occurred along with the adoption of the Non-motorized Transportation Plan, and

WHEREAS, a Final Environmental Impact Report was prepared for the Tivoli Specific Plan (SCH No. 2005072125) and the proposed General Plan Amendment which analyzed the potential environmental effects of the proposed Project, and

WHEREAS, on January 28, 2008, 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. 2008-04, 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 February 26, 2008, 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 Tivoli Specific Plan Project (SCH No. 2005072125) 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. P-GPA 04-003), 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 26th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ACALA WOOD, City Attorney

Exhibit "A"

URBAN AREA GENERAL PLAN AMENDMENT FOR THE TIVOLI SPECIFIC PLAN

EXHIBIT "A"

URBAN AREA GENERAL PLAN AMENDMENT
FOR THE TIVOLI SPECIFIC PLAN

Exhibit III-18

ROSELLE/CLARIBEL

COMPREHENSIVE PLANNING DISTRICT

1. Overview

This 1,700-acre Comprehensive Planning District is intended to create a mixed-use, pedestrian-oriented community similar in nature to Village One. In addition, a business park is proposed adjacent to the Santa Fe Railroad.

2. Principal Comprehensive Planning District Policies

The Comprehensive Plan to implement this Comprehensive Planning District shall address the Principal Comprehensive Planning District Policies presented in this Chapter.

3. Land Use Description

a. Land Use Types: (See Section III-B)

- 1,363 acres designated "Village Residential"
- 260 acres designated "Business Park"
- 67 acres designated "Regional Commercial"

Deleted: 1,430

b. Distribution of Land Uses Within the CPD:

(1) The Business Park should be located adjacent to the Santa Fe Railroad.

(2) The supporting commercial uses in this Comprehensive Planning District should be sited to facilitate pedestrian access from the residential areas.

4. Land Use Policies

a. Implementation of Adopted Land Use Policies:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the Land Use Policies presented earlier in this Chapter, as follows:

(1) Overall Land Use Policies (Section III-C(1))

(2) Neotraditional Planning Principles (Section III-C(3))

Supplemental Land Use Policies:

In addition, the Comprehensive Plan shall also address the following land use policies which apply to this particular Comprehensive Planning District:

(1) Notwithstanding the land use intensities presented in Section III-B, this Comprehensive Planning District shall contain a maximum of 7,300 dwelling units.

(2) Adequate buffering shall be provided between the residential uses and the business park uses in this Comprehensive Planning District.

(3) Special consideration shall be given in the design of this Comprehensive Planning District and the following edges: the high school site proposed by Village One; the Santa Fe Railroad; and the southern edge of the Riverbank General Plan/Sphere of Influence boundary.

(4) The Tivoli Specific Plan may have commercial development in the Village Residential designation exceeding the recommended 4 percent, may have residential development exceeding the overall recommended density of 5.1 dwelling units per gross acre, and may have a neighborhood center focus to include a neighborhood park and elementary school.

c. Housing Policy Implementation:

The Comprehensive Plan which implements this Comprehensive Planning District shall address the relevant Housing Policies presented in Chapter IV for the residentially-designated portion of this Comprehensive Planning District.

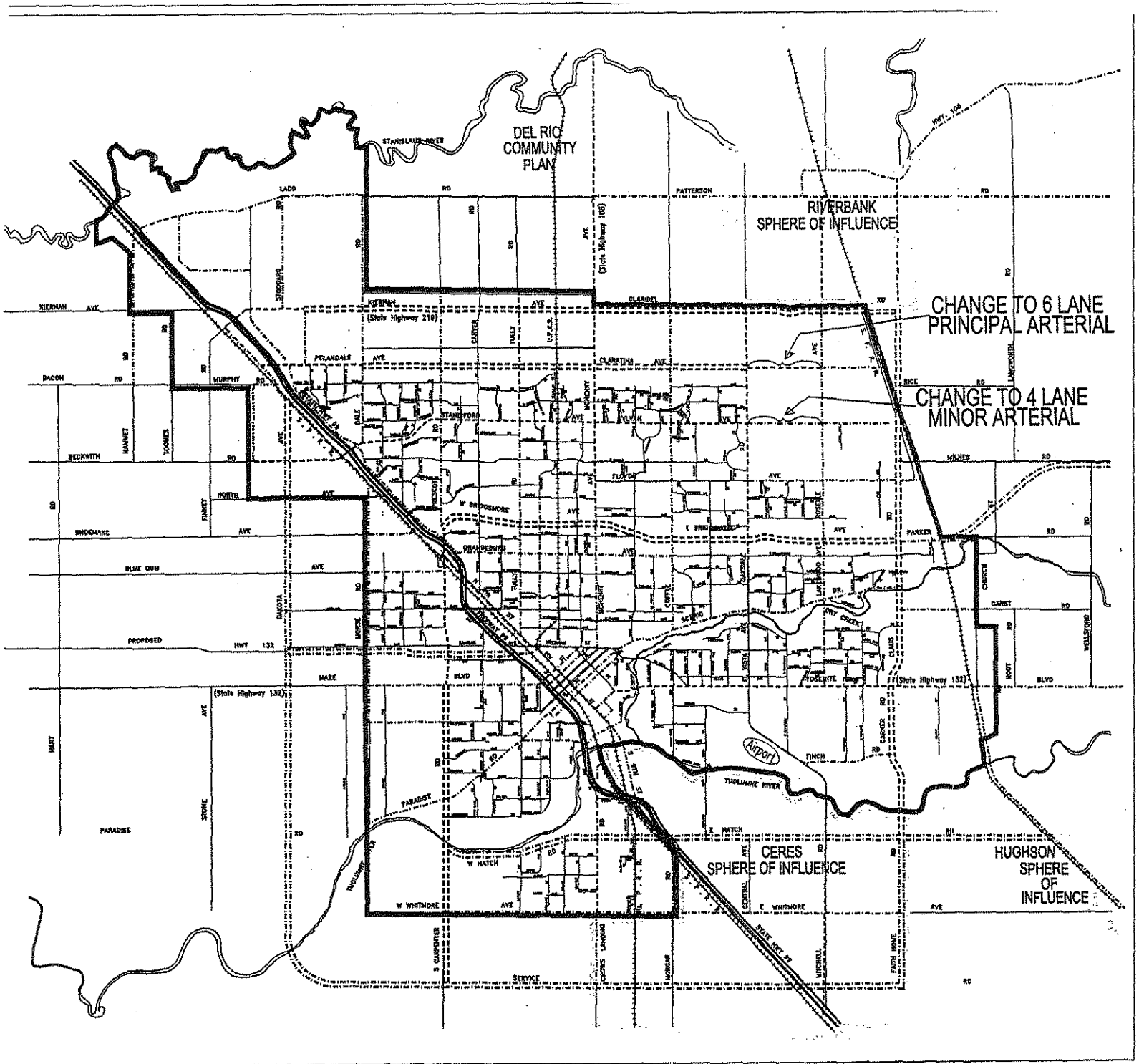
5. Provision of Public Facilities and Services:

The Comprehensive Plan to implement this Comprehensive Planning District shall address the public facilities and services policies presented in Chapter V. In addition, the Comprehensive Plan shall also address the following policies which apply to this particular Comprehensive Planning District:

a. This Comprehensive Planning District can be readily served by extensions of the Roselle and Lakewood Sanitary Sewer Trunks that are adjacent in the Village One Comprehensive Planning District.

6. Focused EIR:

The Focused Environmental Impact Report for this Comprehensive Planning District shall consider the following issues identified in the Master Environmental Impact Report for the General Plan:



CITY OF MODESTO

GENERAL PLAN PROGRAM

Figure V–1

(Sheet 1 of 2)

CIRCULATION AND TRANSPORTATION DIAGRAM

LEGEND *

FACILITY DESIGNATIONS

- FREEWAY 99
- EXPRESSWAY — 6 Lanes, see sheet 2 for Classifications
- EXPRESSWAY — 4 Lanes, see sheet 2 for Classifications
- PRINCIPAL ARTERIAL — 8 Lanes
- PRINCIPAL ARTERIAL — 6 Lanes
- MINOR ARTERIAL — 4 Lanes
- MAJOR COLLECTOR — 4 Lanes
- MINOR COLLECTOR — 2 Lanes (Shown in developed areas only)
- Airport — AIRPORT
- RAILROAD

* Note : Designations shown outside the General Plan Boundary are illustrative only, subject to other jurisdictions.

There may be more travel lanes at intersections than shown on this diagram

REFERENCE POINTS

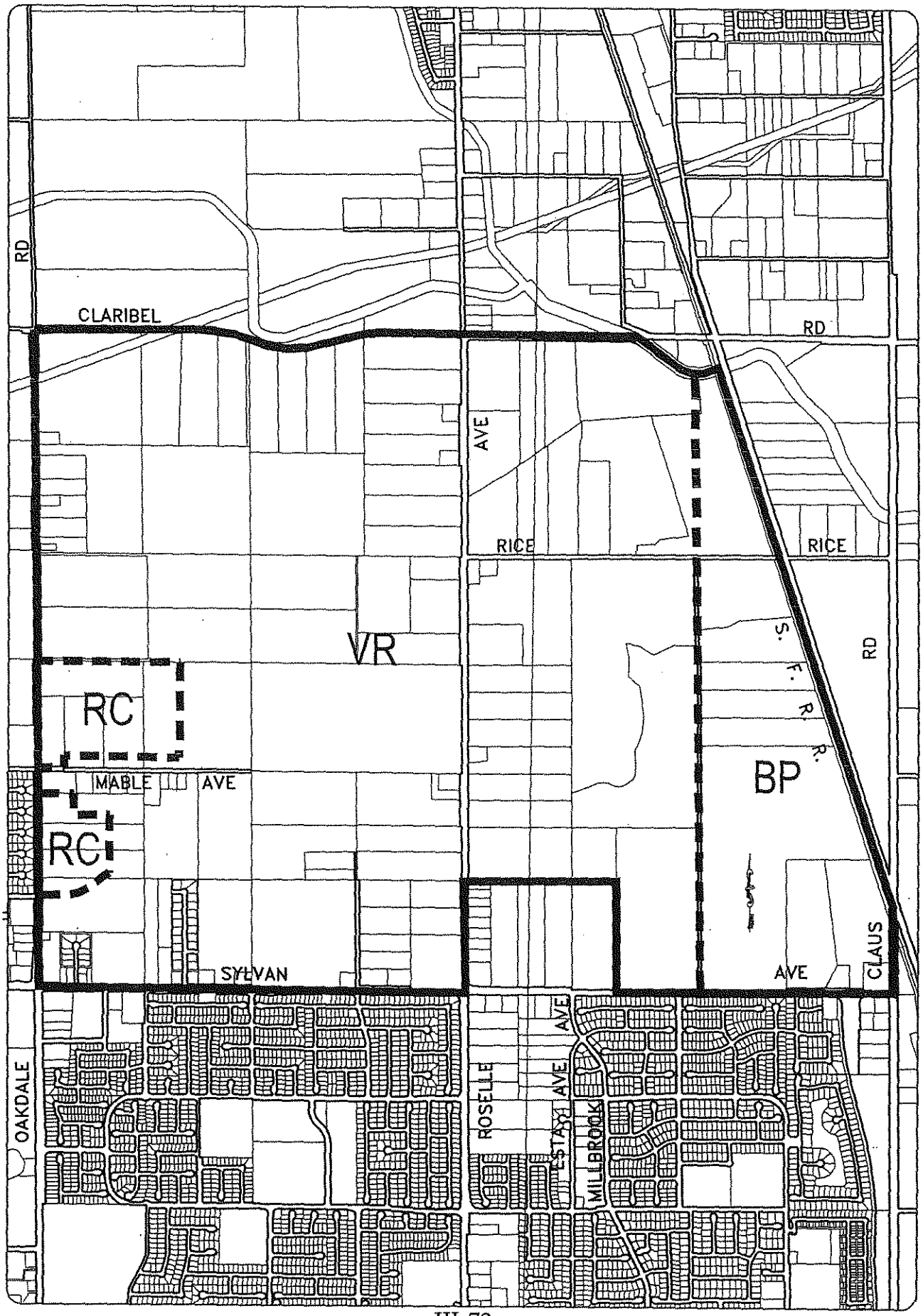
- GENERAL PLAN BOUNDARY
- ADJACENT COMMUNITIES BOUNDARY
- RIVERS

N

W E

S

ROSELLE/CLARIBEL C.P.D.



Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-143

RESOLUTION OF APPLICATION TO THE STANISLAUS LOCAL AGENCY FORMATION COMMISSION TO ANNEX APPROXIMATELY 471 ACRES OF PROPERTY LOCATED NORTH OF SYLVAN AVENUE, SOUTH OF FUTURE CLARATINA AVENUE, EAST OF OAKDALE ROAD, WEST OF ROSELLE AVENUE TO THE CITY OF MODESTO AND THE MODESTO MUNICIPAL SEWER DISTRICT NO. 1 AND SIMULTANEOUSLY DETACH THE TERRITORY FROM THE STANISLAUS CONSOLIDATED FIRE PROTECTION DISTRICT (OWNER INITIATED – INHABITED) (DAVID ROMANO, NEWMAN ~ ROMANO LLC)

WHEREAS, David Romano ("Applicant") of Newman-Romano, LLC, represents some of the property owners of approximately 471 acres of real property, located north of Sylvan Avenue, south of future Claratina Avenue, East of Oakdale Road, west of Roselle Avenue ("Property"), and

WHEREAS, the City has received a written request from the Applicant to initiate reorganization of the Property to the City of Modesto under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, California Government Code Section 56000, et seq, and

WHEREAS, the Resolution of Application is proposed pursuant to California Government Code Sections 56654 and 56700, and

WHEREAS, the Property proposed for reorganization is inhabited, and a description of the boundaries of the subject Property is set forth in **Exhibit "A",** attached hereto and by this reference incorporated herein, and

WHEREAS, the subject Property proposed for reorganization is within Stanislaus County, contiguous to the existing City limits and within the current Sphere of Influence of the City of Modesto, as adopted by Stanislaus Local Agency Formation Commission, Resolution No. 97-11, on December 19, 1994, and

WHEREAS, the Well Site No. 4 Reorganization was approved by Stanislaus LAFCO Resolution 2000-09 on March 22, 2000, annexing the 5.1 acre water well and pump site located within the Property to the City of Modesto and the Modesto Municipal Sewer District No. 1 and detaching the territory from the Stanislaus Consolidated Fire Protection District, and

WHEREAS, the Property includes 8 Williamson Act contracts involving 12 parcels that were protested by the City and were upheld by LAFCO, and

WHEREAS, the proposed reorganization area is covered by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170 on April 9, 1996, and

WHEREAS, it is desired to provide that the proposed reorganization be subject to the following terms and conditions:

1. The annexation of said Property (except the Well Site No. 4 Reorganization territory), as set forth on Exhibit "A" attached hereto, to the City of Modesto and the Modesto Municipal Sewer District No. 1.

2. The detachment of said Property from the Stanislaus Consolidated Fire Protection District.

WHEREAS, the reasons for this proposed reorganization to the City of Modesto are as follows:

1. Staff has received a written request from the Applicant, to annex the Property to the City of Modesto.

2. The proposed annexation is consistent with the Urban Area General Plan and can be served by City services.

3. The proposed annexation will result in planned, orderly and efficient development of the area, and provision of services; and

WHEREAS, pursuant to Government Code Section 56653, a plan for providing services is set forth in **Exhibit "C",** attached hereto and by this reference incorporated herein, and

WHEREAS, on January 28, 2008, City of Modesto Planning Commission held a duly noticed public hearing in the Chambers, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which time both oral and documentary evidence were received and considered, and

WHEREAS, after said public hearing, the City of Modesto Planning Commission adopted Resolution No. 2008-07, recommending to the City Council that they adopt the Resolution of Application for an annexation of the Property to the City of Modesto and the Modesto Municipal Sewer Service No. 1 and detachment of the Property from the Stanislaus Consolidated Fire Protection District, and

WHEREAS, said matter was set for public hearing of the City Council to be held on February 26, 2008, 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 reorganization, and

WHEREAS, a Final Environmental Impact Report was prepared for the Tivoli Specific Plan ("Project") (SCH No. 2005072125) and the proposed reorganization which analyzed the potential environmental effects of the proposed Project, and

NOW, THEREFORE, the Council of the City of Modesto hereby finds and determines as follows:

1. That future development of this site shall be consistent with the Modesto Urban Area General Plan adopted by the Modesto City Council by Resolution No. 95-409 on August 15, 1995, and subsequent amendments, and as amended by the proposed amendment for the Tivoli Specific Plan project.

2. That the proposed reorganization is consistent with the Modesto Urban Area General Plan, because it is consistent with General Plan Urban Growth Policy II.C.1.b., which states "Urban development should be kept as contiguous as possible in order to avoid premature urbanization of valuable farm land, foster resident convenience, and provide for economy in City services" and because the development resulting from the proposed and annexation is consistent with the General Plan as amended.

3. The Property proposed for reorganization is inhabited, and a description of the boundaries of the subject Property is set forth in Exhibits "A and B," attached hereto and by this reference incorporated herein.

4. The Property is located within Stanislaus County, is contiguous to the existing sphere of influence and City limits and can be most efficiently served with City services.

5. The proposed reorganization will result in planned, orderly and efficient development of the area, and the most efficient provision of services.

6. That the City exercises its option not to succeed to the Williamson Act Contracts No. 74-1617 (four parcels), 75-1997, 75-2016, 76-2107 (two parcels), 76-2168, 76-2438 (formerly 76-2397), 83-3841, and 88-4171 pursuant to California Government Code Section 51243.5, and tentatively cancel said contract.

7. An agreement for the sharing of property taxes for the Property was approved by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170 on April 9, 1996.

8. As determined by the Department of Public Works, there is a reasonable certainty that the City will have adequate wastewater capacity to serve the proposed annexation based on the following findings:

    a. The necessary capital improvement plan is in place because the Near-Term Capacity Study was adopted by the City Council on April 4, 2006, and the Wastewater Master Plan – Collection System was adopted by City Council on March 13, 2007. The construction of the dissolved air floatation device is under way and is expected to be completed on schedule. Additionally, the Phase 1A Tertiary Treatment Facility is currently under design and is on schedule.

    b. The required financing program for the Wastewater Master Plan was developed and the required sewer rates and capacity charges were adopted by the City Council and implemented as of August

2007. The capacity charges serve to fund the project off-site improvements. The Tivoli Specific Plan EIR requires, as a mitigation measure, the project developers to contribute their fair share of the cost of sewer collection and treatment improvements through payment of future capacity charges or an equivalent funding mechanism prior to the issuance of a building permit. Additionally, the project developers are required as a mitigation measure to install all offsite infrastructure needed to serve the project prior to the issuance of a building permit.

c. The City has obtained the draft NPDES permit from the Regional Water Quality Control Board. The discharge permit requirements necessary to move forward with tertiary treatment are contained within the draft NPDES permit. It is anticipated that the final NPDES permit will be approved by the Regional Water Quality Control Board by April, 2008.

d. Based on a review of the anticipated timing of development and upon Near Term Capacity assumptions adopted by the City Council in March, 2007, wastewater treatment capacity is available to serve the Property. The Property is included as part of the miscellaneous non-vested Equivalent Dwelling Unit (EDU) component of the Wastewater Master Plan assumptions.

9. That the proposed reorganization is consistent with the Tivoli Specific Plan Final Environmental Impact Report (SCH No. 2005072125) and has been adequately analyzed by the EIR.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts this Resolution of Application for annexation of the Property to the City of Modesto and Modesto Sewer District No. 1 and the detachment of the Property from the Stanislaus Consolidated Fire Protection District.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that, pursuant to Government Code Section 56653, the City Council submit the plan for providing services as set forth in Exhibit "C", attached hereto and by this reference incorporated herein.

BE IT FURTHER RESOLVED that the project applicant shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and

its advisory agency, appeal board, or a legislative body concerning the annexation for the specific plan (File No. P-ANX-04-004). 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 26th day of February, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit "A"

WRITTEN DESCRIPTION

31. **Course [31] North 89°40'24" West 264.57 feet** to the east line of the Oakdale-Sylvan Addition Reorganization to the City of Modesto recorded November 11, 1976 at I.N. 23706, Stanislaus County Records;
32. thence along said east line **Course [32] North 00°25'44" West 2582.66 feet** to the south line of the North Beyer Park Reorganization to the City of Modesto recorded June 30, 1995, Stanislaus County Records;
33. thence along said south line **Course [33] North 89°48'45" East 20.00 feet** to the southeast corner of said North Beyer Park Reorganization;
34. thence along the east line of said North Beyer Park Reorganization **Course [34] North 00°34'27" West 1341.87 feet** to the northwest corner of Parcel A, said point being on the north line of the south half of the southwest quarter of Section 2 as shown on that Parcel Map filed for record at Book 25 of Parcel maps at Page 76, Stanislaus County Records;

thence along said quarter quarter section line **Course [35] South 89°43'09" East 2615.63 feet** to the west line of Lot 11 as shown on that Map filed for record at Volume 9 of Maps at Page 76, Stanislaus County Records; thence along said west line **Course [36] North 00°25'45" West 4.35 feet** to the northwest corner of said Lot 11; thence along the north line of said Lot 11 **Course [37] South 89°39'52" East 1305.53 feet** to the northeast corner of said Lot 11; thence along the west line of Lot 6 as shown on said Map **Course [38] North 00°23'43" West 1.38 feet** to the north west corner of said Lot 6; thence along the north line of said Lot 6 **Course [39] South 89°34'38" East 1379.73 feet** to the east line of the 50.00 foot half width of Roselle Avenue; thence parallel with and 50.00 feet easterly of the east line of said Section 2 **Course [40] South 00°16'57" East 1324.34 feet**; thence parallel with and 50.00 feet easterly of the east line of said Section 11 **Course [41] South 00°22'14" East 653.10 feet** to the existing city limits line and being the north line of said Village One High School Reorganization; thence along said north line **Course [42] South 89°47'27" West 80.00 feet** to the Point of Beginning.

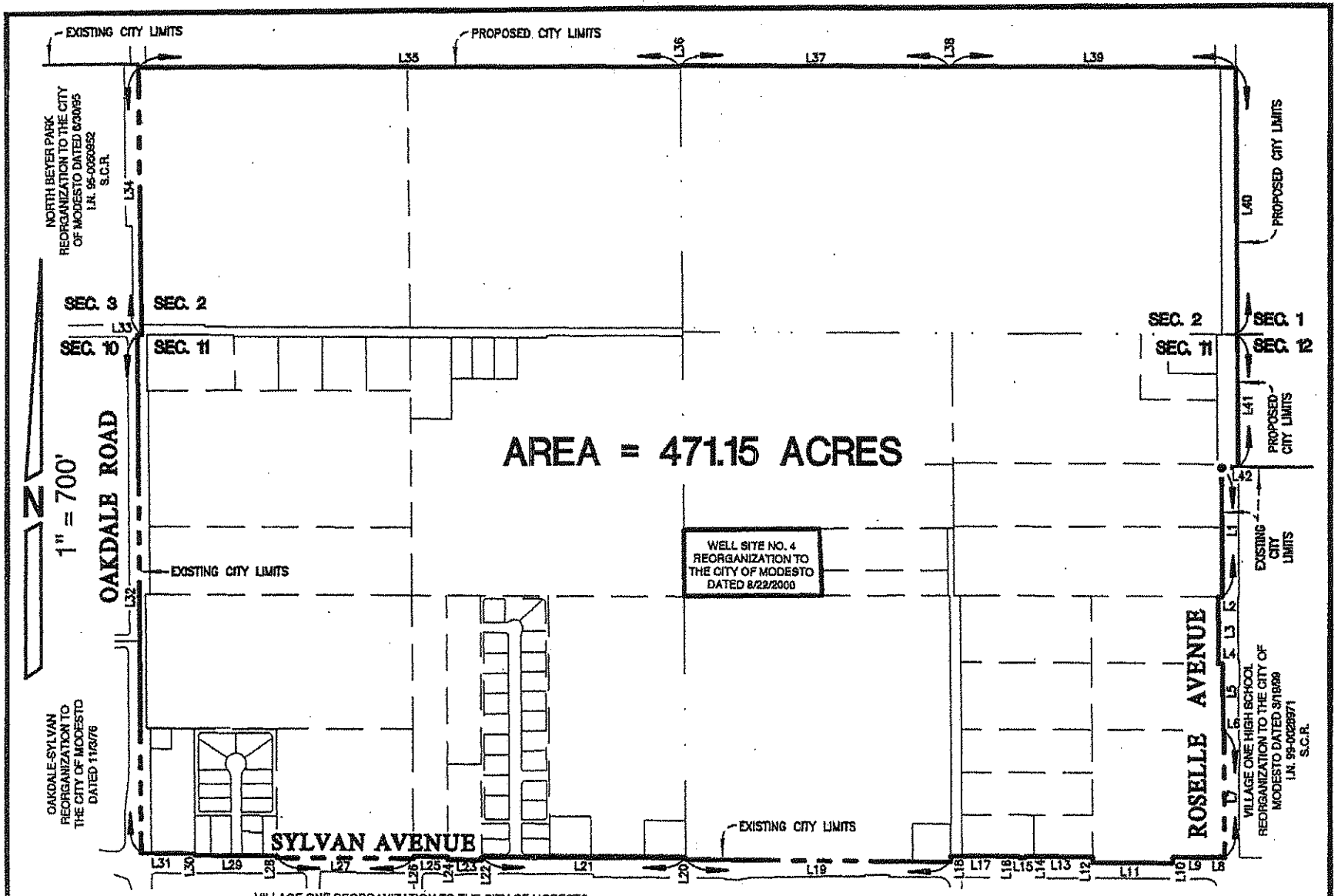
EXCEPTING THEREFROM that 5.10 Acre Parcel as shown on Well Site No.4 Reorganization to the City of Modesto recorded August 22, 2000, Stanislaus County Records.

All as shown on attached exhibit "TIVOLI REORGANIZATION to the City of Modesto" made a part here of and containing 471.15 acres more or less.

END DESCRIPTION

2/1/08





LINE TABLE		
LINE	BEARING	LENGTH
L1	S 00°22'14" E	662.26'
L2	N 89°47'14" W	20.00'
L3	S 00°22'14" E	329.50'
L4	S 89°48'16" E	20.00'
L5	S 00°22'14" E	329.50'
L6	S 89°49'15" E	5.00'
L7	S 00°22'14" E	630.27'
L8	N 89°55'53" W	46.76'

L9	N 89°40'23" W	214.15'
L10	S 00°37'39" E	30.00'
L11	N 89°40'23" W	385.05'
L12	N 00°37'39" W	30.00'
L13	N 89°40'23" W	326.05'
L14	S 00°37'39" E	6.80'
L15	N 89°40'23" W	30.00'
L16	N 00°37'39" W	6.80'
L17	N 89°40'23" W	326.05'
L18	S 00°37'39" E	30.00'

L19	N 89°40'23" W	1303.21'
L20	N 00°19'38" E	10.00'
L21	N 89°40'24" W	970.35'
L22	S 00°19'38" E	15.00'
L23	N 89°40'24" W	164.16'
L24	N 00°19'38" W	15.00'
L25	N 89°40'24" W	172.30'
L26	S 00°31'30" E	10.00'
L27	N 89°40'24" W	837.69'
L28	N 00°31'30" W	10.00'
L29	N 89°40'24" W	386.34'
L30	N 00°31'30" W	10.00'

L31	N 89°40'24" W	284.57'
L32	N 00°25'44" W	2582.66'
L33	N 89°48'45" E	20.00'
L34	N 00°34'27" W	1341.87'
L35	S 89°49'09" E	2615.69'
L36	N 00°25'45" W	4.35'
L37	S 89°39'52" E	1305.53'
L38	N 00°29'43" W	1.98'
L39	S 89°34'38" E	1379.73'
L40	S 00°16'57" E	1324.34'
L41	S 00°22'14" E	653.10'
L42	S 89°47'27" W	80.00'

TIVOLI REORGANIZATION to the City of Modesto

SECTIONS 1, 2, 11 & 12, T 3 S, R 9 E, M D B & M

O'DELL ENGINEERING
1165 Scenic Drive, Suite A Modesto, CA 95350
Ph 209.571.1765 Fax 209.571.2466

SCALE: 1"=700'

DRAWN BY: JT

FILE: 14551leg_reorganization.dwg

DATE: 02-07-08

The wastewater collection system and treatment facilities would be impacted by the development of the TSP. The TSP area would connect to the Sonoma Trunk line located on the south side of Sylvan Avenue east of Oakdale Road. If city funding for the main collection system is not available in a timely manner, then the project developers would be responsible to install all on and off site wastewater collection system improvements necessary to serve the project area.

3. Water Delivery: Water service will be provided to the project as identified in the Mitigation Measures provided by the EIR and the Tivoli Specific Plan. Improvements must be provided consistent with City standards.

   A Water Supply Assessment prepared for the TSP was adopted on July 5, 2006, by the City Council. The WSA determined that, while development of the project area would increase the demand for potable water, there would be sufficient water supply to serve the project site. Two new water wells would be required in order to maintain adequate water pressure in the City's delivery system. The City collects water fees to cover wells and main water lines. If funding is not available in a timely manner, then the project developers would be responsible to install the wells and all water system improvements necessary to serve the project area.

4. Storm Water Drainage: Storm Water service will be provided to the project as identified in the Mitigation Measures provided by the EIR and the Tivoli Specific Plan. Improvements must be provided consistent with City standards.

   The project proposes two detention basins: a central basin which would detain the 100-year runoff event for the northeastern and central portion of the site (about 80% of the area) and a westerly basin system would serve the southwestern portion of the site. Flows from the westerly basin system would be pumped into the central basin, and from the central basin the runoff would be pumped into the MID lateral about a mile to the north. The project developers would be responsible to install storm drainage system necessary to serve the project area.

5. Solid Waste Disposal: The City uses the Modesto and Stanislaus County Waste-to-Energy Plant, which has capacity to handle new waste from the project site. Gilton Solid Waste is contracted with the City of Modesto to serve the project area. Residential garbage customers have a garbage and recycling program using two cans. The black can is for garbage and recycling only. Recyclables should be placed in blue bags and put the black garbage can along with other household garbage. The green can is for yard waste and food waste only. Commercial garbage customers have large dumpster containers. They can also participate in the recycling program by putting their blue bags of recyclables in the dumpster along with other garbage. Recyclables are processed at the garbage transfer facilities.

The Tivoli Specific Plan defines "backbone" infrastructure as improvements that benefit the broader specific plan area and indicates that such infrastructure must be provided prior to or concurrent with development. The "backbone" infrastructure is broadly described as the street, sewer, water, storm drainage, park, paseos, and public utilities systems. The timing and phasing of the "backbone" infrastructure will be established by the Facilities Master Plan (FMP) and the Infrastructure Financing Plan (IFP). The FMP provide calculations and engineering drawings that provide the sizing, capacity, and layout of "backbone" infrastructure for the project. The IFP identifies costs and provides the funding mechanisms to construct the "backbone" infrastructure identified in the FMP. The primary funding mechanisms would be the creation of a bonded Community Facilities District and city fees.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-144

ADOPT A RESOLUTION AUTHORIZING STAFF TO SUBMIT A LIST OF LOCAL STREET AND ROAD IMPROVEMENT PROJECTS TO THE STATE OF CALIFRONIA IN ORDER FOR THE CITY TO RECEIVE $3.36 MILLION IN PROPOSITION 1B FUNDS, AND ADDING THE LIST OF LOCAL STREET AND ROAD IMPROVEMENT PROJECTS TO THE FISCAL YEAR 07-08 CAPITAL IMPROVEMENT PROGRAM

WHEREAS, in 2006, California voters approved Proposition 1B, the Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006, and

WHEREAS, Proposition 1B provides $19.925 Billion in bond funds for a variety of transportation priorities, including $2 Billion for cities and counties to fund the maintenance and improvement of local transportation facilities, and

WHEREAS, in Phase I, the state appropriated $950 million and of this amount, $550 million will be allocated to cities, and

WHEREAS, based on population, the City of Modesto is eligible to receive $3,364,421 in Phase I funding, and

WHEREAS, each city must submit a list of projects, expected to be funded with Proposition 1B funds to the State of California, Department of Finance, before an allocation is made, and

WHEREAS, project lists submitted to the State of California, Department of Finance, are flexible and substitutions are allowed to respond to local priorities, and

WHEREAS, the list of projects must include the following:

- A description and location of the proposed project
- A proposed schedule for the project's completion
- The estimated useful life of the Capital improvement

WHEREAS, in order to be eligible, all projects included on the project list submitted to the State of California, Department of Finance, must also be included in the City's budget that has been adopted by the Council at a regular public meeting, and

WHEREAS, the Proposition 1B Implementation Plan has a three year use-it-or-lose-it stipulation, which means all Proposition 1B Local Streets and Roads Account funds appropriated in FY 2007-2008 must be expended by June 30, 2011, and

WHEREAS, there is no maintenance of effort provision with Proposition 1B funding as this is one-time money, and

WHEREAS, cities can use Proposition 1B funds immediately for improvements to local transportation facilities that will repair and rehabilitate local streets and roads, reduce local traffic congestion, improve traffic flow, or increase traffic safety.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby authorizes staff to submit a list of local street and road improvement projects to the State of California, Department of Finance, in order for the City to receive $3.36 Million of Proposition 1B Funds.

BE IT FURTHER RESOLVED that the list of local street and road improvement projects **attached** hereto be added to the Fiscal Year 07-08 Capital Improvement Program (CIP) in accordance with existing CIP budgeting practices.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of March, 2008, 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, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn, Lopez, Olsen

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSAN ALCALA WOOD, City Attorney

Prop. 1B Streets Proposed Paving List
Major Streets FY 08/09 & 09/10 & 10/11

Planned Paving

Street	From	To	Width	Length	Sq. Ft.	Est. Cost	Lane Miles	Marking	Total
Downey Ave	E/of McHenry	W/of Scenic Dr	48	1410	67,680	$ 294,408.00	1.07	$4,800	$ 303,758.00
Buena Vista	W/of Las Flores	E/of La Loma	33	1430	47,190	$ 146,289.00	0.54	$2,400	$ 148,689.00
Briggsmore Ave. E/B	E/of Tully Rd.	W/of College Ave	37	1250	46,250	$ 201,187.50	0.71	$4,800	$ 213,787.50
La Sombra	E/of El Rio Ave	W/of Las Palmas Ave	40	1474	58,960	$ 182,776.00	0.56	$0	$ 182,776.00
Santa Rosa Ave	S/of La Loma Ave	N/of La Sombra Ave	33	267	8,811	$ 27,314.10	0.10	$0	$ 27,314.10
Orangeburg Ave.	E/of McHenry Ave,	W/ of Sunrise Ave.	61	2635	160,735	$ 699,197.25	2.50	$9,600	$ 723,097.25
Crows Landing	S/of HWY 99 Off Rp.	N/of Zeff Rd.	15	680	10,200	$ 44,370.00	0.13	$4,800	$ 49,170.00
Graphics	S/of Woodland Ave.	To Curve	37	1200	44400	$ 193,140.00	0.45	$2,400	$ 195,540.00
El Pasado	E/of El Charro	W/of Capistrano	32	830	26,560	$ 82,336.00	0.31	$2,400	$ 84,736.00
10th St.	N/of I Street	S/of J Street	52	450	23,400	$ 101,790.00	0.26	$2,400	$ 109,390.00
11th St.	N/of I Street	S/of L Street	52	1350	70,200	$ 305,370.00	0.77	$2,400	$ 318,170.00
Oakdale Rd. N/bound	N/of Wylie Dr.	S/of Orangeburg Ave.	44	1987	87,428	$ 271,026.80	1.51	$4,800	$ 282,976.80
Laurel Ave	E/of Bennett Ave	W/of Martin Luther King	24	1739	41,736	$ 129,381.60	0.66	$2,400	$ 131,781.60
Roseburg Ave. W.	E/of R/R tracks	W/of Sycamore Ave.	37	1502	55,574	$ 241,746.90	0.57	$2,400	$ 244,146.90
Sylvan Ave.	Keller	Selby Ln.	13	2163	28,119	$ 122,317.65	0.41	$4,800	$ 134,267.65
Woodland Ave	W/of 9th Street	E/of Carpenter Rd.	37	1323	48951	$ 212,936.85	0.75	$4,800	$ 223,586.85
Tuolumne Blvd.	W/of Neece Dr.	E/of Roselawn	68	1586	107,848	$ 469,138.80	1.50	$4,800	$ 479,788.80
Kansas Ave	W/of Carpenter Rd.E/of Rosemore Ave.	Rosemore Ave.	30	2750	82,500	$ 358,875.00	1.04	$2,400	$ 365,825.00
Needham Ave.	E/of College Ave.	W/of L St..	61	2324	141,764	$ 616,673.40	1.32	$7,200	$ 642,073.40
B St.	E/of 9th St.	W/of 12th St.	42	1092	45,864	$ 199,508.40	1.03	$4,800	$ 208,858.40
Kingswood Dr.	N/of Sylvan Ave.	W/of Forest Glen Dr.	37	627	23,199	$ 71,916.90	0.36	$0	$ 71,916.90
Forest Glen Dr.	N/of Sylvan Ave.	S/of Sylvan Meadows	37	1228	45,436	$ 140,851.60	0.70	$0	$ 140,851.60
San Juan	N/of Yosemite	S/of Miller Ave.	37	550	20,350	$ 63,085.00	0.21	$0	$ 66,335.00
Penny Ln.	Pirinen	170' to the west	34	170	5,780	$ 17,918.00	0.06	$0	$ 17,918.00
Oakdale Rd.	N/of Scenic Dr. to	S/of Wylie Dr.	67	1776	118,992	$ 517,615.20	2.02	$7,200	$ 553,415.20
Semple St.	N/of Jones St.	S/of Morris Ave.	27	1590	42,930	$ 133,083.00	0.60	$0	$ 133,083.00
Hatch Rd.	East of Dallas Rd.	E/of Ustick Rd.	40	3365	134,600	$ 417,260.00	2.55	$4,800	$ 436,360.00
East Rumble Rd.	E/of Coffee Rd.	W/of Keller St.	37	1642	60,754	$ 188,337.40	0.62	$2,400	$ 194,637.40
Whitmore Ave.	W/of Tucson	to end of city limit	14	3750	52,500	$ 228,375.00	1.42	$4,800	$ 233,175.00
G St.	E/of 9th St.	W/of Burney	47	3424	160,928	$ 700,036.80	1.95	$12,000	$ 735,436.80

Grind & Pave	$ 7,378,262.15	Total Cost:	$ 7,652,862.15
Traffic Painting	$105,600		
Electrical Detectors	$ 169,000		
Total	$ 7,652,862.15		
		26.67 Lane Miles	

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-145

A RESOLUTION APPOINTING A WATER BOND FINANCING TEAM CONSISTING OF SIDLEY AUSTIN, BOND COUNSEL; STRADLING YOCCA CARLSON & RAUTH, DISCLOSURE COUNSEL; PUBLIC FINANCIAL MANAGEMENT INC., FINANCIAL ADVISOR; BANC OF AMERICA SECURITIES LLC, UNDERWRITER AND SWAP COUNTERPARTY AND CITY STAFF WITH RESPECT TO THE PROPOSED REFINANCING OF THE 2006 WATER REVENUE CERTIFICATES OF PARTICIPATION FOR FUTURE CONSIDERATION OF COUNCIL, AND AUTHORIZING SAID WATER BOND FINANCING TEAM TO PROCEED WITH ACTIONS NECESSARY FOR BOND DOCUMENT DEVELOPMENT

WHEREAS, pursuant to the City of Modesto Water Revenue Bond Law, constituting Chapter 6 of Title VIII of the Modesto Municipal Code (the "Bond Law"), the City of Modesto, California (the "City") is authorized to issue revenue bonds to provide funds to finance the costs of the acquisition, construction and equipping of improvements to the water system of the City (the "Enterprise") or for the purpose of refunding bonds issued for such purposes, and

WHEREAS, the City previously approved the issuance of the 2006 Water Revenue Certificates of Participation to pay for the cost of certain downstream water system improvements, and

WHEREAS, current investment market conditions require the outstanding 2006 Water Revenue Certificates of Participation to be refinanced in order for the City to maintain the cost savings associated with the original debt issue, and

WHEREAS, the City desires to appoint certain professionals to assist the City in connection with such proposed debt refinancing, and to authorize such professionals and City staff to take all actions necessary, including the preparation of documents to effect such refinancing, for future consideration by this City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby appoints Sidley Austin, San Francisco, California, as Bond Counsel ("Bond Counsel"); Stradling Yocca Carlson & Rauth, A Professional Corporation of Newport Beach, California, as the Disclosure Counsel to the City in connection with the refinancing of the outstanding 2006 Water Revenue Certificates of Participation, Public Financial Management Inc., San Francisco, California, as Financial Advisor ("Financial Advisor"), and Banc of America Securities LLC as the Underwriter and Swap Agreement Counterparty.

BE IT FURTHER RESOLVED that City staff is hereby authorized and directed to proceed with any and all actions deemed necessary or advisable, including directing the finance professionals appointed pursuant to this Resolution, to begin preparation of documents in connection with the proposed refinancing of the City's outstanding 2006 Water Revenue Certificates of Participation, for future consideration by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of March, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the Resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Lopez, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	Keating
ABSENT:	Councilmembers:	Olsen

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

_____
SUSAN ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-146

A RESOLUTION APPROVING AN AGREEMENT FOR BOND COUNSEL SERVICES WITH SIDLEY AUSTIN FOR THE REFINANCING OF THE 2006 WATER REVENUE CERTIFICATES OF PARTICIPATION AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT

WHEREAS, the City previously issued the 2006 Water Revenue Certificates of Participation in order to finance certain system improvements downstream of the surface water treatment facility, and

WHEREAS, current investment market conditions require the outstanding 2006 Water Revenue Certificates of Participation to be refinanced in order for the City to maintain the cost savings associated with the original debt issue, and

WHEREAS, the City desires to appoint certain professionals to assist the City in connection with such proposed debt refinancing, and to authorize such professionals and City staff to take all actions necessary, including the preparation of documents to effect such refinancing, for future consideration by this City Council, and

WHEREAS, City staff desires the assistance of Sidley Austin to serve as Bond Counsel with regard to the refinancing of the outstanding 2006 Water Revenue Certificates of Participation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves an Agreement for Bond Counsel Services with Sidley Austin for the refinancing of the 2006 Water Revenue Certificates of Participation.

BE IT FURTHER RESOLVED that the Interim 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 4th of March, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Lopez, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	Keating
ABSENT:	Councilmembers:	Olsen

ATTEST:

STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-147

A RESOLUTION APPROVING AN AGREEMENT FOR BOND DISCLOSURE COUNSEL SERVICES WITH STRADLING YOCCA CARLSON & RAUTH FOR THE REFINANCING OF THE 2006 WATER REVENUE CERTIFICATES OF PARTICIPATION AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT.

WHEREAS, the City previously issued the 2006 Water Revenue Certificates of Participation in order to finance certain system improvements downstream of the surface water treatment facility, and

WHEREAS, current investment market conditions require the outstanding 2006 Water Revenue Certificates of Participation to be refinanced in order for the City to maintain the cost savings associated with the original debt issue, and

WHEREAS, the City desires to appoint certain professionals to assist the City in connection with such proposed debt refinancing, and to authorize such professionals and City staff to take all actions necessary, including the preparation of documents to effect such refinancing, for future consideration by this City Council, and

WHEREAS, City staff desires the assistance of Stradling Yocca Carlson & Rauth with regard to the refinancing of the outstanding 2006 Water Revenue Certificates of Participation.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves an Agreement for Bond Disclosure Counsel Services with Stradling Yocca Carlson & Rauth Austin for the refinancing of the 2006 Water Revenue Certificates of Participation.

BE IT FURTHER RESOLVED that the Interim 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 4th day of March, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, Lopez, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	Keating
ABSENT:	Councilmembers:	Olsen

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-148

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE "2004-2005 PAVEMENT REHABILITATION PROGRAM - SYLVAN AVENUE RECONSTRUCTION 71' EAST OF MCHENRY AVENUE TO 365' WEST OF COFFEE ROAD" PROJECT, ACCEPTING THE BID AND APPROVING A $1,827,978.30 CONTRACT WITH 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," AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the "2004-2005 Pavement Rehabilitation Program - Sylvan Avenue Reconstruction 71' East of McHenry Avenue to 365' West of Coffee Road" project, and City staff recommends approval to the City Council, and

WHEREAS, the bids received for the "2004-2005 Pavement Rehabilitation Program - Sylvan Avenue Reconstruction 71' East of McHenry Avenue to 365' West of Coffee Road" project were opened at 11:00 a.m. on January 15, 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 $1,827,978.30 received from Top Grade Construction, Inc. be accepted as the lowest responsible bid and the contract be awarded to Top Grade 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 project titled "2004-2005 Pavement Rehabilitation Program - Sylvan Avenue Reconstruction 71' East of McHenry Avenue to 365' West of Coffee Road," accepts the bid of Top Grade Construction, Inc. in the amount of $1,827,978.30, and awards Top Grade Construction, Inc. the contract.

BE IT FURTHER RESOLVED that the Interim City Manager, or his designee, is hereby authorized to execute the contract in the amount of $1,827,978.30 for the project titled "2004-2005 Pavement Rehabilitation Program - Sylvan Avenue Reconstruction 71' East of McHenry Avenue to 365' West of Coffee Road".

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of March, 2008, 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, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Olsen

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-149

RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO CONFIRMING THE CANVASS OF THE SPECIAL ELECTION CONSOLIDATED WITH THE PRESIDENTIAL PRIMARY WHICH WAS HELD IN THE CITY OF MODESTO ON FEBRUARY 5, 2008, AND DECLARING THE RESULTS OF SAID ELECTION

WHEREAS, on Tuesday, February 5, 2008, the Presidential Primary Election was held in the City of Modesto (herein called "City"), and

WHEREAS, as set forth in Section 3 hereof, Measures M and N were submitted to the qualified electors in the February 5, 2008, Presidential Primary election, and

WHEREAS, said election was held on Tuesday, February 5, 2008, 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 Acting City Clerk canvassed the returns of said Presidential Primary 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 March 11, 2008, 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 Acting City Clerk as shown on the Certificate of Canvass and Statement of Votes and the results of the election are hereby ratified, confirmed and approved.

SECTION 2. That in accordance with Section 10264 of the Elections Code, a copy of said Certificate of Canvass and Statement of Votes, which is attached hereto marked as Exhibit "A" and made a part hereof, shows a complete tabulation of the following:

(A) The whole number of votes cast in the City.

(B) The number of votes given in the City for each Measure.

SECTION 3. The following votes were cast for Measures M and N:

Measure	**Total Votes For**	**Total Votes Against**
Measure M: *Should the City of Modesto Charter be amended per the "Accountability in City Hall Measure of 2008" as follows:* *THE INCREASE ACCOUNTABILITY IN CITY HALL MEASURE OF 2008.* *Shall the Modesto City Charter be amended to:* *Upgrade the mayor's duties/responsibilities; increase accountability of city departments by requiring city council to implement budget/policy priorities; establish an independent City Auditor, create a citizens' commission to recommend council salaries, impose mandatory salary caps on city council; require annual performance audits for key personnel; modernize accountability/disciplinary practices; and make deputy directors and attorneys "at will" employees?*	31,946	8,861

Measure	Total Votes For	Total Votes Against
Measure N: *Should Modesto change its system of electing City Councilmembers to a "By District" system as follows:* *Six Districts where candidates must live in the District they wish to represent and the voters who live in the District vote on who will represent that District?*	29,037	11,613

Measure M. More than a majority of all the votes cast at the election for Measure M were in favor of said proposed Measure, and said Measure did carry, was approved, and was ratified by a majority of the qualified voters voting on said Measure M.

Measure N . More than a majority of all of the votes cast at the election for Measure N were in favor of said proposed Measure, and said Measure did carry, was approved, and was ratified by a majority of the qualified voters voting on said Measure N.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2008, 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, Acting City Clerk

(Seal)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

CERTIFICATE OF CANVASS
AND
STATEMENT OF VOTE

PRESIDENTIAL PRIMARY ELECTION
February 5, 2008

I, Stephanie Lopez, Acting City Clerk of the City of Modesto, do hereby certify that I caused the Stanislaus County Clerk's Office, on March 11, 2008, to publicly canvass the returns of the Presidential Primary Election held on February 5, 2008, in accordance with Modesto City Council Resolution 67-36. The following are the results of said election:

MEASURES	NUMBER OF VOTES		PERCENTAGE OF VOTE
Measure M			
Should the City of Modesto Charter be amended per the "Accountability in City Hall Measure of 2008" as follows: THE INCREASE ACCOUNTABILITY IN CITY HALL MEASURE OF 2008. Shall the Modesto City Charter be amended to: Upgrade the mayor's duties/responsibilites; increase accountability of city departments by requiring city council to implement budget/policy priorities; establish an independent City Auditor, create a citizens' commission to recommend council salaries, impose mandatory salary caps on city council; require annual performance audits for key personnel; modernize accountability/disciplinary practices; and make deputy directors and attorneys "at will" employes?			
	31,946	**YES**	**78.29%**
	8,861	NO	21.71%
Measure N			
Should Modesto change its system of electing City Councilmembers to a "By District" system as follows: Six Districts where candidates must live in the District they wish to represent and the voters who live in the District vote on who will represent the District?			
	29,027	**NO**	**71.43%**
	11,613	YES	28.57%

VOTER TURNOUT:

	TOTAL REGISTERED VOTERS	TOTAL TURNOUT	TURNOUT PERCENTAGE
Measures M & N	90,834	43,421	47.80%

Stephanie Lopez
Acting City Clerk/Auditor
City of Modesto

March 11, 2008

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-150

A RESOLUTION APPOINTING RICHARD MCFARREN 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, WHEREAS, the Modesto Golf Club recommends RICHARD MCFARREN, 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 MCFARREN is hereby appointed to the Golf Courses Advisory Committee with term expirations 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 11th day of March, 2008, 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:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-151

A RESOLUTION APPROVING AMENDMENT NO. 3 TO THE STANDARD AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND GEORGE OSNER, AICP, FOR ON-CALL PLANNING AND ENVIRONMENTAL SUPPORT SERVICES FOR THE COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT AND PUBLIC WORKS DEPARTMENT, FOR AN ADDITIONAL AMOUNT OF $50,000 FOR PUBLIC WORKS, FOR A TOTAL AMOUNT NOT TO EXCEED $239,999, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, on November 14, 2005, the City of Modesto entered into a Standard Agreement for consultant services with George Osner, AICP, Planning Consultant, to provide planning services for the Community & Economic Development Department, in an amount not to exceed $49,999, and

WHEREAS, on July 11, 2006, by Resolution No. 2006-429, the contract was amended for an additional $90,000, for a total amount not to exceed $139,999, and

WHEREAS, the contract amendment extended planning services for the Community & Economic Development Department, Planning Division, for an additional amount of $50,000, and

WHEREAS, the remaining $40,000 was budgeted for services to the Public Works Department, Capital Improvement Services Division, through the Community & Economic Development Department, and

WHEREAS, on January 9, 2007, by Resolution No. 2007-047, the contract was amended for an additional $50,000, for a total amount not to exceed $189,999, and

WHEREAS, the Capital Improvement Services (CIS) Division of the Public Works Department performs a number of tasks requiring environmental planning and processing

support services that, because of workload levels and/or staff experience, are beyond the ability of the City's engineering staff to accomplish in a timely manner, and

WHEREAS, George Osner has been providing on-call environmental planning consulting, allowing the division to have quick access to specific environmental planning and processing support services, when needed, and

WHEREAS, in accordance with the amended agreement, George Osner has been providing on-call and environmental planning support services for the Community & Economic Development and Public Works Departments, and the amended amount of $40,000 for Public Works has almost been reached, and

WHEREAS, in order to satisfy ongoing needs, the Public Works Department is proposing an Amendment No. 3 to the Standard Agreement for Consultant Services with George Osner for an additional amount of $50,000 for Public Works, for a total amount not to exceed $239,999, and

WHEREAS, George Osner, AICP, will be paid on an hourly basis for actual hours required to perform specific task orders, and

WHEREAS, funds will be budgeted and encumbered against each project specific CIP account as the project is assigned,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 3 to the Standard Agreement for Consultant Services between the City of Modesto and George Osner, AICP, for on-call planning and environmental support services for the Community & Economic Development Department and Public Works Department, for an additional amount of $50,000 for Public Works, for a total amount not to exceed $239,999.

BE IT FURTHER RESOLVED that the Interim 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 March, 2008, 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
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSAN ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-152

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF A MODULAR BUILDING AND RELOCATION OF AN EXISTING MODULAR BUILDING FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, COMPOST FACILITY, TO PACIFIC MOBILE STRUCTURES, INC., MODESTO, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $138,064

WHEREAS, the Parks, Recreation and Neighborhoods Department, Compost Facility, has been in operation since 1997, and

WHEREAS, the existing modular office building at the Compost Facility is fourteen (14) feet wide by forty-eight (48) feet long, and is too small for the seven (7) member staff, and

WHEREAS, the facility frequently has visitors touring the site, and there is no conference room in which to meet with these tour groups or hold meetings, and

WHEREAS, to provide adequate space for staff and visitors, funds were budgeted in FY 2006/2007 CIP for the lease/purchase of a twenty-four (24) foot by sixty (60) foot modular building, and for the relocation/renovation of an existing modular building for use as a Resource Recovery Education Center, and

WHEREAS, on October 24, 2006, the City Council by Resolution No. 2006-667, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the lease/purchase of a modular building and relocation of an existing modular building, and

WHEREAS, on June 13, 2007, the Purchasing Division issued Request for Bid No. 0607-52 for the lease/purchase of a modular building and relocation of an existing modular building to sixteen (16) prospective bidders, one of which was a local company, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on June 22, 2007, a bidders conference was held, one company was in attendance, and

WHEREAS, on July 31, 2007, RFB's were formally opened in the City Clerk's office. Of the sixteen (16) prospective bidders, one company chose to respond, and

WHEREAS, the Compost Facility has available funds to purchase the modular building outright, thus saving the City over $35,700 in accrued interest fees, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of a modular building and relocation of an existing modular building for the Parks, Recreation and Neighborhoods Department, Compost Facility, to Pacific Mobile Structures, Inc., Modesto, CA, and authorizing the Purchasing Manager to issue a purchase order for an estimated total cost of $138,064, 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 modular building and relocation of an existing module building for the Parks, Recreation and Neighborhoods Department, Compost Facility, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in account 6290-355-P564-6040 for the purchase of a modular building and the relocation of an existing modular building,

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 a modular building and relocation of an existing modular building for the Parks, Recreation and

Neighborhoods Department, Compost Facility, to Pacific Mobile Structures, Inc., Modesto, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager will issue a purchase order for an estimated total cost of $138,064.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2008, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-153

A RESOLUTION AMENDING THE FY 2007/2008 CAPITAL IMPROVEMENT BUDGET TO APPROPRIATE $103,064 FROM THE COMPOST FUND RESERVES TO 6290-355-P564 TO FULLY FUND THE PURCHASE OF A MODULAR BUILDING AND RELOCATION OF AN EXISTING MODULAR BUILDING

WHEREAS, by purchasing the modular building outright instead of entering into a ten (10) year lease/purchase the City will save approximately $35,700 in accrued interest fees, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of a modular building and relocation of an existing modular building for the Parks, Recreation and Neighborhoods Department, Compost Facility, to Pacific Mobile Structures, Inc., Modesto, CA, for an estimated total cost of $138,064,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts a resolution amending the FY 2007-2008 Capital Improvement Budget to appropriate $103,064 from the Compost Fund Reserves to 6290-355-P564 to fully fund the purchase of a modular building and relocation of an existing modular building.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2008, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-154

ADOPT A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF THREE (3) PASSENGER VANS AND TWO (2) CARGO VANS FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO THE FOLLOWING COMPANIES: GOOD CHEVROLET, ALAMEDA, CA, THREE (3) PASSENGER VANS, FOR AN ESTIMATED COST OF $68,061; AND DOWNTOWN FORD, SACRAMENTO, CA, TWO (2) CARGO VANS, FOR AN ESTIMATED COST OF $38,889, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE PURCHASE ORDERS FOR A TOTAL ESTIMATED COST OF $106,950.

WHEREAS, the Public Works Department, Fleet Services Division has determined that the current vans have reached the end of their useful life and are scheduled for replacement, and

WHEREAS, on August 14, 2007, the City Council, by Resolution No. 2007-495, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 07/08 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, three (3) passenger vans and two (2) cargo vans were included in the FY 07/08 new vehicles and heavy equipment list authorized by Council, and

WHEREAS, on November 13, 2007, the Purchasing Division issued RFB No. 0708-17 for the purchase of three (3) passenger vans and two (2) cargo vans, the bid was posted on the City's web site and formally advertised as required by law, and

WHEREAS, on December 18, 2007, RFB's were formally opened in the City Clerk's office. Of the forty-two (42) prospective bidders, nine (9) companies chose to respond, and

WHEREAS, one company submitted a non-responsive and non-responsible bid and their bid submittal was rejected, and

WHEREAS, based on being deemed the lowest responsive and responsible bids, staff recommends the award of bid and contract for the purchase of three (3) passenger vans and two (2) cargo vans for a total estimated cost of $106,950 to the following companies:

Good Chevrolet, Alameda, CA, for three (3) passenger vans, for a total estimated cost of $68,061.

Downtown Ford, Sacramento, CA, for two (2) cargo vans, for a total estimated cost of $38,889, 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) passenger vans and two (2) cargo vans for the Public Works Department, Fleet Services Division conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in the following accounts for the purchase of three (3) passenger vans and two (2) cargo vans for FY 07/08, Account numbers 7210-480-5814-5767,7210-480-5814-5776, 7210-480-5814-5758, 7210-480-5814-5795 and 7210-480-5814-5797,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes, award of bid and contract for the purchase of three (3) passenger vans and two (2) cargo vans for a total estimated cost of $106,950 to the following companies: Good Chevrolet, Alameda, CA, three (3) passenger vans, for an estimated cost of $68,061; and Downtown Ford, Sacramento, CA, two (2) cargo vans, for an estimated cost of $38,889.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue purchase orders for a total estimated cost of $106,950.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2008, 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
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-155

A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008ANNUAL 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 2007-2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2007-2008 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 11th day of March 2008, 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, Acting City Clerk

(seal)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-156

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT AN $80,000 GRANT ON BEHALF OF THE CITY OF MODESTO FIRE DEPARTMENT TO THE STANISLAUS COMMUNITY FOUNDATION GIVEN BY KAISER COMMUNITY BENEFITS GRANT PROGRAM AND TO EXCUTE ANY NECESSARY GRANT ACCEPTANCE DOCUMENTS

WHEREAS, in 1994 the Modesto Fire Department recognized a need to automatic defibrillator units on first responder apparatus, and

WHEREAS, lacking Department funding the Modesto Firefighters reached out to the community for assistance in funding this need, and

WHEREAS, a total of 80 businesses and individuals donated $98,000, and

WHEREAS, the Modesto Fire Department established a non-profit 501(c) account under the name Firefighters Emergency Medical Services, through the Stanislaus Community Foundation, and

WHEREAS, in 2005 the Modesto Fire Department developed an Advanced Life Support program, and

WHEREAS, the protocols for the Advanced Life Support program have changed, and the program now requires a higher-level of reporting, and

WHEREAS, with these needs in mind the Modesto Fire Department applied for, and was successful in obtaining, a Kaiser Community Benefits Grant in the amount of $80,000, and

WHEREAS, this grant was made to the Stanislaus Community Foundation for use by the City of Modesto Fire Department for purchases related to the medical needs of the community,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, it hereby accepts the $80,000.00 grant from Stanislaus Community Foundation on behalf of the Modesto Fire Department from the Kaiser Community Benefits Grant Program.

BE IT FURTHER RESOLVED, that the Interim City Manager, or his designee, is hereby authorized to execute any necessary Grant acceptance documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2008, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-157

A RESOLUTION AUTHORIZING THE FINANCE DEPARTMENT TO AMEND THE 2007-2008 FISCAL YEAR OPERATING BUDGET TO REFLECT GRANT REVENUE IN THE AMOUNT OF $80,000.00 FROM THE KAISER COMMUNITY BENEFITS GRANT AND INCREASE APPROPRIATIONS FOR CAPITAL OUTLAY BY $80,000.00

WHEREAS, in 1994 the Modesto Fire Department recognized a need for automatic defibrillator units on first responder apparatus, and

WHEREAS, lacking Department funding the Modesto Fire Department reached out to the community for assistance in funding this need, and

WHEREAS, a total of 80 businesses and individuals donated $98,000, and

WHEREAS, the Modesto Fire Department established a non-profit 501(c) account under the name Firefighters Emergency Medical Services, through the Stanislaus Community Foundation, and

WHEREAS, in 2005 the Modesto Fire Department developed an Advanced Life Support program, and

WHEREAS, the protocols for the Advanced Life Support program have changed, and the program now requires a higher-level of reporting, and

WHERAS, with these needs in mind the Modesto Fire Department applied for, and was successful in obtaining, a Kaiser Community Benefits Grant in the amount of $80,000, and

WHEREAS, this grant was made to the Stanislaus Community Foundation for use by the City of Modesto Fire Department for purchases related to the medical needs of the community,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby approves amending the 2007-2008 Fiscal Year Operating Budget to recognize grant revenue and appropriations in the amount of $80,000.00 within the fire Department accounts.

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 11th day of March, 2008, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-158

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO PURCHASE THE GRANT-FUNDED ITEMS THROUGH USE OF EXISTING CONTRACTS WITH OTHER AGENCIES, INCLUDING THE LOS ANGELES CITY FIRE DEPARTMENT AND THROUGH THE SOLE-SOURCE PURCHASE OF RELATED SOFTWARE THROUGH ZOLL FOR A TOTAL ESTIMATED COST OF $80,000

WHEREAS, in 1994 the Modesto Fire Department recognized a need for automatic defibrillator units on first responder apparatus, and

WHEREAS, lacking Department funding the Modesto Fire Department reached out to the community for assistance in funding this need, and

WHEREAS, a total of 80 businesses and individuals donated $98,000, and

WHEREAS, the Modesto Fire Department established a non-profit 501(c) account under the name Firefighters Emergency Medical Services, through the Stanislaus Community Foundation, and

WHEREAS, in 2005 the Modesto Fire Department developed an Advanced Life Support program, and

WHEREAS, the protocols for the Advanced Life Support program have changed and the program now requires a higher level of reporting, and

WHERAS, with these needs in mind the Modesto Fire Department applied for, and was successful in obtaining, a Kaiser Community Benefits Grant in the amount of $80,000, and

WHEREAS, this grant was made to the Stanislaus Community Foundation for use by the City of Modesto Fire Department for purchases related to the medical needs of the community, and

WHEREAS, the purchase of equipment needed to successfully support the expanded reporting and patient care will be made through sole-source (current Fire Department software, FIRE-RMS - through Zoll) or through the use of existing piggy-back-able contracts,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby authorizes the Purchasing Manager to purchase the grant-funded items through sole-source and existing "piggy-back-able" contracts for a total estimated cost of $80,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2008, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-159

A RESOLUTION APPROVING AN ENVIRONMENTALLY PREFERABLE PURCHASES AND PRACTICES POLICY FOR THE CITY OF MODESTO ENCOURAGING THE PURCHASE OF PRODUCTS MADE FROM RECYCLED MATERIALS WHENEVER PRACTICABLE

WHEREAS, with the onset of AB939 in 1989, communities around the state have worked to implement waste reduction and recycling programs to reduce the amount of waste going to the state's landfills, and

WHEREAS, one effective tool to achieve these goals has been the implementation of formal environmentally friendly purchasing policies for businesses and local governments. Such policies encourage and/or require agencies to seek alternative products or services that leave a smaller footprint on the environment, and

WHEREAS, the Solid Waste Division of the Parks, Recreation and Neighborhoods Department applies for multiple waste reduction and recycling grants from various sources each year, mostly from the California Integrated Waste Management Board (CIWMB), and

WHEREAS, grant applications now require grantees to have formal environmentally preferable purchases and practices policies in place or they will be ineligible for grant awards, and

WHEREAS, staff is requesting that the City Council adopt the proposed Environmentally Preferable Purchases and Practices Policy, a copy of which is attached hereto as **Exhibit "A"** and incorporated herein by reference, and

WHEREAS, this policy encourages city departments to use recycled products or eco-friendly options whenever practicable, it does not require such purchases,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an Environmentally Preferable Purchases and Practices Policy for the City of Modesto encouraging the purchase of products made from recycled materials whenever practicable.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2008, 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
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

Attest: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
ENVIRONMENTALLY PREFERABLE PURCHASES AND PRACTICES POLICY

ENVIRONMENTALLY PREFERABLE PURCHASES

The City of Modesto provides that all departments shall, whenever practicable and financially viable, use recycled products and recycled materials to meet their needs. This policy is enacted to demonstrate the City's desire to become compliant with the Waste Management Reduction Act and foster market development for recycled products.

PROCUREMENT POLICIES

A. All City of Modesto departments shall make a good faith effort to use recycled products whenever practicable and financially viable. Special emphasis shall be placed on the purchase of products manufactured with post-consumer recycled materials.
B. All City of Modesto departments may, at their option and with purchasing concurrence, require procurement of designated recycled products or recycled products above the levels required by this policy.
C. The City of Modesto shall encourage its contractors and consultants to use and specify recycled products in fulfilling contractual obligations whenever practicable and financially viable.
D. The City of Modesto shall promote the use of recycled products by internally publicizing its procurement policy on the City's website.

PURCHASE RESPONSIBILITIES OF RECYCLED PRODUCTS AND MATERIALS COORDINATOR

The Purchasing Manager shall work with the Recycling Program Coordinator regarding the implementation of this policy. They will establish a list of recycled products that can be purchased by all City of Modesto departments whenever practicable and financially viable and will develop the mechanism for maintenance, additions, and deletions to the list of recycled products available for procurement. Maintenance of the list will include addition of new products containing recycled material as they become available. Specifications of these new products and their suggested uses will be made available online to all City of Modesto departments. The Recycling Program Coordinator will also work with all departments to establish minimum recycled content standards for designated recycled products to maximize recycled product availability, recycled content, and competition. The Recycling Program Coordinator will also be responsible for annual policy review.

ENVIRONMENTALLY PREFERABLE PRACTICES

The City of Modesto will continue to make resource conservation an integral part of its waste reduction and recycling programs. The practice of discarding

materials used in the City of Modesto facilities is wasteful of natural resources, energy, and money.

PRACTICE POLICIES

1. The City of Modesto will continue to integrate the concept of resource conservation, including waste reduction and recycling, into its environmental programs.
2. The City of Modesto will decrease the amount of waste of consumable materials by: a) reducing the consumption of consumable materials wherever possible; b) fully utilizing all materials prior to disposal; and c) minimizing the use of non-biodegradable products wherever possible.
3. As systems for recovering waste and recycling develop within the waste industry, the City of Modesto will participate by appropriately separating and allowing recovery of recyclable waste products.
4. The City of Modesto will purchase, where financially viable, recycled products. The City of Modesto will also encourage suppliers, both private and public, to make recyclable products and unbleached paper products available for purchase.
5. Representatives of the City of Modesto will actively advocate, where appropriate, for resource conservation practices to be adopted at the local, regional, and national levels.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-160

A RESOLUTION ACCEPTING THE WORK BY JHK CONSTRUCTION FOR THE PROJECT TITLED "KING KENNEDY MEMORIAL CENTER KITCHEN & AUDITORIUM RENOVATION" AS COMPLETE, AUTHORIZING THE ACTING 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 $675,571.75.

WHEREAS, a report has been filed by the Public Works Director that the project titled "King-Kennedy Memorial Center Kitchen and Auditorium Renovation" has been completed by JHK Construction in accordance with the contract agreement dated April 24, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "King-Kennedy Memorial Center Kitchen and Auditorium Renovation" is hereby accepted as complete from said contractor JHK Construction, that the Acting 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 $675,571.75 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 March, 2008, 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
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk
(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-161

A RESOLUTION APPROVING AN AGREEMENT WITH PACIFIC DESIGN ASSOCIATES, INC. TO PREPARE A FINAL PROJECT DESIGN FOR THE WATER QUALITY CONTROL LABORATORY REMODEL PROJECT IN AN AMOUNT NOT TO EXCEED $14,345.00, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.

WHEREAS, in the 2007 Capital Improvement Program, the Wastewater Division of the Public Works Department initiated a project to remodel the existing Water Quality Control Laboratory, and

WHEREAS, the project was for the expansion of the facility to house new equipment that would allow the lab to perform tests that are currently being contracted to outside firms, and

WHEREAS, the lab expansion would have provided space for advanced analytical equipment that would also allow the lab to contract with other cities and agencies to perform their testing requirements, and

WHEREAS, the Wastewater Division of the Public Works Department selected Pacific Design Associates, Inc. (Pacific Design) as the Consultant Architect, and

WHEREAS, Wastewater staff then worked with Pacific Design until the design was ready to advertise, and

WHEREAS, a pre-construction conference was held for the project on March 16, 2007, and Gwinn Construction submitted several highly technical requests for information (RFI), and

WHEREAS, the Construction Administration Office was unable to answer all of contractor's technical questions, and

WHEREAS, a meeting was held with the design consultant in an effort to clarify the work scope and provide the information, and

WHEREAS, during the meeting the consultant stated that the contractor should provide the missing system performance information and further advised City staff that providing additional information, and/or a revised plan set, would be considered added design scope resulting in additional design cost to the City, and

WHEREAS, after further meetings with the contractor and design consultant, it was determined that the project could not continue without additional design and subsequent construction costs, and

WHEREAS, since the project had been significantly delayed, the contractor requested to have the contract canceled at no cost to the City, and

WHEREAS, on November 27, 2007, the City Council, by Resolution No. 2007-708, canceled the contract with Gwinn Construction, and

WHEREAS, City staff recommends an agreement with the consulting firm of Pacific Design be approved to perform the additional design services as the City does not have the staffing level to design these projects and current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, selecting Pacific Design to complete the additional design services will maximize benefits to the City related to utilizing knowledge gained through the preliminary design effort, and

WHEREAS, Pacific Design will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Pacific Design Associates, Inc. for final project design services of the Water Quality Control Lab Remodel project in an amount not to exceed $14,345.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2008, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-162

A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET BY APPROVING A TRANSFER OF FUNDS IN THE AMOUNT OF $3,100 FROM OBJECT 6040 CONSTRUCTION TO OBJECT 6010 ENGINEERING/DESIGN ADMINISTRATION WITHIN CIP ACCOUNT 6210-480-B584 "WQC LAB REMODEL-SECONDARY" IN ORDER TO FULLY FUND THE AGREEMENT WITH PACIFIC DESIGN ASSOCIATES, INC. TO PERFORM THE REQUIRED FINAL PROJECT DESIGN SERVICES OF THE WATER QUALITY CONTROL LABORATORY REMODEL.

WHEREAS, certain budgetary transactions are necessary to fully fund the Agreement with Pacific Design Associates, Inc. for additional design services in the amount of $14,345, to prepare a final project design and for reimbursable expenses for the project titled "Water Quality Control Laboratory Remodel," and

WHEREAS, to fully fund the Agreement and cover additional design costs the current Capital Improvement Program budget must be amended by transferring funds in the amount of $3,100 from Object 6040 Construction to Object 6010 Engineering/Design/Administration within CIP Account 6210-480-B584 (WQC Lab Remodel-Secondary) to perform the required final project design services to complete the project titled "Water Quality Control Laboratory Remodel,"

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds as set forth herein to fully fund the Agreement with Pacific Design Associates, Inc. for additional design services in the amount of $14,345, to prepare a final project design and for reimbursable expenses for the project titled "Water Quality Control Laboratory Remodel."

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2008, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-163

A RESOLUTION ACCEPTING THE PRELIMINARY DESIGN REPORT FOR THE PRIMARY OUTFALL REHABILITATION PROJECT, DATED MARCH 2008, AS COMPLETE.

WHEREAS, the City of Modesto (City) owns and operates approximately 6.5 miles of 60-inch diameter pipeline that transports primary effluent from the Sutter Avenue Primary Water Quality Control (WQC) Plant (Primary Plant) to the Jennings Road Secondary WQC Plant (Secondary Plant), and

WHEREAS, the existing Primary Outfall pipeline was constructed in 1969, and

WHEREAS, the condition of the Primary Outfall pipe has deteriorated over its operational life due to internal hydrogen sulfide-induced corrosion that has resulted in pipe repairs, and

WHEREAS, although approximately 7,000 feet of the Primary Outfall has been rehabilitated in two locations along the alignment, subsequent spot inspections by the City have identified a continuing deterioration in the Primary Outfall and the need for corrective action, and

WHEREAS, on March 13, 2007, the City Council approved, by Resolution No. 2007-178, certifying the Final Master Environmental Impact Report for the City of Modesto Wastewater Master Plan Update, which identified that the Primary Outfall has insufficient capacity under its current operating condition for projected Peak Dry Weather Flow, and recommended changing the operating condition from a gravity system to a continuous force main, and

WHEREAS, this project will not only rehabilitate the Primary Outfall, but will also increase its hydraulic capacity, improve reliability, and reduce future maintenance, and

WHEREAS, the City Council, on June 12, 2007, by Resolution No. 2007-350, approved an Agreement with Brown and Caldwell to complete the 35% design effort and a Preliminary Design Report (PDR) for the Primary Outfall Rehabilitation Project, and

WHEREAS, the PDR summarizes existing facilities, details proposed project elements and rehabilitation method descriptions, presents preliminary engineering drawings, and provides estimated cost and schedule projections for project implementation, and

WHEREAS, the PDR has been completed and will serve as the basis of final design for the Primary Outfall Rehabilitation project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Preliminary Design Report for the Primary Outfall Rehabilitation Project, dated March 2008, as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2008, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-164

A RESOLUTION ACCEPTING THE PRELIMINARY DESIGN REPORT FOR EMERALD TRUNK REHABILITATION PROJECT, DATED MARCH 2008, AS COMPLETE.

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 reinforced concrete pipe, 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, 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, on June 12, 2007, the City Council, by Resolution No. 2007-349, approved an Agreement with Brown and Caldwell to complete the 35% design effort and a Preliminary Design Report (PDR) for the Emerald Trunk Rehabilitation Project, and

WHEREAS, the PDR summarizes existing facilities, details proposed project elements and rehabilitation method descriptions, presents preliminary engineering drawings, and provides estimated cost and schedule projections for project implementation, and

WHEREAS, to limit project impacts to Emerald Avenue, the PDR considered rehabilitation methods that utilize trenchless technologies such as slip lining or cured-in-place pipe (CIPP), and

WHEREAS, the PDR has been completed and will serve as the basis for the final design of the Emerald Trunk Rehabilitation Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Preliminary Design Report for Emerald Trunk Rehabilitation Project, dated March 2008, as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2008, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-164A

A RESOLUTION GRANTING IN PART AND DENYING IN PART THE APPEAL OF RENEE ELLIS REGARDING SPARKLES CAR WASH LOCATED AT 3931 COFFEE ROAD FOR MODIFICATION OF CAPITAL FACILITIES FEES

WHEREAS, on June 24, 2003, the Modesto City Council adopted Resolution No. 2003-309 updating its Capital Facilities Fee ("CFF") program for the establishment and collection of fees for future capital facilities, and

WHEREAS Resolution No. 2003-309 defines the categories of uses and rates on which the fees will be collected, and

WHEREAS, the categories identified in the CFF program include a broad range of uses based on square footage to ensure that each use pays its share of the CFF based on the anticipated impacts of the development, and

WHEREAS, the current City practice is to charge self-service car washes the retail rate based on square footage as a result of the comprehensive study undertaken to enact the CFF program which went into effect in September 2003, and

WHEREAS, on October 20, 2007, Renee Ellis (hereinafter Appellant) requested an appeal of her CFF determination for Sparkles Car Wash, located at 3931 Coffee Road, and

WHEREAS, said appeal was set for a public hearing before the City Council at its regular meeting place in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, on March 11, 2008, at 5:30 p.m., at which date and time said duly noticed public hearing was held and 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 makes the following findings:

1. The City Council has heard the appeal of Appellant and considered both the written and oral evidence presented at the hearing. The City Council finds that self-service car washes fall within the normal range for retail uses as outlined in the CFF program based on the afternoon peak hour rates per 1,000 sq. feet for the range of retail uses as denoted in the Institute of Transportation Manual and that staff appropriately categorized the use. Therefore, Appellant's portion of the appeal that staff incorrectly placed self-service car washes within the normal range for retail uses is denied.

2. Council further finds that there appeared to be contradictory information on the calculation of said fee provided in the written correspondence from the City that was provided to the Appellant. This contradictory information led to some confusion as to the appropriate fee calculation to be applied, and as a result the City Council finds the interest of justice and equity warrant granting the Appellant's appeal in part by reducing the fee to be assessed to the applicant from $79,693.02 to $46,118.35. A refund of $33,574.67 shall be issued to the Appellant.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby grants in part and denies in part the appeal of Renee Ellis regarding modification of Capital Facilities Fees for self-service car washes for the reason set forth above. A refund of $33,574.67 shall be issued to Appellant.

The foregoing resolution, as amended by the Council, was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of March, 2008, 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:	Keating, Lopez, O'Bryant, Olsen
NOES:	Councilmembers:	Hawn, Marsh
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-165

A RESOLUTION AMENDING RESOLUTION NO. 2008-047 TITLED, "A RESOLUTION APPROVING THE FINAL MAP OF 1000 BRIGHTON FOR CONDOMINIUM PURPOSES IN THE PLANNED DEVELOPED ZONE, P-D(264), AREA OF THE CITY OF MODESTO AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE A SUBDIVISION AGREEMENT WITH MSB BRIGHTON, LLC" TO INCLUDE LANGUAGE APPROVING THE ABANDONMENT OF A 6-FOOT CITY OF MODESTO PLANTING EASEMENT ALONG LOTS 15, 16 AND 17 PER THE FINAL MAP

WHEREAS, on January 22, 2008, the City Council of the City of Modesto approved Resolution No. 2008-047 titled, "A Resolution Approving the Final Map of 1000 Brighton for Condominium purposes in the Planned Developed Zone, P-D(264), Area of the City of Modesto and Authorizing the Interim City Manager, or his Designee, to Execute a Subdivision Agreement with MSB Brighton, LLC", and

WHEREAS, Resolution No. 2008-047, approved the Final Map of 1000 Brighton, and

WHEREAS, the City Clerk was unable to record the Final Map because Resolution No. 2008-047 did not include language approving the abandonment of a 6-foot City of Modesto planting easement along Lots 15, 16 and 17 per the Final Map,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending Resolution No. 2008-047 titled, "A Resolution Approving the Final Map of 1000 Brighton for Condominium purposes in the Planned Developed Zone, P-D(264), Area of the City of Modesto and Authorizing the Interim City Manager, or his Designee, to Execute a Subdivision Agreement with MSB Brighton, LLC", to include language approving the abandonment of a 6-foot City of Modesto planting easement along Lots 15, 16 and 17 per the Final Map.

BE IT FURTHER RESOLVED, that the Acting City Clerk is hereby authorized to record the Final Map for 1000 Brighton with the Stanislaus County Clerk Recorder.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-166

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.

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 1st day of April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-167

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 1st day of April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-168

A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO

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

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

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

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

SECTION I. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the job specification for the classification of City Engineer. The job specification for this classification is being amended to reflect the transfer of land development functions from Public Works to Community and Economic Development. Specifically the revision is to update the definition, supervision received and exercised and essential functions to more accurately reflect the current needs of the City. The job specification for the classification of City Engineer, 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 April 1, 2008.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Essential Functions: (Continued)

Manages the review and oversees the inspection of public works improvements constructed by private developers.

Confers with developers and others to resolve issues relating to public improvement requirements for subdivisions

Directs the preparation and administration of the division's budget.

Assists with the preparation of operating and capital improvement budgets and control of expenditures.

Directs the selection, supervision and work evaluation for division staff and provides for their training and professional development.

Participates in recommending the appointment of personnel; provides or coordinates staff training; works with employees to correct deficiencies; implements discipline procedures; establishes performance standards and evaluates the performance of subordinate personnel.

Assists in planning, directing, supervising, and coordinating departmental and divisional operations; assigns work activities, projects and programs; monitors work flow; reviews and evaluates work products, methods and procedures.

Coordinates the work of the division with that of other divisions.

Monitors developments related to development engineering, evaluates their impact on City operations and implements policy and procedure improvements.

Ensures adherence to codes, applicable laws, regulations and guidelines relating to engineering activities.

Appears before City Council, Boards, Commissions, Committees, and numerous civic organizations representing the Department.

Coordinates Department activities with those of other departments and outside agencies and organizations; prepares, reviews, and presents staff reports and other necessary correspondence.

Assists in orderly management of land development and growth of the City and its infrastructure requirements.

Maintains regular contact with consulting engineers, consulting project managers, construction project engineers, City, County, State, and Federal agencies, professional and technical groups, and the general public regarding Community and Economic Development Department activities and services.

CITY OF MODESTO APRIL 2008
No. 2026

CITY ENGINEER

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

DEFINITION

To assist the Community and Economic Development Director, in the planning, organizing, coordinating and direction of the engineering programs; to coordinate the engineering aspects of land development activities; and to provide highly complex technical staff assistance to the City Manager and other department directors.

SUPERVISION RECEIVED AND EXERCISED

Receives administrative direction from the Community and Economic Development Director.

Exercises direct supervision over professional, technical and clerical staff.

Exercises responsible charge of assigned engineering, and related functions.

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

Essential Functions:

Performs the responsibilities of the City Engineer.

Approves and signs all tentative and final subdivision maps.

Plans, organizes, coordinates and directs through subordinate supervisors the work of the development services division.

Coordinates and assists subordinate supervisors in evaluating development proposals; responds and comments on impacts and mitigation of project impacts and communicates staff's comments to other agencies, departments, developers, Planning Commission, Boards, and/or City Council as necessary.

Develops and maintains City standard specifications.

Develops and directs the implementation of goals, objectives, policies, procedures and work standards for the division.

Develops and implements management systems, procedures, and standards for program evaluation.

Exercise sound, independent judgment within general policy guidelines.

Plan, organize, direct, and coordinate a variety of functional specialties with overlapping work areas.

Analyze complex technical and administrative problems, evaluate alternatives, and implement creative but sound alternatives.

Prepare and present clear, concise, competent reports, correspondence, and other materials both orally and in writing.

Coordinate the activities of a number of sections within the Department.

Assist with the preparation of divisional operating and capital improvement budgets and control budget expenditures.

Manage performance of a variety of technical and engineering research and prepare reports of findings.

Effectively manage assigned areas of the departmental program.

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

Effectively utilize personal computers, standard office software and specialized engineering and project management software.

Willingness and ability to work extended hours as required.

Experience and Training Guidelines

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

Experience

Five years of increasingly responsible professional civil engineering experience, including at least two years in a supervisory or administrative capacity in public works design, project management work, and development services..

Education

Equivalent to a Bachelor's Degree from an accredited college or university with major coursework in civil engineering or a related field.

License or Certificates

Possession of a valid California Professional Engineer Certificate and/or a Certificate of Registration as a Civil Engineer issued by the California State Board of Registration for Professional Engineers is required. If licensed in

Essential Functions: (Continued)

Prepares a variety of correspondence general special reports.

Ensures adherence to codes, regulations, and guidelines related to engineering and construction activities.

Marginal Functions:

Performs related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles and practices of civil engineering as applied to the field of municipal public works, including planning, development, design, and construction.

Theories, principles, techniques and equipment used in construction.

Federal and State regulations, rules, and requirements.

Legal guidelines for public works engineering activities.

Technical, legal, and financial problems involved in the conduct of a municipal public works program.

Principles and practices of civil engineering, including project management, design, contract administration, and construction management; reports and recommendations relating to proposed public works projects.

Procedures, materials, equipment, and methods used in all areas of public works activities.

Principles and practices of budget development, administration, and expenditure control.

Administrative principles and methods, including goal setting, program development and implementation, and employee supervision.

Ability to

Manage, direct and continually improve the development services program.

Demonstrate leadership and provide customer service.

Select, motivate and evaluate staff and provide for their training and professional development.

Develop, interpret, and implement goals, objectives, policies, procedures, work standards and internal controls.

another state, candidates will have six (6) months to obtain California Registration.

Possession of, or ability to obtain, an appropriate, valid California Drivers License.

WORKING CONDITIONS

Environmental Conditions:

Work is performed mostly in an office setting. Some outdoor work is required in the inspection of various land use developments, construction sites, or public works facilities.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for standing, walking or sitting for prolonged periods of time; traveling to and from sites and attending meetings. Must be physically capable of moving about on construction work sites and under adverse field conditions.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-169

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2007-384 TO REVISE THE CLASS RANGE TABLE FOR UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES

WHEREAS, the City 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,

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," attached to Resolution No. 2007-384, is hereby amended as shown on the amended **Exhibit** "A" entitled, "City of Modesto Class Range Table General Non-Sworn Classes Effective April 1, 2008," which is **attached** hereto and made a part hereof as though set forth in full herein. Said amended **Exhibit** "A" deletes the City Engineer from salary range 2452.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after April 1, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on 1st day of April, 2008, 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, March, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

RANGE	TITLE
2437	Deputy City Attorney I
2438	
2439	Employee Relations Specialist
2440	
2441	Deputy City Attorney II
2442	
2443	Senior Deputy City Attorney I
2444	Risk Manager
2445	
2446	
2447	
2448	
2449	Senior Deputy City Attorney II
2450	
2451	
2452	Deputy Chief Information Officer Deputy Director – Cultural and Enterprise Services Deputy Director of Finance Deputy Director of Personnel Deputy Director of Public Works – Engineering Deputy Director of Public Works – Operations Deputy Director – Recreation and Neighborhoods
2453	
2454	

CITY OF MODESTO
CLASS RANGE TABLE
UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective **April 1, 2008**

RANGE	TITLE
2419	
2420	Executive Secretary – City Manager's Office
2421	
2422	Office Supervisor - Personnel
2423	
2424	
2425	Executive Assistant Paralegal
2426	
2427	Legal Services Administrator
2428	
2429	
2430	
2431	Equal Opportunity Analyst Equal Opportunity Officer
2432	
2433	
2434	Senior Auditor
2435	
2436	

RANGE	TITLE
2455	Assistant City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-170

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2007-447 TO REVISE THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2007-447, which approved the Class Range Table for Represented Management and Confidential Non-Sworn Classes,

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2007-447. Exhibit "A" entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective July 24, 2007", attached to Resolution No. 2007-447, 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 April 1, 2008," which is attached hereto and made a part hereof as though set forth in full herein. Said amended **Exhibit** "A" adds the classification of City Engineer at Salary Range 452 to the Class Range Table.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after April 1, 2008.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 1st Day of April, 2008, 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, Acting 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 April 1, 2008

RANGE	TITLE
403	
407	Administrative Clerk II (Confidential) Administrative Office Assistant II (Confidential)
408	
409	
410	
411	Administrative Office Assistant III (Confidential) Police Clerk II (Confidential)
412	
413	Administrative Technician (Confidential)
414	
415	Administrative Services Technician I (Confidential) Senior Administrative Office Assistant (Confidential) Secretary
416	
417	
418	Legal Secretary Systems Technician I
419	Administrative Services Technician II (Confidential) Public Information Technician (Confidential) Workers' Compensation Claims Assistant
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (Represented) Legal Services Technician

RANGE	TITLE
421	
422	Office Supervisor Utility Dispatch Supervisor Workers' Compensation Claims Examiner I Systems Technician II
423	Custodian Supervisor Parking Services Supervisor
424	Assistant Planner Buyer Police Facilities Coordinator
425	Administrative Analyst I
426	Police Civilian Supervisor Stores Manager Supervising Animal Control Officer Systems Technician III
427	Assistant City Clerk/Auditor Workers' Compensation Claims Examiner II
428	Accountant II (Represented) Senior Buyer
429	
430	Associate Planner Community Services Supervisor Events Coordinator Senior Crime Analyst Software Analyst I
431	Administrative Analyst II Assistant Risk Manager Budget Analyst I Personnel Analyst Recycling Program Coordinator

RANGE	TITLE
432	Communications Specialist
	Compost Facility Supervisor
	Customer Services Supervisor
	Junior Civil Engineer
	Junior Traffic Engineer
	Neighborhood Preservation Supervisor
	Operations and Maintenance Supervisor
	Parks Project Coordinator
	Recreation Supervisor II
	Senior Accountant
	Water Quality Control Maintenance Supervisor
433	Organizational Development Specialist
434	Budget Analyst II
	Environmental Laboratory Supervisor
	Operations Supervisor
	Regulatory Compliance Supervisor
	SCADA Supervisor
	Senior Community Development Program Specialist
	Senior Housing Rehabilitation Specialist
	Software Analyst II
	Supervising Accountant
	Systems Engineer I
435	Business Analyst
	Cultural Services Manager
	Emergency Medical Services Coordinator
	Integrated Waste Specialist
	Management Analyst
	Rate and Fee Analyst
	Senior Personnel Analyst
	Weed and Seed Program Coordinator
436	Assistant Civil Engineer
	Assistant Traffic Engineer
	Electrical Supervisor
	Senior Planner
437	

RANGE	TITLE
438	Budget Officer
	Events Supervisor
	Housing Program Supervisor
	Land Surveyor
	Property Agent
	Public Safety Business Services Analyst
	Senior Business Analyst
	Software Analyst III
	Systems Engineer II
439	Administrative Services Officer
	Community Facilities Districts Administrative Officer
440	Transportation Planner
	Water Quality Control Operations Supervisor
441	Airport Manager
	Building Maintenance Superintendent
	Fleet Manager
	Housing and Urban Development Manager
	Parks Operations Superintendent
	Parks Planning and Development Manager
	Purchasing Manager
	Recreation Program Manager
	Streets Superintendent
	Urban Forestry Superintendent
	Wastewater Collections Superintendent
442	Customer Services Division Manager
	Manager of Budget and Financial Analysis
	Software Analyst IV
	Supervising Construction Inspector
	Systems Engineer III
443	Associate Civil Engineer
	Associate Traffic Engineer
444	Principal Planner
	Solid Waste Program Manager
	Supervising Building Inspector
	Transit Manager

RANGE	TITLE
445	Accounting Division Manager
446	Deputy Chief Building Official Information Technology Unit Manager Wastewater Treatment Plant Manager
447	Business Development Division Manager Planning Division Manager Water Superintendent
448	
449	
450	Chief Building Official Senior Civil Engineer Traffic Engineer
451	
452	**City Engineer**
453	
455	

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-171

A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE FURNISHING OF PLAN CHECK SERVICES FOR THE COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT, BUILDING SAFETY DIVISION TO THE FOLLOWING COMPANIES AS "PRIMARY" CONTRACTORS: BUREAU VERITAS NORTH AMERICA, INC., CSG CONSULTANTS, INC., SCOTT FAZEKAS & ASSOCIATES, INC., AND NAFFA INTERNATIONAL, INC. FOR A THREE-YEAR PROFESSIONAL SERVICES AGREEMENT, WITH OPTIONS FOR TWO (2), ONE-YEAR REVEWALS, NOT TO EXCEED $100,000 EACH YEAR, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACTS

WHEREAS, staffing shortages exist in the plan review area, and the volume of construction plans submitted for plan check and review has grown steadily over the past several years, and

WHEREAS, the target time set for plan review is 10 working days for tenant improvement plans and residential plans and 15 working days for commercial plans, and

WHEREAS, on September 4, 2007, by Resolution No. 2007-514, the City Council authorized the Community and Economic Development Department to formally solicit Request for Proposals (RFP's) for the furnishing of Plan Check Services for the City of Modesto, for a three (3) year agreement with two (2) one-year extension options, and

WHEREAS, the Community and Economic Development Department solicited Request for Proposal No. RFP-Plan Check for the furnishing of Plan Check Services for the City of Modesto to eighteen (18) prospective proposers, posted the proposal on the City's web site, and formally advertised as required by law, and

WHEREAS, on October 5, 2007, RFP's were formally opened in the City Clerk's office. Of the eighteen (18) prospective proposers solicited, fifteen (15) companies responded, and

WHEREAS, on December 3, 2007, December 10, 2007, December 11, 2007 and January 3, 2008 interviews were held for the top candidates to clarify any questions committee members had regarding their proposal submittals, and

WHEREAS, immediately following the interviews the committee members had an open discussion of the candidates and then came to a consensus for award recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Community & Economic Development Department to award proposals and contracts for the furnishing of Plan Check Services to the following companies: Bureau Veritas North America, Inc.; CSG Consultants, Inc.; Scott Fazekas & Associates, Inc.; and Naffa International, Inc.; for a three-year professional services agreement, with options for two (2) one-year renewals, not to exceed $100,000 each year.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the Interim City Manager, or his designee, to execute the contracts.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April 2008, 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, Acting City Clerk

(SEAL)
APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-172

A RESOLUTION ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR FEES, COSTS AND EXPENSES ASSOCIATED WITH THE ABATEMENT OF A SUBSTANDARD CONDITION AS PROVIDED BY THE HOUSING CODE OF THE CITY OF MODESTO

WHEREAS, by Ordinance No. 3291-C.S., the City Council adopted Chapter 9 of Title 9 of the Modesto Municipal Code ("MMC"), together with the specified provisions of the State Housing Law, California Code of Regulations and Uniform Housing Code to create the Housing Code for the City of Modesto, and

WHEREAS, on March 6, 2007, the City Council adopted Resolution No. 2007-163 approving Housing Code fees of $950.00 for a Notice and Order, $1,000.00 for an Appeal, and $125.00 for Closing Costs, which fees became effective May 5, 2007 (60 days after adoption), and

WHEREAS, the affected property owners had the opportunity to pay or appeal the fees, costs and expenses as provided in MMC Articles 13 and 16 of Chapter 9 of Title 9, and

WHEREAS, the fees, costs and expenses associated with the abatement of a public nuisance, if left unpaid following the completion of all abatement work, may constitute a special assessment against a parcel of land owned by the responsible party, per MMC Section 9-9.1605, and

WHEREAS, the charges against the real property are for actual work performed and are for the purpose of recovering costs associated with the Notice and Order, Board Up, Demolition, Clean Up, Confirmations of Cost Hearing, Appeal, Interest, Closing

Costs and/or related conditions or violations which create a public nuisance pursuant to the MMC, and

WHEREAS, the City Council has determined and certified that the charges are either exempt from or in compliance with all the provisions of Proposition 218 which was passed by the voters in November 1996, and

WHEREAS, the City Council has further determined the charges are in compliance with all laws pertaining to the levy of such charges,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby orders the levy and collection of assessments for fees, costs and expenses associated with the abatement of a substandard condition, as provided by the Housing Code of the City of Modesto.

BE IT FURTHER RESOLVED that the Council hereby authorizes that a certified copy of this resolution, together with **attached** documentation, shall be delivered to the Auditor-Controller of the County of Stanislaus for placement of such assessments on the 2007-08 County tax roll and in each subsequent fiscal year in which charges may validly be levied.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA WOOD, City Attorney

BEAT HEALTH/SMART ASSESSMENTS FOR APRIL 1, 2008

	TAX CODE	APN	ASSESSMENT	PROPERTY OWNER
1	50050	101-006-070-000	$2,311.83	Victor Pamiroyan, Alliance Bankcorp, New Century Mortgague
2	50050	035-042-005-101	$1,080.98	Betty D. Sandvig Life Estate, Brian Davis
3	50050	106-018-006	$6,542.08	Verlon Starkey
4	50050	035-042-077-000	$694.01	Michael D. Villegas, AMERICA'S WHOLESALE LENDER
5	50050	107-008-023-000	$1,001.86	Washington Mutual Bank
6	50050	112-015-047-000	$1,577.52	Ravinda Prasad, Home Eq Servicing Corporation, Wells Fargo Bank
7	50050	067-055-052-000	$1,538.67	James Edward Dickerson Trust (Robin Thielker)
8	50050	035-042-074	$8,793.16	Laroy Fitch, Long Beach Mortgage
9	50050	031-042-033-000	$26,333.65	Patrick A. Tittle, Aegis Wholesale Corp.
10	50050	005-049-057-000	$3,200.00	Kerry L. Machado Trust
11	50050	065-027-015-000	$10,985.20	Joshua Eric Bradshaw, New Century Mortgage Corp.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-173

A RESOLUTION ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR FEES, COSTS AND EXPENSES ASSOCIATED WITH THE ABATEMENT OF A PUBLIC NUISANCE AS PROVIDED BY THE DANGEROUS BUILDING CODE OF THE CITY OF MODESTO

WHEREAS, by Ordinance No. 3147-C.S., the City Council adopted Chapter 8 of Title 9 of the Modesto Municipal Code ("MMC") as amended, deleted and added to the 1997 Edition of the Uniform Code for the Abatement of Dangerous Buildings thereby referenced as the Dangerous Buildings Code of the City of Modesto, and

WHEREAS, on March 6, 2007, the City Council, by Resolution No. 2007-163, approved Dangerous Building Code fees of $950.00 for a Notice and Order, $1,000.00 for an Appeal, and $125.00 for Closing Costs. These fees became effective May 5, 2007 (60 days after adoption), and

WHEREAS, the affected property owners were thereby required to pay or appeal the fees, costs and expenses associated with the abatement of a public nuisance as provided in Section 501 of Chapter 5 and Chapter 9 of the Dangerous Buildings Code of the City of Modesto, and

WHEREAS these fees, costs and expenses, if left unpaid following the completion of all abatement work, may constitute a special assessment against a parcel of land owned by the responsible party, pursuant to MMC 9-8.15, Section 801.2 and 1-6.702(b), and

WHEREAS, the charges against the affected real property are for actual work performed and are for the purpose of recovering costs associated with the Notice and Order, Board Up, Demolition, Clean Up, Confirmation of Costs Hearing, Appeal,

Interest, Closing Costs and/or related conditions or violations which cause a Dangerous Building or create a Public Nuisance pursuant to the Modesto Municipal Code, and

WHEREAS, the City Council has determined and certified that the charges are either exempt from or in compliance with all the provisions of Proposition 218 which was passed by the voters in November 1996, and

WHEREAS, the City Council has further determined the charges are in compliance with all laws pertaining to the levy of such charges,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby orders the levy and collection of assessments for fees, costs and expenses associated with the abatement of a public nuisance, as provided by the Dangerous Building Code of the City of Modesto.

BE IT FIRTHER RESOLVED that the Council hereby authorizes that a certified copy of this resolution, together with **attached** documentation, shall be delivered to the Auditor-Controller of the County of Stanislaus for placement of such assessments on the 2007-08 County tax roll and in each subsequent fiscal year in which charges may validly be levied.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA WOOD, City Attorney

BEAT HEALTH/SMART ASSESSMENTS FOR APRIL 1, 2008

	TAX CODE	APN	ASSESSMENT	PROPERTY OWNER
1	50050	101-006-070-000	$2,311.83	Victor Pamiroyan, Alliance Bankcorp, New Century Mortgague
2	50050	035-042-005-101	$1,080.98	Betty D. Sandvig Life Estate, Brian Davis
3	50050	106-018-006	$6,542.08	Verlon Starkey
4	50050	035-042-077-000	$694.01	Michael D. Villegas, AMERICA'S WHOLESALE LENDER
5	50050	107-008-023-000	$1,001.86	Washington Mutual Bank
6	50050	112-015-047-000	$1,577.52	Ravinda Prasad, Home Eq Servicing Corporation, Wells Fargo Bank
7	50050	067-055-052-000	$1,538.67	James Edward Dickerson Trust (Robin Thielker)
8	50050	035-042-074	$8,793.16	Laroy Fitch, Long Beach Mortgage
9	50050	031-042-033-000	$26,333.65	Patrick A. Tittle, Aegis Wholesale Corp.
10	50050	005-049-057-000	$3,200.00	Kerry L. Machado Trust
11	50050	065-027-015-000	$10,985.20	Joshua Eric Bradshaw, New Century Mortgage Corp.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-174

A RESOLUTION ORDERING THE LEVY AND COLLECTION OF ASSESSMENTS FOR FEES, COSTS AND EXPENSES ASSOCIATED WITH THE ABATEMENT OR SUMMARY ABATEMENT OF A PUBLIC NUISANCE AS PROVIDED BYCHAPTER 6 OF TITLE 1 OF THE MODESTO MUNICIPAL CODE

WHEREAS, by Ordinance No. 3102-C.S., the City Council adopted Chapter 6 of Title 1 of the Modesto Municipal Code ("MMC"), and

WHEREAS, the affected property owners had the opportunity to pay or appeal the fees, costs and expenses associated with the abatement of a public nuisance as provided in MMC Sections 1-6.502, 1-6.603, 1-6.604, 1-6.701 and 1-6.702, and

WHEREAS these fees, costs and expenses, if left unpaid following the completion of all abatement work, may constitute a special assessment against a parcel of land owned by the responsible party, per MMC Section 1-6.702(b), and

WHEREAS, the charges against the affected real property are for actual work performed and are for the purpose of recovering costs, fees and expenses associated with the Notice and Order, Board Up, Demolition, Clean Up, Confirmations of Cost Hearing, Appeal Hearing, Interest, Closing Costs and/or related to the abatement of a Public Nuisance as required by Chapter 6 of Title 1 of the MMC, and

WHEREAS, the City Council has determined and certified that the charges are either exempt from or in compliance with all the provisions of Proposition 218 which was passed by the voters in November 1996, and

WHEREAS, the City Council has further determined the charges are in compliance with all laws pertaining to the levy of such charges,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby orders the levy and collection of assessments for fees, costs and expenses

associated with the abatement or summary abatement of a public nuisance, as provided in Chapter 6 of Title 1 of the Modesto Municipal Code.

BE IT FURTHER RESOLVED that the Council hereby authorizes that a certified copy of this resolution, together with **attached** documentation, shall be delivered to the Auditor-Controller of the County of Stanislaus for placement of such assessments on the 2007-08 County tax roll and in each subsequent fiscal year in which charges may validly be levied.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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: _____
STEPHANIIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA WOOD, City Attorney

BEAT HEALTH/SMART ASSESSMENTS FOR APRIL 1, 2008

	TAX CODE	APN	ASSESSMENT	PROPERTY OWNER
1	50050	101-006-070-000	$2,311.83	Victor Pamiroyan, Alliance Bankcorp, New Century Mortgague
2	50050	035-042-005-101	$1,080.98	Betty D. Sandvig Life Estate, Brian Davis
3	50050	106-018-006	$6,542.08	Verlon Starkey
4	50050	035-042-077-000	$694.01	Michael D. Villegas, AMERICA'S WHOLESALE LENDER
5	50050	107-008-023-000	$1,001.86	Washington Mutual Bank
6	50050	112-015-047-000	$1,577.52	Ravinda Prasad, Home Eq Servicing Corporation, Wells Fargo Bank
7	50050	067-055-052-000	$1,538.67	James Edward Dickerson Trust (Robin Thielker)
8	50050	035-042-074	$8,793.16	Laroy Fitch, Long Beach Mortgage
9	50050	031-042-033-000	$26,333.65	Patrick A. Tittle, Aegis Wholesale Corp.
10	50050	005-049-057-000	$3,200.00	Kerry L. Machado Trust
11	50050	065-027-015-000	$10,985.20	Joshua Eric Bradshaw, New Century Mortgage Corp.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-175

A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008ANNUAL 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 2007-2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2007-2008 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 1st day of April, 2008, 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, Acting City Clerk

(seal)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-176

A RESOLUTION APPROVING A SIXTY (60) DAY EXTENSION TO A SIX MONTH PROVISIONAL APPOINTMENT FOR NICHOLAS REGGIANI AS SOFTWARE ANALYST I (WEB SUPPORT)

WHEREAS, the Information Technology Department has a vacant Software Analyst I (Web Support) position, and

WHEREAS, Nicholas Reggiani was provisionally appointed as Software Analyst I (Web Support) on September 18, 2007, and

WHEREAS, the Information Technology Department desires to extend the provisional appointment of Nicholas Reggiani for sixty (60) days until a successful candidate can be hired in the capacity of Software Analyst I (Web Support), and

WHEREAS, Modesto Personnel Rule 7.5 (c) requires Council approval if a provisional appointment is to exceed the six-month period authorized by said rule, and

WHEREAS, staff is requesting that the City Council approve a sixty (60) day extension to this provisional appointment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a sixty (60) day extension to the six-month provisional appointment for Nicholas Reggiani to the position of Software Analyst I (Web Support) is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-177

A RESOLUTION APPROVING AN ADDITIONAL SIXTY (60) DAY EXTENSION TO A SIX MONTH PROVISIONAL APPOINTMENT FOR JEANETTE MAURER AS ADMINISTRATIVE ANALYST/TECHNOLOGY SOLUTIONS ANALYST

WHEREAS, the Information Technology Department has a vacant Administrative Analyst/Technology Solutions Analyst position, and

WHEREAS, Jeanette Maurer was provisionally appointed as Administrative Analyst/Technology Solutions Analyst on July 24, 2007, and

WHEREAS, unforeseen delays in the adoption of the Bryce wall-to-wall study have caused a delay in filling the vacant Technology Solutions Analyst position, and

WHEREAS, the City Council on January 8, 2008, by Resolution No 2008-028, approved a sixty (60) day extension to the six-month provisional appointment for Jeanette Maurer as Administrative Analyst/Technology Solutions Analyst, and

WHEREAS, the Information Technology Department desires an additional extension to the provisional appointment of Jeanette Maurer for another sixty (60) days until a successful candidate can be hired in the capacity of Administrative Analyst/Technology Solutions Analyst, and

WHEREAS, Modesto Personnel Rule 7.5 (c) requires Council approval if a provisional appointment is to exceed the six-month period authorized by said rule, and

WHEREAS, staff is requesting that the City Council approve an additional sixty (60) day extension to this provisional appointment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an additional sixty (60) day extension to the six-month

provisional appointment of Jeanette Maurer to the position of Administrative Analyst/Technology Solutions Analyst.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

RESCINDED
August 12, 2008
JUN 24 2008
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2007-729
2008-484

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-178

A RESOLUTION APPROVING ADJUSTMENTS TO THE MAXIMUM RATE SCHEDULE FOR CITY RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL SOLID WASTE COLLECTION SERVICES, AND RESCINDING RESOLUTION NO. 2007-729

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, the Solid Waste Advisory Committee met on July 26, 2007, and supported the recommendation to approve adjustments to the maximum rate schedule for City residential, commercial and industrial solid waste collection services, including the recommendation for quarterly fuel adjustments to the maximum rates, and

RESCINDED

WHEREAS, a report dated March 17, 2008, 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 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 retroactive to April 1, 2008, 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. 2007-729 is hereby rescinded, effective April 1, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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, Acting 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
- Blue bag recycling
- Countertop container for kitchen scraps
- Drop-off of old TV and computer tubes
- Two bulky item collections per year by appointment

Standard container service customers may opt for smaller containers; however, maximum rates apply. Containers must be placed in a location set forth in Section 5-5.11 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 **$20.46 per month** regardless of size of container. **A fuel component of $1.10 per month is included in the maximum rate for the quarter beginning April 1, 2008 and ending June 30, 2008**. The fuel component may be adjusted quarterly.
   b. The maximum rate for each additional garbage container shall be **$14.76 per month**.

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 **$17.39 per month. A fuel component of $1.10 per month is included in the maximum rate for the quarter beginning April 1, 2008 and ending June 30, 2008.** The fuel component may be adjusted quarterly.
   b. The maximum rate for each additional garbage container shall be **$14.76 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
Number of Collections Per Week

Container Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
1 CY	$ 35.76	$ 61.03	$ 86.27	$ 111.53	$ 136.79	$ 162.05
2 CY	$ 61.03	$ 111.53	$ 162.05	$ 212.56	$ 263.06	$ 313.57
3 CY	$ 86.27	$ 162.05	$ 237.81	$ 313.57	$ 389.35	$ 465.11
4 CY	$ 111.53	$ 212.56	$ 313.57	$ 414.60	$ 515.62	$ 616.65
5 CY	$ 136.79	$ 263.06	$ 389.35	$ 515.62	$ 644.91	$ 768.18
6 CY	$ 162.05	$ 313.57	$ 465.11	$ 616.65	$ 768.18	$ 919.72

* A detachable container rental rate of $10.00 per month is included in the above schedule.

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 $0.22 per cubic yard ($0.95) per month for a 1 cubic yard container collected once a week) is included in the maximum rate for the quarter beginning April 1, 2008 and ending June 30, 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.

COMPACTORS
Maximum Monthly Rates

Front Loader Type:

Compactor Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
3 CY	$152.12	$304.24	$456.36	$608.48	$760.60	$912.72
4 CY	$201.72	$403.44	$605.16	$806.88	$1008.60	$1210.32
6CY	$304.24	$608.48	$912.22	$1216.96	$1521.20	$1825.44

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

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 per household recycling fee, a $0.05 per cubic yard commercial recycling fee, and a $0.25 per ton industrial recycling fee, payable to the City by the garbage company.
2. 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.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-179

A RESOLUTION APPROVING AN AGREEMENT WITH SIDLEY AUSTIN LLP FOR OUTSIDE LEGAL COUNSEL SERVICES RELATED TO THE WASTE-TO-ENERGY PROJECT AT A NOT-TO-EXCEED COST OF $100,000 PER YEAR IN ANY SINGLE CALENDAR YEAR WITH A COMBINED NOT-TO-EXCEED COST OF THIS MULTI-YEAR AGREEMENT OF $500,000, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the County of Stanislaus and the City of Modesto have a Service Agreement with Covanta Stanislaus Inc. for the operation of the Waste-to-Energy Facility, and

WHEREAS, this Agreement requires Covanta to operate the facility in conformance with State and Federal regulations, and

WHEREAS, the Agreement stipulates that the cost of operating and maintaining the facility be part of the Service Fee paid to Covanta, and

WHEREAS, the Service Agreement between Covanta Stanislaus, Inc., 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, to protect the interests of the City of Modesto and County communities, it will be important to have assistance from an outside legal firm familiar with the waste-to-energy industry to assist in the negotiation of an extension of the

Agreement or a new agreement, and to provide expert legal advice on other issues related to the facility, and

WHEREAS, at its December 13, 2007, meeting the Solid Waste-to-Energy Executive Committee concurred with staff's recommendation, and

WHEREAS, because of the complexity of the various contractual agreements related to the facility and its operations it would be a waste of JPA resources to use any other firm than Sidley Austin LLP due to the time and expense that would be incurred educating another firm in the project and Agreement details, and

WHEREAS, the Executive Committee therefore directed staff to proceed with the development of a new Agreement with Sidley Austin LLP, and to take the new Agreement to the Council and Board of Supervisors to authorize its execution, and

WHEREAS, County Purchasing has prepared a new Agreement, which has been reviewed and approved by County Counsel and the City Attorney's office, and

WHEREAS, the Agreement is for a term of five (5) years at a not-to-exceed cost of $100,000 per year in any single calendar year with a combined not-to-exceed cost of this multi-year Agreement of $500,000, and

WHEREAS, funds are budgeted annually in the Waste-to-Energy project budget for outside legal services, and there is no impact on the City General Fund of any services related to the Waste-to-Energy project, and

WHEREAS, in order to proceed the City Council and County Board of Supervisors must authorize the execution of this Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an Agreement with Sidley Austin LLP for outside legal

counsel services related to the Waste-to-Energy Project at a not-to-exceed cost of $100,000 per year in any single calendar year with a combined not-to-exceed cost of this multi-year Agreement of $500,000.

BE IT FURTHER RESOLVED that the Interim 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 April, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-180

A RESOLUTION ACCEPTING THE MAZE & ASSOCIATES AUDIT REPORTS OF THE FINANCING AGENCY AND THE RESOURCE RECOVERY ACCOUNT FOR THE TWO-YEAR AUDIT PERIOD BEGINNING JULY 1, 2005 AND ENDING JUNE 30, 2007

WHEREAS, the County of Stanislaus and the City of Modesto have a Service Agreement with Covanta Stanislaus, Inc. for the operation of the Waste-to-Energy Facility, and

WHEREAS, the Joint Powers Agreement for the Stanislaus Waste-to-Energy Financing Agency requires that the financial records of the Agency be audited on a bi-annual basis, and

WHEREAS, the Financing Agency authorized staff to contract with Maze & Associates CPA's to conduct the financial audits of the Financing Agency and the Resource Recovery Account, and

WHEREAS, Maze & Associates completed the audit and issued the Independent Auditor's Opinion Reports dated December 13, 2007, a copy of which is **attached** hereto and incorporated herein by reference, and

WHEREAS, the audit was conducted in accordance with generally accepted auditing standards, which require the auditor to conduct the audit for the purpose of forming an opinion on the basic financial statements taken as a whole, and

WHEREAS, the opinion expressed by Maze & Associates on the audit reports for this two-year fiscal period ending June 30, 2007, is that the basic financial statements of the Financing Agency and the Resource Recovery Account present fairly in all material

respects their financial position and cash flows in conformity with generally accepted accounting standards,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Maze & Associates audit reports of the Financing Agency and the Resource Recovery Account for the two-year audit period beginning July 1, 2005 and ending June 30, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

STANISLAUS WASTE-TO-ENERGY FINANCING AGENCY AND STANISLAUS RESOURCE RECOVERY ACCOUNT WASTE-TO-ENERGY PRO FORMA AND BASIC FINANCIAL STATEMENTS FOR THE FISCAL YEARS ENDED JUNE 30, 2007 AND 2006

This Page Left Intentionally Blank

STANISLAUS WASTE-TO-ENERGY FINANCING
AGENCY AND
STANISLAUS RESOURCE RECOVERY
ACCOUNT WASTE-TO-ENERGY
PRO FORMA AND
BASIC FINANCIAL STATEMENTS
FOR THE FISCAL YEARS
ENDED JUNE 30, 2007 AND 2006

Table of Contents

Page

FINANCIAL SECTION – PRO FORMA FINANCIAL STATEMENTS

Management's Discussion and Analysis 1

Unaudited Pro Forma Financial Statements:

Statement of Net Assets - 2007 8

Statements of Revenues, Expenses and Changes in Net Assets - 2007 9

Statements of Cash Flows - 2007 10

Statements of Net Assets - 2006 11

Statement of Revenues, Expenses and Changes in Net Assets - 2006 12

Statements of Cash Flows - 2006 13

FINANCIAL SECTION – STANISLAUS WASTE-TO-ENERGY FINANCING AGENCY

Independent Auditor's Report on Basic Financial Statements 17

Basic Financial Statements:

Statement of Net Assets 18

Statement of Revenues, Expenses and Changes in Net Assets 19

Statement of Cash Flows 20

Notes to Basic Component Unit Financial Statements 21

STANISLAUS WASTE-TO-ENERGY FINANCING AGENCY AND STANISLAUS RESOURCE RECOVERY ACCOUNT WASTE-TO-ENERGY PRO FORMA AND BASIC FINANCIAL STATEMENTS FOR THE FISCAL YEARS ENDED JUNE 30, 2007 AND 2006

Table of Contents

FINANCIAL SECTION – STANISLAUS RESOURCE RECOVERY ACCOUNT

Independent Auditor's Report on Basic Financial Statements 29

Basic Financial Statements:

Statement of Net Assets 30

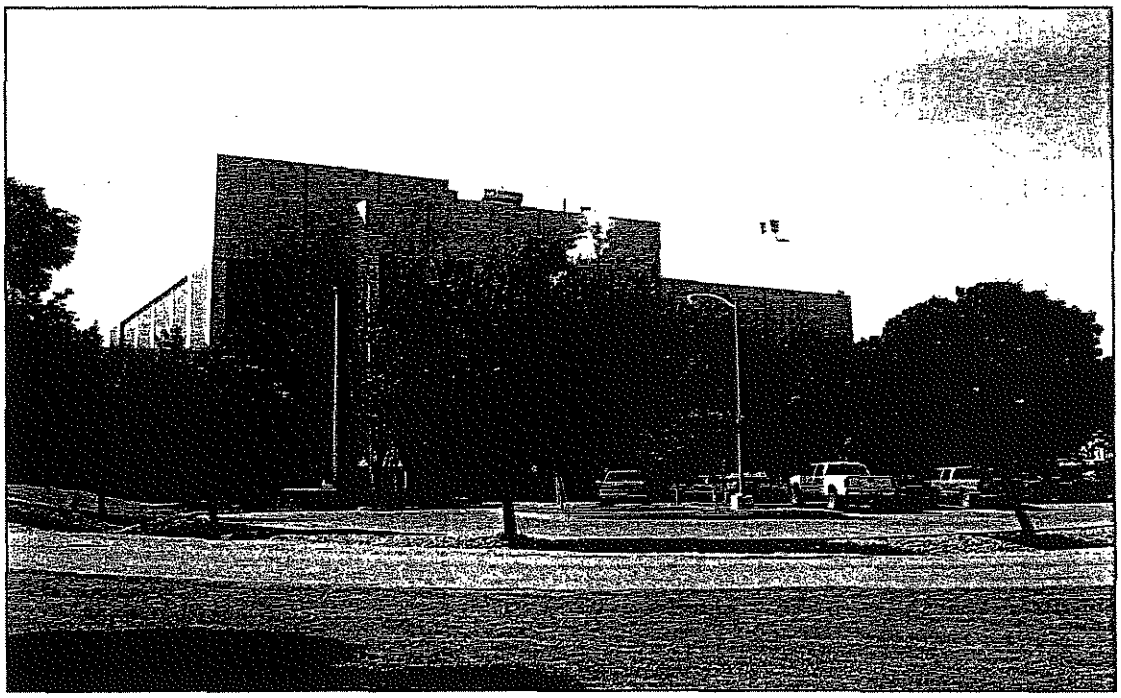
Statement of Revenues, Expenses and Changes in Net Assets 31

Statements of Cash Flows 32

Notes to Basic Component Unit Financial Statements 33

STANISLAUS WASTE-TO-ENERGY FINANCING AGENCY
AND
STANISLAUS RESOURCE RECOVERY ACCOUNT

Management Discussion and Analysis For the Two Fiscal Years Ended June 30, 2007



This discussion and analysis of the Stanislaus Waste-to-Energy Financing Agency and the Stanislaus Resource Recovery Account provides an overview of their financial activities and performance for the fiscal years ended June 30, 2006 and June 30, 2007.

The Stanislaus Waste-to-Energy Financing Agency was established pursuant to an Extended Joint Exercise of Power Agreement between the County of Stanislaus and the City of Modesto (the "Contracting Communities"), for the sole purpose of providing financing and refinancing of the Waste-to-Energy Facility (the "Facility") pictured above. The Stanislaus Waste-to-Energy Financing Agency is a public entity separate from the Contracting Communities. The Facility is a solid waste disposal, resource recovery and electric generating facility, developed by Covanta Stanislaus, Inc., an investor-owned corporation, which leases the Facility and operates it under a non-cancelable long-term lease and a service agreement (the "Service Agreement") with the Contracting Communities. Pursuant to the Service Agreement, the Contracting Communities established the Stanislaus Resource Recovery Account, into which they deposit disposal fees charged at the Facility. On behalf of the Contracting Communities, the County Auditor-Controller maintains the Stanislaus Resource Recovery Account in a separate Fund of the County of Stanislaus.

This discussion and analysis should be read in conjunction with the basic financial statements contained in the independent auditor's reports for the Stanislaus Waste-to-Energy Financing Agency and Stanislaus Resource Recovery Account and the unaudited pro forma financial statements. Separate audit reports, financial statements, and notes for the financial statements are provided. The unaudited pro forma Statements of Net Assets, and Statement of Revenues, Expenses and Changes in Net Assets, which combine the Stanislaus Waste-to-Energy Financing Agency and Stanislaus Resource Recovery Account on a pro forma basis only, are included to facilitate the management discussion and analysis of the portion of financial activities, which are the responsibility of the Contracting Communities.

The Project has three main revenue sources; disposal fees, electricity sales and interest earnings from investments. Any change in disposal fees or the Power Purchase Agreement between Covanta Stanislaus, Inc. (owner and operator facility) and PG & E must be approved by the Modesto City Council and the Stanislaus County Board of Supervisors. Staff and their financial consultants regularly conduct a detailed review of Project revenues and expenses to determine whether any changes in disposal fees are needed to ensure that debt service and Project expenses are fully funded.

FINANCIAL HIGHLIGHTS

Management believes the Project's financial position is stable. The following are key financial highlights:

- The assets exceeded liabilities at the close of the 2006-2007 fiscal year by $42.3 million (net assets). Of this amount, $11.9 million is restricted for debt service and $30.4 million is unrestricted.

- Revenues from sale of electricity to PG&E increased 25%, from $9.4 million in fiscal year ended June 30, 2006 to $11.8 million in fiscal year ended June 30, 2007, as a result of higher electricity price.

- Revenues from disposal fees increased 6%, from $6.0 million in fiscal year ended June 30, 2006 to $6.4 million in fiscal year ended June 30, 2007, as a result of higher total processed waste tonnage.

- Long-term debt decreased by $6.9 million in fiscal year 2006-2007.

OVERVIEW OF THE FINANCIAL STATEMENTS

The Stanislaus Waste-to-Energy Financing Agency and Stanislaus Resource Recovery Account utilize fund based financial statements to maintain control over resources that have been segregated for their specific purpose and objectives. Their financial statements include: 1) Statement of Net Assets, 2) Statement of Revenues, Expenses and Changes in Net Assets, 3) Statement of Cash Flows, and 4) Notes to the Financial Statements.

The statements of net assets include all of their respective assets and liabilities and provide information about the nature and amounts of investments in resources (assets) and obligations to creditors (liabilities). These statements also provide the basis for computing the rate of return, evaluating the capital structure, and assessing liquidity.

All revenues and expenses for the two years ended June 30, 2007 are accounted for in the statements of revenues, expenses, and changes in net assets. This statement measures the success of operations over that period and determines whether costs, through charges at established rates and other revenues, have been successfully recovered.

The final sets of required statements are the statements of cash flows. This statement reports cash receipts and payments, net changes in cash resulting from operations, investing, and financing activities, and the changes in cash during the reporting periods.

The notes to the financial statements provide required disclosures and other information that is essential to a full understanding of material data provided in the statements. The Notes present information about accounting polices, significant account balances and activities, material risks, obligations, commitments, contingencies, and subsequent events and prior period adjustments, if any.

The unaudited pro forma financial statements are presented solely to facilitate analysis and do not include notes or other information that might be required for a full understanding of the data presented. The unaudited pro forma financial statements include the amounts presented in the Stanislaus Waste-to-Energy Financing Agency and Stanislaus Resource Recovery Account's separate financial statements on a combined basis but do not include any financial information, results of operations or cash flows for Covanta Stanislaus, Inc.

FINANCIAL ANALYSIS

The following comparative condensed pro forma Project financial statements and other selected pro forma information provides key financial data and indicators for management, monitoring and planning.

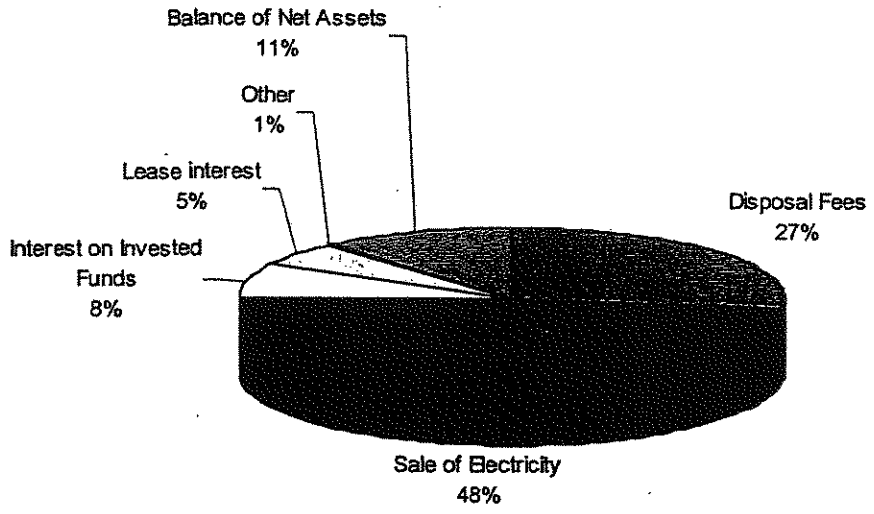
STANISLAUS WASTE-TO-ENERGY FINANCING AGENCY AND
STANISLAUS RESOURCE RECOVERY ACCOUNT
PROFORMA NET ASSETS
For the Years Ended June 30,2007 and June 30, 2005

	2007	2005	$ Change
Assets			
Cash and investments	$29,050,704	$37,429,331	$ (8,378,627)
Cash with fiscal agent	11,865,973	11,599,589	266,384
Accounts receivable	1,154,708	880,372	274,336
Interest receivable	191,912	135,271	56,641
Other receivable	64,377	19,169	45,208
Lease receivable from Covanta	28,190,000	40,845,000	(12,655,000)
Issuance Costs	318,339	573,013	(254,674)
Total Assets	70,836,013	91,481,745	(20,645,732)
Liabilities			
Current liabilities:			
Accounts payable	220,337	324	220,013
Interest payable	109,896	91,643	18,253
Certificates of participation	6,935,000	6,150,000	785,000
Current liabilities	7,265,233	6,241,967	1,023,266
Noncurrent liabilities:			
Certificates of participation	21,240,179	34,668,325	(13,428,146)
Total liabilities	28,505,412	40,910,292	(12,404,880)

Net assets			
Restricted for debt service	11,865,973	11,599,589	266,384
Unstricted	30,464,628	38,971,864	(8,507,236)
Total net assets	$42,330,601	$50,571,453	$ (8,240,852)

The Project's main assets consist of cash and investments, cash with fiscal agent, and lease receivable from Covanta Stanislaus, Inc. The Project's total expenses, including debt service, are paid from electrical revenues, disposal fees, and interest earnings. As shown above, the Project's pro forma net assets decreased by $8.2 million from the prior audit period ending June 30, 2005. The decrease represents the difference (deficit) between total revenues and total expenses of the Project for this two-year audit period, ending June 30, 2007. The deficit is in line with management's strategy of utilizing the balance of net assets, which was built-up as a result of higher disposal fees charged at the facility from 1995 through 2003, to fund that portion of total expense, which is not offset by total revenues. The Project has adequate cash to fulfill all current and long-term liabilities. Management also has the option to fund any deficit by increasing the disposal fees at the facility. Additional information regarding cash, investments, and the lease receivable is contained in the Notes to the Financial Statements of this report.

Funding Sources - Fiscal Year Ending June 30, 2007



LONG-TERM DEBT

On June 30, 2007, the Project's long-term debt outstanding was $28,175,179. The debt consists of Certificates of Participation, which mature in 2010.

Additional information on the Project's long-term debt liabilities can be found in the notes to the Financial Statements section of this report.

ECONOMIC FACTORS AND NEXT YEAR'S BUDGETS AND RATES

- The consulting firm of Kelling, Northcross & Nobriga (KNN) has been retained for financial advice. Management regularly works with KNN to ensure that financial projections of the Resource Recovery Account are realistic and reliable. Current projections through 2010 indicate that a disposal fee of $28 per ton, estimated electrical revenues, and the cash of the Stanislaus Resource Recovery Account are adequate to fund all expected expenses.

- The current disposal fee at the Facility is $28 per ton. This is a significant reduction from the disposal fees charged as recently as 2001, when the fee was $40.25 per ton. As a result of higher electricity revenues and lower certificate interest rates, the project has been able to implement a series of disposal fee reductions. At $28 per ton, the current fee is competitive with fees charged at other disposal sites in the region.

- In anticipation of a new operating contract, HDR Engineering, Inc. has been retained to provide an independent mechanical assessment of the Waste-to-Energy Facility prior to 2010.

- Solid waste processed by the Facility is expected to remain stable at approximately 250,000 tons for the fiscal year ending June 30, 2009.

- Electrical generation is expected to remain stable at approximately 130,000 megawatt-hours for the fiscal year ending June 30, 2009.

- The sale of electricity is pursuant to the Power Purchase Agreement between Covanta Stanislaus, Inc. and PG & E. The average electricity price, which is set for 2008 at $0.06515 per kilowatt-hour, will escalate by 1% to $0.06580 and $0.06445, in 2009 and 2010 respectively.

- Cash and investments of the Resource Recovery Account are expected to equal approximately $16 million on June 30, 2009.

This Page Left Intentionally Blank

UNAUDITED PROFORMA STATEMENTS OF NET ASSETS AND STATEMENT OF ACTIVITIES

Pursuant to the requirements of their Agreements with the Bank of New York and the Refunding Revenue Certificates Series 2000, the City of Modesto and the County of Stanislaus have prepared the accompanying unaudited pro forma financial information for illustrative purposes only, based on the respective Basic Financial Statements of the Stanislaus Resource Recovery Account Waste-To-Energy Fund and the Stanislaus Waste-to-Energy Financing Agency. These pro forma financial statements may not be indicative of the combined financial position, results of operations and cash flows of the Stanislaus Resource Recovery Account Waste-to-Energy Fund and the Stanislaus Waste-to-Energy Financing Agency for the periods presented, and are presented only for purposes of analysis.

STANISLAUS WASTE-TO-ENERGY FINANCING AGENCY AND
STANISLAUS RESOURCE RECOVERY ACCOUNT
UNAUDITED PROFORMA STATEMENT OF NET ASSETS
JUNE 30, 2007

	Financing Agency	Resource Recovery Account	Elimination	Proforma
Assets				
Cash and investments		$29,050,704		$29,050,704
Cash with fiscal agent	$11,865,973			11,865,973
Accounts receivable		1,154,708		1,154,708
Interest receivable		191,912		191,912
Due from Financing Agency		303,246	($303,246)	
Other receivable		64,377		64,377
Lease receivable from Covanta	28,190,000			28,190,000
Issuance costs	318,339			318,339
Total assets	40,374,312	30,764,947	(303,246)	70,836,013
Liabilities				
Current liabilities:				
Accounts payable		220,337		220,337
Interest payable	109,896			109,896
Due to Resource Recovery Account	303,246		(303,246)	
Certificates of participation	6,935,000			6,935,000
Current liabilities	7,348,142	220,337	(303,246)	7,265,233
Noncurrent liabilities:				
Certificates of participation	21,240,179			21,240,179
Total liabilities	28,588,321	220,337	(303,246)	28,505,412
Net assets				
Restricted for debt service	11,865,973			11,865,973
Unrestricted	(79,982)	30,544,610		30,464,628
Total net assets	$11,785,991	$30,544,610		$42,330,601

STANISLAUS WASTE-TO-ENERGY FINANCING AGENCY AND
STANISLAUS RESOURCE RECOVERY ACCOUNT
UNAUDITED PROFORMA STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET ASSETS
FOR THE FISCAL YEAR ENDED JUNE 30, 2007

	Financing Agency	Resource Recovery Account	Elimination	Proforma
Covanta related activities:				
Revenues:				
PG&E/electricity sales	$11,842,191			$11,842,191
Contracting Communities	2,738,514		($2,738,514)	
Lease interest payment from Covanta	1,374,902			1,374,902
Total revenues	15,955,607		(2,738,514)	13,217,093
Expenses:				
Operation and maintenance reimbursement to Covanta	14,580,705			14,580,705
Net available for Covanta reimbursements	1,374,902		(2,738,514)	(1,363,612)
Debt service related activities:				
Revenues:				
Interest earned from bond proceeds	471,668			471,668
Expenses:				
Interest expense	1,115,036			1,115,036
Amortization	133,264			133,264
Total expenses	1,248,300			1,248,300
Net available for debt service	(776,632)			(776,632)
Other operating activities:				
Operating revenues:				
Sanitation services		$6,446,698		6,446,698
Supplemental waste revenue share		425,996		425,996
Total revenues		6,872,694		6,872,694
Operating expenses:				
Operations and maintenance - Covanta Stanislaus		2,738,514	(2,738,514)	
Lease reimbursement to Covanta		7,879,902		7,879,902
Other operating expenses		1,291,869		1,291,869
Total expenses		11,910,285	(2,738,514)	9,171,771
Net available for other operating activities		(5,037,591)	2,738,514	(2,299,077)
Nonoperating revenues (expenses):				
Pass-thru electricity sales from PG&E	6,505,000			6,505,000
Pass-thru energy sales to Covanta	(6,505,000)			(6,505,000)
Interest income		1,490,859		1,490,859
Gain on investments		135,548		135,548
Net nonoperating revenues		1,626,407		1,626,407
Change in net assets	598,270	(3,411,184)		(2,812,914)
Net assets, beginning of year	11,187,721	33,955,794		45,143,515
Net assets, end of year	$11,785,991	$30,544,610		$42,330,601

STANISLAUS WASTE-TO-ENERGY FINANCING AGENCY AND
STANISLAUS RESOURCE RECOVERY ACCOUNT
UNAUDITED PROFORMA STATEMENT OF CASH FLOWS
FOR THE FISCAL YEAR ENDED JUNE 30, 2007

	Financing Agency	Resource Recovery Account	Elimination	Proforma
Cash flows from Covanta activities:				
Receipts from PG&E	$11,842,191			$11,842,191
Receipts from Contracting Communities	2,738,514		($2,738,514)	
Payments to Covanta	(14,580,705)			(14,580,705)
Cash flows from Covanta activities			(2,738,514)	(2,738,514)
Cash flows from debt service activities:				
Lease payments from Covanta:				
Principal	6,505,000			6,505,000
Interest	1,374,902			1,374,902
Interest received	471,668			471,668
Interest paid on long-term debt	(1,105,280)			(1,105,280)
Principal paid on long-term debt	(6,505,000)			(6,505,000)
Cash flows from debt service activities	741,290			741,290
Cash flows from operating activities:				
Receipts from disposal companies		$6,656,313		6,656,313
Other operating expenses, net		(11,903,398)	2,738,514	(9,164,884)
Cash flows from operating activities		(5,247,085)	2,738,514	(2,508,571)
Cash flows from nonoperating activities:				
Pass-thru electricity sales from PG&E	6,505,000			6,505,000
Pass-thru energy sales to Covanta	(6,505,000)			(6,505,000)
Interest received		1,650,663		1,650,663
Cash flows from nonoperating activities		1,650,663		1,650,663
Net cash flows	741,290	(3,596,422)		(2,855,132)
Cash and equivalents at beginning of year	11,124,683	32,647,126		43,771,809
Cash and equivalents at end of year	$11,865,973	$29,050,704		$40,916,677
Reconciliation of income (loss) net cash provided by				
Covanta activities	$1,374,902			$1,374,902
Debt service related activities	(776,632)			(776,632)
Operating activities		($5,037,591)		(5,037,591)
Adjustments to reconcile income to cash flows from operating activities:				
Change in assets and liabilities:				
Decrease (increase) in accounts receivable		(216,381)		(216,381)
Decrease (increase) in lease receivable	6,505,000			6,505,000
Decrease (increase) in accounts payable		6,887		6,887
Decrease (increase) in interest payable	9,756			9,756
Decrease (increase) in Certificates of Participation	(6,371,736)			(6,371,736)
Cash Flows from Covanta, debt service, and operating activities	$741,290	($5,247,085)		($4,505,795)

STANISLAUS WASTE-TO-ENERGY FINANCING AGENCY AND
STANISLAUS RESOURCE RECOVERY ACCOUNT
UNAUDITED PROFORMA STATEMENT OF NET ASSETS
JUNE 30, 2006

	Financing Agency	Resource Recovery Account	Elimination	Proforma
Assets				
Cash and investments		$32,647,126		$32,647,126
Cash with fiscal agent	$11,124,683			11,124,683
Accounts receivable		1,002,704		1,002,704
Interest receivable		216,168		216,168
Due from Financing Agency		303,246	($303,246)	
Lease receivable from Covanta	34,695,000			34,695,000
Issuance costs	445,676			445,676
Total assets	46,265,359	34,169,244	(303,246)	80,131,357
Liabilities				
Current liabilities:				
Accounts payable		213,450		213,450
Interest payable	100,140			100,140
Arbitrage liability	303,246		(303,246)	
Certificates of participation	6,505,000			6,505,000
Current liabilities	6,908,386	213,450	(303,246)	6,818,590
Noncurrent liabilities:				
Certificates of participation	28,169,252			28,169,252
Total liabilities	35,077,638	213,450	(303,246)	34,987,842
Net assets				
Restricted for debt service	11,124,683			11,124,683
Unrestricted	63,038	33,955,794		34,018,832
Total net assets	$11,187,721	$33,955,794		$45,143,515

STANISLAUS WASTE-TO-ENERGY FINANCING AGENCY AND
STANISLAUS RESOURCE RECOVERY ACCOUNT
UNAUDITED PROFORMA STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET ASSETS
FOR THE FISCAL YEAR ENDED JUNE 30, 2006

	Financing Agency	Resource Recovery Account	Elimination	Proforma
Covanta related activities:				
Revenues:				
PG&E/electricity sales	$9,412,977			$9,412,977
Contracting Communities	3,665,159		($3,665,159)	
Lease interest payment from Covanta	1,265,811			1,265,811
Total revenues	14,343,947		(3,665,159)	10,678,788
Expenses:				
Operation and maintenance reimbursement to Covanta	14,156,286			14,156,286
Net available for Covanta reimbursements	187,661		(3,665,159)	(3,477,498)
Debt service related activities:				
Revenues:				
Interest earned from bond proceeds	421,822			421,822
Expenses:				
Interest expense	1,092,886			1,092,886
Amortization	133,264			133,264
Total expenses	1,226,150			1,226,150
Net available for debt service	(804,328)			(804,328)
Other operating activities:				
Operating revenues:				
Sanitation services		$5,955,455		5,955,455
Supplemental waste revenue share		252,177		252,177
Total revenues		6,207,632		6,207,632
Operating expenses:				
Operations and maintenance - Covanta Stanislaus		3,665,159	(3,665,159)	
Lease reimbursement to Covanta		7,415,811		7,415,811
Other operating expenses		1,200,963		1,200,963
Total expenses		12,281,933	(3,665,159)	8,616,774
Net available for other operating activities		(6,074,301)	3,665,159	(2,409,142)
Nonoperating revenues (expenses)				
Pass-thru electricity sales from PG&E	6,150,000			6,150,000
Pass-thru energy sales to Covanta	(6,150,000)			(6,150,000)
Interest income		1,316,267		1,316,267
Gain on investments		(53,237)		(53,237)
Net nonoperating revenues		1,263,030		1,263,030
Change in net assets	(616,667)	(4,811,271)		(5,427,938)
Net assets, beginning of year	11,804,388	38,767,065		50,571,453
Net assets, end of year	$11,187,721	$33,955,794		$45,143,515

STANISLAUS WASTE-TO-ENERGY FINANCING AGENCY AND
STANISLAUS RESOURCE RECOVERY ACCOUNT
UNAUDITED PROFORMA STATEMENT OF CASH FLOWS
FOR THE FISCAL YEAR ENDED JUNE 30, 2006

	Financing Agency	Resource Recovery Account	Elimination	Proforma
Cash flows from Covanta activities				
Receipts from PG&E	$9,412,977			$9,412,977
Receipts from Contracting Communities	3,665,159		($3,665,159)	
Payments to Covanta	(14,156,286)			(14,156,286)
Cash flows from Covanta activities	(1,078,150)		(3,665,159)	(4,743,309)
Cash flows from debt service activities				
Lease payments from Covanta:				
Principal	6,150,000			6,150,000
Interest	1,265,811			1,265,811
Interest received	421,822			421,822
Interest paid on long-term debt	(1,084,389)			(1,084,389)
Principal paid on long-term debt	(6,150,000)			(6,150,000)
Cash flows from debt service activities	603,244			603,244
Cash flows from operating activities				
Receipts from disposal companies		$6,104,469		6,104,469
Other operating expenses, net		(12,068,807)	3,665,159	(8,403,648)
Cash flows from operating activities		(5,964,338)	3,665,159	(2,299,179)
Cash flows from nonoperating activities				
Pass-thru electricity sales from PG&E	6,150,000			6,150,000
Pass-thru energy sales to Covanta	(6,150,000)			(6,150,000)
Interest received		1,182,133		1,182,133
Cash flows from nonoperating activities		1,182,133		1,182,133
Net cash flows	(474,906)	(4,782,205)		(5,257,111)
Cash and equivalents at beginning of year	11,599,589	37,429,331		49,028,920
Cash and equivalents at end of year	$11,124,683	$32,647,126		$43,771,809
Reconciliation of income (loss) net cash provided by				
Covanta activities	$187,661			$187,661
Debt service related activities	(804,328)			(804,328)
Operating activities		($6,074,301)		(6,074,301)
Adjustments to reconcile income				
to cash flows from operating activities:				
Change in assets and liabilities:				
Decrease (increase) in accounts receivable		(103,163)		(103,163)
Decrease (increase) in lease receivable	6,150,000			6,150,000
Decrease (increase) in accounts payable		213,126		213,126
Decrease (increase) in interest payable	8,497			8,497
Decrease (increase) in				
Certificates of Participation	(6,016,736)			(6,016,736)
Cash Flows from Covanta, debt service, and operating activities	($474,906)	($5,964,338)		($6,439,244)

This Page Left Intentionally Blank

STANISLAUS WASTE-TO-ENERGY FINANCING AGENCY
BASIC FINANCIAL STATEMENTS
FOR THE YEARS ENDED JUNE 30, 2007 AND 2006

This Page Left Intentionally Blank

MAZE & ASSOCIATES

ACCOUNTANCY CORPORATION
3478 Buskirk Ave. - Suite 215
Pleasant Hill, California 94523
(925) 930-0902 · FAX (925) 930-0135
maze@mazeassociates.com
www.mazeassociates.com

INDEPENDENT AUDITOR'S OPINION

To the County of Stanislaus and the City of Modesto (the Contracting Communities)
Stanislaus Waste-To-Energy Financing Agency Executive Commission
Modesto, California

We have audited the basic financial statements of the Stanislaus Waste-to-Energy Financing Agency (Agency) as of and for the years ended June 30, 2007 and 2006, as listed in the Table of Contents. These financial statements are the responsibility of the Agency's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with generally accepted auditing standards in the United States of America. Those standards require that we plan and perform the audits to obtain reasonable assurance as to whether the financial statements are free of material misstatement. An audit includes examining on a test basis evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion the basic financial statements referred to above present fairly in all material respects the financial position of the Stanislaus Waste-to-Energy Financing Agency as of June 30, 2007 and 2006, and the changes in the financial position and cash flows for the years then ended, in conformity with generally accepted accounting principles in the United States of America.

Management's Discussion and Analysis is not a required part of the basic financial statements but is supplementary information required by the Government Accounting Standards Board. We have applied certain limited procedures to this information, principally inquiries of management regarding the methods of measurement and presentation of this information, but we did not audit this information and we express no opinion on it.

Our audit was conducted for the purpose of forming an opinion on the basic financial statements taken as a whole. The supplemental pro forma information listed in the Table of Contents is presented for purposes of additional analysis and is not a required part of the basic financial statements of the Agency. Such information was not audited by us and we do not express an opinion on this information.

Maze & Associates

December 13, 2007

STANISLAUS WASTE-TO-ENERGY FINANCING AGENCY
STATEMENT OF NET ASSETS
JUNE 30, 2007 AND 2006

	2007	2006
Assets		
Current assets:		
Cash with fiscal agent (Note 2)	$11,865,973	$11,124,683
Total current assets	11,865,973	11,124,683
Noncurrent assets:		
Lease receivable from Covanta (Note 3)	28,190,000	34,695,000
Issuance costs	318,339	445,676
Total noncurrent assets	28,508,339	35,140,676
Total assets	40,374,312	46,265,359
Liabilities		
Current liabilities:		
Interest payable	109,896	100,140
Arbitrage liability reimbursement (Note 5)	303,246	303,246
Certificates of participation (Note 4)	6,935,000	6,505,000
Total current liabilities	7,348,142	6,908,386
Noncurrent liabilities:		
Certificates of participation (Note 4)	21,240,179	28,169,252
Total liabilities	28,588,321	35,077,638
Net assets (Note 6)		
Restricted for debt service	11,865,973	11,124,683
Unrestricted	(79,982)	63,038
Total net assets	$11,785,991	$11,187,721

See accompanying notes to financial statements

STANISLAUS WASTE-TO-ENERGY FINANCING AGENCY
STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET ASSETS
FOR THE FISCAL YEARS ENDED JUNE 30, 2007 AND 2006

	2007	2006
Covanta related activities (Note 3):		
Revenues:		
Electricity sales - PG&E	$11,842,191	$9,412,977
Contracting Communities - disposal companies	2,738,514	3,665,159
Lease interest receipts from Covanta	1,374,902	1,265,811
	15,955,607	14,343,947
Expense:		
Operation and maintenance reimbursement to Covanta	14,580,705	14,156,286
Net Covanta related revenues	1,374,902	187,661
Debt service related activities:		
Revenues:		
Interest earned from bond proceeds	471,668	421,822
Expenses:		
Interest on certificates	1,115,036	1,092,886
Amortization of issuance costs	133,264	133,264
	1,248,300	1,226,150
Net (expense)	(776,632)	(804,328)
Net revenues	598,270	(616,667)
Nonoperating revenues (expenses) (Note 3):		
Pass-thru electricity sales from PG&E	6,505,000	6,150,000
Pass-thru energy sales payments to Covanta	(6,505,000)	(6,150,000)
Change in net assets	598,270	(616,667)
Net assets, beginning of year	11,187,721	11,804,388
Net assets, end of year	$11,785,991	$11,187,721

See accompanying notes to financial statements

STANISLAUS WASTE-TO-ENERGY FINANCING AGENCY
STATEMENT OF CASH FLOWS
FOR THE FISCAL YEARS ENDED JUNE 30, 2007 AND 2006

	2007	2006
Cash flows from Covanta activities:		
Receipts from PG&E	$11,842,191	$9,412,977
Receipts from Contracting Communities	2,738,514	3,665,159
Payments to Covanta	(14,580,705)	(14,156,286)
Cash flows from Covanta activities		(1,078,150)
Cash flows from capital and related financing debt service activities:		
Lease payments from Covanta:		
Principal	6,505,000	6,150,000
Interest	1,374,902	1,265,811
Interest earned from bond proceeds	471,668	421,822
Interest paid on long-term debt	(1,105,280)	(1,084,389)
Principal paid on long-term debt	(6,505,000)	(6,150,000)
Cash flows from debt service activities	741,290	603,244
Cash flows from nonoperating activities:		
Pass-thru electricity sales from PG&E	6,505,000	6,150,000
Pass-thru energy sales to Covanta	(6,505,000)	(6,150,000)
Cash flows from nonoperating activities		
Net cash flows	741,290	(474,906)
Cash and equivalents at beginning of year	11,124,683	11,599,589
Cash and equivalents at end of year	$11,865,973	$11,124,683
Reconciliation of income (loss) net cash provided by		
Covanta activities	$1,374,902	$187,661
Debt service related activities	(776,632)	(804,328)
Adjustments to reconcile income		
Change in assets and liabilities:		
Decrease (increase) in lease receivable	6,505,000	6,150,000
Decrease (increase) in interest payable	9,756	8,497
Decrease (increase) in Certificates of Participation	(6,371,736)	(6,016,736)
Cash Flows from Operating Activities	$741,290	($474,906)

See accompanying notes to financial statements

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. General

The financial statements of the Stanislaus Waste-to-Energy Financing Agency are prepared in accordance with Generally Accepted Accounting Principles (GAAP). The Agency applies all relevant Government Accounting Standard Board (GASB) pronouncements. Proprietary funds apply Financial Accounting Standards Boards (FASB) pronouncements and Accounting Principles Board (APB) opinions issued on or before November 30, 1989, unless those pronouncements conflict or contradict GASB pronouncements, in which case, GASB prevails.

B. Reporting Entity

The Stanislaus Waste-to-Energy Financing Agency was established pursuant to an Extended Joint Exercise of Power Agreement, and Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California between the City of Modesto and the County of Stanislaus for the sole purpose of providing financing and refinancing of the mass burn solid waste disposal, resource recovery and electric generating facility located in Stanislaus County, California.

C. Basis of Accounting

The Agency's Basic Financial Statements are prepared in conformity with accounting principles generally accepted in the United States of America. The Government Accounting Standards Board is the acknowledged standard setting body for establishing accounting and financial reporting standards followed by governmental entities in the U.S.A.

The Agency is accounted for as an enterprise fund because its activities are financed by lease payments and its costs are matched against revenues in determining its financial results.

NOTE 2 - CASH AND INVESTMENTS

A. Policies

The Agency's investments are carried at fair value, as required by generally accepted accounting principles. The Agency adjusts the carrying value of its investments to reflect their fair value at each fiscal year end, and it includes the effects of these adjustments in income for that fiscal year.

B. Interest Rate Risk, Classification, Credit Risk, and Concentration of Credit Risk

Interest rate risk - is the risk that changes in market interest rates will adversely affect the fair value of an investment. Normally, the longer the maturity of an investment, the greater the sensitivity of its fair value to changes in market interest rates. The Agency generally manages its interest rate risk by holding investments to maturity.

Information about the sensitivity of the fair values of the Agency's investments (including investments held by bond trustees) to market interest rate fluctuations is provided by the table below that shows the distribution of the Fund's investments by maturity.

NOTE 2 - CASH AND INVESTMENTS (Continued)

At June 30, 2007 and 2006, the Agency's Cash and investments are classified in the financial statements as shown below, all restricted under the terms of City debt instruments or agreements.

	Maturity Date	2007	2006
Restricted Assets:			
Cash equivalents with fiscal agent		$2,520,471	$1,994,183
Investments:			
Guaranteed Investment Contract	January 1, 2010	5,878,000	5,878,000
Investment Agreement	December 31, 2009	3,467,502	3,252,500
		9,345,502	9,130,500
Total cash and investments		$11,865,973	$11,124,683

Credit risk - is the risk that an issuer of an investment will not fulfill its obligation to the holder of the investment. This is measured by the assignment of a rating by a nationally recognized statistical rating organization. The Guaranteed Investment Contract and Investment Agreement were not rated as of June 30, 2007 and 2006.

Concentration of credit risk – is the risk that investments in the securities of any individual issuers, other than U. S. Treasury securities, mutual funds and the California Local Agency Investment Fund, that represent 5% or more of total Entity-wide investments. As of June 30, 2007 and 2006, the Guarantee Investment Contract and the Investment Agreements were subject to concentration of credit risk.

C. *Investments Authorized by Debt Agreements*

The Agency must maintain required amounts of cash and investments with trustees or fiscal agents under the terms of certain debt issues. These funds are unexpended bond proceeds or are pledged reserves to be used if the City fails to meet its obligations under these debt issues. The California Government Code requires these funds to be invested in accordance with City resolutions, bond indentures or State statutes. The table below identifies the investment types that are authorized for investments held by fiscal agents. The bond indentures contain no limitations for the maximum investment in any one issuer or the maximum percentage of the portfolio that may be invested in any one investment type. The table also identifies certain provisions of these debt agreements:

NOTE 2 - CASH AND INVESTMENTS (Continued)

Authorized Investment Type	Maximum Maturity	Minimum Credit Quality
Cash sweep or similar interest-earning deposit	N/A	N/A
U. S. Treasury Obligations	N/A	N/A
U.S. Agency Obligations	N/A	AAA
U.S. dollar deposit accounts, federal funds and bankers' acceptances	360 days	A1/A-1+
Commercial paper	270 days	A-1+
Money Market Mutual Funds	N/A	AAAm
Municipal obligations bonds	N/A	Top rating category
Other form of investments such as repurchase agreements	N/A	N/A

NOTE 3 – AGREEMENTS WITH COVANTA STANISLAUS

Covanta Stanislaus operates a Solid Waste Facility which it leases from the Agency under non-cancellable Lease and Sublease Agreements described below; its' operations are governed by the related *Service Agreement for the Supply and Acceptance of Solid Waste among Stanislaus Waste Energy Company (Covanta Stanislaus), the City of Modesto, and the County of Stanislaus.* Under the terms of the various Agreements, Covanta Stanislaus receives waste from haulers franchised by the City and County and converts it into electricity.

In connection with the issuance of the 2000 COPs, the Agency, Covanta Stanislaus and the Bank of New York, entered into a Trust Agreement under which Bank of New York receives lease and other revenues and pays debt service and other payments on behalf of the Agency and Covanta Stanislaus. Thus, revenues accruing to Covanta Stanislaus and expenditures on their behalf are processed by the Bank and are reflected in these financial statements.

Covanta's Agreements with the Agency were last amended on January 1, 2000 and terminate on January 10, 2010. In substance, these are installment sale agreements that provide for the transfer of title to Covanta at the end of the lease term. They have therefore been accounted for as capital lease transactions by the Agency, which has recorded a lease receivable from Covanta Stanislaus.

Receipts under these Agreements secure debt service payments of the Refunding Revenue Certificates Series 2000 described in Note 4 below. Annual lease receipts are scheduled to equal the amount of annual debt service payments. In fiscal 2007, Covanta Stanislaus paid $7,879,902, of which $6,505,000 represented principal and $1,374,902 represented interest on the lease receivable. In fiscal 2006, Covanta Stanislaus paid $7,415,811, of which $6,150,000 represented principal and $1,265,811 represented interest on the lease receivable.

Future years' scheduled receipts of principal on the Lease mirror the schedule of debt principal repayment requirements in Note 4 below, while interest is scheduled to vary with the amount of interest actually paid each year.

NOTE 3 – AGREEMENTS WITH COVANTA STANISLAUS (Continued)

Under the Agreements with Covanta Stanislaus, a percentage of the electricity sales received from PG & E is remitted to them. These transactions have been accounted for separately in the financial statements.

NOTE 4 – LONG TERM DEBT

On January 1, 2000, the Agency issued $58,780,000 Refunding Revenue Certificates Series 2000 to refinance the Series 1990 and 1990A Certificates. The Certificates were issued at variable rates, with interest calculated weekly. The rate fluctuates according to the market conditions, but is capped at 12%. The average monthly interest paid in fiscal years 2007 and 2006 was $92,920 and $91,074, respectively. Principal payments are made on January 1 and interest payments are made monthly.

The following is a summary of long-term debt transactions for fiscal years 2007 and 2006:

	Balance June 30, 2005	Retirement	Balance June 30, 2006	Current Portion
2000 Refunding Revenue Certificates				
Variable weekly, due January 1, 2010	$40,845,000	$6,150,000	$34,695,000	$6,505,000
Less: unamortized discount	(26,675)	(5,927)	(20,748)	
Total	$40,818,325	$6,144,073	$34,674,252	$6,505,000

	Balance June 30, 2006	Retirement	Balance June 30, 2007	Current Portion
2000 Refunding Revenue Certificates				
Variable weekly, due January 1, 2010	$34,695,000	$6,505,000	$28,190,000	$6,935,000
Less: unamortized discount	(20,748)	(5,927)	(14,821)	
Total	$34,674,252	$6,499,073	$28,175,179	$6,935,000

Annual debt service requirements are shown below:

Year Ending June 30	Principal	Interest
2008	$6,935,000	$1,023,297
2009	7,370,000	771,557
2010	13,885,000	504,026
	$28,190,000	$2,298,880

Future interest rates are estimated to be 3.63% which was the actual rate used for June 2007.

NOTE 5 – ARBITRAGE LIABILITIES REIMBURSEMENT

The Agency owed the Stanislaus Resource Recovery Account Waste-To-Energy Enterprise Fund the amount of $303,246 at June 30, 2007 and 2006 for an arbitrage rebate payment made by the Fund on behalf of the Agency.

NOTE 6 – NET ASSETS

The Agency's Net Assets may be used only for Agency purposes, which include the offset of any future Agency expenses not covered by Agency revenues.

Restricted for debt service describes the portion of Net Assets which is restricted as to use by the terms and conditions of trust agreement, which the Agency cannot unilaterally alter.

Unrestricted describes the portion of Net Assets which is not restricted to use.

This Page Left Intentionally Blank

STANISLAUS RESOURCE RECOVERY ACCOUNT
WASTE-TO-ENERGY
BASIC FINANCIAL STATEMENTS
FOR THE YEARS ENDED JUNE 30, 2007 AND 2006

This Page Left Intentionally Blank

MAZE & ASSOCIATES

ACCOUNTANCY CORPORATION
3478 Buskirk Ave. - Suite 215
Pleasant Hill, California 94523
(925) 930-0902 · FAX (925) 930-0135
maze@mazeassociates.com
www.mazeassociates.com

INDEPENDENT AUDITOR'S OPINION

To the County of Stanislaus and the City of Modesto (the Contracting Communities)
Solid Waste-To-Energy Executive Committee
Stanislaus Resource Recovery Account
Waste-To-Energy Enterprise Fund,
Modesto, California

We have audited the basic financial statements of the Stanislaus Resource Recovery Account (Waste-To-Energy Enterprise Fund) of the County of Stanislaus as of and for the years ended June 30, 2007 and 2006, as listed in the Table of Contents. These financial statements are the responsibility of the Waste to Energy Enterprise Fund's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audits in accordance with generally accepted auditing standards in the United States of America, and the standards for financial audits contained in *Government Audit Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance as to whether the component unit financial statements are free of material misstatement. An audit includes examining on a test basis evidence supporting the amounts and disclosures in the component unit financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion the basic financial statements referred to above present fairly in all material respects the financial position of the Stanislaus Resource Recovery Account (Waste-to-Energy Enterprise Fund) as of June 30, 2007 and 2006, and the changes in the financial position and cash flows for the years then ended, in conformity with generally accepted accounting principles in the United States of America.

Management's Discussion and Analysis is not a required part of the basic financial statements but is supplementary information required by the Government Accounting Standards Board. We have applied certain limited procedures to this information, principally inquiries of management regarding the methods of measurement and presentation of this information, but we did not audit this information and we express no opinion on it.

Our audit was conducted for the purpose of forming an opinion on the basic financial statements taken as a whole. The supplemental pro forma information listed in the Table of Contents is presented for purposes of additional analysis and is not a required part of the basic financial statements of the Fund. Such information was not audited by us and we do not express an opinion on this information.

Maze + Associates

December 13, 2007

COUNTY OF STANISLAUS/CITY OF MODESTO
STANISLAUS RESOURCE RECOVERY ACCOUNT
STATEMENT OF NET ASSETS
JUNE 30, 2007 AND 2006

	2007	2006
Assets		
Cash and investments (Note 2)	$29,050,704	$32,647,126
Accounts receivable	1,154,708	1,002,704
Interest receivable	191,912	216,168
Due from Stanislaus Waste-to-Energy Financing Agency	303,246	303,246
Other receivable	64,377	
Total assets	30,764,947	34,169,244
Liabilities		
Accounts payable	220,337	213,450
Total liabilities	220,337	213,450
Net assets (Note 5)		
Unrestricted	30,544,610	33,955,794
Total net assets	$30,544,610	$33,955,794

See accompanying notes to financial statements

COUNTY OF STANISLAUS/CITY OF MODESTO
STANISLAUS RESOURCE RECOVERY ACCOUNT
STATEMENT OF REVENUES, EXPENSES
AND CHANGES IN NET ASSETS
FOR THE FISCAL YEARS ENDED JUNE 30, 2007 AND 2006

	2007	2006
Operating revenues:		
Charges for services:		
Sanitation service (Note 1D)	$6,446,698	$5,955,455
Supplemental waste revenue share	425,996	252,177
Total operating revenues	6,872,694	6,207,632
Operating expenses:		
Operations and maintenance - Covanta Stanislaus (Note 4)	2,738,514	3,665,159
Lease reimbursement to Covanta	7,879,902	7,415,811
Household hazardous waste (Note 1D)	373,914	367,709
AB939 (Note 1D)	373,914	367,709
Administrative services (City)	220,337	212,902
Administrative services (County)	246,191	195,999
Professional and special services	57,020	35,678
Memberships	15,000	15,000
Miscellaneous	5,493	5,966
Total operating expenses	11,910,285	12,281,933
Operating (loss)	(5,037,591)	(6,074,301)
Nonoperating revenues (expenses):		
Interest income	1,490,859	1,316,267
Gain (loss) on investments	135,548	(53,237)
Net nonoperating revenue	1,626,407	1,263,030
Change in net assets	(3,411,184)	(4,811,271)
Net assets, beginning of year	33,955,794	38,767,065
Net assets, end of year	$30,544,610	$33,955,794

See accompanying notes to financial statements

COUNTY OF STANISLAUS/CITY OF MODESTO
STANISLAUS RESOURCE RECOVERY ACCOUNT
STATEMENTS OF CASH FLOWS
FOR THE FISCAL YEARS ENDED JUNE 30, 2007 AND 2006

	2007	2006
Cash flows from operating activities		
Receipts from customers	$6,656,313	$6,104,469
Payments to suppliers	(11,903,398)	(12,068,807)
Cash flows from operating activities	(5,247,085)	(5,964,338)
Cash flows from investing activities		
Interest receipts	1,650,663	1,182,133
Cash flows from investing activities	1,650,663	1,182,133
Net cash flows	(3,596,422)	(4,782,205)
Cash and equivalents at beginning of year	32,647,126	37,429,331
Cash and equivalents at end of year	$29,050,704	$32,647,126
Reconciliation of)perating Income (Loss) to net cash provided by operating activities:		
Operating Income (Loss)	($5,037,591)	($6,074,301)
Adjustments to reconcile operating income to cash flows from operating activities:		
Prior period adjustment		
Change in assets and liabilities:		
Decrease (increase) in accounts receivable	(216,381)	(103,163)
Increase (decrease) in accounts payable	6,887	213,126
Cash Flows from Operating Activities	($5,247,085)	($5,964,338)

See accompanying notes to financial statements

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

A. *General*

The financial statements of the Stanislaus Resource Recovery Account (Waste-To-Energy Enterprise Fund) are prepared in accordance with Generally Accepted Accounting Principles (GAAP). The Waste-To-Energy Enterprise Fund applies all relevant Government Accounting Standard Board (GASB) pronouncements. Proprietary funds apply Financial Accounting Standards Boards (FASB) pronouncements and Accounting Principles Board (APB) opinions issued on or before November 30, 1989, unless those pronouncements conflict or contradict GASB pronouncements, in which case, GASB prevails.

B. *Reporting Entity*

These financial statements present the financial position and results of operations of the Stanislaus Resource Recovery Account (Waste-To-Energy Enterprise Fund) of the County of Stanislaus (the Fund), created pursuant to the December 17, 1985 *Agreement between City of Modesto and County of Stanislaus Relating to Administration of Service Agreement for Supply and Acceptance of Solid Waste*. The Fund is administered by the Solid Waste-to-Energy Executive Committee, which consists of two members of the Modesto City Council and two members of the Stanislaus County Board of Supervisors.

Under a related *Service Agreement for the Supply and Acceptance of Solid Waste among Stanislaus Waste Energy Company (Covanta Stanislaus), the City of Modesto, and the County of Stanislaus*, Covanta Stanislaus operates a Solid Waste Facility which receives, stores and burns acceptable waste and produces electricity for sale. Waste is received from operators approved by the Contracting Communities; electricity is sold to Pacific Gas & Electric Company.

Covanta Stanislaus in turn leases the Solid Waste Facility from the Stanislaus Waste-to-Energy Financing Agency, a Joint Exercise of Powers Agreement between the County of Stanislaus and the City of Modesto which financed the construction of the Solid Waste Facility. Payments under this lease, which terminates in 2010, are secured by revenue received by Covanta Stanislaus from Pacific Gas & Electric Company and the Stanislaus Resource Recovery Account Service Fees.

C. *Basis of Accounting*

The Fund's Basic Financial Statements are prepared in conformity with accounting principles generally accepted in the United States of America. The Government Accounting Standards Board is the acknowledged standard setting body for establishing accounting and financial reporting standards followed by governmental entities in the U.S.A.

The Fund is accounted for as an enterprise fund because its activities are financed by charges for services and its costs are matched against revenues in determining its financial results.

D. *Costs and Revenues*

The Contracting Communities establish rates charged to haulers in their areas. The Fund accepts waste from these haulers and bills them monthly based on tonnage received. As part of their franchise agreements, haulers are assessed a per-ton fee for hazardous materials costs and for mandated recycling costs prescribed by AB939. These amounts are passed through by the Fund, which reflects them as operating revenues and expenses.

NOTE 1 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES – (Continued)

Under its Agreement with the Contracting Communities, Covanta Stanislaus credits the Fund for a share of the revenues Covanta Stanislaus receives from Pacific Gas & Electric Company for sales of electricity. Since it is not received in cash, this credit is accounted for by the Fund as a reduction in the cost of operating the Facility.

E. Estimates

The preparation of financial statements in accordance with generally accepted accounting principles requires the use of estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements, and reported amounts of revenues and expenses during the reporting periods presented. Actual results may differ from those estimates.

NOTE 2 - CASH AND INVESTMENTS

As a Fund of Stanislaus County, the Fund's cash and investments comprised approximately 1.08% and 1.36% of the County Treasurer's Pool, which totaled $2,690,340,328 and $2,402,375,766 at June 30, 2007 and 2006, respectively. Information regarding cash and investments in the County Treasurer's Pool may be obtained from the County's Annual Financial Report, which is available from the Auditor-Controller's Office located at 1010 Tenth Street, Suite 5100, Modesto, CA 95353.

NOTE 3 – RISK MANAGEMENT

The Fund may be exposed to various risks of loss. Under the terms of the Agreement between Covanta Stanislaus and the Contracting Communities, insurance coverage is the responsibility of Covanta Stanislaus, which includes these costs as part of its service fees to the Fund.

NOTE 4 – PAYMENTS TO COVANTA STANISLAUS

Under the Service Agreement above, Covanta Stanislaus is responsible for the operations and maintenance of the Waste-to-Energy Facility including payment of the lease on the Facility. Covanta Stanislaus bills the Fund monthly for these costs, which included the following:

	2007	2006
Operations & maintenance expense	$10,443,972	$10,002,355
Pass through costs	3,072,772	3,167,278
Interest on deposits		(14,873)
Other	(120,259)	(60,971)
Less energy credit	(10,657,971)	(9,428,630)
Net costs billed to the Fund	$2,738,514	$3,665,159

The energy credit above represents the Fund's portion of the proceeds from electricity sales by Covanta Stanislaus to Pacific Gas & Electric Company.

NOTE 5 – NET ASSETS

The Fund's Net Assets may be used only for Fund purposes, which include the offset of future Fund expenses not covered by Fund revenues.

This Page Left Intentionally Blank

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-181

A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO TO ESTABLISH THE CLASSIFICATION OF CITY AUDITOR AND TO AMEND AND RE-TITLE THE CLASSIFICAITON OF CITY CLERK/AUDITOR TO CITY CLERK

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

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

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

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

SECTION 1. CLASSIFICATION CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create the classification of City Auditor. The job specification for this classification is being created to plan, organize, direct and review the activities and operations of the City's internal audit function including the safeguarding of public assets; to conduct fiscal, performance and operational audits; to provide leadership to the City organization; and to prepare audit reports and recommendations for City Council review. This classification is part of the "unclassified service." The job specification for the classification of City Auditor, 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. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the classification of City Clerk/Auditor. The job specification for this classification is being revised to change the title from City Clerk/Auditor to City Clerk and job duties revised to more accurately reflect the assigned essential functions. The job specification for the classification of City Clerk, as shown on the attached **Exhibit "B,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 3. EFFECTIVE DATE. This resolution shall become effective on and after April 1, 2008.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO APRIL 2008
NO. 1331

CITY AUDITOR

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

DEFINITION

To plan, organize, direct and review the activities and operations of the City's internal audit function including the safeguarding of public assets; to conduct fiscal, performance and operational audits; to provide leadership to the department and City organization; to coordinate assigned activities with other departments; to prepare audit reports and recommendations for City Council review; and to provide highly responsible and complex administrative support to the City Council.

SUPERVISION RECEIVED AND EXERCISED

Receives policy direction from the City Council.

Exercises direct supervision over assigned supervisory, professional, and administrative support personnel.

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

Essential Functions:

Develop, plan, and implement 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 Mayor and City Council; prepare and present staff reports and other necessary correspondence.

Direct, oversee and participate in the development of the Department's work plan; assign work activities, projects and programs; monitor work flow; review and evaluate work products, methods, and procedures.

Supervise and participate in the development and administration of the Auditor's Office budget; direct the forecast of additional funds needed for staffing, equipment, materials and supplies; monitor and approve expenditures; implement mid-year adjustments.

Select, train, motivate and evaluate personnel; provide or coordinate staff training; conduct performance evaluations; implement discipline procedures; maintain discipline and high standards necessary for the efficient and professional operation of the Department.

Essential Functions: (Continued)

Conduct financial, operational and performance audits to determine compliance with laws and the appropriate utilization of resources including public funds, personnel, property, equipment and space to ensure efficiency of operations.

Review system of internal controls confirming the adequacy and effectiveness of the controls and that work is in compliance with applicable professional standards.

Identify causes of inefficiencies or uneconomical practices including inadequacies in management information systems, internal and administrative procedures, organizational structure, use of resources, allocation of personnel, purchasing polices and equipment.

Facilitate the work of external auditors engaged in independent audits and coordinate the implementation of external auditor findings.

Keep current on developments in local government and stay abreast of evolving audit techniques and practices.

Provide timely information and report progress and results of audits to City Council.

Consult with operating departments to recommend appropriate improvements to procedures, review progress on implementing the recommended improvements and ensure action is taken.

Research, prepare and present technical and administrative reports and studies for City Council review; prepare written correspondence.

Build and maintain positive working relationships with City Council, Mayor, members of the Senior Executive Team, 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 internal auditing functions and administration within a public agency.

Knowledge of: (Continued)

Complex auditing controls and security systems.

Methods and techniques used in conducting research, financial and operational analysis.

Principles and practices of leadership, motivation, team building and conflict resolution.

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

Organizational and management practices as applied to the analysis and evaluation of programs.

Principles and practices of municipal budget preparation and administration.

Ability to:

Plan, direct and control the administration and operations of the Auditor's Office.

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 recommendation in support of goals.

Identify and respond to 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 GUIDELINES:

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

Experience:

Five years of increasingly responsible auditing experience involving planning, organizing and independently performing audit tasks for financial audits, compliance audits, operational audits or internal control reviews including two years of administrative and management responsibility. Public sector experience is highly desirable.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in accounting, finance, public administration, business administration, or a related field.

License or Certificate

Possession of, or ability to obtain, an appropriate, valid California driver's license.

Possession of certification as a Certified Public Accountant (CPA), a Certified Internal Auditor (CIA), or equivalent certification is required.

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.

Class Spec History	
Adopted	4/08
Revised	

CITY OF MODESTO APRIL 2008
NO. 1321

CITY CLERK

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

DEFINITION

To plan, organize, direct and review the activities and operations of the City Clerk's Office, including overseeing Council agenda preparation and follow up, municipal code maintenance, publication of legal documents, City bid process and openings, records management, Fair Political Practices compliance, coordination of municipal elections, and mail room functions; to provide leadership to the department and City organization; to coordinate assigned activities with other departments and outside agencies; and to provide highly responsible and complex administrative support to the City Council.

SUPERVISION RECEIVED AND EXERCISED

Receives policy direction from the City Council.

Exercises direct supervision over assigned supervisory, professional, and administrative support personnel.

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

Essential Functions:

Develop, plan, and implement Department goals and objectives; recommend and administer policies and procedures.

Coordinate Department activities with those of other departments and outside agencies and organizations; provide staff assistance to the Mayor and City Council; prepare and present staff reports and other necessary correspondence.

Direct, oversee and participate in the development of the Department's work plan; assign work activities, projects and programs; monitor work flow; review and evaluate work products, methods, and procedures.

Supervise and participate in the development and administration of the City Clerk's Office 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 or coordinate staff training; conduct performance evaluations; implement discipline procedures; maintain discipline and high standards necessary for the efficient and professional operation of the Department.

Develop and implement long and short-term strategic plans in support of department and Citywide goals and objectives.

Serve as Clerk to the City Council; attend City Council and other public meetings and record all official proceedings; supervise the preparation of minutes and other documents; direct the publication, filing, indexing, and safekeeping of all proceedings of the Council.

Oversee the preparation, organization, printing, distribution, follow up and document processing of all Council and committee agendas for which the City Council serves as the governing board.

Oversee and coordinate elections; train election staff; order and maintain election supplies and equipment.

Review payment options for accuracy including payroll checks, liability, workers' compensation, vendor payments for goods and services and expense claims; approve and sign checks for accounts payable and payroll items, accept and process wage garnishments, stop notices on city projects, claims and summons, review purchase orders, invoices, and records.

Oversee the inventory, file, and storage of a variety of City records and files, including, but not limited to, Council documents, ordinances, minutes, resolutions, municipal code, deeds, agreements, contracts, claims, campaign statements, statements of economic interest, and other historical documents; plan and direct the maintenance, updating and filing of official municipal documents.

Assist the public and City staff by providing information and research assistance.

Research, prepare and present technical and administrative reports and studies to Council, commissions and a variety of committees; prepare written correspondence.

Build and maintain positive working relationships with Senior Executive Team, Mayor, City Council, co-workers, other City employees and the public using principles of good customer service.

Marginal Functions

Perform related duties as assigned.

MINIMUM QUALIFICATIONS

Knowledge of:

Principles and practices of election process and political reform requirements.

Principles and practices of records management within a public agency.

Principles and practices of leadership, motivation, team building and conflict resolution.

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

Organizational and management practices as applied to the analysis and evaluation of programs.

Principles and practices of organization, administration and personnel management.

Principles and practices of budget preparation and administration.

Ability to:

Plan, direct and control the administration and operations of the City Clerk's Office.

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 and interpret customer requests and needs; organize and provide materials in compliance with laws, regulations, and policies.

Direct the microfilming/retention/destruction of official records in accordance with applicable laws and regulations.

Identify and respond to public and City Council issues and concerns.

Ability to: (Continued)

Communicate clearly and concisely, both orally and in writing.

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

EXPERIENCE AND TRAINING GUIDELINES:

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

Experience:

Five years of increasingly responsible experience in complex administrative office work in a City Clerk and Auditor's office, including two years of administrative and management responsibility.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in public administration, business administration, or a related field.

License or Certificate

Possession of, or ability to obtain, an appropriate, valid California driver's license.

Possession of the Certified Municipal Clerks (CMC) designation is desirable.

PHYSICAL AND MENTAL REQUIREMENTS

Mobility: frequent use of keyboard; frequent sitting for long periods of time; occasional bending or squatting. **Lifting**: frequently up to 10 pounds; occasionally up to 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.

Class Spec History	
Adopted	7/95
Revised	

Print

CORRECTED FOR CLERICAL ERROR ON 5/7/08

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-182

A RESOLUTION AMENDING EXHIBIT "I" OF RESOLUTION NO. 2007-384 AND EXHIBIT "C" OF RESOLUTION NO. 2007-385 TO REVISE THE CLASS RANGE TABLE FOR EXECUTIVE MANAGEMENT TO ESTABLISH A SALARY RANGE FOR CITY AUDITOR AT SALARY RANGE 1414; TO CHANGE THE TITLE OF CITY CLERK/AUDITOR TO CITY CLERK AND TO AMEND THE SALARY RANGE FOR CITY CLERK FROM SALARY RANGE 1410 TO SALARY RANGE 1414.

WHEREAS, the City Council desires to amend Exhibit "I" of Resolution No. 2007-384 and Exhibit "C" of Resolution No. 2007-385, which resolutions 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 April 1, 2008," which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" to this resolution establishes the salary range for City Auditor at range 1414; changes the title of City Clerk/Auditor to City Clerk and amends the salary range for City Clerk from salary range 1410 to salary range 1414.

SECTION 2. AMENDMENT TO RESOLUTION NO. 2007-385. Exhibit "C" entitled, "City of Modesto Class Range Table Executive Management effective June 26, 2007," attached to Resolution No. 2007-385, is hereby amended as shown on Exhibit "A" entitled, "City of Modesto Class Range Table Executive Management effective April 1,

2008," which is attached hereto as Exhibit "A" which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" to this resolution establishes the salary range for City Auditor at range 1414; changes the title of City Clerk/Auditor to City Clerk and amends the salary range for City Clerk from salary range 1410 to salary range 1414.

SECTION 3. EFFECTIVE DATE. This resolution shall become effective on and after April 1, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on 1st day of April, 2008, 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
CLASS RANGE TABLE
EXECUTIVE MANAGEMENT
Effective **April 1, 2008**

RANGE	TITLE
1410-1413	
1414	**City Auditor** **City Clerk**
1415-1416	
1417	Emergency Dispatch Director
1418 - 1419	
1420	Finance Director Personnel Director
1421	
1422	Chief Information Officer Community Development Director Parks, Recreation, and Neighborhoods Director Public Works Director
1423-1426	
1427	Deputy City Manager Fire Chief Police Chief
1428	City Attorney
1429 – 1432	
1433	City Manager

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-183

A RESOLUTION APPROVING A DESIGN SERVICES AGREEMENT WITH HDR ENGINEERING, INC. (HDR) TO PREPARE A PRELIMINARY DESIGN REPORT (PDR) OF DOWNSTREAM WATER IMPROVEMENTS TIER 2-LAPHAM/YOSEMITE/MORTON PIPELINE AND PRESSURE REGULATING VALVES PROJECT IN AN AMOUNT NOT TO EXCEED $394,600, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, together, the City and the Modesto Irrigation District (MID) have been planning for the expansion of the Modesto Regional Water Treatment Plant (MRWTP) from its existing capacity of 30 million gallons per day (mgd) to 60 mgd, and

WHEREAS, the MRWTP currently treats water from the Modesto Reservoir and conveys it to the City's service area to combine with groundwater sources to meet the City's water supply needs, and

WHEREAS, Phase One of the MRWTP began operation in 1995 and significantly reduced the City's reliance on groundwater pumping and also eliminated the groundwater overdraft condition, and

WHEREAS, this project is needed to provide existing users with a continued reliable water source and keep pace with the City's projected growth, and

WHEREAS, although MID facilities will soon be capable of conveying the expanded treatment plant capacity of 60 mgd, the City has determined that its existing water system needs additional improvements to fully integrate the expanded MRWTP with the City's distribution system, and

WHEREAS, the Tier 2 – Lapham-Yosemite-Morton Pipeline & Pressure Regulating Valve improvements are needed to integrate the planned Tier 2 of the MRWTP with the City's water distribution system, and

WHEREAS, the two (2) miles of pipeline and approximately 20 pressure regulation valves will assist in serving residents of the south, and downtown sections of the City, and

WHEREAS, the Phase Two Expansion, in conjunction with the complete downstream improvements project, will correct existing system deficiencies and help meet future development needs, and

WHEREAS, in accordance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, the selection committee determined that HDR Engineering, Inc. (HDR), from Folsom, was deemed the most qualified for the project preliminary design, and

WHEREAS, HDR has completed similar pipeline projects for the City, and City staff is familiar with the high quality of their work, and

WHEREAS, City staff recommends an agreement with the consulting firm of HDR be approved to prepare a Preliminary Design Report (PDR) of Downstream Water Improvements Tier 2-Lapham/Yosemite/Morton Pipeline and Pressure Regulating Valves as the City does not have the staffing level to design this project and current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, City staff recommends an agreement with HDR to prepare a PDR of Downstream Water Improvements Tier 2-Lapham/Yosemite/Morton Pipeline and

Pressure Regulating Valves project, and will include design documents completed to the 35% level in an amount not to exceed $394,600, and

WHEREAS, the contract for the remaining work will be brought before Council at a later date, and a recommendation will be made to complete the plans and specifications, and

WHEREAS, HDR will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with HDR Engineering, Inc. to prepare a Preliminary Design Report (PDR) of Downstream Water Improvements Tier 2-Lapham/Yosemite/Morton Pipeline and Pressure Regulating Valves project in an amount not to exceed $394,600.

BE IT FURTHER RESOLVED that the Interim 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 April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-184

A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET BY APPROVING A TRANSFER OF FUNDS IN THE AMOUNT OF $165,000 FROM ACCOUNT 6180-430-W078-6040 "DOWNSTREAM IMPROVEMENTS-ORANGEBURG AVE TRANSMISSION MAIN-SECONDARY" TO CIP ACCOUNT 6180-430-W005-6010 "DOWNSTREAM IMPROVEMENTS TIER 2 PRVS-SECONDARY" IN ORDER TO FULLY FUND THE AGREEMENT WITH HDR ENGINEERING, INC. FOR THE REQUIRED DESIGN SERVICES TO PREPARE THE PRELIMINARY DESIGN REPORT (PDR) OF DOWNSTREAM WATER IMPROVEMENTS TIER 2-LAPHAM/YOSEMITE/MORTON PIPELINE AND PRESSURE REGULATING VALVES PROJECT

WHEREAS, certain budgetary transactions are necessary to fully fund the pressure regulating valves (PRVS) portion of the design services agreement with HDR Engineering, Inc. (HDR) in an amount not to exceed $394,600 to prepare the required Preliminary Design Report (PDR) of Downstream Water Improvements Tier 2 – Lapham/Yosemite/Morton Pipeline and Pressure Regulating Valves project, and

WHEREAS, to fully fund the pressure regulating valves (PRVS) portion of the design services agreement to prepare a Preliminary Design Report (PDR) of Downstream Water Improvements Tier 2 – Lapham/Yosemite/Morton Pipeline and Pressure Regulating Valves project in the not-to exceed amount of $394,600, plus $39,460 for project administration services by City staff, the current Capital Improvement Program (CIP) budget must be amended by transferring $165,000 from Account 6180-430-W078-6040 "Downstream Improvements-Orangeburg Ave Transmission Main-Secondary," due to low bids, back to CIP Account 6180-430-W425-6052 "Downstream Improvements-Primary," then from CIP Account 6180-430-W425-6052 "Downstream Improvements-Primary" to CIP Account 6180-430-W005-6010 "Downstream Improvements Tier 2 PRVS-Secondary" in order to fully fund the agreement with HDR Engineering, Inc. for

the required design services to prepare the Preliminary Design Report (PDR) of Downstream Water Improvements Tier 2-Lapham/Yosemite/Morton Pipeline and Pressure Regulating Valves project including staff administration charges,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds as set forth herein to fully fund the pressure regulating valves (PRVS) portion of the design services agreement with HDR to prepare the required Preliminary Design Report (PDR) of Downstream Water Improvements Tier 2 – Lapham/Yosemite/Morton Pipeline and Pressure Regulating Valves project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-185

A RESOLUTION APPROVING AN AGREEMENT FOR THE ACQUISITION OF A PORTION OF A PARCEL OF LAND ALONG PELANDALE AVENUE AT SISK ROAD (4201 SISK ROAD) OWNED BY OKADA BROTHERS (APN: 135-029-039), INCLUDING A TEMPORARY CONSTRUCTION EASEMENT (TCE) TO BE PURCHASED BY THE CITY OF MODESTO FOR THE PELANDALE AVENUE/SISK ROAD TO STATE ROUTE 99 IMPROVEMENTS PROJECT IN THE AMOUNT OF $60,000, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on September 7, 2004, the City Council by Resolution No. 2004-451 adopted the 2004/2005 Capital Improvement Program, and

WHEREAS, the 2004/2005 Capital Improvement Program included an intersection improvement project titled, "CIP H424: Pelandale Avenue - Sisk Road to SR99 Northbound On-Ramp," and

WHEREAS, the Pelandale Avenue/Sisk Road/SR 99 Improvement Project is scheduled to commence in fiscal year 2007/2008, and

WHEREAS, the project scope of work requires (1) acquisition of additional permanent right-of-way along the north roadside, and (2) temporary construction easements outside the permanent right-of-way limits on the north side of the roadway, and

WHEREAS, the City has evaluated the cost and time benefit of acquiring the additional right-of-way, and

WHEREAS, a 1,327 sq ft partial right-of-way take was identified for permanent acquisition and a 3,094 sq ft Temporary Construction Easement was identified for a limited duration on a parcel at Pelandale Avenue at Sisk Road owned by Okada Brothers, (APN: 135-029-039), and

WHEREAS, the City Council directed staff to enter into negotiations with Okada Brothers to purchase the portion of its parcel of land along Pelandale Avenue at Sisk Road (4201 Sisk Road) for the Pelandale Avenue/Sisk Road/SR/99 Improvement Project, and

WHEREAS, the property has been appraised and an offer to acquire the property has been accepted by Okada Brothers,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement for the acquisition of a portion of a parcel of land along Pelandale Avenue at Sisk Road (4201 Sisk Road) owned by Okada Brothers (APN: 135-029-039) for the Pelandale Avenue/Sisk Road to State Route 99 Improvements Project in the amount of $60,000.

BE IT FURTHER RESOLVED that the Interim 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 April, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-186

A RESOLUTION AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO SIGN ACCEPTANCE FORMS FOR THE GRANT DEED FOR THE ACQUISITION OF A PORTION OF THE PARCEL ALONG PELANDALE AVENUE AT SISK ROAD (4201 SISK ROAD) OWNED BY OKADA BROTHERS (APN: 135-029-039), AND A TEMPORARY CONSTRUCTION EASEMENT TO THE CITY OF MODESTO FOR THE PELANDALE AVENUE/SISK ROAD TO STATE ROUTE 99 IMPROVEMENTS 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: 135-029-039) for the Pelandale Avenue/Sisk Road/State Route 99 Improvement Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Interim 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 portion of a property owned by Okada Brothers, (APN: 135-029-039) and one (1) Temporary Construction Easement (APN: 135-029-039) for the Pelandale Avenue/Sisk Road to State Route 99 Improvements Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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, Acting City Clerk

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-187

A RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS, P.C. FOR PROFESSIONAL ENGINEERING SERVICES TO PREPARE A WASTEWATER MASTER PLAN SUPPLEMENT IN AN AMOUNT NOT TO EXCEED $133,500, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, typically, municipal Wastewater Management Plans (WWMP) are updated every five to seven years to incorporate additional growth, current operations, and new planning data, and

WHEREAS, having a current and comprehensive WWMP is a critical step in keeping the City ahead of the replacement requirements of an aging infrastructure system and the pressures of expanding urban growth, and

WHEREAS, the City Council, on January 27, 2004, by Resolution No. 2004-050, approved an agreement with Carollo Engineers, P.C. (Carollo), of Walnut Creek, California, to update the City's WWMP, and it was completed and adopted in 2007, and

WHEREAS, the 2007 WWMP was prepared using City-furnished population growth rates available from 2005-2006, and

WHEREAS, the plan relied upon anticipated wastewater discharge permit conditions for the Jennings Road Secondary Treatment Facility based on several meetings and lengthy discussions with staff of the Regional Water Quality Control Board (RWQCB), and

WHEREAS, recent housing and resultant near-term population growth has slowed considerably in the last 12 months, and

WHEREAS, the RWQCB issued a new tentative waste discharge order (TO) on January 15, 2008, with limits more restrictive than those indicated from previous communications, and

WHEREAS, the TO includes unprecedented limits for seasonal secondary effluent discharges into the San Joaquin River, and

WHEREAS, the City will need to meet the new limits for ammonia, nitrate, and carbon tetrachloride, approximately 5 years from the permit's effective date (anticipated in 2013), and

WHEREAS, it may be likely that the net effect of the TO will be to advance the timeframe required to achieve tertiary treatment and year-round river discharge (Phase 1B and Phase 2) from 2016 to 2014, and

WHEREAS, as a result, a WWMP Supplement is necessary to revise the City's strategic plan to meet these new discharge requirements and accommodate revised growth projections, reprioritize the capital improvement program and revise the projected cash flow curve, to be used by others, to update future wastewater rates, and

WHEREAS, the City does not currently have the staffing level or expertise to complete the WWMP Supplement work in-house, and

WHEREAS, due to Carollo's familiarity with the City's wastewater treatment facilities, as well as their ongoing work with the Phase 1A Tertiary Treatment Facility and their current task of analyzing alternatives to meet new discharge permit requirements, Carollo is best suited to provide professional services that will enable this project to be completed in a timely manner, and

WHEREAS, City staff recommends an agreement with the consulting firm of Carollo Engineers, P.C. be approved to provide professional engineering services to prepare a Wastewater Master Plan supplement as current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, City staff recommends that City Council approve an agreement with Carollo Engineers, P.C. to provide professional engineering services to prepare a Wastewater Master Plan supplement in an amount not to exceed $133,500, and

WHEREAS, Carollo will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Carollo Engineers, P.C. to provide professional engineering services to prepare a Wastewater Master Plan supplement in an amount not to exceed $133,500.

BE IT FURTHER RESOLVED that the Interim 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 April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-188

A RESOLUTION APPROVING AN AGREEMENT WITH BROWN AND CALDWELL TO PREPARE A FINAL PROJECT DESIGN FOR THE PRIMARY OUTFALL REHABILITATION PROJECT IN AN AMOUNT NOT TO EXCEED $787,401 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $78,740 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A MAXIMUM TOTAL AMOUNT NOT TO EXCEED $866,141, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto (City) owns and operates approximately 6.5 miles of 60-inch diameter pipeline that transports primary effluent from the Sutter Avenue Primary Water Quality Control (WQC) Plant (Primary Plant) to the Jennings Road Secondary WQC Plant (Secondary Plant), and

WHEREAS, the existing Primary Outfall pipeline was constructed in 1969, and

WHEREAS, the condition of the Primary Outfall pipe has deteriorated over its operational life due to internal hydrogen sulfide-induced corrosion that has resulted in pipe repairs, and

WHEREAS, although approximately 7,000 feet of the Primary Outfall has been rehabilitated in two locations along the alignment, subsequent spot inspections by the City have identified a continuing deterioration in the Primary Outfall and the need for corrective action, and

WHEREAS, the City Council, on March 13, 2007, by Resolution No. 2007-178, approved certifying the Final Master Environmental Impact Report for the City of Modesto Wastewater Master Plan Update, which identified that the Primary Outfall has insufficient capacity under its current operating condition for projected Peak Dry

Weather Flow, and recommended changing the operating condition from a gravity system to a continuous force main, and

WHEREAS, this project will not only rehabilitate the Primary Outfall, but will also increase its hydraulic capacity, improve reliability, and reduce future maintenance, and

WHEREAS, the City Council, on June 12, 2007, by Resolution No. 2007-350, approved an Agreement with Brown and Caldwell to complete the 35% design effort and a Preliminary Design Report (PDR) for the Primary Outfall Rehabilitation Project, and

WHEREAS, the PDR summarizes existing facilities, details proposed project elements and rehabilitation method descriptions, presents preliminary engineering drawings, and provides estimated cost and schedule projections for project implementation, and

WHEREAS, the PDR has been completed and will serve as the basis of final design for the Primary Outfall Rehabilitation project, and

WHEREAS, City staff recommends an agreement with the consulting firm of Brown and Caldwell be approved to perform the final design services as the City does not have the staffing level or subject matter expertise to complete the final design of the Primary Outfall Rehabilitation project and current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, selecting Brown and Caldwell to complete the final design services will maximize benefits to the City related to utilizing knowledge gained through the preliminary design effort, and

WHEREAS, Brown and Caldwell will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Brown and Caldwell to prepare a final project design for the Primary Outfall Rehabilitation project in an amount not to exceed $787,401 for the identified scope of services, plus $78,740 for additional services (if needed) for a maximum total amount not to exceed $866,141.

BE IT FURTHER RESOLVED that the Interim 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 April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-189

A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET BY APPROVING A TRANSFER OF FUNDS IN THE AMOUNT OF $263,175 FROM ACCOUNT 6210-800-8000-8003 "WASTEWATER FUND-RESERVES" TO CIP ACCOUNT 6210-430-B812-6010 "PRIMARY OUTFALL REHABILITATION" IN ORDER TO FULLY FUND THE AGREEMENT WITH BROWN AND CALDWELL TO PERFORM THE REQUIRED FINAL DESIGN SERVICES TO COMPLETE THE PRIMARY OUTFALL REHABILITATION PROJECT

WHEREAS, certain budgetary transactions are necessary to fully fund the agreement with Brown and Caldwell (B&C) in an amount not to exceed $787,401, for the identified scope of services, plus $78,740 for additional services (if needed) for a maximum total amount not to exceed $866,141 to perform the required final design services to complete the Primary Outfall Rehabilitation project, and

WHEREAS, to fully fund the agreement to prepare a final project design for the Primary Outfall Rehabilitation project in the maximum not-to exceed amount of $866,141, plus $78,740 for project administration services by City staff, the current Capital Improvement Program (CIP) budget must be amended by transferring $263,175 from Account 6210-800-8000-8003 "Wastewater Fund-Reserves" to CIP Account 6210-430-B812-6010 "Primary Outfall Rehabilitation" to perform the required final design services to complete the Primary Outfall Rehabilitation project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds as set forth herein to fully fund the agreement with Brown and Caldwell to perform the required final design services to complete the Primary Outfall Rehabilitation project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-190

A RESOLUTION APPROVING AN AGREEMENT WITH BROWN AND CALDWELL TO PREPARE A FINAL PROJECT DESIGN FOR THE EMERALD TRUNK REHABILITATION PROJECT IN AN AMOUNT NOT TO EXCEED $663,278, FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $66,327 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A MAXIMUM TOTAL AMOUNT NOT TO EXCEED $729,605, AND AUTHORIZING THE INTERIM 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 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, 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, the City Council, on June 12, 2007, by Resolution No. 2007-349, approved an Agreement with Brown and Caldwell to complete the 35% design effort and a Preliminary Design Report (PDR) for the Emerald Trunk Rehabilitation Project, and

WHEREAS, the PDR summarizes existing facilities, details proposed project elements and rehabilitation method descriptions, presents preliminary engineering drawings, and provides estimated cost and schedule projections for project implementation, and

WHEREAS, to limit project impacts to Emerald Avenue, the PDR considered rehabilitation methods that utilize trenchless technologies such as slip lining or cured-in-place pipe (CIPP), and

WHEREAS, the PDR has been completed and will serve as the basis for the final design of the Emerald Trunk Rehabilitation project, and

WHEREAS, City staff recommends an agreement with the consulting firm of Brown and Caldwell be approved to perform the final design services as the City does not have the staffing level or subject matter expertise to complete the final design of the Emerald Trunk Rehabilitation Project and current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, selecting Brown and Caldwell to complete the final design services will maximize benefits to the City related to utilizing knowledge gained through the preliminary design effort, and

WHEREAS, Brown and Caldwell will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Brown and Caldwell to prepare a final project design for the Emerald Trunk Rehabilitation project in an amount not to exceed $663,278, for the identified scope of services, plus $66,327 for additional services (if needed) for a maximum total amount not to exceed $729,605.

BE IT FURTHER RESOLVED that the Interim 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 April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-191

A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET BY APPROVING A TRANSFER OF FUNDS IN THE AMOUNT OF $273,262 FROM ACCOUNT 6210-800-8000-8003 "WASTEWATER FUND-RESERVES" TO CIP ACCOUNT 6210-430-B808-6010 "EMERALD TRUNK REHABILITATION" IN ORDER TO FULLY FUND THE AGREEMENT WITH BROWN AND CALDWELL TO PERFORM THE REQUIRED FINAL DESIGN SERVICES TO COMPLETE THE EMERALD TRUNK REHABILITATION PROJECT

WHEREAS, certain budgetary transactions are necessary to fully fund the agreement with Brown and Caldwell (B&C) in an amount not to exceed $663,278, for the identified scope of services, plus $66,327 for additional services (if needed) for a maximum total amount not to exceed $729,605 to perform the required final design services to complete the Emerald Trunk Rehabilitation project, and

WHEREAS, to fully fund the agreement to prepare a final project design for the Emerald Trunk Rehabilitation project in the maximum not-to exceed amount of $729,605, plus $66,328 for project administration services by City staff, the current Capital Improvement Program (CIP) budget must be amended by transferring $273,262 from Account 6210-800-8000-8003 "Wastewater Fund-Reserves" to CIP Account 6210-430-B808-6010 "Emerald Trunk Rehabilitation" to perform the required final design services to complete the Emerald Trunk Rehabilitation project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds as set forth herein to fully fund the agreement with Brown and Caldwell to perform the required final design services to complete the Emerald Trunk Rehabilitation project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-192

A RESOLUTION AUTHORIZING PUBLIC WORKS DEPARTMENT STAFF TO NEGOTIATE A FIVE-YEAR AGREEMENT WITH STORER TRANSIT SYSTEMS (STORER) TO OPERATE THE MODESTO AREA DIAL-A-RIDE (DAR) SERVICE AND BRING TO COUNCIL FOR CONSIDERATION.

WEREAS, the existing agreement with Storer Transit Systems to operate the Modesto Area Dial-A-Ride (DAR) service expires June 27, 2008, and

WEREAS, the City wishes to continue providing Dial-A-Ride service to the citizens of Modesto, and

WEREAS, the City Council authorized staff to solicit Request for Proposals for a new five-year contract to be effective June 28, 2008, and

WEREAS, Storer Transit Systems submitted a proposal that was determined to be reasonable and cost effective, and

WEREAS, by an agenda report to the City Council dated March 11, 2008, the Public Works Director recommended approval of the contract with Storer Transit Systems,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Public Works staff to negotiate a five-year agreement with Storer Transit Systems to operate the Modesto Area Dial-A-Ride service and bring to Council for consideration.

BE IT FURTHER RESOLVED that staff is authorized to prepare a final agreement with Storer Transit Systems for consideration by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008 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, Acting City Clerk

(Seal)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008–193

A RESOLUTION AUTHORIZING A TRANSFER OF $23,900 FROM WASTEWATER RESERVES TO FUND ONE ADDITIONAL ENVIRONMENTAL COMPLIANCE INSPECTOR I/II IN ORGANIZATION 6210-480-5217 FOR THE REMAINDER OF FY 2007/08.

WHEREAS, on July 1, 2007, an Environmental Compliance Inspector I/II (ECI) position allocated to Public Works Department was reallocated to the Community and Economic Development Department (C&ED), and

WHEREAS, this position is responsible for the review of plans and specifications for the Public Works Department, as required for compliance with the City's Stormwater National Pollutant Discharge Elimination Permit (NPDES), and

WHEREAS, this position is currently utilizing service credits for work performed for Environmental Services through the Storm Drain Fund, and

WHEREAS, it is anticipated that these costs will be covered under new fees currently being developed by C&ED, and

WHEREAS, the Environmental Services Section of the Public Works Department has responsibilities outlined in both of the City's Wastewater and Stormwater NPDES Permits, and

WHEREAS, with the reallocation of this position to C&ED, Environmental Services is currently down one (1) ECI, and

WHEREAS, there are currently five (5) ECI positions allocated to Org. 5217 in the Wastewater Fund, and

WHEREAS, ECI's are responsible for the protection of the treatment and collection systems, as well as worker health and safety related to pretreatment processes, and

WHEREAS, with the growth of the City of Modesto, including the state imposing new collection system waste discharge requirements, an additional ECI is required to support the

regulatory and permit requirements, as well as responding to illicit discharges and the changing needs of the industries, and

WHEREAS, the addition of one ECI position will assist in ensuring the City is meeting the needs of the NPDES permits, its citizens, industries, and governing agencies,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the transfer of $23,900 from Wastewater Reserves to fund one additional Environmental Compliance Inspector I/II in organization 6210-480-5217.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-194

A RESOLUTION APPROVING A JOINT POWERS AUTHORITY AGREEMENT WITH THE COUNTY OF STANISLAUS AND THE CITIES OF OAKDALE AND RIVERBANK FOR ROUTE ADOPTION OF THE NORTH COUNTY CORRIDOR TRANSPORTATION EXPRESSWAY, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, east and west traffic congestion in northern Stanislaus County has increased dramatically in recent years, and

WHEREAS, to identify potential solutions to address this issue, the StanCOG Policy Board contracted with Nolte and Associates to complete a feasibility study of a potential northern transportation corridor in this area, and

WHEREAS, the draft study has identified several alternative alignments to assist in alleviating traffic congestion in this portion of the County, and

WHEREAS, these alignments are northerly and southerly of Kiernan/Claribel Roads, extending easterly from State Route 99 and terminating south and easterly of the City of Oakdale, and

WHEREAS, a future expressway in this area would help address Stanislaus County's (County) needs for an east-west connector, and

WHEREAS, the North County Corridor (Corridor) has also been identified as a priority corridor by the County and the cities of Modesto, Oakdale, and Riverbank, and

WHEREAS, the proposed roadway would be built in unincorporated Stanislaus County and is not anticipated to cross any current city boundaries; however, portions of it may travel less than one mile south of Riverbank and Oakdale, and less than one mile north of Modesto, and

WHEREAS, a portion of the project would also traverse the designated sphere of influence for Modesto and future spheres for Riverbank and Oakdale, and

WHEREAS, in November 2007 each of these entities, along with StanCOG, agreed to contribute $30,000 each to the completion of a Project Study Report (PSR), and

WHEREAS, subsequent to the PSR, the Project Approval and Environmental Documentation (PA/ED) will provide more comprehensive design to solicit additional public input and recommend a "preferred alternative", and

WHEREAS, the County and cities of Modesto, Oakdale, and Riverbank have been meeting and discussing how to develop a precise alignment for the Corridor, and

WHEREAS, it was determined that the formation of a Joint Powers Authority (JPA) would be the best mechanism to complete the PA/ED stage, which would commence upon completion of the PSR, and

WHEREAS, the proposed JPA Agreement will create a "North County Corridor Transportation Expressway Authority" (Authority), and

WHEREAS, under the terms of the JPA Agreement, the County will be responsible for 40% of the project activities and expenses and each participating city will be responsible for 20%, and

WHEREAS, the JPA Agreement requires that within 60 days of execution, the Authority shall adopt a budget to operate the Authority until June 30, 2009, and

WHEREAS, by March 1, 2009 and each year thereafter, the Authority shall adopt a budget for the coming fiscal year and transmit to each participant its coming fiscal year obligation, and

WHEREAS, the JPA Agreement also states that the County Public Works Director will be designated as the Authority' Manager, the County Auditor-Controller

will be designated the Authority's controller, and the County Treasurer will be designated as the Authority's treasurer, and

WHEREAS, reasonable costs, as determined by the Stanislaus County Board of Supervisors, will be charges to the Authority for these officers' services, and

WHEREAS, the exact costs associated with completing the PA/ED are not know at this time and will be established after completion of the currently funded PSR and circulation of a Request for Proposals for the PA/ED stage, and

WHEREAS, it is anticipated that the cost for the PA/ED work will be met through a combination of funds from the State Transportation Improvement Program (STIP) and Public Facilities Fees (PFF), and

WHEREAS, the City of Modesto is not anticipating any monitory contributions, yet there may be in-kind staff time contributions, and

WHEREAS, the Draft Expenditure Plan for the propose Transportation Sales Tax Initiative also identifies this critical corridor for funding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Joint Powers Authority Agreement with the County of Stanislaus and the cities of Oakdale and Riverbank for Route Adoption of the North County Corridor Transportation Expressway. .

BE IT FURTHER RESOLVED that the Council hereby authorizes the Interim City Manager, or his designee, to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-195

A RESOLUTION ACCEPTING THE WORK BY GEORGE REED, INC. FOR THE PROJECT TITLED "FLOYD AVENUE IMPROVEMENTS –OAKDALE ROAD TO GROUSE CROSSING WAY" AS COMPLETE, AUTHORIZING THE ACTING 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 $2,601,621.60.

WHEREAS, a report has been filed by the Public Works Director that the project titled "Floyd Avenue Improvements – Oakdale Road to Grouse Crossing Way" has been completed by George Reed, Inc., in accordance with the contract agreement dated May 25, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Floyd Avenue Improvements – Oakdale Road to Grouse Crossing Way" is hereby accepted as complete from said contractor George Reed, Inc, that the Acting 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 $2,601,621.60 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 April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-196

A RESOLUTION ACCEPTING THE WORK BY MCM CONSTRUCTION, INC. FOR THE PROJECT TITLED "SYLVAN AVENUE PEDESTRIAN OVERCROSSING" AS COMPLETE, AUTHORIZING THE ACTING 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 $1,614,794.26.

WHEREAS, a report has been filed by the Public Works Director that the project titled "Sylvan Avenue Pedestrian Overcrossing" has been completed by MCM Construction, Inc., in accordance with the contract agreement dated October 24, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Sylvan Avenue Pedestrian Overcrossing" is hereby accepted as complete from said contractor MCM Construction, Inc, that the Acting 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 $1,614,794.26 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 April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-197

A RESOLUTION ACCEPTING A PROPOSAL FROM BANK OF AMERICA, N.A. TO PROVIDE A STANDBY BOND PURCHASE AGREEMENT AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT

WHEREAS, pursuant to the City of Modesto Water Revenue Bond Law, constituting Chapter 6 of Title VIII of the Modesto Municipal Code (the "Bond Law"), the City of Modesto, California (the "City") is authorized to issue revenue bonds to provide funds to finance the costs of the acquisition, construction and equipping of improvements to the water system of the City (the "Enterprise") or for the purpose of refunding bonds issued for such purposes, and

WHEREAS, the City previously approved the issuance of the 2006 Water Revenue Certificates of Participation to pay for the cost of certain downstream water system improvements, and

WHEREAS, current investment market conditions require the outstanding 2006 Water Revenue Certificates of Participation to be refinanced in order for the City to maintain the cost savings associated with the original debt issue, and

WHEREAS, the City Council appointed a bond financing team to refinance the 2006 Water Revenue Certificates of Participation at the March 4, 2008 City Council meeting, and

WHEREAS, the bond financing team is recommending the use of a bond purchase agreement as part of the refinancing strategy for the 2006 Water Revenue Certificates of Participation, and

WHEREAS, Bank of America has offered acceptable and competitive terms to provide a Standby Bond Purchase Agreement in its proposal dated April 1, 2008.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby accepts the proposal from Bank of America to provide a Standby Bond Purchase

Agreement and the Interim City Manager, or his designee, is authorized to sign the proposal on behalf of the city.

BE IT FURTHER RESOLVED that the bond financing team is authorized to negotiate the final terms of the Standby Bond Purchase Agreement and present them to the City Council for ratification at a future date. Interim City Manager, or his designee, is authorized to sign the proposal on behalf of the city.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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:	O'Bryant
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

_____
SUSAN ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-198

A RESOLUTION APPROVING A TAX-EXEMPT BOND FINANCING TO BE ISSUED BY THE CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY TO BENEFIT SUTTER HEALTH AND ITS AFFILIATES

WHEREAS, Sutter Health, Sutter Gould Medical Foundation and certain other affiliates of Sutter Health, each a nonprofit public benefit corporation (collectively, the "Health Institutions"), have requested that the California Statewide Communities Development Authority (the "Authority") issue bonds in one or more series in an aggregate principal amount not to exceed $300,000,000 (the "Bonds") for the purpose of, among other things, financing or refinancing the acquisition, improvement and equipping (the "Financing") of certain health facilities owned or operated by the Health Institutions, including Sutter Gould Medical Foundation (the "Facilities") located in the City of Modesto (the "City"), and

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

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

WHEREAS, the Authority has requested that the Council approve the issuance of the Bonds by the Authority in order to satisfy the public approval requirement of Section 147(f) of the Code and the requirements of Section 9 of the Amended and Restated Joint

Exercise of Powers Agreement, dated as of June 1, 1988 (the "Agreement"), among certain local agencies, including the City, and

WHEREAS, pursuant to Section 147(f) of the Code, the Council has, following notice

duly given, held a public hearing regarding the issuance of the Bonds, and now desires to approve the issuance of the Bonds by the Authority,

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

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

SECTION 2. The Interim City Manager, or his designee, is hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they deem necessary or advisable in order to carry out, give effect to and comply with the terms and intent of this Resolution and the financing transaction approved hereby.

SECTION 3. This Resolution shall take effect immediately upon its adoption.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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:	Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-199

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(584). (HORIZON CONSULTING/JEFFREY AND MARLENE COWAN)

WHEREAS, a verified application for an amendment to Section 21-3-9 of the Zoning Map was filed by Horizon Consulting on March 22, 2007, to reclassify from Neighborhood Commercial Zone, C-1, and General Commercial Zone, C-2, to Planned Development Zone, P-D(584), to allow for the addition of a 3,360-square-foot warehouse at the existing House of Carpets retail flooring and home furnishings business, property located on the southeast corner of McHenry Avenue and Roseburg Avenue, described as follows:

C-1 to P-D(584)

All that certain real property situated in the City of Modesto, County of Stanislaus, State of California, and being a portion of the northwest quarter of the southwest quarter of Section 21, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:

> The east 80 feet of the northerly 118 feet of the west 267 feet of Lot 1 as shown on the Map of Miles Colony filed May 14, 1906 in the Office of the County Recorder of Stanislaus County, California, in Volume 2 of Maps, at Page 26.

C-2 to P-D(584)

All that certain real property situated in the City of Modesto, County of Stanislaus, State of California, and being a portion of the northwest quarter of the southwest quarter of Section 21, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:

> Parcel A as shown on that Parcel Map filed June 16, 1970 in the Office of the County Recorder of Stanislaus County, California, in Volume 9 of Parcel Maps, at Page 20;

Also including the southerly half of Roseburg Avenue and the easterly half of McHenry Avenue all being immediately adjacent to the above described property.

WHEREAS, after a public hearing held on February 11, 2008, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2008-10, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed rezone will facilitate the infill of an undeveloped lot in the Baseline Developed Area to compliment the uses of the adjacent lot;

2. The proposed rezoning will facilitate the improvement of the driveways to and from the existing business, and the improvement of the adjacent Roseburg Avenue frontage with new curb, gutter, sidewalk, and landscaping.

3. The proposed rezoning is consistent with the Modesto Urban Area General Plan because the use is consistent with the Commercial, (C), designation for the site.

and

WHEREAS, said matter was set for a public hearing of the City Council to be held on the 1st of April, 2008, 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 Horizon Consulting 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. 2008-10 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3482-C.S. on the 1st day of April, 2008, reclassifying the above-described property from Neighborhood Commercial Zone, C-1, and General Commercial Zone, C-2, to Planned Development Zone, P-D(584).

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

1. All development shall conform to the site plan and building elevations titled "House of Carpets" as amended in red, stamped approved by the City Council.
2. 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.
3. The driveway at the Roseburg Avenue frontage shall be improved to drop-curb type in accordance to City Standards or to the satisfaction of the City Engineer or designee.
4. The driveway at the McHenry Avenue frontage shall be restricted to a one-way parking lot entrance. The driveway surface shall be improved with new one-way travel markings and signage at the McHenry frontage to identify it as an "Entrance Only" driveway.
5. Prior to the issuance of a building permit, the developer shall obtain from the California Department of Transportation an encroachment permit, if required.
6. Roseburg Avenue frontage improvements be shall be installed at the existing location and include the following:
    a. New curb and gutter;
    b. New five-foot-wide sidewalk;
    c. New five-foot-wide landscape area between the sidewalk and parking area.
7. Roseburg Avenue street and frontage improvements shall be made prior to the issuance of a building permit or at any time requested by the City Engineer or designee to alleviate a health, safety, or traffic problem in the area.
8. Prior to the issuance of a building permit, the developer shall submit a plan to provide on-site treatment of storm water, as approved by the Public Works Director or designee. Storm drain improvements shall be constructed in accordance with the approved plans.
9. On-site storm drainage shall follow the Guidance Manual for New Development Stormwater Quality Control Measures.

10. The Developer shall provide permanent, post-construction treatment (grass swale, vegetative strip, or other approved proprietary device) to remove pollutants from the first ½-inch of stormwater runoff from the site.

11. Prior to the issuance of a building permit, the developer shall provide an owner-signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Development Services, Stormwater, for recording, if treatment system is required.

12. Prior to the issuance of a building permit, the developer shall obtain coverage for the project under the General Construction Activity Storm Water Permit (General Construction 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 Development Services, Stormwater, when filed.

    b. The General Construction Permit requires the Developer to prepare and implement a Storm Water Pollution Prevention Plan (SWPPP) for project. Submit one copy of SWPPP to Development Services, Stormwater, for review.

13. The trash enclosure for the site shall be elevated or bermed to prevent stormwater run-on and graded to drain into adjacent landscape areas.

14. An eight-foot decorative masonry wall with decorative cap shall be constructed along the property line at the east side of the project site. Construction drawings shall indicate materials, colors, and height of the masonry wall.

15. The landscape planter at the east side of the project site shall be eight feet in width, and planted with a multi-level screen planting that includes a mixture of trees which at five years of growth would reach a height of fifteen to twenty feet and at maturation reach a height of twenty to fifty feet.

16. The developer shall install street trees, per direction from the City's Urban Forestry Division, along the Roseburg Avenue frontage.

17. The parking lot design shall meet current shade tree requirements, including size of shade tree planters and parking lot shading.

18. Prior to issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhood Director or designee. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

19. Prior to issuance of a building permit, the applicant shall satisfy the Fire Chief of the following:

a. The developer shall install automatic fire sprinklers in accordance with NFPA 13. Plans shall be submitted to the fire department for approval.

b. The building shall meet the requirements of Chapter 5 of the California Building Code for limitations based on location of the property.

20. 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.

21. 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.

22. 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.

23. 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.

24. 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:

25. 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.

26. 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.

27. 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.

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

29. 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.

30. 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.

31. 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.

32. 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.

33. 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 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.

34. 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.

35. 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(584):

> The entire construction program be accomplished in one phase, construction to begin on or before March 1, 2011, and completion to be not later than March 1, 1012.

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. EXCEPTION FROM DESIGN STANDARDS. An exception from City Design Standards shall be applied specifically and only to the curb cut of the McHenry Avenue driveway entrance, and the location of the curb, gutter, and sidewalk improvements on the Roseburg Avenue frontage.

SECTION 5. 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 6. EFFECTIVE DATE. This resolution shall not become effective unless and until the ordinance reclassifying the above-described property to Planned Development Zone, P-D(584), 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 April, 2008, 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, Acting City Clerk

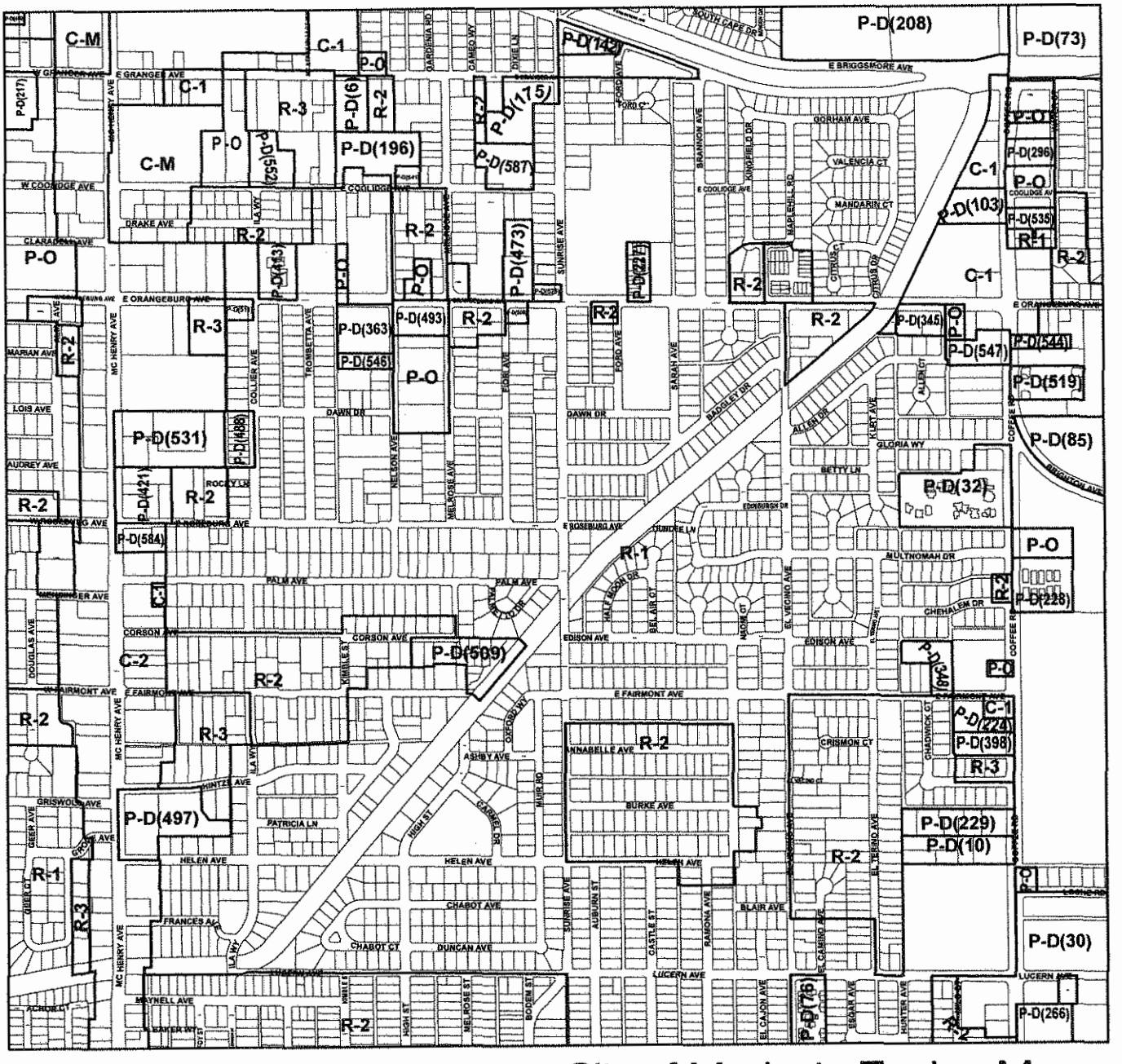
(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By _____
Community & Economic Development Department
Planning Division



City of Modesto Zoning Map

21-3-9

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-200

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDING SECTION 21-3-9 OF THE ZONING MAP TO REZONE FROM NEIGHBORHOOD COMMERCIAL ZONE, C-1, AND GENERAL COMMERCIAL ZONE, C-2, TO PLANNED DEVELOPMENT ZONE, P-D(584), PROPERTY LOCATED ON THE SOUTHEAST CORNER OF MCHENRY AVENUE AND ROSEBURG AVENUE (HORIZON CONSULTING/ JEFFREY AND MARLENE COWAN)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, Horizon Consulting has proposed that the zoning designation for the property located on the southeast corner of McHenry Avenue and Roseburg Avenue, be amended from Neighborhood Commercial Zone, C-1, and General Commercial Zone, C-2, to Planned Development Zone, P-D(584), in the City of Modesto, to allow for the addition of a 3,360-square-foot warehouse at the existing House of Carpets retail flooring and home furnishings business, 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 2008-05 ("Initial Study") reviewed

the proposed rezone 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 March 7, 2008 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 1, 2008, 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, a copy of which is attached hereto as **Exhibit "A",** and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 1999082041) as being within the scope of the Master EIR.

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

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

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

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2008-05

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist C&ED No. 2008-05

For the proposed:

Rezone from C-1 (Neighborhood Commercial) and C-2 (General Commercial) to Planned Development

P-PDZ-07-003
House of Carpets, 1120 McHenry Ave
(J. Cowan/Horizon Consulting)

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

January 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 EIR. This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the **Rezoning from C-1 and C-2 to Planned Development (project P-PDZ-07-003)**, is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

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

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

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

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

II. PROJECT DESCRIPTION

A. Title: Rezone from C-1 and C-2 to Planned Development, P-PDZ-07-003

B. Address or Location: 1120 McHenry Avenue, SE corner of McHenry and Roseburg Avenue

C. Applicant: Horizon Consulting, PO Box 1448, Modesto, CA 95353

D. City Contact Person: Katharine Martin

Project Manager: Katharine Martin, Assistant Planner
Department: Community and Economic Development, Planning Division
Phone Number: 209-577-5267
E-mail address: kamartin@modestogov.com

E. Current General Plan Designation(s): "C" Commercial

F. Current Zoning Classification(s): "C-1" Neighborhood Commercial and "C-2" General Commercial

G. Surrounding Land Uses:

North: Planned Development, P-D(421) with "C-3" Highway Commercial Uses, retail tire and wheel sales
South: "C-2" General Commercial, restaurant and car wash/detailing service
East: "R-1", Single-Family detached home
West: "C-2" General Commercial, retail drug store

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

This is a rezoning to Planned Development Zone as described in Section II.C of the Master EIR for the City of Modesto's General Plan. This application is to rezone two adjacent parcels under the same ownership from "C-1" Neighborhood Commercial and "C-2" General Commercial into one Planned Development zone to allow for the construction and use of a 3,360 square-foot warehouse addition to an existing 11,340 square-foot home flooring and furnishings retail building. The warehouse is to be used exclusively by the existing retail business as an inventory storage area.

I. Other Public Agencies Whose Approval is Required:

None.

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

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

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

   C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

   D. Based on the Initial Study, the City of Modesto finds and determines:
      a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
      b) No new or additional mitigation measures or alternatives are required.

   E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

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

   A. The type of project is described in Chapter II of the Master EIR.

   B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

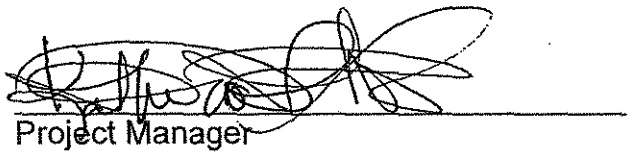
   C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

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

   A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.



Project Manager

Assistant Planner — January 14,2008
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. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	☒	☐
(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 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 mitigation measures identified 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 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any no response must be discussed.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	☒	☐
(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.	☒	☐

(5) 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, analyzes whether this project may cause any project-specific significant effect on the environment that was not examined in the Final Master EIR (MEIR) for the General Plan and whether new or additional mitigation measures or alternatives may be required as a result. The Initial Study thereby documents whether or not the project is "within the scope" of the Master EIR.

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

All environmental effects cited reflect year 2025 buildout of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts:

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:

This is an application is to rezone two commercially-zoned properties into a Planned Development of commercial uses to allow for the addition of a 3,360 square-foot warehouse to an existing 11,340 square-foot retail building, with the intention of using the warehouse space for the inventory of the existing retail building. The project does not exceed the 100 peak-hour trip threshold of the MEIR.

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 EIRs 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 EIRs 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 Department has reviewed the project and determined that the project is within the scope of the Master EIR and no further traffic study is required.

(2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)

(3) Modesto Police and Fire staff have reviewed the project and have not indicated that

there are any emergency access issues.

(4) Per City of Modesto Municipal Code, the requirements for the combined retail and warehouse uses at this project site is 29 spaces. The parking area will be deficient by two spaces from this requirement. However, the project will expand the existing parking area, bringing the overall count of spaces from twenty-two (22) to twenty-seven (27). The deficiency of two parking spaces per Code is not a significant impact as the warehouse is to be used by the employees of the existing business for inventory storage only, and no need for additional parking beyond what currently exists for employees is anticipated.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected 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:

Mitigation Measures appropriate to this project include: AQ-17, Air Quality Measures to Reduce Construction Impacts.

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 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 (SJVUAPCD) for comment and no indication was given that the project would exceed emissions thresholds.

(2) This project will incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).

(3) Applicable General Plan Policies will be applied to the project. Therefore, project specific effects will be less than significant for this impact (see mitigations measures above).

(4) The project involves a rezoning to allow a the addition of a 3,360 square-foot warehouse to an existing retail business for inventory storage, and is not a significant contributor to pollution levels. PM10 emissions created through the construction phase will be mitigated as called for by the MEIR (see mitigation measures above).

(5) The project will not create objectionable odors.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in 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 and N-6 from the MEIR.

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 policies are incorporated into the conditions of approval as a mitigation measure.

(2) The project is consistent with the noise policies of the General Plan. Noise mitigation measures required for projects within the Baseline Developed Area of the General Plan are incorporated into the conditions of approval for the project.

(3) The only permanent noise levels produced by the project would be associated with the use of the warehouse as a storage facility for the inventory of the existing business. The increased 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 required for projects within the Baseline Developed Area of the General Plan are incorporated into the conditions of approval for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

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:

This project is an infill area within the Baseline Developed Area of the General Plan, surrounded by existing urbanized area, and is not zoned for agricultural use or designated for future agricultural use in the General Plan. This project will not affect areas zoned for agricultural use or designated for future agricultural use. Therefore, 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 consistent in use and intensity with the "C" Commercial land use designation in the General Plan.

(2) The project is within the Baseline Developed Area of the General Plan and is surrounded by existing urban uses.

(3) The project area is not zoned for agricultural use nor is under a Williamson Act contract.

(4) The project does not involve changes that would convert farmland to a non-agricultural use. The project is an infill area that is surrounded by existing urban uses.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. This is a less-than-significant impact.

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. Consequently, the potential environmental impacts of the Urban Area General Plan are considered less than significant.

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. This is a significant and unavoidable cumulative impact.

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

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 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) This project is consistent with the General Plan in both use and intensity.

(2) This project was referred to the Department of Public Works for comment and no determination was made that there would be insufficient water capacity to serve the project area.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. As a result, this impact would be less than significant.

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. This is a less-than-significant impact.

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

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

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-4 through V-6-7 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) This project is consistent with the General Plan in both use and intensity.

(2) This project was referred to the Department of Public Works for comment and no determination was made that there would be insufficient sewer service capacity to serve the project area.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less than significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

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

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

As this project is an infill area within the Baseline Developed Area outside of the Tuolumne River and Dry Creek Comprehensive Planning Districts, and is consistent with the General Plan in use and intensity, no further study is needed.

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 consistent in use and intensity with the General Plan.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) There is no conflict with local ordinances or policies regarding the protection of biological resources.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

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

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 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 Measures applicable to this project include: AH-8, Master EIR.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(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 consistent in use and intensity with the General Plan.

(2) The project site is outside of an archeological resource study area as depicted by Figure V-8-2 of the General Plan, and is not listed by the City of Modesto as a Designated Landmark Preservation Site. The project is a 3,360 square-foot warehouse addition to an existing retail business, and would not involve the moving or demolition of a building older than fifty years of age.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less than significant.

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm

events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

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

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. 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. This mitigation measure is addressed in the conditions of approval.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(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 consistent in use and intensity with the General Plan.

(2) An increase in impervious surface will be from the improvement of an unimproved lot of 7,838 square feet at the project site into a new driveway, parking area and landscaped area; however, 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 create or contribute to runoff water that would exceed the capacity of existing or planned storm water drainage systems, or provide substantial sources of polluted runoff.

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 project area is outside of the Flood Potential Study Area as shown on Figure V-10-1 of the General Plan. Mitigation measures appropriate to the project include FWQ-14(1) for single-family residential development.

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 proposes the addition of a 3,360 square foot warehouse addition for the inventory storage of an existing retail business, and therefore is consistent in use and intensity to the "C" Commercial designation of the area in the General Plan.

(2) The project would comply with the federal Clean Water Act and the State Porter-Cologne Act.

(3) The project complies with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.

(4) The project will not create or contribute to runoff water that would exceed the capacity of existing or planned storm water drainage systems, or provide substantial sources of polluted runoff.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. Impacts on parks and open space will be less than significant.

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. This impact is less than significant.

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

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 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 mitigation measures are applicable to this project. It is not within or adjacent to any park sites, nor is it within or near any of the riparian areas 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 project is consistent with the Modesto Urban Area General Plan "C", Commercial Land Use designation in both land use and intensity.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, eight 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:

No mitigation measures are 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 project is consistent to the General Plan in use and intensity.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less than significant.

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. These policies reduce the impact to a less-than-significant level.

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

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 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-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 consistent to the General Plan "C" Commercial land use designation in use and intensity.

(2) The project was referred for comments to the Modesto Police Department, and no opposition or need for construction of new or significantly altered facilities was indicated. The project meets City Standards for emergency services access.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. Impacts on fire services of development in these areas will be less than significant.

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. This impact would be less than significant.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 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 the 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 project is consistent with the General Plan Residential "C" Commercial designation in use and intensity.

(2) The project was referred for comments to the Modesto Fire Department, and no opposition or need for construction of new or significantly altered facilities was indicated. The project meets City Standards for emergency services access.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: Since the project would exceed available landfill capacity, it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. The project will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. The impact would be less than significant at such time as the Fink Road Landfill expansion is approved.

Effect: The project makes a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. This impact is significant and unavoidable.

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

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-15-5 and V-15-6 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 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 project is consistent to the General Plan Residential "C" Commercial designation in use and intensity.

(2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no determination was made that there would be insufficient solid waste disposal service capacity to serve the project area.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less than significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 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 the 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 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 consistent with the General Plan in use and intensity.

(2) The project is an infill area within the Baseline Developed Area of the General Plan that involves the addition of a 3,360 warehouse to be used as a storage unit for the inventory of a retail home furnishings business. No hazardous materials are involved in the project.

(3) The project site is not known to contain any hazardous materials or contaminants.

(4) The project would not emit hazardous emissions, or handle hazardous or acutely hazardous materials, substances, or waste.

(5) The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 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 the 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 project is consistent to the General Plan in use and intensity.

(2) The project is not located on soil that is unstable, or 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:

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:

(1) The project is consistent to the General Plan in use and intensity.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan.	☐	☒
(3)	The project would physically divide an established community	☐	☒

Discussion:

(1) The project is consistent with the General Plan in use and intensity.

(2) The project does not require an amendment to the General Plan.

(3) The project is a 3,360 square foot warehouse addition to an existing retail business within the Baseline Developed Area, and will not physically divide an established residential area.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would have a substantial adverse effect on a scenic vista.	☐	☒
(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 consistent with the General Plan in use and intensity.

(2) There are no scenic vistas from the location of the project area. The project is an infill area within the Baseline Developed Area and is completely surrounded by urbanization. Clear views of the Diablo and Sierra Nevada mountain ranges are already precluded from this site and the surrounding area.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area.

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 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 Measures:

Not applicable.

Air Quality Measures:

1. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover

2. All 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.

3. 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.

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. 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.

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

7. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.

8. Suspend excavation and grading activity when winds exceed 20 mph.

Noise Measures:

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

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

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

   B. An impact wrench, or other tool or equipment powered by compressed air.

   C. A hand-powered saw.

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

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

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

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

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

Agricultural Land Measures:

Not Applicable

Water Supply Measures:

Not applicable

Sanitary Sewer Service Measures:

Not applicable

Sensitive Wildlife and Plant Habitat Measures:

Not applicable.

Archaeological or Historic Sites Measures:

1. 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

Storm Drainage Measures:

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

Flooding and Water Quality Measures:

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

Parks and Open Space Measures:

Not applicable.

Schools Measures:

Not applicable.

Police Services:

Not applicable.

Fire Services:

Not applicable.

Generation of Solid Waste

Not applicable.

Generation of Hazardous Materials

Not applicable.

Potential for Landslides and Seismic Activity

Not applicable.

Energy

Not applicable.

Planning and Land Use

Not applicable.

Aesthetics

Not applicable.

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 additional study is needed.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-201

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(585). (STANCO)

WHEREAS, a verified application for an amendment to Section 26-3-9 of the Zoning Map was filed by STANCO on October 15, 2007, to reclassify from Medium Density Residential Zone, R-2, to Planned Development Zone, P-D(585) to facilitate development of an 18-unit senior housing development, property located on the north side of Poppypatch Drive, west of Lincoln Avenue, 421 Lincoln Avenue , described as follows:

R-2 to P-D(585)

All that certain real property situated in the City of Modesto, County of Stanislaus, State of California, and being a portion of the Southeast quarter of Section 26, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, more particularly described as follows:

All of Lot 6 in Block 2472 as shown on that Map of Lincoln Square, as filed March 29, 1973 in Volume 24 of Maps, Page 36, Stanislaus County Records;

also including the westerly half of Lincoln Avenue, all being immediately adjacent to the above described property.

WHEREAS, after a public hearing held on February 25, 2008 in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2008-16, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed Zone change to P-D is consistent with the Modesto Urban Area General Plan. The General Plan designates this area as "MU" (Mixed-Use), and the rezoning to allow a senior housing development will be consistent with the General Plan land use and intensity.

2. The Conditions of Approval will ensure that the proposed project is compatible with the adjacent residential uses.

3. The proposed project will provide needed affordable housing in Modesto and contribute towards meeting the City's share of the Regional Housing Needs Allocation.

WHEREAS, said matter was set for a public hearing of the City Council to be held on April 1, 2008, 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 STANCO 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. 2008-16 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3483-C.S. on the 1st day of April, 2008, reclassifying the above-described property from Medium Density Residential Zone, R-2, to Planned Development Zone, P-D(585).

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

1. All development shall conform to the plot plan titled "Lincoln Senior Housing (File No. P-PDZ-07-006)" as amended in red, stamped approved by the City Council on April 1, 2008.

2. Fences or walls shall be constructed prior to occupancy and shall be as follows:

   A six-foot-high concrete-masonry wall with decorative cap along the property line to the west, adjacent to or as a replacement of the existing wood fence.

3. Prior to the issuance of a building permit, the applicant shall submit a landscaping and irrigation plan conforming to current City of Modesto specifications and standards for review and approval by the Parks, Recreation and Neighborhood Director or designee. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

4. The applicant shall provide screen landscaping along the west property line adjacent to the residential housing units, to the satisfaction of the Parks, Recreation and Neighborhoods Director or designee.

5. The applicant shall provide sufficient parking lot shade trees to meet current Modesto Municipal Code requirements.

6. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and approved by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans

7. All private streets and parking areas shall be constructed in accordance with the standard structural section for residential streets as contained in the City of Modesto Standard Specifications.

8. All-weather, hard-surfaced roadways shall be constructed and maintained free of obstructions prior to and at all times during construction.

9. 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.

10. Electric facilities and overhead lines shall be removed, relocated, or protected as required by the Modesto Irrigation District and the City Engineer or designee. Appropriate easements for electrical facilities shall be granted as required. Relocation or installation of electric facilities shall conform to the District's Electric Service Rules. Costs for relocation and/or undergrounding the District's facilities at the request of others will be borne by the requesting party.

11. Trash bins shall be kept in enclosures in accordance with the approved plan and in accordance with plans approved by the Public Works Director or designee. Enclosures shall be constructed of building materials consistent with those used in the major buildings as approved by the Community and Economic Development Department Director or designee.

12. Trash enclosures shall be of a size and design to permit the storage and removal of required recyclable material receptacles, or a separate enclosure of the collection for recyclable materials shall be provided as approved by the Public Works Director or designee.

13. Trash enclosures for the project shall be bermed to prevent storm water run-off and graded to drain to adjacent landscape areas.

14. The developer shall provide permanent, post-construction treatment (grass swale, vegetative strip, or other approved proprietary device) to remove pollutants from the first ½" of stormwater run-off from site.

15. Prior to the issuance of a building permit, the developer shall submit a plan to provide on-site treatment of storm water, as approved by the City Engineer or designee. Storm drain improvements shall be constructed in accordance with the approved plans.

16. Prior to issuance of a building permit, the property owner shall provide owner-signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Development Services, Stormwater for recording.

17. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building Safety Division all fire hydrants as required by the Fire Chief. All hydrants required by the Fire Chief shall be installed and operable prior to construction of any structures.

18. The applicant shall install fire sprinkler systems as required by the 2001 California Fire Code (CFC) and the 2001 California Building Code (CBC) for R-1 occupancies with an occupant load of eleven or more

19. Fire Department Connections (FDC) shall be accessible to the Fire Department and within 90 feet of a fire hydrant

20. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

21. Prior to issuance of a building permit the applicant shall record a covenant restricting the project to senior housing in accordance with Civil Code section 51.3, to the satisfaction of the City Attorney or designee.

22. Prior to issuance of a building permit, the developer shall record an affordability covenant in accordance with the Modesto Municipal Code Density Bonus Provisions (Title 10 Article 3) in a form acceptable to the City Attorney. Five (5) percent of the units are required to be maintained at prices affordable to Very-Low Income persons or households as defined in Section 10-3.401(a) for a period of 30 years beginning when the units are first available for occupancy.

23. 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.

24. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at time of issuance of the building permit.

25. 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.

26. 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 a wall, 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.

27. All ground mounted utility structures such as transformers, HVAC equipment and back flow prevention valves shall be located out of view from a public street or adequately screened though the use of screening or masonry walls.

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:

28. 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.

29. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and 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. 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.

32. 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.

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

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

35. 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."

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

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

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

    c. A hand-powered saw.

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

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

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

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

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

37. 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.

38. The developer shall implement pre- and post-construction best management practices (BMP) 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(585):

The entire construction program shall be accomplished in one phase, construction to begin on or before April 1, 2010, and completion to be not later than April 1, 2011.

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(585), 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 April, 2008, by Councilmember O'Bryant, 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, Acting City Clerk

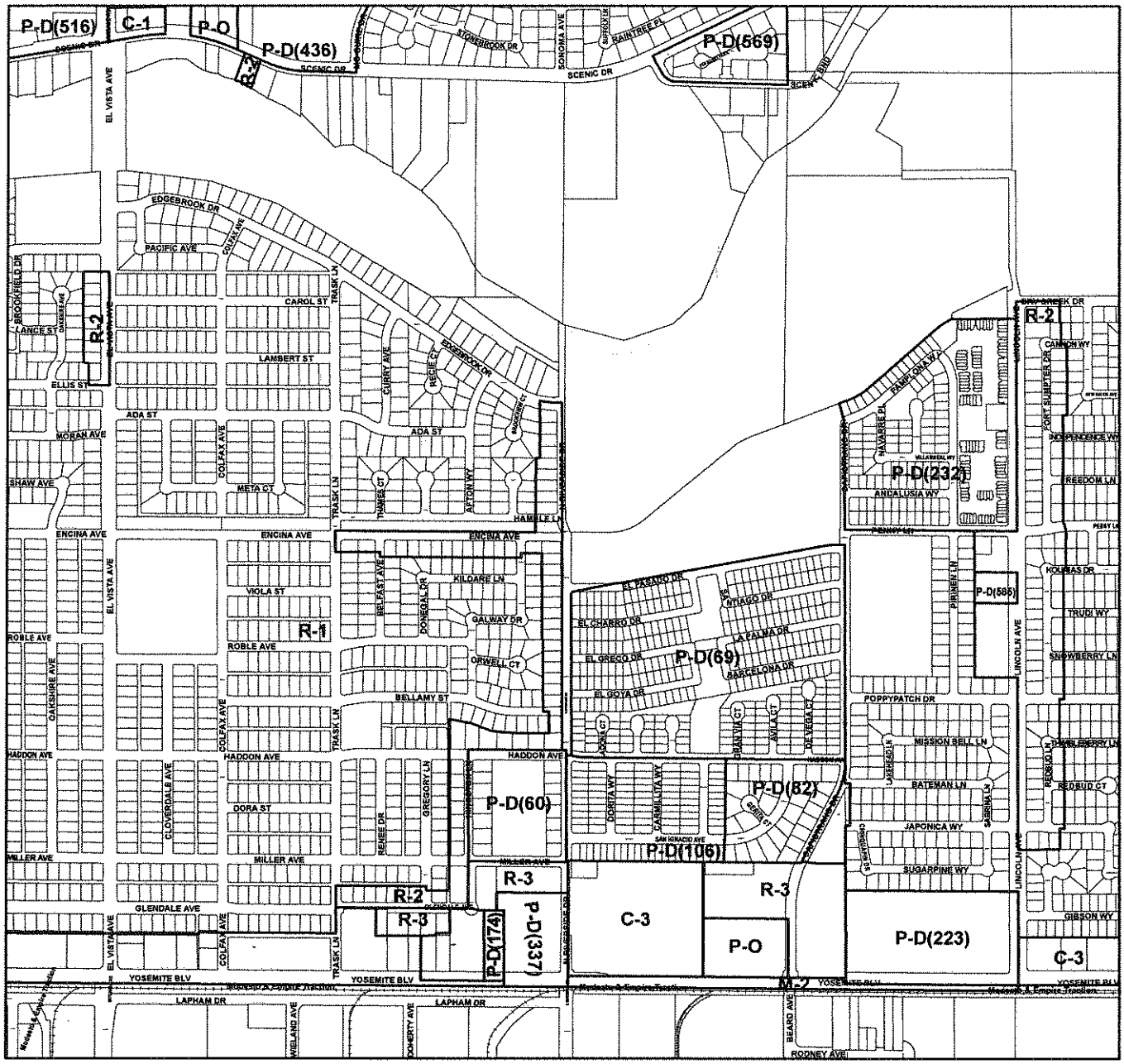
(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By _____
Community & Economic Development Department
Planning Division



City of Modesto Zoning Map

26-3-9

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-202

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDING SECTION 26-3-9 OF THE ZONING MAP TO REZONE FROM MEDIUM-DENSITY RESIDENTIAL ZONE, R-2, TO PLANNED DEVELOPMENT ZONE, P-D(585), PROPERTY LOCATED ON THE NORTH SIDE OF POPPYPATCH DRIVE, WEST OF LINCOLN AVENUE, 421 LINCOLN AVENUE. (STANCO)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, STANCO has proposed that the zoning designation for property located on the north side of Poppypatch Drive, west of Lincoln Avenue at 421 Lincoln Avenue be amended to rezone from Medium-Density Residential Zone, R-2, to Planned Development Zone, P-D(585), in the City of Modesto ("the Project) to allow for a senior housing project, and

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

WHEREAS, the City's Community and Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2008-09 ("Initial Study") reviewed the proposed amendment to the Zoning Map and Planned Development 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 March 7, 2008 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 1, 2008, 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(585), a copy of which is **attached** hereto as **Exhibit** "A", and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 1999082041) as being within the scope of the Master EIR.

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

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

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

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, by Councilmember O'Bryant, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2008-09

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-203

A RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING $1,230,567 IN CONGESTION MITIGATION AND AIR QUALITY (CMAQ) FUNDS FOR THE PURCHASE OF TWO BUSES ($584,298 FEDERAL) AND THE CONSTRUCTION OF THE NEW BUS MAINTENANCE FACILITY ($646,269 FEDERAL), AND AUTHORIZING THE INTERIM 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 Stanislaus County Council of Governments (StanCOG)is the Designated Recipient for Congestion Mitigation and Air Quality funding, and

WHEREAS, on December 12, 2006, the StanCOG Policy Board approved providing $584,298 in federal fiscal year 2007-08 CMAQ funds for the purchasing of two new buses, and

WHEREAS, on January 15, 2008, the StanCOG Policy Board approved providing $646,269 in federal fiscal year 2007-08 CMAQ funds for the construction of a new bus maintenance facility, and

WHEREAS, the project funds for the Bus Maintenance Facility and the two new bus purchases are included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and

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

WHEREAS, by a report to the Council dated March 7, 2008, from the Public Works Department, City staff recommended submitting a grant application for the Bus Maintenance Facility and the purchase of two new buses, and

WHEREAS, a public hearing was held on April 1, 2008, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, in accordance with FTA regulations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the submittal of a grant application to the Federal Transit Administration (FTA) for Federal assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Codes, or other Federal statues authorizing a project administered by the FTA requesting $1,230,568 in Congestion Mitigation and Air Quality (CMAQ) funds for the purchase of two buses ($584,298 Federal) and the construction of the new Bus Maintenance Facility ($646,269 Federal).

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

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Lopez

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-204

A RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING $245,000 IN FY 2008 FTA SECTION 5309 FUNDS FOR THE CONSTRUCTION OF THE BUS MAINTENANCE FACILITY, AND AUTHORIZING THE INTERIM 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 had an approved FTA Section 5309 grant with three amendments for $8,448,608 in federal funds for the new Bus Maintenance Facility, and

WHEREAS, in fiscal year 2006 $495,000 in FTA Section 5309 funds had been earmarked by Congress for the Bus Maintenance Facility under SAFETEA-LU, and

WHEREAS, the Bus Maintenance Facility project funds in the FTA Section 5309 grant application are included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and

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

WHEREAS, by a report to the Council dated March 7, 2008, from the Public Works Department, City staff recommended submitting a FTA Section 5309 grant application for the Bus Maintenance Facility, and

WHEREAS, a public hearing was held on April 1, 2008, at 5:30 p.m., in the Tenth Street Place Chambers located, at 1010 Tenth Street, Modesto, California, in accordance with FTA regulations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes submittal of a grant application to the Federal Transit

Administration (FTA) for Federal assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Codes, or other Federal statues authorizing a project administered by the FTA requesting $245,000 in FTA Section 5309 funds for the construction of the new bus maintenance facility.

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

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Lopez

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-205

A RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING $495,000 IN FY 2006 FTA SECTION 5309 FUNDS FOR THE CONSTRUCTION OF THE BUS MAINTENANCE FACILITY, AND AUTHORIZING THE INTERIM 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 had an approved Federal Transit Administration (FTA) Section 5309 grant with four amendments for $8,448,608 in federal funds for the new Bus Maintenance Facility, and

WHEREAS, in fiscal year 2008 $245,000 in FTA Section 5309 funds have been earmarked by Congress for the Bus Maintenance Facility under SAFETEA-LU, and

WHEREAS, the Bus Maintenance Facility project funds in the FTA Section 5309 grant application are included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and

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

WHEREAS, by a report to the Council dated March 7, 2008, from the Public Works Department, City staff recommended submitting a FTA Section 5309 grant application for the Bus Maintenance Facility, and

WHEREAS, a public hearing was held on April 1, 2008, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, in accordance with FTA regulations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes submittal of a grant application to the Federal Transit

Administration (FTA) for Federal assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Codes, or other Federal statues authorizing a project administered by the FTA requesting $495,000 in FY2006 FTA Section 5309 funds for the construction of the new bus maintenance facility.

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

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, 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, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Lopez

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-206

A RESOLUTION ADOPTING THE TURLOCK GROUNDWATER BASIN ASSOCIATION'S GROUNDWATER MANAGEMENT PLAN FOR THE TURLOCK SUB-BASIN

WHEREAS, a portion of the City of Modesto overlies a part of the Turlock Groundwater Sub-basin and receives some of its annual water supply from wells located within the Sub-basin, and

WHEREAS, in 1992 and 2002, the California Legislature passed Assembly Bill (AB) 3030 and Senate Bill (SB) 1938 respectively, which provided local public agencies increased management authority over their groundwater resources and encouraged them to work cooperatively together in the adoption of a Groundwater Management Plan (GMP), and

WHEREAS, on October 9, 2001, the City Council approved Resolution No. 2001-514 adopting a Memorandum of Understanding with other local water supply agencies to re-form the Turlock Groundwater Basin Association (TGBA) within the Turlock Sub-Basin to coordinate water resource planning efforts and develop a GMP, and

WHEREAS, a Public Hearing was held on April 1, 2008, at 5:30 p.m. in the Tenth Street Place Chambers located in the basement at 1010 Tenth Street, Modesto, California, for public comments regarding the adoption of the GMP,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts the Turlock Groundwater Basin Association's Groundwater Management Plan for the Turlock Sub-basin.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of April, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-207

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN A THREE-YEAR EMPLOYMENT AGREEMENT WITH GREG A. NYHOFF TO SERVE AS CITY MANAGER OF THE CITY OF MODESTO, AT AN ANNUAL SALARY OF $195,000

WHEREAS, the City Council desires to enter into a three-year employment agreement with Greg A. Nyhoff to serve as City Manager of the City of Modesto, at an annual salary of $195,000.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Mayor to sign a three-year employment agreement with Greg A. Nyhoff to serve as City Manager of the City of Modesto, at an annual salary of $195,000. Said employment agreement is attached hereto as **Exhibit "A"** and incorporated herein by this reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2008, 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, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO - EMPLOYMENT AGREEMENT
- GREG A. NYHOFF -

INTRODUCTION.

This agreement is made and entered into this _____ day of _____, 2008, by and between the CITY OF MODESTO, a municipal corporation, (hereinafter called "Employer"), and GREG A. NYHOFF (hereinafter called "Employee"), an individual who has the education, training and experience in local government management and who, as a member of ICMA, is subject to the ICMA Code of Ethics, both of whom agree as follows:

SECTION 1: TERM.

The term of this Agreement shall be for an initial period of three (3) years from June 1, 2008 to June 1, 2011. This Agreement shall automatically be renewed on its anniversary date for a one (1) year term unless notice that the Agreement shall terminate is given at least two (2) months before the expiration date. In the event the Agreement is not renewed, all compensation, benefits and requirements of the Agreement shall remain in effect until the expiration of the term of the Agreement unless Employee voluntarily resigns.

SECTION 2: DUTIES AND AUTHORITY.

Employer agrees to employ Greg A. Nyhoff as City Manager to perform the functions and duties specified in the Modesto Charter and the California Government Code, and to perform other legally permissible and proper duties and functions.

SECTION 3: COMPENSATION.

A. Base Salary: Employer agrees to pay Employee an annual base salary of One Hundred Ninety-Five Thousand Dollars ($195,000.00) payable in installments at the same time that the other employees of the Employer are paid.

B. Consideration shall be given on an annual basis to increase compensation in conjunction with an Annual Performance Evaluation.

SECTION 4: RELOCATION AND MOVING EXPENSES.

A. Employer agrees to reimburse reasonable expenses associated with moving the Employee and Employee's family and personal property to Modesto. Employee will obtain three (3) bids for moving expenses, and provide these copies to Employer. Employee shall keep track of actual costs, and submit to Employer with receipts. Employer will reimburse up to the lowest of the actual costs of the three (3) bids.

B. Employer agrees to reimburse Employee temporary monthly housing (rent) until such time as the Employee purchases a new home, sells his home in Colorado or the end of six (6) months whichever is first. Such payment shall be no more than $1,500.00 per month.

C. In accordance with the City policy on travel and reimbursement expenses, Employer agrees to reimburse for reasonable expenses incurred by Employee and Employee's spouse for a maximum of two (2) house hunting trips.

SECTION 5: SHORT TERM AND LONG TERM DISABILITY AND LIFE INSURANCE BENEFITS.

A. The Employer agrees to provide and to pay the premiums for health, hospitalization, surgical, vision, dental and comprehensive medical insurance for the Employee and his/her dependents equal to that which is provided to all other Management and Confidential employees of the City of Modesto or, in the event no such plan exists, to provide coverage for the Employee and dependents. Not withstanding any provision, policy or provision to the contrary, such benefits shall be provided as of June 1, 2008.

B. The Employer agrees to put into force and to make required premium payments for long term disability coverage for the Employee.

C. The Employee may elect to submit once per calendar year to a complete physical examination by the City medical provider or by the Employee's physician under the Employee's group insurance plan with City reimbursement for Employee's out-of-pocket costs.

D. The Employer shall pay the amount of premium due for a term life insurance policy of $225,000. The Employee shall name the beneficiary of the life insurance policy.

SECTION 6: VACATION, SICK, AND MANAGEMENT/EXECUTIVE LEAVE.

A. The Employee shall then accrue sick and vacation leave on an annual basis at the highest rate provided to non-sworn management employees.

B. The Employee shall be provided with one (1) physical exam per year at Employer's expense.

C. The Employee is entitled to accrue all unused leave, without limit, and in the event the Employee's employment is terminated, either voluntarily or involuntarily, the Employee shall be compensated for all accrued vacation time, all paid holidays, management/executive leave, and other benefits to date.

D. The Employee shall receive one hundred and twenty hours (120) of vacation leave annually. Upon assuming office the Employee shall be credited with sixty (60) hours

of vacation leave. An additional sixty (60) hours will be credited after six (6) months of employment.

E. The Employee shall on January 1st of each calendar year be credited with eighty (80) hours of executive/management leave, forty (40) hours of which shall be credited upon assuming office. Employee may cash out up to eighty (80) hours of unused leave in accordance with City policy.

SECTION 7: AUTOMOBILE ALLOWANCE.

The Employer agrees to pay to the Employee, during the term of this Agreement and in addition to other salary and benefits herein provided, the sum of $6,000 per year, payable in equal monthly installments, as a vehicle allowance to be used to purchase, lease, or own, operate and maintain a vehicle. The Employee shall be responsible for paying for liability, property damage, and comprehensive insurance coverage upon such vehicle and shall further be responsible for all expenses attendant to the purchase, operation, maintenance, repair, and regular replacement of said vehicle. The Employer shall reimburse the Employee at the IRS standard mileage rate for any business use of the vehicle beyond the greater Modesto area. For purposes of this Section, use of the car within the greater Modesto area is defined as travel to locations within a 75-mile radius of the Modesto City Hall.

SECTION 8: RETIREMENT.

A. The Employer agrees to enroll the Employee into the California Public Employees Retirement System (PERS). Employer shall pay 6.6% and Employee shall pay 0.40% of the total 7% "Employee's share," and Employer shall pay 100% of "Employer's share" on behalf of the Employee.

B. In addition to the Employer's payment to the state retirement system (as applicable) referenced above, Employer agrees to execute all necessary agreements provided by ICMA Retirement Corporation (ICMA-RC) or other Section 457 deferred compensation plan for Employee's continued participation in said supplementary retirement plan and, in addition to the base salary paid by the Employer to Employee, Employer agrees to pay an amount equal to one and one-half percent (1.5%) of Employee's base salary, or greater, into the designated plan on the Employee's behalf, in equal proportionate amounts each pay period. The parties shall fully disclose to each other the financial impact of any amendment to the terms of Employee's retirement benefit.

SECTION 9: GENERAL BUSINESS EXPENSES.

A. In its discretion, Employer shall budget for and pay travel and subsistence expenses of Employee for professional and official travel, meetings, courses, institutes and seminars to continue his professional development and to adequately pursue necessary official and other functions on behalf of the Employer, including but not

limited to, the annual conference of the League of California Cities, the International City/County Management Association, and such other regional, state, and local governmental groups and committees.

B. The Employer acknowledges the value of having Employee, at Employer's discretion, participate and be directly involved in local or regional clubs, associations and organizations necessary and desirable for employee's continued professional participation, growth and advancement, and for the good of Employer. Accordingly, Employer shall pay for the reasonable membership fees and/or dues to enable the Employee to become an active member in local civic clubs or organizations, including but not limited to, professional dues and subscriptions to the International City/County Management Foundation (ICMA), the California City Management Foundation (CCMF) .

SECTION 10: TERMINATION.

For the purpose of this Agreement, termination shall occur when:

A. The majority of the governing body votes to terminate the Employee at a duly authorized closed or open meeting.

B. If the Employer, citizens or legislature acts to amend any provisions of the Charter pertaining to the role, powers, duties, authority, responsibilities of the Employee's position that substantially changes the form of government, the Employee shall have the right to declare that such amendments constitute termination.

C. If the Employer reduces the base salary, compensation or any other financial benefit of the Employee, unless it is applied in no greater percentage than the average reduction of all City employees, such action shall constitute a breach of this Agreement and will be regarded as a termination.

D. If the Employee resigns following an offer to accept resignation, whether formal or informal, by the Employer as representative of the majority of the governing body that the Employee resign, then the Employee may declare a termination as of the date of the suggestion.

E. Breach of contract declared by either party within a 30-day cure period for either Employee or Employer. Written notice of a breach of contract shall be provided in accordance with the provisions of Section 20.

SECTION 11: SEVERANCE.

A. Severance shall be paid to the Employee when employment is terminated as defined in Section 10.

B. In the event the Employer terminates this agreement during which time Employee is ready, willing and able to perform the functions and duties set forth herein, then, in that event, Employer agrees to:

1. Provide Employee with six (6) months salary, including benefits.

2. The parties acknowledge that pursuant to Section 800 of the Modesto City Charter the Employee shall not be removed from office during or within a period of ninety (90) days next succeeding the election of a member of the Council.

SECTION 12: RESIGNATION.

In the event that the Employee voluntarily resigns his/her position with the Employer, the Employee shall provide a minimum of sixty (60) days advance notice unless the parties agree otherwise.

SECTION 13: PERFORMANCE EVALUATION.

Employer shall annually review the performance of the Employee in June subject to a process, form, criteria, and format for the evaluation, which shall be mutually agreed upon by the Employer and Employee. The process at a minimum shall include the opportunity for both parties to: (1) prepare a written evaluation, (2) meet and discuss the evaluation, and (3) present a written summary of the evaluation results. The final written evaluation should be completed and delivered to the Employee within thirty (30) days of the evaluation meeting.

SECTION 14: HOURS OF WORK.

It is recognized that the Employee must devote a great deal of time outside the normal office hours on business for the Employer, and to that end Employee shall be allowed to establish an appropriate work schedule.

SECTION 15: OUTSIDE ACTIVITIES.

The employment provided for by this Agreement shall be the Employee's sole employment. Recognizing that certain outside consulting or teaching opportunities provide indirect benefits to the Employer and the community, the Employee may elect, with the prior written approval of the City Council, to accept limited teaching, consulting or other business opportunities with the understanding that such arrangements shall not constitute interference with nor a conflict of interest with his responsibilities under this Agreement.

SECTION 16: RESIDENCY.

Employee agrees to maintain residence within the corporate boundaries of the City of Modesto.

SECTION 17: INDEMNIFICATION.

Beyond that required under Federal, State or Local Law, Employer shall defend, save harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of Employee's duties as City Manager, or resulting from the exercise of judgment or discretion in connection with the performance of program duties or responsibilities, unless the act or omission involved willful or wanton conduct. The Employee may request and the Employer shall not unreasonably refuse to provide independent legal representation at Employer's expense and Employer may not unreasonably withhold approval. Legal representation, provided by Employer for Employee, shall extend until a final determination of the legal action including any appeals brought by either party. The Employer shall indemnify employee against any and all losses, damages, judgments, interest, settlements, fines, court costs and other reasonable costs and expenses of legal proceedings including attorneys fees, and any other liabilities incurred by, imposed upon, or suffered by such Employee in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the performance of his or her duties. Any settlement of any claim must be made with prior approval of the Employer in order for indemnification, as provided in this Section, to be available.

Employee recognizes that Employer shall have the right to compromise or settle a claim or suit. However, if the Employee is a named party to the suit, Employee's written consent must be given for the compromise or settlement. Further, Employer agrees to pay all reasonable litigation expenses of Employee throughout the pendency of any litigation to which the Employee is a party, witness or advisor to the Employer. Such expense payments shall continue beyond Employee's service to the Employer as long as litigation is pending. Further, Employer agrees to pay Employee reasonable consulting fees and travel expenses when Employee serves as a witness, advisor or consultant to Employer regarding pending litigation if those services occur after Employee is no longer an Employee of the Employer.

SECTION 18: BONDING.

Employer shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

SECTION 19: OTHER TERMS AND CONDITIONS OF EMPLOYMENT.

The Employer, only upon agreement with Employee, shall fix any such other terms and conditions of employment, as it may determine from time to time, relating to the performance of the Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement, the Modesto Charter or any other law.

Except as otherwise provided in this Agreement, the Employee shall be entitled to the highest level of benefits that are enjoyed by other non-sworn management employees of the Employer as provided in the Charter, Code, Personnel Rules and Regulations or by practice.

SECTION 20: NOTICES.

Notice pursuant to this Agreement shall be given by depositing in the custody of the United States Postal Service, postage prepaid, addressed as follows:

EMPLOYER: City Clerk, City of Modesto, P. O. Box 642, Modesto, CA 95353
EMPLOYEE: Greg A. Nyhoff _____

Alternatively, notice required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as the date of deposit of such written notice in the course of transmission in the United States Postal Service.

SECTION 21: GENERAL PROVISIONS.

A. Integration. This Agreement sets forth and establishes the entire understanding between the Employer and the Employee relating to the employment of the Employee by the Employer. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties by mutual written agreement may amend any provisions of this agreement during the life of the agreement. Such amendments shall be incorporated and made a part of this agreement.

B. Binding Effect. This Agreement shall be binding on the Employer and the Employee as well as their heirs, assigns, executors, personal representatives and successors in interest.

C. Effective Date. This Agreement shall become effective on June 1, 2008.

D. Severability. The invalidity or partial invalidity of any portion of this Agreement will not affect the validity of any other provision. In the event that any provision of this Agreement is held to be invalid, the remaining provisions shall be deemed to be in full force and effect as if they have been executed by both parties subsequent to the expungement or judicial modification of the invalid provision.

IN WITNESS WHEREOF, the CITY OF MODESTO, a municipal corporation, has authorized the execution of this Agreement in duplicate by its Mayor and attestation by its City Clerk under authority of Resolution No. _____ adopted by the Council of the City of Modesto on the _____ day of _____, 2008, and EMPLOYEE has caused this Agreement to be duly executed.

CITY OF MODESTO
A Municipal Corporation

By: _____
Jim Ridenour, Mayor

EMPLOYEE

_____
Greg A. Nyhoff

ATTEST:

By: _____
Stephanie Lopez, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-208

A RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS FORTHE EVERGREEN SUBDIVISION CONSISTING OF PARTIAL GRECIAN AVENUE IMPROVEMENTS (ADJACENT TO PARCEL 1 OF PARCEL MAP 53PM67), AND ALL OTHER SUBDIVISION IMPROVEMENTS (INCLUDING THE STORM DRAIN BASIN EXPANSION), AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, Valley Ventures IV, LLC, a California Limited Liability Company; Meritage Homes of California, Inc., a California Corporation; BFC Properties, a California Corporation; and Berberian Properties, LLC, a California Limited Liability Company (collectively "SUBDIVIDER") are the subdividers of the EVERGREEN SUBDIVISION ("SUBDIVISION"), and

WHEREAS, on or about June 20, 2005, the City of Modesto, a Municipal Corporation of the State of California, ("CITY") and SUBDIVIDER entered into a Subdivision Agreement ("AGREEMENT"), and

WHEREAS, pursuant to the AGREEMENT, SUBDIVIDER filed with CITY a Subdivision Faithful Performance Bond in the amount of $110,848.00 for the Partial Grecian Avenue Improvements (Adjacent to Parcel 1 of Parcel Map 53PM67), and

WHEREAS, pursuant to the AGREEMENT, SUBDIVIDER filed with CITY a Subdivision Payment Bond in the amount of $55, 423.78 for the Partial Grecian Avenue Improvements (Adjacent to Parcel 1 of Parcel Map 53PM67), and

WHEREAS, pursuant to the AGREEMENT, SUBDIVIDER filed with CITY Subdivision Faithful Performance Bonds in the amounts of $906,589.85 and $425,405.75 for all other Subdivision Improvements (including the Storm Drain Basin Expansion), and

WHEREAS, pursuant to the AGREEMENT, SUBDIVIDER filed with CITY Subdivision Payment Bonds in the amounts of $453,294.93 and $212,702.88 for all other Subdivision Improvements (including the Storm Drain Basin Expansion), and

WHEREAS, pursuant to the AGREEMENT, SUBDIVIDER filed with CITY a Subdivision Maintenance/Warranty Bond in the amount of $11,084.75 for the Parcel Grecian Avenue Improvements (Adjacent to Parcel 1 of Map 53PM67) to guarantee said public improvements in the SUBDIVISION, and

WHEREAS, pursuant to the AGREEMENT, SUBDIVIDER filed with CITY a Subdivision Warranty Bond in the amount of $90,658.99 and a Subdivision Warranty Bond in the amount of $42,540.58 for all other Subdivision Improvements (including the Storm Drain Basin Expansion) to guarantee said public improvements in the SUBDIVISION, and

WHEREAS, the Public Works Director in a memorandum to Council indicates that all work required for the Partial Grecian Avenue Improvements (Adjacent to Parcel 1 of Map 53PM67) and all other Subdivision Improvements (including the Storm Drain Basin Expansion) have 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 Partial Grecian Avenue Improvements (Adjacent to Parcel 1 of Map 53PM67) and all other Subdivision Improvements (including the Storm Drain Basin Expansion) in the SUBDIVISION as complete, authorize the City Clerk to file a Notice of Completion and to 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 Partial Grecian Avenue Improvements (Adjacent to Parcel 1 of Map 53PM67) and all other Subdivision Improvements (including the Storm

Drain Basin Expansion) are hereby accepted, and the City Clerk is hereby authorized to file a Notice of Completion for said public improvements.

2. The City Clerk is hereby authorized to release the Subdivision Faithful Performance Bonds in the amounts of $110,848.00, $906,589.85 and $425,405.75 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the Subdivision Payment Bonds in the amounts of $55,423.78, $453,294.93 and $212,702.88 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 Subdivision Maintenance/Warranty Bond in the amount of $11,084.75, the Subdivision Warranty Bond in the amount of $90,658.99 and the Subdivision Warranty Bond in the amount of $42,540.58 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 8th day of April, 2008, 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

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-209

A RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS FOR THE WATER IMPROVEMENTS RELATED TO THE VILLAGE CORNERS COMMERCIAL CENTER LOCATED 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, Peter Reece, Joseph Pimentel, and Stephen Hughes (collectively "DEVELOPERS"), are the developers of the Village Corners Commercial Center ("DEVELOPMENT"), and

WHEREAS, as a condition of the DEVELOPMENT, the DEVELOPERS were to construct 1623 linear feet of water line and appurtenances thereto located on Sylvan Avenue between Summer Drive and Claus Road, and Claus Road between Sylvan Avenue and 5 linear feet beyond the south property line of the project as shown in **Exhibit A** attached hereto ("PUBLIC IMPROVEMENTS"), located within the DEVELOPMENT, and

WHEREAS, said PUBLIC IMPROVEMENTS, included in the Water Main Reimbursement Agreement ("AGREEMENT") between the City of Modesto ("CITY") and the DEVELOPERS, have been completed to the satisfaction of the Public Works Department, and all inspection fees have been paid, and

WHEREAS, the Public Works Director has verified that all required PUBLIC IMPROVEMENTS for this commercial project have been satisfactorily completed and all inspection fees have been paid, and

WHEREAS, the Public Works Department will assume maintenance responsibilities upon acceptance of PUBLIC IMPROVEMENTS, and

WHEREAS, DEVELOPERS have filed an irrevocable bond to secure payment for labor and materials in the amount of $66,846.00 for said PUBLIC IMPROVEMENTS, and

WHEREAS, DEVELOPERS have filed a warranty bond in the amount of $13,369.20 to guarantee the PUBLIC IMPROVEMENTS in the DEVELOPMENT, and

WHEREAS, the Land Development Engineering Department has indicated that it would be in order for the City Council to accept said PUBLIC IMPROVEMENTS in said DEVELOPMENT as complete, and authorize the City Clerk to record a Notice of Completion,

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

1. The Water line public improvements, 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 bond for labor and materials in the amount of $66,846.00 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

3. The City Clerk is hereby authorized to release the warranty bond to guarantee development improvements in the amount of $13,369.20 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 8th day of April, 2008, 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

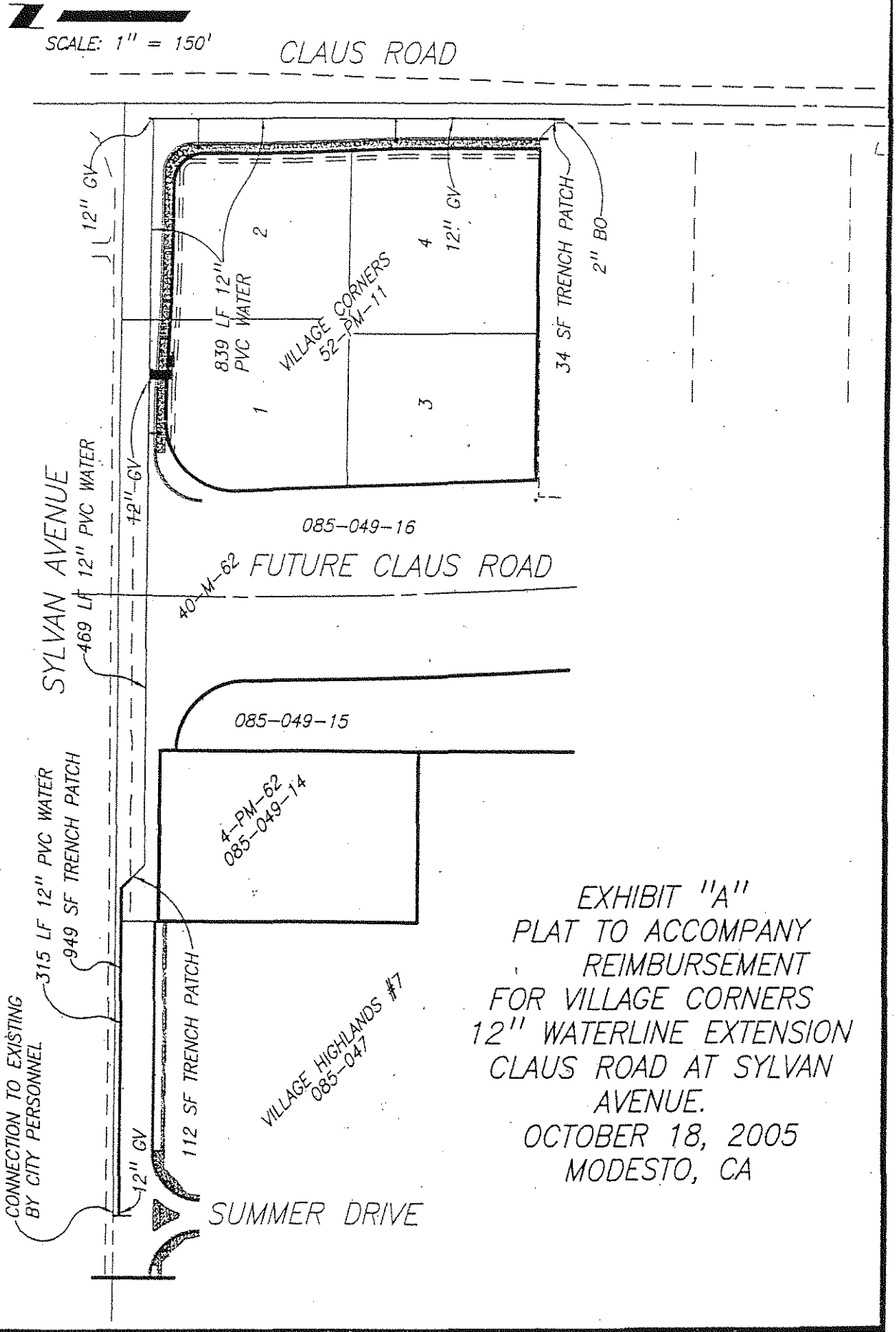


EXHIBIT "A"
PLAT TO ACCOMPANY
REIMBURSEMENT
FOR VILLAGE CORNERS
12" WATERLINE EXTENSION
CLAUS ROAD AT SYLVAN
AVENUE.
OCTOBER 18, 2005
MODESTO, CA

BENCHMARK ENGINEERING, INC.
CIVIL ENGINEERING & LAND SURVEYING
213 SOUTH SIERRA AVENUE • OAKDALE, CALIFORNIA • 95361
(209) 845-9300 FAX:(209) 845-9305

EXHIBIT "A"
CLAUS ROAD AND SYLVAN AVENUE
MODESTO CALIFORNIA

DRAWN BY:	JP
DATE:	10-18-05
SHEET:	1
FILE:	

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-210

A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET BY APPROVING A TRANSFER OF FUNDS IN THE AMOUNT OF $133,692 FROM ACCOUNT 6101-800-8000-8003 "WATER DEVELOPMENT FEES RESERVES" TO CIP ACCOUNT 6101-430-W006-6040 "VILLAGE CORNERS WATER MAIN REIMBURSE-SECONDARY" IN ORDER TO FULLY FUND THE WATER MAIN REIMBURSEMENT AGREEMENT WITH JOSEPH PIMENTEL, PETER REECE, AND STEPHEN HUGHES ("DEVELOPERS")

WHEREAS, the City Council, on March 28, 2006, by Resolution 2006-177, approved a Water Main Reimbursement Agreement with Joseph Pimentel, Peter Reece, and Stephen Hughes ("Developers") to perform the required water improvements for the Village Corners project, and

WHEREAS, funds were not included in the current budget to pay for the water improvements associated with the Water Main Reimbursement Agreement with Developers required for the Village Corners project, and

WHEREAS, certain budgetary transactions are necessary to fully fund the Water Main Reimbursement Agreement with Developers in the amount of $133,692 to perform the required installation of 1623 lineal feet of 12" water main for the Village Corners project, and

WHEREAS, to fully fund the Water Main Reimbursement Agreement to reimburse Developers, the current Capital Improvement Program (CIP) budget must be amended by transferring $133,692 from Account 6101-800-8000-8003 "Water Development Fees Reserves" to CIP Account 6101-430-W006-6040 "Village Corners Water Main Reimburse-Secondary",

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the CIP Budget by approving a transfer of funds in the amount of $133,692 from account 6101-800-8000-8003 "Water Development Fees Reserves" to CIP account 6101-430-W006-6040 "Village Corners Water Main Reimburse-Secondary" in order to fully fund the Water Main Reimbursement agreement with Joseph Pimentel, Peter Reece, and Stephen Hughes ("Developers")

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-211

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF LANDSCAPE MAINTENANCE SERVICES FOR THE PUBLIC WORKS DEPARTMENT, STORMWATER COLLECTIONS DIVISION AND WASTEWATER DIVISION, TO GROVER LANDSCAPE SERVICES, MODESTO, CA, AND AUTHORIZING THE PURCHASING MANAGER 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 ANNUAL TOTAL COST OF $38,400

WHEREAS, the Public Works Department requires landscape maintenance services for Wastewater Collections, Water Quality Control (WQC) Primary and Secondary Plants, and

WHEREAS, the Wastewater Collections, WQC locations require weekly maintenance to maintain a professional appearance of these City facilities, and

WHEREAS, the Wastewater Collections Division has eight (8) locations, six (6) sewer lift stations (Emerald, Orangeburg, Rose/Celeste, Scenic, Thousand Oaks and Woodland) and two (2) storm basin locations (Carpenter Rd. and Cassidy Ct.), and

WHEREAS, on April 24, 2007, the City Council, by Resolution No. 2007-241, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of landscape maintenance services for the Public Works Department, Stormwater Division and Wastewater Division, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, and

WHEREAS, on October 12, 2007, the Purchasing Division issued Request for Bid No. 0708-07 for the furnishing of landscape maintenance services to thirty (30) prospective bidders, sixteen (16) of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on October 22, 2007, a bidders conference was held and eight (8) companies were in attendance, and

WHEREAS, on November 20, 2007, RFB's were formally opened in the City Clerk's office. Of the thirty (30) prospective bidders, eleven (11) companies chose to respond, and ten (10) companies submitted responsive and responsive bids, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the furnishing of landscape maintenance services for the Public Works Department, Stormwater Division and Wastewater Division, to Grover Landscape Services, Modesto, CA, and

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

WHEREAS, funds are budgeted and available in account number 6210-480-5208-0212, 6210-480-5213-0235, 6210-480-5214-0235 and 6280-480-5312-0212 for the furnishing of landscape maintenance services in FY 07/08,

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 landscape maintenance services for the Public Works Department, Stormwater Division and Wastewater Division, to Grover Landscape Services, Modesto, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager 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 annual total cost of $38,400.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2008, 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

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-212

A RESOLUTION REJECTING ALL BIDS FOR THE PURCHASE OF WATER QUALITY CONTROL LABORATORY EQUIPMENT FOR THE PUBLIC WORKS DEPARTMENT, WATER QUALITY CONTROL DIVISION AND AUTHORIZING THE PURCHASING MANAGER TO RE-ISSUE FORMAL REQUEST FOR BIDS FOR THE PURCHASE OF WATER QUALITY CONTROL LABORATORY EQUIPMENT AT A FUTURE DATE, FOR AN ESTIMATED TOTAL COST OF $342,750

WHEREAS, the purchase of the water quality control laboratory equipment is being coordinated with another capital improvement project for the remodeling of the laboratory, and

WHEREAS, on November 27, 2007, the City Council, by Resolution No. 2007-708, approved canceling the construction project for the laboratory remodel (CIP #B584) with Gwinn Construction Inc., and

WHEREAS, Engineering will be redesigning the lab and taking it back out to bid in the future, and

WHEREAS, at this time, it is unknown when this project will be started, and

WHEREAS, if bids were awarded for the laboratory equipment and the equipment ordered, the warranty on the equipment could expire prior to its installation, and

WHEREAS, due to the cancellation of the current construction contract, staff has determined that it is in the best interest of the City to reject all bids for the purchase of water quality control laboratory equipment and re-issue formal Request for Bids at a future date when a new construction contract is awarded, 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 issuance of a formal Request for Bids for the purchase of water quality control laboratory equipment for the Public Works Department, Water Quality Control Division, conforms to the Modesto Municipal Code, and

WHEREAS, funds will remain budgeted in account number 6210-480-B584-6070,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rejects all bids for the purchase of water quality control laboratory equipment for the Public Works Department, Water Quality Control Division.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to re-issue formal Request for Bids for the purchase of water quality control laboratory equipment at a future date, for an estimated total cost of $342,750.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2008, 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

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-213

A RESOLUTION RESCINDING MODESTO CITY COUNCIL RESOLUTION NO. 2007-549.

WHEREAS, on September 25, 2007, the City Council, by Resolution No. 2007-549, approved the award of bid and contract for the purchase and installation of a walk-in freezer storage unit and walk-in cooler storage unit for the Modesto Police Department to Diversified Contracting Solutions Inc., El Dorado Hills, CA, for an estimated total cost of $71,464, and authorized the City Manager, or his designee, to execute the agreement, and

WHEREAS, on October 1, 2007, City staff sent Diversified Contracting Solutions Inc. the "Notice to Proceed" letter informing them the agreement had been fully executed, and

WHEREAS, on January 28, 2008, Diversified Contracting Solutions Inc. notified the City that they had encountered serious financial difficulties and were filing for bankruptcy and would be unable to execute the agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rescinds Resolution No. 2007-549, effective upon adoption of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2008, 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

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-214

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE AND INSTALLATION OF A WALK-IN FREEZER STORAGE UNIT AND WALK-IN COOLER STORAGE UNIT FOR THE MODESTO POLICE DEPARTMENT TO DEHART PLUMBING, HEATING & AIR, INC, MODESTO, CA, FOR AN ESTIMATED TOTAL COST OF $73,131, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, The Modesto Police department uses refrigeration units in the Property and Evidence Facility for the cold storage of biological evidence, and

WHEREAS, currently the department uses one industrial and four (4) household refrigerators, two (2) freezer chests and three (3) up-right freezers to provide cold storage, and

WHEREAS, these units have inefficient storage capabilities, they are costly to operate, and consume more square footage than a walk-in unit, and

WHEREAS, the units are not alarmed and provide no warning if the cooling units malfunction, and

WHEREAS, the refrigeration units that are currently in use are at full capacity and no longer efficient for storing biological evidence, and

WHEREAS, on April 24, 2007, the City Council, by Resolution No. 2007-235, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of a walk-in freezer unit and walk-in cooler storage unit for the Police Department, and

WHEREAS, on May 25, 2007, the Purchasing Division issued Request for Bid No. 0607-56, for the purchase and installation of a walk-in freezer storage unit and walk-in cooler storage unit to eight (8) prospective bidders, seven (7) 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 6, 2007, a bidder's conference was held, and three (3) companies were in attendance, and

WHEREAS, on July 3, 2007, RFB's were formally opened in the City Clerk's office. Of the eight (8) prospective bidders, two (2) companies chose to respond, and

WHEREAS, both companies submitted responsive and responsible bids, and

WHEREAS, based on being deemed the lowest responsive and responsible bid, City staff recommended the award of bid and contract for the purchase and installation of a walk-in freezer storage unit and walk-in cooler storage unit for the Police Department, to Diversified Contracting Solutions Inc., El Dorado Hills, CA, for an estimated total cost of $71,464, and

WHEREAS, on September 25, 2007, the City Council, by Resolution No. 2007-549, authorized the award of bid and contract for the purchase and installation of a walk-in freezer storage unit and walk-in cooler storage unit for the Modesto Police Department to Diversified Contracting Solutions Inc., El Dorado Hills, CA, for an estimated total cost of $71,464, and authorized the City Manager, or his designee, to execute the agreement, and

WHEREAS, on October 1, 2007, City Staff sent Diversified Contracting Solutions Inc. the "Notice to Proceed" letter informing them the agreement had been fully executed, and

WHEREAS, on January 28, 2008, Diversified Contracting Solutions notified the City that they had encountered serious financial difficulties and were filing for bankruptcy and would be unable to execute the agreement, and

WHEREAS, on January 29, 2008, City staff contacted the second position bidder, DeHart Plumbing, Heating & Air, Inc. regarding the project, and

WHEREAS, DeHart Plumbing, Heating & Air, Inc. expressed their interest in performing the scope of work and receiving a contract for the project, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the purchase and installation of a walk-in freezer storage unit and walk-in cooler storage unit for the Modesto Police Department, to DeHart Plumbing, Heating & Air, Inc., Modesto, CA, for an estimated total cost of $73,131, 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 and installation of a walk-in freezer storage unit and walk-in cooler storage unit for the Modesto Police Department, to DeHart Plumbing, Heating & Air, Inc., Modesto, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in account numbers 0400-190-2933-5012 and 0400-190-2923-5016 for the purchase and installation of a walk-in freezer storage unit and walk-in cooler storage unit,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase and installation of

a walk-in freezer storage unit and walk-in cooler storage unit for the Modesto Police Department, to DeHart Plumbing, Heating & Air, Inc., Modesto, CA, for an estimated total cost of $73,131.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2008, 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

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-215

A RESOLUTION APPROVING AN AGREEMENT WITH THE HOUSING AUTHORITY OF STANISLAUS COUNTY IN THE AMOUNT OF $52,183 TO PROVIDE A COMMUNITY POLICE OFFICER FOR THE WESTVIEW GARDENS HOUSING COMPLEX FOR A PERIOD OF TWELVE (12) MONTHS FROM JANUARY 1, 2008 THROUGH DECEMBER 31, 2008, WITH AN OPTION TO EXTEND THE AGREEMENT FOR AN ADDITIONAL TWELVE (12) MONTHS, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Housing Authority of Stanislaus County operates the Westview Gardens Housing Complex in Modesto, California, and

WHEREAS, by agreement, the Modesto Police Department has assigned a Police Officer to the Housing Complex for sixteen (16) years, and

WHEREAS, the Housing Authority is desirous to continue this police service which will provide for the presence of one police officer for 24.75 hours per week for patrol, investigation, response to calls, presentation of community crime resistance education, drug traffic suppression and drug education, graffiti abatement program education and coordination of the exchange of information between residents and other services of the City, and

WHEREAS, the term of this Agreement is January 1, 2008 through December 31, 2008, and

WHEREAS, this Agreement shall automatically renew for one (1) year, until December 31, 2009, unless terminated by 30-day's written notice by either party, and

WHEREAS, the cost of providing this service to the Westview Gardens Housing Complex is $52,183 and will be reimbursed for by the Housing Authority of Stanislaus County, and to the police department.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with the Housing Authority of Stanislaus County in the amount of $52,183 to provide a Community Police Officer for the Westview Gardens Housing Complex for a period of twelve (12) months, from January 1, 2008 through December 31, 2008, with an option to extend the Agreement for twelve (12) months.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2008, 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. 2008-216

A RESOLUTION ACCEPTING THE WORK BY TEICHERT CONSTRUCTION FOR THE PROJECT TITLED "RECONSTRUCTION OF THE SYLVAN AVENUE AND ROSELLE AVENUE INTERSECTION" 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 $3,176,425.22

WHEREAS, a report has been filed by the Public Works Director that the project titled "Reconstruction of Sylvan Avenue and Roselle Avenue Intersection" has been completed by Teichert Construction in accordance with the contract agreement dated July 5, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Reconstruction of the Sylvan Avenue and Roselle Avenue Intersection" 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 $3,176,425.22 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 April, 2008, 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, 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

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-217

A RESOLUTION APPROVING A SECOND AMENDMENT TO THE AGREEMENT WITH COLE MANAGEMENT & ENGINEERING, INC. FOR CONTINUED CONSTRUCTION MANAGEMENT, IN THE AMOUNT OF $12,080, FOR THE PROJECT TITLED "CELESTE/ROSE/SCENIC SANITARY SEWER IMPROVEMENTS," AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO THE AGREEMENT.

WHEREAS, on March 7, 2006, by Resolution 2006-133, the City Council awarded a construction contract in the amount of $3,707,105 to California Trenchless, Inc. to construct the Celeste/Rose/Scenic Sanitary Sewer Improvements project, and

WHEREAS, the Celeste/Rose/Scenic Sanitary Sewer Improvements project is a large specialized project that requires augmentation of the City's capacity and requires construction management and inspection, and

WHEREAS, the City Council on April 4, 2006, by Resolution 2006-213, approved an agreement with Cole Management & Engineering, Inc. (CME), a construction management firm specializing in these types of inspections, to assist with this project, and

WHEREAS, the City Council on January 9, 2007, by Resolution No. 2007-056, approved the First Amendment to the Agreement with CME for construction management services that were necessary to complete the scope of services provided for under the original agreement, and

WHEREAS, the City has been officially notified of a pending construction claim by California Trenchless, Inc., and

WHEREAS, City staff recommends that CME continue to provide construction management services for claims assistance and project closeout, and

WHEREAS, this Second Amendment to the Agreement with CME will allow for claims mitigation and resolution, including potential arbitration, and

WHEREAS, the City's consultant agreement with CME is a time and materials contract, and

WHEREAS, staff recommends execution of a Second Amendment to the Agreement with Cole Management & Engineering, Inc. for services associated with the construction management of this project,

WHEREAS, there are sufficient funds available in CIP Account 6210-430-A049 "Celeste/Rose/Scenic Sewer Improvements" for the additional services, and

WHEREAS, the original Agreement was for $205,784, and

WHEREAS, the additional work associated with the First Amendment was for $56,800, and

WHEREAS, the additional work associated with this Second Amendment is $12,080, which will increase the total Agreement to an amount not-to-exceed $274,664,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Second Amendment to the Agreement between City of Modesto and Cole Management & Engineering, Inc. for additional services related to the Celeste/Rose/Scenic Sanitary Sewer Improvements Project in the amount of $12,080.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said 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 8th day of April, 2008, 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, 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

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-218

A RESOLUTION AMENDING THE WATER FUND OPERATING BUDGET FOR FISCAL YEAR 2007/2008 TO APPROPRIATE $93,947 FOR THE INSTALLATION OF FOUR (4) LARGE WATER METERS AT THE VINTAGE FAIRE MALL AND $351,840 FOR INCREASED ELECTRICAL UTILITY COSTS RELATED TO WELL PUMPS AND TANKS, AND AUTHORIZING THE TRANSFER OF FUNDS IN THE TOTAL AMOUNT OF $445,787 FROM WATER FUND RESERVES.

WHEREAS, it has been determined that the water infrastructure serving the Vintage Faire Mall (Mall) does not meet metering and backflow standards, and

WHEREAS, the City and the Mall management reached an agreement to upgrade four (4) large meters at a cost of $93,947, and

WHEREAS, in 2007, two new high capacity wells were installed and put into production, and

WHEREAS, due to the increased pumping of wells and upgrading to larger pumps an additional $351,840 will be needed over what was budgeted in FY2007-08, and

WHEREAS, funds are available in Water Fund Reserves to fund the $93,947 for the remainder of FY 2007/08 and $351,480 annually thereafter,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the Water Fund Operating Budget for Fiscal Year 2007/2008 to appropriate 93,947 for the installation of four (4) large water meters at the Vintage Faire Mall and $351,840 for increased electrical utility costs related to well pumps and tanks.

BE IT FURTHER RESOLVED that the Council hereby authorizes the transfer of funds in the total amount of $445,787 from Water Fund Reserves.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of April, 2008, 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, 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

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-219

A RESOLUTION ACCEPTING THE PRELIMINARY DESIGN REPORT FOR THE MODESTO REGIONAL WATER TREATMENT PLANT TIER 2 – WEST TANK IMPROVEMENTS, DATED MARCH 2008, AS COMPLETE

WHEREAS, the Modesto Irrigation District and the City of Modesto have been planning for the expansion of the Modesto Regional Water Treatment Plant, and

WHEREAS, the Modesto Regional Water Treatment Plant will double in capacity, and

WHEREAS, the City has determined that its existing water distribution system needs additional improvements, and

WHEREAS, construction of a 4-million gallon storage tank is needed on the westerly portion of the City, and

WHEREAS, the City Council on December 12, 2007, by Resolution No. 2007-742, approved an Agreement with West Yost Associates, Inc. to complete the 35% design effort and a Preliminary Design Report (PDR) for the Modesto Regional Water Treatment Plant Tier 2 – West Tank Improvements, and

WHEREAS, the PDR summarizes existing facilities, details proposed project elements and rehabilitation method descriptions, 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 West Tank Improvement Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Preliminary Design Report for the Modesto Regional Water Treatment Plant Tier 2 – West Tank Improvements, dated March 2008, as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2008, 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, 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

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-220

A RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES, INC. TO PREPARE A FINAL PROJECT DESIGN FOR THE MODESTO REGIONAL WATER TREATMENT PLANT TIER 2 – WEST TANK IMPROVEMENTS IN AN AMOUNT NOT TO EXCEED $562,731, FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $56,273 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A MAXIMUM TOTAL AMOUNT NOT TO EXCEED $619,004, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Modesto Irrigation District and the City of Modesto have been planning for the expansion of the Modesto Regional Water Treatment Plant, and

WHEREAS, the Modesto Regional Water Treatment Plant will double in capacity, and

WHEREAS, the City has determined that its existing water distribution system needs additional improvements, and

WHEREAS, construction of a 4-million gallon storage tank is needed on the westerly portion of the City, and

WHEREAS, the City Council on December 12, 2007, by Resolution No. 2007-742, approved an Agreement with West Yost Associates, Inc. to complete the 35% design effort and a Preliminary Design Report (PDR) for the Modesto Regional Water Treatment Plant Tier 2 – West Tank Improvements, and

WHEREAS, the PDR summarizes existing facilities, details proposed project elements and rehabilitation method descriptions, 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 West Tank Improvement Project, and

WHEREAS, City staff recommends an agreement with the consulting firm of West Yost Associates, Inc. be approved to perform the final design services as the City does not have the staffing level to provide for timely completion, and

WHEREAS, selecting West Yost Associates, Inc. to complete the final design services will maximize benefits to the City related to knowledge gained through the preliminary design effort,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with West Yost Associates, Inc. to prepare a final project design for the Modesto Regional Water Treatment Plant Tier 2 – West Tank Improvements, in an amount not to exceed $562,731, for the identified scope of services, plus $56,273 for additional services (if needed) for a maximum total amount not to exceed $619,004.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2008, 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, 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

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-221

A RESOLUTION APPROVING THE DRAFT 20-YEAR COUNTYWIDE TRANSPORTATION HALF-CENT SALES TAX MEASURE FINANCIAL EXPENDITURE PLAN 2008, WHICH INCLUDES THE CITY OF MODESTO'S LIST OF PRIORITY PROJECTS, FOR THE UPCOMING NOVEMBER BALLOT

WHEREAS, per the direction of the StanCOG Policy Board, the Public Works Department has prepared a draft expenditure plan for the proposed Transportation Sales Tax Measure that addresses areas within the city of Modesto, and

WHEREAS, as proposed, the Transportation Sales Tax Measure (Sales Tax Measure) will result in an estimated annual revenue of $6.9 million to be used for pavement maintenance and traffic improvement projects, and

WHEREAS, the proposed plan covers the following aspects of street maintenance in Modesto:

- Pavement Repair & Rehabilitation
- Pothole Patching & Minor Repair
- Preventive Maintenance – Slurry Seal Treatments
- Traffic Improvements at Key Intersections
- Interchange Widening and Improvement Projects
- Match Funds to leverage Federal/State Highway Funds, and

WHEREAS, the Sales Tax Measure, if approved by the voters, will be active for the next 20 years and will enhance the City's ability to maintain its street infrastructure, and

WHEREAS, the draft expenditure plan details the first ten years, and

WHEREAS, the City and Stanislaus County are jointly preparing a Pavement Management System (PMS), which will include a detailed assessment of the current conditions of Modesto's street system, and the recommended corrective treatment necessary to maintain the pavement infrastructure, and

WHEREAS, the contractor is expected to deliver the PMS in the spring of 2008, and staff may make project priority revisions on the project list based on the PMS recommendations, and

WHEREAS the last PMS, which was developed in 2002, identified a street maintenance need of $250 million and also recommended a yearly budget of $15 million of pavement maintenance to maintain the current state of roadway condition, and

WHEREAS, the City's combined budgets, including federal, state and local resources, have allowed the City an annual average of $4 to $6 million for pavement maintenance, and

WHEREAS, StanCOG has included the City of Modesto's draft expenditure plan in the Draft 20-Year Countywide Transportation Half-Cent Sales Tax Measure Financial Expenditure Plan 2008, which also includes draft expenditure plans for the other eight cities within Stanislaus County and the County unincorporated areas,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Draft 20-Year Countywide Transportation Half-Cent Sales Tax Measure Financial Expenditure Plan 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2008, 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, Olsen, Mayor Ridenour
NOES:	Councilmembers:	Keating, O'Bryant
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-222

A RESOLUTION APPROVING THE REQUEST FOR APPLICATION (RFA) AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE THE REQUEST FOR APPLICATION FOR CITY OF MODESTO NON-EXCLUSIVE NON-CONSENSUAL FRANCHISE TOWING SERVICES

WHEREAS, on March 1, 2004, the Safety and Communities Committee received a report from the Police Department requesting endorsement for the issuance of a Request for Application (RFA) for City Council approval of Non-Exclusive Non-Consensual Franchise Tow Services, and

WHEREAS, in April 2004, Police Department staff embarked on formulating an improved contract for the City that would provide optimum service, fewer complaints, and offset the growing cost of the City's Non-Consensual Towing Program, and

WHEREAS, it is the intent of the Modesto Police Department to secure safe and reliable towing services and a manageable contract that will also offset the City's costs of its Non-Consensual Towing Program, and

WHEREAS, the Police Department has encountered many problems with the current towing system—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, establishing a Non-Exclusive Non-Consensual Franchise Towing Service Agreement with specific requirements, including tow driver permits and tow truck inspections, for which a fee will be established, will ensure safe, prompt, reliable and professional service to the Police Department and the citizens of Modesto, and

WHEREAS, recommendation for contract awards will be made for all companies that meet the financial/business/insurance and application requirements, and

WHEREAS, financial/business and insurance requirements will be reviewed by the Finance Director and the Risk Manager, and

WHEREAS, the Modesto Police Department will review the RFA,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves THE Request for Application (RFA) and authorizes the Purchasing Manager to issue the Request for Application for City of Modesto Non-Exclusive Non-Consensual Franchise Towing Services.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2008, by Councilmember O'Bryant, 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, 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

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-223

A RESOLUTION RESCINDING MODESTO CITY COUNCIL RESOLUTION NO. 2005-365

WHEREAS, on July 12, 2005, the City Council, by Resolution No. 2005-365, approved the Position Allocation for the Modesto Police Department be increased by one Community Service Officer, subject to additional revenues collected, and

WHEREAS, it is necessary to rescind City Council Resolution No. 2005-365 because the Modesto Police Department management staff feels it needs a Community Service Officer immediately to implement the Non-Exclusive Non-Consensual Franchise Towing Program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rescinds Resolution No. 2005-365, effective upon adoption of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of April, 2008, by Councilmember O'Bryant, 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, Keating, 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

CITY OF MODESTO
RESOLUTION 2008-224

A RESOLUTION IN OPPOSITION TO PROPOSITION 98 AND AUTHORIZING THE USE OF THE CITY'S NAME BY THE NO ON PROPOSITION 98 CAMPAIGN

WHEREAS, California faces a water crisis which threatens our economy, our environment and could affect water supplies in every region of the state because of record dry conditions and court-ordered cuts in water delivery, and

WHEREAS, California needs to invest today in water projects that protect and restore the environment and ensure healthy economic growth for our future in order keep up with population growth and demand for water in California, and

WHEREAS, Proposition 98, a constitutional amendment measure on the June 2008 ballot, defines "private use" of resources in a way that could effectively make it unlawful to use eminent domain to acquire land and water to develop public water projects, and

WHEREAS, this measure could jeopardize a great number of water infrastructure projects that we need to meet the water needs of California's residents, businesses, environment and agriculture, and

WHEREAS, the Association of California Water Agencies and the Western Growers Association both oppose Proposition 98 because it will have a negative impact on water quality and supply in California, and

WHEREAS, Proposition 98 also contains harmful provisions that would negatively impact the local land-use planning process and usurp the authority of cities and counties to make land-use decisions to promote the local economy, and protect the community, and

WHEREAS, these provisions in Proposition 98 make no exception for actions taken to protect the public health and safety, which threaten the ability of law enforcement to keep the public safe, and is one of the reasons the California Police Chiefs Association opposes the measure, and

WHEREAS, the No on Proposition 98 campaign is represented by the League of California Cities, California State Association of Counties, League of California Homeowners, California School Boards Association, California Alliance for Retired Americans and other leading state associations who oppose Proposition 98,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby opposes Proposition 98 for the June 2008 ballot.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the use of the City's name by the No on Proposition 98 campaign.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day April, 2008 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 final vote:

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

NOES: Councilmembers: Keating, O'Bryant, Olsen

ABSENT: Councilmembers: None

ATTEST: _____
Stephanie Lopez, City Clerk

APPROVED AS TO FORM:

BY: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-225

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT FOR CONSULTANT SERVICES WITH TURNSTONE CONSULTING CORPORATION FOR THE PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT (DEIR) FOR THE KIERNAN BUSINESS PARK EAST PROJECT AREA, IN AN AMOUNT NOT TO EXCEED $136,031, AND AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, Dr. Aruna Chopra, has applied for a specific plan amendment and associated applications, to the Kiernan Business Park East project, to allow for orderly future development within the approximate 155-acre planning area located on the east side of Dale Road, between Kiernan Avenue and Bangs Avenue, and

WHEREAS, the Kiernan Business Park East project will also involve the following associated entitlements: prezoning a portion of the area to a Specific Plan-Overlay (SP-O) Zone; annexation of a portion of the area; amendment of the Kiernan Business Park Specific Plan; a General Plan Amendment to modify the land use mix within the Kiernan Business Park East area; preparation of a Facilities Master Plan and associated Finance plan, formation of a Capital Facilities District (CFD); development agreement; and applicable subsequent approvals such as Tentative Subdivision or Parcel Maps, other Conditional Use Permits/Final Development Plan or plan approvals, and

WHEREAS, Section 21080.1 of the California Public Resources Code requires the City of Modesto, as lead agency, to make a determination of whether an environmental impact report is required for projects, and

WHEREAS, the City has determined that an environmental impact report (EIR) is required for the proposed Kiernan Business Park East project and related applications, and

WHEREAS, the City has determined that the EIR for the Kiernan Business Park East project should be completed in phases with Phase I being preparation of a Notice of Preparation and Initial Study and preparation of the Draft EIR, and Phase II will be preparation of the Final EIR, and

WHEREAS, on December 10, 2002, the City Council, by Resolution No. 2002-622, approved a list of environmental service providers, including the firm of Turnstone Consulting Corporation (Turnstone), to assist with the preparation of environmental impact reports and other environmental documents, and

WHEREAS, City staff selected Turnstone to prepare the environmental impact report for the Kiernan Business Park East project because of their extensive experience on similar projects in other jurisdictions, and

WHEREAS, on May 9, 2006, the City Council, by Resolution No.2006-289 approved an Agreement with Turnstone for the preparation of a Draft Environmental Impact Report (DEIR) for the proposed Kiernan Business Park East project, and

WHEREAS, during preparation of the DEIR issues arose that required additional analysis and services beyond the scope of the Agreement, requiring an Amendment to the Agreement, in an amount not to exceed $136,031,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement for Consultant Services with Turnstone Consulting Corporation for the preparation of a Draft Environmental Impact Report (DEIR) for the Kiernan Business Park East Project area, in an amount not to exceed $136,031.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2008, 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, Acting City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-226

A RESOLUTION APPROVING AN AMENDMENT TO THE STANDARD CONSULTANT AGREEMENT BETWEEN THE CITY OF MODESTO AND SHIBUMI CONSULTING SERVICES, LLC, FOR AN ADDITIONAL $30,000 FOR FISCAL YEAR 2007/2008; AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, on May 25, 2006, the City entered into a Standard Agreement for Consultant Services with Shibumi Consulting Services, LLC, to provide on-call software services for the Customer Services Division of the Finance Department, for two years, not to exceed $50,000 per Fiscal Year, and

WHEREAS, Mr. Roberts has assisted the City of Modesto Finance Department and other City departments with the HTE Utility Billing System and special projects for the past nine years, and

WHEREAS, there is an ongoing demand for detailed data mining from other departments outside of Customer Services, exceeding the contract limit and leaving no resources for the Customer Services Division of the Finance Department for the remainder of Fiscal Year 2007/2008, and

WHEREAS, in order to satisfy on-going needs, the Customer Services Division of the Finance Department is proposing an Amendment to the Standard Agreement for Consultant Services with Shibumi Consulting Services, LLC, for an additional amount of $30,000, for Fiscal Year 2007/2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Standard Agreement for Consulting Services between the City of Modesto and Shibumi Consulting Services, LLC, for an additional $30,000 for Fiscal Year 2007/2008.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2008, 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

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-227

A RESOLUTION AMENDING THE 2007/2008 BUDGET FOR THE INFORMATION TECHNOLOGY DEPARTMENT TO INCREASE APPROPRIATIONS IN THE GENERAL FUND AND PROGRAM OFFSETTING REVENUES IN THE WASTEWATER AND WATER FUNDS TO FUND ONE (1) SYSTEMS ENGINEER I/II IN THE APPLICATIONS DEVELOPMENT DIVISION (ORG. 0742) FOR THE REMAINDER OF THE CURRENT FISCAL YEAR AND FOR A FULL YEAR BEGINNING IN FY 2008-09

WHEREAS, the SCADA Supervisor position was created in 2001 to manage and administer the Supervisory Control and Data Acquisition (SCADA) System for the Water and Water Quality Control Divisions of the Public Works Department, and

WHEREAS, the SCADA system is a client-server based computer system used to monitor and control the remote facilities associated with the Water and Water Quality Control utilities (wells, lift station, reservoirs, and treatment facilities), and

WHEREAS, the SCADA Supervisor currently manages the SCADA system relatively independently of the Information Technology Department and there is no existing arrangement for cross-training other information technology professionals, and

WHEREAS, the Information Technology Department currently manages and maintains all other City computer system applications, and

WHEREAS, the Systems Engineer I/II position in the Information Technology Department has similar duties and responsibilities to the SCADA Supervisor, and the recently completed classification study confirms this internal relationship, and

WHEREAS, this request was reviewed and approved by Public Works management staff, and

WHEREAS, this reallocation request is made based upon departmental needs and changing workload demands, and

WHEREAS, this reallocation request will centralize and standardize Information Technology Department resources, assist in meeting the growing support requirements for the City, and provide the opportunity for career growth for staff assigned to this function, and

WHEREAS, annualized salary and benefits for the SCADA Supervisor position (Range 434) are budgeted at $102,746 for FY 07-08 and $106,556 in the proposed budget for FY 08-09, and

WHEREAS, annualized salary and benefits for a Systems Engineer I in Range 434 are $83,689 - $101,966 at ultimate build-out. Annualized salary and benefits for a Systems Engineer II in Range 438 are $92,375 - $112,525 at ultimate build-out, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the 2007/2008 budget to increase appropriations in the General Fund and program offsetting revenues in the Wastewater and Water Funds to fund one (1) Systems Engineer I/II in the Applications Development Division (Org. 0742) for the remainder of the current fiscal year and for a full year beginning in FY 2008-09.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2008, 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

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008- 228

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF LIGHT FIXTURES FOR THE 9TH AND 11TH STREET PARKING GARAGES, FOR A TOTAL ESTIMATED COST TO THE PARKING FUND OF $131,548

WHEREAS, the Parks, Recreation and Neighborhoods Department, Building and Parking Services Division, maintains the City's parking garages and surface parking lots, and

WHEREAS, this division is responsible for providing adequate lighting for the safety and security of parking garage patrons, and

WHEREAS, the existing lighting fixtures within the 9th and 11th Street parking garages are outdated, and

WHEREAS, improved features on newer lighting fixtures will result in lower maintenance and electrical costs, and

WHEREAS, by issuing formal RFB's, the City will achieve the best value possible for newer lighting fixtures, and

WHEREAS, Section 8-3.203 of the Modesto Municipal Code 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 formal RFB's for the purchase of light fixtures conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue formal Request for

Bids for the purchase of light fixtures for the 9th and 11th Street garages, for a total estimated cost to the Parking Fund of $131,548.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmemeber 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

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-229

A RESOLUTION AUTHORIZING STAFF TO: 1) IMPLEMENT A STRUCTURED PARKING VALIDATION SYSTEM FOR DOWNTOWN BUSINESSES INVOLVING LIMITS BASED ON TYPE OF RETAIL TENANT AND/OR TENANT NEED; 2) PURCHASE AND SUPPLY RETAIL TENANTS WITH VALOMETER ® MACHINES; AND 3) TRACK AND MONITOR VALIDATION USAGE FOR A TOTAL ESTIMATED COST OF $7,500 TO THE PARKING FUND (FUND 6000)

WHEREAS, in September 2005, the City hired Walker Parking Consultants (Walker) to complete an assessment of the City owned parking facilities, and

WHEREAS, Walker's assessment included the implementation of a structured parking validation system, and

WHEREAS, on September 12, 2006, by Resolution No. 2006-558, the Council authorized the Parks, Recreation and Neighborhoods Department to move forward with implementation of the Walker recommendations, and

WHEREAS, the Finance Committee met on February 25, 2008, and supported the recommendation to implement a structured parking validation system, and

WHEREAS, the 9th, 10th, and 11th street parking garages and surface parking lots are to be upgraded to include the installation of an automated attendant system, and

WHEREAS, the implementation of a structured parking validation system would coincide with the installation of the automated attendant system, and

WHEREAS, parking validation would be based on type of retail tenant and/or tenant need as follows: retail shops, two (2) hours of validated parking; movie theater, four (4) hours of validated parking; quality restaurants, two (2) hours of validated parking; fast food and coffee shops, one (1) hour of validated parking, and

WHEREAS, parking validations would continue to be limited to the businesses located at 1010 10th Street, 1020 10th Street, and the Brendan Theater complex excluding the retail tenant located at the Northwest corner of 10th and J Streets, and

WHEREAS, funds are budgeted in Capital Improvement Project 6000-350-P597-6040, and

WHEREAS, the Finance Committee met on February 25, 2008, and supported the implementation of a structured parking validation system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the implementation of a structured parking validation system that will coincide with the installation of the new automated attendant system.

BE IT FURTHER RESOLVED that the Council hereby authorizes staff to purchase and supply retail tenants with Valometer ® machines for a total estimated cost of $7,500 to the Parking Fund (Fund 6000).

BE IT FURTHER RESOLVED that the Council hereby directs staff to track and monitor validation usage.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2008, 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

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-230

A RESOLUTION APPROVING A HOME LOAN IN THE AMOUNT OF $1,000,000 TO THE HOUSING AUTHORITY OF STANISLAUS COUNTY TO PURCHASE A 40-UNIT MULTI-FAMILY HOUSING DEVELOPMENT LOCATED AT 201 E. COOLIDGE, FOR RENTAL TO LOW-INCOME HOUSEHOLDS AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LOAN AGREEMENT AND RELATED DOCUMENTS

WHEREAS, the City has a great need for more affordable housing for very low and low-income households, and

WHEREAS, as indicated in the City of Modesto Housing Element, the City's share of regional housing needs for very-low income households is 3,360 units, and for low-income households is 2,609 units, and

WHEREAS, on September 12, 2007, the Citizens Housing and Community Development Committee (CH&CDC) accepted staff's recommendation to solicit proposals for qualifications for the development of new construction or rehabilitation of existing market rate housing to be converted to affordable units for low-income households, and

WHEREAS, the RFQ required that the project be located in the City limits, that it must have site control, and that the City's financial assistance be used to leverage other funding sources, and

WHEREAS, bonus points were given to home ownership, mixed income, mixed use projects, services and amenities within the project and projects proposing multi-family housing, due to the tremendous need in this area, and

WHEREAS, a total of approximately $2,000,000 of assistance is available, consisting of up to $1,000,000 in HOME entitlement funds per project, and

WHEREAS, up to $250,000 may be use for predevelopment activities in compliance with HOME regulations, and

WHEREAS, the federal HOME program provides these funds; therefore, all funding recipients will be governed by HOME regulations, and

WHEREAS, the RFQ for Affordable Housing Developers was issued on November 1, 2007, and proposals were due on January 14, 2008, and

WHEREAS, a total of eight (8) proposals were submitted, including requests for CHDO set-aside funds, and $7,499,566 in HOME funds, and a total of 331 units were proposed, and

WHEREAS, an RFQ sub-committee was appointed by the CH&CDC on September 12, 2007; in addition, Wayne Padilla, the City's Finance Director, agreed to assist in reviewing the financial portion of the proposals, and

WHEREAS, the sub-committee made a recommendation to submit a report to the CH&CDC presenting the Housing Authority acquisition project located at 201 E. Coolidge Avenue, also known as Palm Valley Apartments, and

WHEREAS, the Housing Authority is requesting $1,000,000 in HOME funds for the acquisition of 40 units of existing housing. This project consists of 20 2-bedroom units with 897 square feet, 12 1-bedroom units with 628 square feet and 8 1-bedroom units with 467 square feet. All units have one bath, and

WHEREAS, the Housing Authority's intention is to rent the units to low and very low-income households, and

WHEREAS, the purchase of the Palm Valley Apartments will help preserve the affordable housing stock in Modesto, and

WHEREAS, the cost of the acquisition is $3,900,000. The closing fees, bond cost, appraisal, etc are $70,000. The Housing Authority is also seeking $125,000 to convert one unit to a disabled accessible unit and to add a security gate; there are also other expenses of $30,000, bringing the total estimated cost of the project to $4,095,000 or $138 per square foot, and

WHEREAS, The Housing Authority is proposing an affordability mix of 19 units to be rented to tenants who are at 80% Area Median Income level, 11 units to be rented to tenants who are at 65% Area Median Income level, 10 units to be rented to tenants who are at 50% Area Median Income level, and

WHEREAS, to achieve this affordability mix, the Housing Authority has requested that the City provide a loan of $1,000,000, with: a Loan Maturity of 55 Years; an interest rate of 3% for the first 30 years, residual receipt loan with 50% of the cash flow to be paid to the City annually; a interest rate of 3% for the last 25 years, fully amortized payments on remaining loan balance; and an affordability period of 55 years, and

WHEREAS, the remaining financing for the Palm Valley Apartments will be provided by a Housing Authority Tax Exempt Note in the amount of $2,250,000 and capital contribution from the Housing Authority in the amount of $20,000, and

WHEREAS, the proposed acquisition of Palm Valley Apartments will provide 40 units of quality affordable rental housing in an expedient fashion at a per unit cost of approximately $102,375, including fees and development costs (a cost of approximately $138 per square foot), and

WHEREAS, the CH&CDC met on February 27, 2008, and supported staff's recommendation to provide $1,000,000.00 in HOME Funds to the Housing Authority of Stanislaus County to purchase a 40-unit multi-family housing development located at 201 E. Coolidge for rental to low-income households,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a HOME loan in the amount of $1,000,000 to the Housing Authority of Stanislaus County to purchase a 40-unit multi-family housing development located at 201 E. Coolidge, for rental to low-income households.

BE IT FURTHER RESOLVED that the Interim City Manager, or his designee, is hereby authorized to execute the 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 22nd day of April, 2008, 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

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-231

A RESOLUTION AMENDING THE FY 07-08 OPERATING BUDGET TO APPROPRIATE $1,000,000 IN FY 06-07 HOME ENTITLEMENT FUNDS FROM 1170-800-8000-8003, HOME FUND RESERVE, TO 1170-320-3259-0497, DIRECT LOANS, TO FULLY FUND THE PALM VALLEY APARTMENTS PROJECT

WHEREAS, the City has a great need for more affordable housing for very low and low-income households, and

WHEREAS, on September 12, 2007, the Citizens Housing and Community Development Committee (CH&CDC) accepted staff's recommendation to solicit proposals for qualifications for the development of new construction or rehabilitation of existing market rate housing to be converted to affordable units for low-income households, and

WHEREAS, the RFQ for Affordable Housing Developers was issued on November 1, 2007, and proposals were due on January 14, 2008, and

WHEREAS, a total of eight (8) proposals were submitted, including requests for CHDO set-aside funds, and $7,499,566 in HOME funds, and a total of 331 units were proposed, and

WHEREAS, an RFQ sub-committee was appointed by the CH&CDC on September 12, 2007; in addition, Wayne Padilla, the City's Finance Director, agreed to assist in reviewing the financial portion of the proposals, and

WHEREAS, the sub-committee made a recommendation to submit a report to the CH&CDC presenting the Housing Authority acquisition project located at 201 E. Coolidge Avenue, also known as Palm Valley Apartments, and

WHEREAS, the Housing Authority is requesting $1,000,000 in HOME funds for the acquisition of 40 units of existing housing, and

WHEREAS, the Housing Authority's intention is to rent the units to low and very low-income households, and

WHEREAS, the purchase of the Palm Valley Apartments will help preserve the affordable housing stock in Modesto, and

WHEREAS, the proposed acquisition of Palm Valley Apartments will provide 40 units of quality affordable rental housing in an expedient fashion at a per unit cost of approximately $102,375, including fees and development cost (a cost of approximately $138 per square foot), and

WHEREAS, funds are available in the HOME Fund (Fund 1170 Reserve) to fully fund this loan, and

WHEREAS, the CH&CDC met on February 27, 2008, and supported staff's recommendation to provide $1,000,000.00 in HOME Funds to the Housing Authority of Stanislaus County to purchase a 40-unit multi-family housing development located at 201 E. Coolidge for rental to low-income households,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the FY 07-08 operating budget to appropriate $1,000,000 in FY 06-07 HOME Entitlement Funds from 1170-800-8000-8003, HOME Fund Reserve, to 1170-320-3259-0497, Direct Loans, to fully fund the Palm Valley Apartments project.

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 April, 2008, 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

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-232

A RESOLUTION APPROVING THE ALLOCATION OF FUNDING IN THE AMOUNTS OF $355,234 IN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PUBLIC SERVICES FUNDS, $31,185 IN CDBG REVOLVING LOAN FUNDS FOR HOMELESS SERVICES, AND $105,346 IN EMERGENCY SHELTER GRANT (ESG) FUNDS FOR FY 2008-2009, 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, a maximum of fifteen percent (15%) of the City's available CDBG entitlement plus an amount up to 15% of the prior year's program income, and up to 15% of the prior year's program income from the Revolving Loan Fund may be allocated for the purpose of providing assistance that is consistent with the functions of CDBG funding to very-low, low and moderate income persons and families residing within the city limits of Modesto, and

WHEREAS, for Fiscal Year 2008-2009, 15% of the CDBG entitlement and program income is $355,234, and 15% of the prior year program income from the Revolving Loan Fund is $31,185, and

WHEREAS, the available ESG entitlement for Fiscal Year 2008-2009 is $105,346, and

WHEREAS, at its April 9, 2008, meeting, the Citizens Housing & Community Development Committee (CH&CDC) recommended allocation of $355,234 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

WHEREAS, the CH&CDC also recommended that $31,185 be allocated for services for the homeless as set forth in **Exhibit "2",** attached hereto and incorporated by reference, and

WHEREAS, the CH&CDC recommended $105,346 be allocated for emergency shelter services as set forth in Exhibit "3", attached hereto and incorporated by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the allocation of $355,234 in Community Development Block Grant (CDBG) funds for public services for Fiscal Year 2008-2009 as set forth in Exhibit "1".

BE IT FURTHER RESOLVED that the Council hereby approves the allocation of $31,185 in CDBG Revolving Loan funds for services for the homeless for Fiscal Year 2008-2009 as set forth in Exhibit "2".

BE IT FURTHER RESOLVED that the Council hereby approves the allocation of Emergency Shelter Grant (ESG) funds of $105,346 for emergency shelter services for Fiscal Year 2008-2009 as set forth in **Exhibit "3".**

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Interim City Manager, or his authorized 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 22nd day of April, 2008, 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

APPROVED AS TO FORM:
By: _____
SUSANA ALCALA WOOD, City Attorney

FY 08-09 Public Service Grants
CDBG Entitlement

Funding Available	$355,234
Funding Requested	$471,432
Difference	-$116,198
Funding Recommended	$397,895
Difference	-$42,661 Move Project Sentinel into Admin Budget

Agency	Program	Request	Reductions Specific	Reductions Proportionate	Reason for Recommendation Funding	Reason for Recommendation Comments
American Red Cross	Emergency Shelter Svces	$14,761	$1,286	$2,000	$11,475	Eliminate Audit ($1,036) staff travel ($250)
Catholic Charities	Case Mgmt At Risk Seniors	$50,500	$50,500		$0	Do Not Fund
Catholic Charities	Senior Options	$41,575	$3,000	$5,632	$0	Eliminate rent, janitorial, utilities, phone ($2,000) liability ($200), mileage/meals ($500), training ($300)
Catholic Charities	Project Lifesaver	$18,830	$18,830		$0	Do Not Fund
Center for Human Svce	Hutton House	$27,672	$1,318	$3,748	$22,606	Eliminate Admin overhead ($1,318)
Center for Human Svce	Pathways	$26,314	$1,253	$3,564	$21,497	Eliminate Admin overhead ($1,253)
Children's Crisis Center	Cricket NEAT	$23,296	$0	$3,156	$20,140	
Children's Crisis Center	Marsha's NEAT	$29,120	$0	$3,945	$25,175	
Children's Crisis Center	Sawyer's NEAT	$29,120	$0	$3,945	$25,175	
Community Housing and Shelter Services	Families In Recovery	$27,643	$0	$3,745	$23,898	

Agency	Program	Request	Reductions Specific	Reductions Proportionate	Funding	Reason for Recommendation Comments
Healthy Aging Association	Young at Heart	$34,159	$2,300	$4,627	$27,232	Eliminate telephone, audit, training ($2,300)
Howard Training Center	Senior Meals	$20,000	$0	$0	$20,000	
Parent Resource Center	ABC's of Childcare	$20,397	$1,800	$2,763	$15,834	Eliminate Lease
Project Sentinel	Fair Housing	$88,000	$26,429	$11,920	$49,651	Funding recommended for staffing (Case Mgr., Coordinator, Counselor) reduced supplies, mediators, copying/rpinting, outreach and testers.
Salvation Army	Emergency Winter Shelter	$34,226	$0	$4,636	$29,590	
Second Harvest Food Bank	Food Assistance Program	$40,000	$0	$0	$40,000	
Stanislaus Community Assistance Project	Nutritional Supplement	$41,485	$0	$0	$41,485	
Stanislaus Literacy Program	West Modesto English Tutoring	$30,000	$0	$5,864	$24,136	
		$471,432	$33,100	$51,913	$397,895	

* A portion of the funding allocated to Project Sentinel for Fair Housing Services ($42,661) will come out of the CDBG Administration Budget. The balance of $6,990 will be paid by Public Service funding.

FY 08-09 Public Service Grants
ESG Entitlement

Exhibit "2"

Funding Available	$105,346
Funding Requested	$97,948
Difference	$7,398
Funding Recommended	$105,346
Difference	$0

Agency	Program	Request	Reduction	Funding	Recommendation Comments
Center for Human Svce	Hutton House	$28,103	$6,513	$21,590	Eliminate Admin overhead ($1,338), Tree Trimming ($775), Sprinkler Repair ($1,200) Floor Grout ($3200)
Children's Crisis Center	Sawyer's NEAT	$13,728	$0	$13,728	
Community Housing and Shelter Services	Homeless Prevention	$28,000	$0	$28,000	
Salvation Army	Emergency Winter Shelter	$28,117	$3,200	$24,917	Eliminate telephone ($1,000), Postage ($200),Insurance ($750) 1/2 Office Supplies ($1,250)
		$97,948		$88,235	

Applications for CDBG Homeless Services Funds recommended for ESG funding

Agency	Program	Request	Reductions Specific	Reductions Proportionate	Funding	Recommendation Comments
Center for Human Svce	Hutton House	$11,655	$1,590	$4,321	$5,744	Eliminate Admin overhead ($555); Reduce food by $1,035
Center for Human Svce	Pathways	$9,870	$1,905	$3,659	$4,306	Eliminate Admin overhead ($470) and Drug Tests ($400); Reduce food by $1,035
Salvation Army	Emergency Winter Shelter	$34,579	$16,876	$6,419	$7,061	Reduce funding by 1/2. Fund $4233 out of CDBG
				$14,399	$17,111	

Total Funding Allocated **$105,346**

FY 08-09 Public Service Grants
CDBG Homeless Services

Exhibit "3"

CDBG Funding Available	$31,185
ESG Funding Available	$0
Funding Recommended	$31,185
Difference	$0

Agency	Program	Request	Reductions Specific	Reductions Proportionate	Recommendation Funding	Comments
Children's Crisis Center	Cricket Shelter	$11,440	$0	$4,241	$7,199	
Community Housing and Shelter Services	Supportive Services for Housing	$32,200	$500	$11,937	$19,763	Eliminate Staff mileage/meals
Community Housing and Shelter Services	Supportive Services for Homeless Svces	$12,700	$12,700		$0	Do Not Fund
Salvation Army	Emergency Winter Shelter	$34,579	$16,876	$6,419	$4,223	Reduce funding by 1/2, Move $7061 to ESG
		$90,919	$30,076	$22,597	$31,185	

* Due to limited funding some applications were transferred in part or full to ESG based on eligibility.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-233

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE A FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE AND INSTALLATION OF A HIGH-DENSITY STORAGE SYSTEM FOR THE MODESTO POLICE DEPARTMENT, FOR AN ESTIMATED COST OF $91,238

WHEREAS, the Evidence and Property facility located at 1124 F Street is leased by the Modesto Police Department to store all property and evidence obtained by Modesto Police Department personnel, and

WHEREAS, the storage capacity of the building is limited, and the standard shelving that is currently in place is at approximately 85% storage capacity, and

WHEREAS, the purchase will maximize the use of the space available within the building with a high-density storage system, and

WHEREAS, this first phase purchase will increase storage capacity by approximately 25% in the current facility, and

WHEREAS, future phases are planned to allow the department to keep up with increasing demands for evidence storage, and

WHEREAS, the City has received State Law Enforcement Supplemental Funding (SLESF) for this purchase, and

WHEREAS, funds are budgeted and available in the following accounts for the purchase and installation of a high-density storage system in FY 07/08:

0400-190-2923-5011	$80,000	PD Grant-Property/Evd/Shelving
0100-190-1921-0223	$11,238	PD Records and Support

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 Bids

(RFB) for the purchase and installation of a high-density storage system for the Modesto Police Department, for an estimated cost of $91,238.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2008, 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. 2008-234

A RESOLUTION ACCEPTING A MINI-GRANT IN THE AMOUNT OF $8,000 FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY, THROUGH THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, FOR THE CALIFORNIA CLICK IT OR TICKET (CIOT) PROJECT FOR OVERTIME SEAT BELT ENFORCEMENT, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS.

WHEREAS, the Modesto Police Department submitted an application in the amount of $8,000 to the California Office of Traffic and Safety, through the National Highway Traffic Safety Administration, for a California Click It or Ticket (COIT) Project, and

WHEREAS, the program is for a three-week period and allows for overtime seat belt enforcement, 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 mini-grant is $8,000 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 $8,000 from the California Office of Traffic Safety, through the National Highway Traffic Safety Administration, for the California Click It or Ticket (CIOT) Project for overtime seat belt enforcement.

BE IT FURTHER RESOLVED that the Interim 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 22nd day of April, 2008, 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. 2008-235

A RESOLUTION AMENDING THE FISCAL YEAR 2007/08 BUDGET TO APPROPRIATE $8,000 FOR REVENUE AND EXPENSE FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY, THROUGH THE NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, FOR THE CALIFORNIA CLICK IT OR TICKET (CIOT) PROJECT FOR OVERTIME SEAT BELT ENFORCEMENT

WHEREAS, the City of Modesto Police Department was awarded funding in the sum of $8,000 from the California Office of Traffic Safety for the California Click It or Ticket (CIOT) Project, and

WHEREAS, the mini-grant funds were made available for overtime seat belt enforcement, and

WHEREAS, the total mini-grant will be $8,000, with no local match required of the City, and

WHEREAS, the Council of the City of Modesto authorized the Interim City Manager, or his designee, to accept the California Click It or Ticket (CIOT) Project mini-grant funding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that the 2007/08 Operating Budget is hereby amended as follows:

Appropriate:

To:	0410-190-2997-0130	$8,000	Overtime

Revenue:

To:	0410-190-2997-3490	$8,000	Click It or Ticket Mini-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 22nd day of April, 2008, 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. 2008-236

A RESOLUTION ACCEPTING THE WORK BY RICHARD TOWNSEND CONSTRUCTION, INC. FOR THE PROJECT TITLED "BLOCK WALL CONSTRUCTION FOR WELL 21 IN MCHENRY VILLAGE" 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 $174,791.57

WHEREAS, a report has been filed by the Public Works Director that the project titled "Block Wall Construction for Well 21 in McHenry Village" has been completed by Richard Townsend Construction, Inc., in accordance with the contract agreement dated February 14, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Block Wall Construction for Well 21 in McHenry Village" is hereby accepted as complete from said contractor Richard Townsend 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 $174,791.57 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 22nd day of April, 2008, 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. 2008-237

A RESOLUTION ACCEPTING THE WORK BY PERMA GREEN HYDROSEEDING, INC. FOR THE PROJECT TITLED "TUOLUMNE RIVER REGIONAL PARK GATEWAY PARCEL PHASE 1.1" 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 $625,779,47

WHEREAS, a report has been filed by the Public Works Director that the project titled "Tuolumne River Regional Park Gateway Parcel Phase 1.1" has been completed by Perma Green Hydroseeding, Inc., in accordance with the contract agreement dated August 8,2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Tuolumne River Regional Park Gateway Parcel Phase 1.1" is hereby accepted as complete from said contractor Perma Green Hydroseeding, 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 $ 625,779.47 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 22nd day of April, 2008, 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. 2008-238

A RESOLUTION ACCEPTING THE WORK BY HARRIS BUILDERS, INC. FOR THE PROJECT TITLED "SHADE STRUCTURES FOR MODESTO PARKS (GEORGE ROGERS, STOCKARD COFFEE AND ROBERTSON 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 $152,217.53

WHEREAS, a report has been filed by the Public Works Director that the project titled "Shade Structures for Modesto Parks (George Rogers, Stockard Coffee and Robertson Road") has been completed by Harris Builders, Inc., in accordance with the contract agreement dated May 22, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Shade Structures for Modesto Parks (George Rogers, Stockard Coffee and Robertson Road") is hereby accepted as complete from said contractor Harris Builders, 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 $ 152,217.53 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 22nd day of April, 2008, 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. 2008-239

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH HARRIS & ASSOCIATES FOR CONSTRUCTION MANAGEMENT SERVICES OF THE LA LOMA LIFT STATION PROJECT IN THE NOT-TO-EXCEED AMOUNT OF $24,020.00, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, on January 23, 2007, by Resolution 2007-073, the City Council awarded a construction contract in the amount of $1,794,000 to Preston Pipelines to construct the La Loma Avenue Sanitary Sewer Lift Station Replacement project, and

WHEREAS, the La Loma Avenue Sanitary Sewer Lift Station Replacement project is a large specialized project that requires construction management and inspection, and

WHEREAS, the City Council on February 13, 2007, by Resolution 2007-116, approved an Agreement with Harris & Associates, a construction management firm specializing in these types of inspections, to assist with this project, and

WHEREAS, as part of this Amendment, Harris & Associates will continue to provide full-time inspection and project close out assistance for the La Loma Avenue Sanitary Sewer Lift Station Replacement project, and

WHEREAS, there are sufficient funds available in CIP Account 6210-430-B609 "La Loma Avenue Sanitary Sewer Lift Station Replacement" to continue work on the ongoing and additional tasks to complete the additional services, and

WHEREAS, the original Agreement was for $200,725, and

WHEREAS, the additional work associated with this Amendment is $24,020, which will increase the total Agreement to $224,745,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendment to the Agreement between City of Modesto and Harris & Associates for additional services related to the La Loma Avenue Sanitary Sewer Lift Station Replacement Project in the amount of $24,020.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2008, 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. 2008-240

A RESOLUTION ACCEPTING THE WORK BY GOODLAND LANDSCAPE CONSTRUCTION, INC. FOR THE PROJECT TITLED "SANDERS NEIGHBORHOOD 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 $2,596,899.41

WHEREAS, a report has been filed by the Public Works Director that the project titled "Sanders Neighborhood Park" has been completed by Goodland Landscape Construction, Inc., in accordance with the contract agreement dated August 8, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Sanders Neighborhood Park" is hereby accepted as complete from said contractor Goodland Landscape 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 $ 2,596,899.41 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2008, 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. 2008-241

A RESOLUTION APPROVING A CONSULTANT SERVICES AGREEMENT WITH NICHOLS CONSULTING ENGINEERS, CHTD. IN THE AMOUNT OF $33,848.23 FOR PAVEMENT TESTING, EVALUATION, AND ANALYSIS REPORT IN CONNECTION WITH DESIGN OF CLAUS ROAD REHABILITATION, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City's Fiscal Year 06-07 Pavement Maintenance Program for rehabilitation includes the following street: Claus Road Rehabilitation from Scenic Drive to approximately 5,200 feet south, and

WHEREAS, rehabilitation may include an asphalt overlay of the existing pavement or complete reconstruction of the street, and

WHEREAS, during project design, the existing asphalt is tested for strength and elasticity, and

WHEREAS, pavement testing involves use of specialized equipment to measure the total deflection resulting from a load applied on the surface of the pavement, and

WHEREAS, following analysis of the deflection results, recommendations are made regarding thickness of required overlay or to reconstruct if overlay of the existing pavement is not feasible, and

WHEREAS, the firm of Nichols Consulting Engineers, Chtd. (Nichols) is deemed the most qualified to provide the requested pavement testing services and has demonstrated satisfactory pavement testing services to the City in the past, and

WHEREAS, as an example, Nichols Consulting Engineers, Chtd. provided pavement testing, evaluation and analysis report in connection with Kansas Avenue-Carpenter Road to Emerald Avenue, and

WHEREAS, City staff recommends an agreement with the consulting firm of Nichols Consulting Engineers, Chtd. be approved to perform pavement testing, evaluation and analysis report in connection with design of the Claus Road Rehabilitation as the City does not have the staffing level to perform testing and evaluation for this project and current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, City staff recommends that City Council approve an agreement with Nichols Consulting Engineers, Chtd. to perform pavement testing, evaluation and analysis report in connection with design of the Claus Road Rehabilitation in an amount not to exceed $33,848.23, and

WHEREAS, Nichols will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Nichols Consulting Engineers, Chtd. to perform pavement testing, evaluation and analysis report in connection with design of the Claus Road Rehabilitation in an amount not to exceed $33,848.23.

BE IT FURTHER RESOLVED that the Interim 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 April, 2008, 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. 2008-242

A RESOLUTION APPROVING AN AGREEMENT WITH TRS CONSULTANTS, INC. FOR CONSTRUCTION MANAGEMENT SERVICES FOR THE DALE ROAD/ KIERNAN AVENUE INTERSECTION IMPROVEMENTS PROJECT, IN THE NOT-TO-EXCEED AMOUNT OF $594,834.42, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Caltrans, the City of Modesto, and Stanislaus County have been planning for the widening of Kiernan Avenue (State Route 219), and

WHEREAS, the 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 Kiernan (State Route 219) intersection, and the widening to four (4) lanes of Kiernan Road, east and west of the intersection, and

WHEREAS, additional improvements will consist of roadway widening, asphalt concrete pavement, curb and gutter, sidewalk, street lights and traffic signal modifications, and

WHEREAS, the selection process for construction management services followed the City's selection procedures for professional consultants. In accordance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, Capital Improvement Services (CIS) staff mailed approximately 20 Request for Qualifications for construction management services, and

WHEREAS, fifteen firms responded and three were asked to provide a proposal, and

WHEREAS, the City's Selection Committee reviewed the three proposals submitted and held interviews with the two firms that continued in the selection process, and

WHEREAS, the firm of TRS Consultants, Inc. was considered to be the most qualified to provide construction management services for the project, and

WHEREAS, TRS Consultants, Inc. is an experienced construction management firm that provides construction management services for major highway projects, and has provided acceptable services on previous agreements of this type and size, and

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

WHEREAS, City desires to enter into an Agreement with TRS Consultants, Inc. in an amount not-to-exceed $594,834.42, to perform construction management services for the Dale Road/Kiernan Avenue Intersection Improvements project, and

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with TRS Consultants, Inc., in the amount not-to-exceed $594,834.42, for construction management services for the Dale Road/Kiernan Avenue Intersection Improvements project.

BE IT FURTHER RESOLVED that the Interim 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 April, 2008, 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. 2008-243

A RESOLUTION AUTHORIZING SUBMITTAL OF A GRANT APPLICATION TO THE U.S. DEPARTMENT OF TRANSPORTATION FOR THE SMALL COMMUNITY AIR SERVICE DEVELOPMENT PROGRAM, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT APPLICATION

WHEREAS, the U.S. Department of Transportation (DOT) will be initiating the grant application process for the Small Community Air Service Development Program (SCASDP), and

WHEREAS, the SCASDP provides support for cities desiring to enhance their commercial air service, and

WHEREAS, details about the current program are still pending; however, the DOT has traditionally issued $20 million annually nationwide in grants to approximately 40 communities to support improved air service at local airports, and

WHEREAS, the SCASDP has previously limited awards to no more than four communities in any one state, and

WHEREAS, on March 27, 2008, a Request for Proposals for "Air Service Development for Modesto City-County Airport" was sent to four consultants to assist the City in the SCASDP application process, and

WHEREAS, all four of these consultants have assisted airports that were awarded SCASDP grants in previous years, and

WHEREAS, the consultants' proposals are due by April 9, 2008, and once a consultant is chosen, preparation of the grant application will begin for submittal to the DOT in a timely manner, and

WHEREAS, the City applied for and was awarded a $550,000 SCASDP grant in 2005, and used the grant funds to obtain additional air service to Los Angeles, and

WHEREAS, the DOT allows communities to apply for SCASDP grants every two years, and

WHEREAS, on April 14, 2008, the Council's Economic Development Committee endorsed the recommendation to submit a SCASDP grant application to the DOT,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the submittal of a grant application to the U.S. Department of Transportation for the Small Community Air Service Development Program.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2008, 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 _____
SUSAN ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-244

A RESOLUTION APPROVING AN AMENDMENT TO THE AIRPORT LEASE AGREEMENT WITH MODESTO FLIGHT CENTER, INC. AND RICHARD CORBETT, AN INDIVIDUAL , FOR THE ADDITION OF OFFICE SPACE #8 IN THE FORMER AIRPORT ADMINISTRATION BUILDING, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO THE AGREEMENT

WHEREAS, on August 14, 2007, the City Council, by Resolution 2007-503, approved a 15-year Airport Lease Agreement with Modesto Flight Center, Inc. and Richard Corbett, an individual, to operate the business known as Modesto Flight Center, Inc. (MFC, Inc.) at Modesto City-County Airport, and

WHEREAS, the leased premises consist of the following:

(a) Office Building No. 1
(b) Hangar No. 5
(c) Office Space #4 in the former Airport Administration Building
(d) Aircraft tie-down spaces in a number and location as needed, agreed in concurrence with Airport Manager, and

WHEREAS, MFC, Inc is requesting to lease Office Space #8 in the former Airport Administration Building to accommodate business growth, and

WHEREAS, Airport Enterprise Fund Revenue Account No. 6310-440-5412-4413 will receive approximately $1,800 annually for the lease of Office Space #8 to MFC, Inc., and

WHEREAS, pursuant to Modesto Municipal Code Section 7-3.417, the Council may enter into lease agreements at Modesto City-County Airport,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Airport Lease Agreement with

Modesto Flight Center, and Richard Corbett, an individual, for addition of office space #8 in the former airport administration building.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2008, 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 _____
SUSAN ALCALA WOOD, City Attorney

RESCINDED
Print
MAY 13, 2008
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2008-291

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-245

A RESOLUTION AMENDING SECTION 10 OF RESOLUTION NO. 2007-282 ENTITLED "A RESOLUTION ADJUSTING RENTAL CHARGES AND FEES FOR ACTIVITIES AND SERVICES AT THE MODESTO CITY-COUNTY AIRPORT/HARRY SHAM FIELD, AND RESCINDING COUNCIL RESOLUTION NO. 2006-272" TO INCREASE THE FUEL FLOW FEE RATE FROM $0.06 TO $0.07 PER GALLON, PAID BY SKY TREK AVIATION TO THE MODESTO CITY-COUNTY AIRPORT, EFFECTIVE JULY 1, 2008

WHEREAS, Sky Trek Aviation is a tenant at the Modesto City-County Airport, and

WHEREAS, Sky Trek Aviation has a long-term lease to operate the Airport Fuel Farm and provide petroleum products at Modesto City-County Airport, and

WHEREAS, a recent market survey shows that the current fuel flow fee rate paid by Sky Trek Aviation is in the lower third of similar airports, and

WHEREAS, on October 8, 2007, the Economic Development Committee reviewed the fuel flow fee rate paid to the Airport by Sky Trek Aviation and recommended a $0.01 increase from $0.06 to $0.07, and

WHEREAS, on May 8, 2007, the City Council, by Resolution No 2007-282, authorized the current fuel flow fee rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Section 10 of Resolution No. 2007-282 is hereby amended to read as follows:

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.

BE IT FURTHER RESOLVED that this resolution shall go into effect and be in full force and operation as of July 1, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 22nd day of April, 2008, 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. 2008-246

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF JEAN-PIERRE BATMALE FROM THE SOLID WASTE ADVISORY COMMITTEE

WHEREAS, JEAN-PIERRE BATMALE was appointed a member of the Solid Waste Advisory Committee on September 5, 2006, and

WHEREAS, JEAN-PIERRE BATMALE has tendered his resignation from the Community Qualities Forum, and

WHEREAS, JEAN-PIERRE BATMALE has been a devoted and sincere public servant and has contributed greatly to our civic progress.

NOW, THEREFORE, BE IT RESOLVED that the resignation of JEAN-PIERRE BATMALE from the Community Qualities Forum be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to JEAN-PIERRE BATMALE 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 6th day of May, 2008, 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

APPROVED AS TO FORM:

Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-247

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF LLOYD FARRIS FROM THE COMMUNITY QUALITIES FORUM

WHEREAS, LLOYD FARRIS was appointed a member of the Community Qualities Forum on February 22, 2003, and

WHEREAS, LLOYD FARRIS has tendered his resignation from the Community Qualities Forum, and

WHEREAS, LLOYD FARRIS has been a devoted and sincere public servant and has contributed greatly to our civic progress.

NOW, THEREFORE, BE IT RESOLVED that the resignation of LLOYD FARRIS from the Community Qualities Forum be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to LLOYD FARRIS 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 6th day of May, 2008, 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

APPROVED AS TO FORM:

_____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-248

A RESOLUTION APPOINTING MEMBERS OF THE CITIZENS REDEVELOPMENT ADVISORY 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 March 5, 2008, the Citizens Redevelopment Advisory Commission recommended TOM SLATER, LEE HEDGEPETH and GENE HAYS as its representatives 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. TOM SLATER, LEE HEDGEPETH and GENE HAYS, as representative of the Citizens Redevelopment Advisory Commission, are hereby appointed to the Citizens Housing & Community Development Committee with term expirations of January 1, 2012.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members 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 May, 2008, 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
STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-249

RESOLUTION APPROVING A SEVENTH AMENDMENT TO AGREEMENT FOR AUDITOR SERVICES WITH MAZE & ASSOCIATES, AN ACCOUNTANCY CORPORATION, TO EXTEND THE CONTRACT TERM ONE YEAR, AT A COST NOT TO EXCEED $159,645 FOR FISCAL YEAR 2008 AUDIT, AND $7,510 FOR THE 2008 ANNUAL REPORT OF FINANCIAL TRANSACTIONS (STATE CONTROLLER'S REPORT), AND, AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE THE AMENDMENT

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

WHEREAS, said contract contains a provision for a three year term; and

WHEREAS, said contract contains a provision whereby the City may, at its option, elect to extend this contract two years, upon written notice of such extension to Auditor, and

WHEREAS, based on the passage of Measure M on February 5, 2008, an additional one year extension is necessary until the City Auditor position is filed, and

WHEREAS, Auditor has made a proposal to City to conduct financial statement audits for Fiscal Year 2008 at a cost not to exceed $159,645, and $7,510 for the 2008 Annual Report of Financial Transactions (State Controller's Report), and

WHEREAS, the Audit Committee, at its April 22, 2008, meeting recommended Council approve a one-year extension of said contract, to have Maze & Associates perform the Fiscal Year 2008 financial statement audits and the 2008 Annual Report of Financial Transactions (State Controller's Report),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Seventh Amendment to Agreement for Auditor Services with Maze & Associates to extend the contract term one year, perform these services at a price

not to exceed $159,645 for Fiscal Year 2008, and $7,510 for the 2008 Annual Report of Financial Transactions (State Controller's Report).

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2008, 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
STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-250

A RESOLUTION APPROVING AN AGREEMENT FOR CONSULTING SERVICES WITH NATIONAL DEMOGRAPHICS CORPORATION

WHEREAS, in the February 5, 2008 election, the electorate overwhelmingly approved Measure N, and

WHEREAS, pursuant to the terms of Measure N, the City of Modesto will be moving from an at-large election system to a district election system, and

WHEREAS, Measure N requires the formation of a Citizens' Districting Commission to prepare a districting plan for the City of Modesto, and

WHEREAS, on April 8, 2008, by motion, the City Council appointed members as recommended by the Mayor to serve on the Citizens' Districting Commission, and

WHEREAS, the Citizens' Districting Commission requires the services of an expert to guide them in the preparation of a districting plan, and

WHEREAS, National Demographics Corporation has the necessary experience and qualifications to assist the Commission with the creation of a districting plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement for Consultant Services with National Demographics Corporation.

BE IT FURTHER RESOLVED that the Interim 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 6th day of May, 2008, 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

STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-251

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE CAMBROOK ESTATES 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, GP LAND INVESTMENT COMPANY LLC, a CALIFORNIA LIMITED LIABILITY COMPANY ("Subdivider"), is the subdivider of the CAMBROOK ESTATES ("SUBDIVISION"), and

WHEREAS, SUBDIVIDER, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of $250,066.30, and $250,066.30, respectively, and

WHEREAS, SUBDIVIDER, has filed a warranty bond in the amount of $25,006.63 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 to 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 $250,066.30 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 amounts of $250,066.30 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 $25,006.63 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 6th day of May, 2008, 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

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-252

A RESOLUTION APPROVING THE FINAL MAP AND ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE GRAHAM ESTATES SUBDIVSION IN THE VILLAGE ONE SPECIFIC PLAN AREA OF THE CITY OF MODESTO, AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH GRAHAM ESTATES, LLC, AND AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND TO RELEASE SECURITY UPON EXPIRATION OF STATURTORY PERIOD

WHEREAS, GRAHAM , LLC, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 4.041 acres, known as Graham Estates ("SUBDIVISION"), in the Village One Specific Plan Area, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 17th day of July, 2006, and

WHEREAS, the Secretary of the Planning Commission of the City of Modesto has certified that the final map of said tract substantially conforms to the approved tentative map, and

WHEREAS, the City Engineer of the City of Modesto has certified that the final map of said SUBDIVISION meets all of the provisions of the California Subdivision Map Act and the provisions of the Modesto Municipal Code relating to subdivisions, and that the map is technically correct, and

WHEREAS, the Public Works Director has certified that all public improvements required by the City of Modesto have been completed in said SUBDIVISION to the satisfaction of the Public Works Director, and

WHEREAS, the Public Works Director has indicated that it would be in order for the City Council to accept the public improvements in said SUBDIVISION as complete

and authorize the City Clerk to file a Notice of Completion and release the security upon expiration of statutory period and,

WHEREAS, the subdivider has posted a warranty security in an amount equal to 10% of the estimated cost of the public improvements, as determined by the City Engineer, to guarantee and warranty the public improvements for a period of one year after acceptance.

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

1. The final map is hereby approved.
2. The dedications for streets, alleys and easements as shown thereon within the boundaries of said SUBDIVISION are hereby accepted on behalf of the public for public use.
3. The improvements completed in Graham Estates are hereby accepted and the City Clerk is authorized to file a Notice of Completion.
4. The City Clerk is hereby authorized to certify the map of said SUBDIVISION on behalf of the City of Modesto, after the fees and deposits required by the Modesto Municipal Code in amounts determined by the City Engineer have been paid.
5. The City Manager and the City Clerk are hereby authorized to execute and attest, respectively, an agreement with subdivider as required by Section 4-4.604(c) of the Municipal Code.
6. The City Clerk is further authorized to release the warranty security to guarantee improvements in the amount of $42,167.18 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 6th day of May, 2008, 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
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-253

A RESOLUTION APPROVING TASK ORDER NO. 2 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES WITH GOODWIN CONSULTING GROUP, INC. FOR THE ANNUAL ADMINISTRATION OF CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2007-2 (KIERNAN BUSINESS PARK WEST) AND AUTHORIZING THE INTERIM CITY MANAGER TO EXECUTE TASK ORDER NO. 2

WHEREAS, the City Council is desirous of administering and maintaining its existing Community Facilities Districts ("CFDs"), and

WHEREAS, on December 12, 2006, the Council of the City of Modesto approved a Master Professional Services Agreement for Consultant Services with Goodwin Consulting Group, Inc. ("Consultant") for the administration of CFDs, and

WHEREAS, on July 24, 2007, the Council of the City of Modesto approved Task Order No. 1 for the administration of the City's then existing CFDs, and

WHEREAS, Consultant has prepared Task Order No. 2 ("Task Order") for the administration of the City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West), attached hereto as **Exhibit "A"** and incorporated herein by reference, and

WHEREAS, the annual administration of the City's CFDs is funded through an annual special maintenance tax as described in the Rate and Method of Apportionment of each CFD,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Task Order No. 2 to the Master Professional Services Agreement for Consultant Services with Goodwin Consulting Group, Inc. for the annual

administration of City of Modesto Community Facilities District No. 2007-2 (Kiernan Business Park West).

BE IT FURTHER RESOLVED that the Interim City Manager, or his designee, is hereby authorized to execute Task Order No 2.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2008, 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

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

GOODWIN CONSULTING GROUP, INC.

TASK ORDER 2
SCOPE OF WORK FOR ANNUAL ADMINISTRATION

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-2
(KIERNAN BUSINESS PARK WEST)

This task order sets forth the scope of work and fee schedule for Goodwin Consulting Group, Inc. (GCG) to provide services related to the annual administration of the City of Modesto Community Facilities District (CFD) No. 2007-2 (Kiernan Business Park West). Each fiscal year, GCG will prepare the special tax levy for the CFD pursuant to the adopted Rate and Method of Apportionment of Special Tax. Preparation of the levy will include the following tasks:

(1) GCG will update the database with land use, parcel and acreage data provided by the District.

(2) GCG will consult with the District to confirm the following items and determine the amount of the levy: (i) maintenance costs to be funded by the CFD, (ii) CFD administrative costs, and (iii) surplus/deficits in CFD accounts.

(3) GCG will determine the special tax that will be levied on each parcel within the CFD to generate the amount needed to pay the annual maintenance expenses and will submit the corresponding levy to the Stanislaus County Auditor-Controller's Office.

(4) GCG will provide the District with an annual summary of the components of the special tax calculation and levy. This summary will include a list of Assessor's parcels that will be taxed in the then current fiscal year and the corresponding special tax that will be levied on each parcel.

(5) After April 10th, GCG will determine if there have been special tax delinquencies in the CFD, discuss the amount of such delinquencies with the District, and if requested, prepare demand letters to the owners of such delinquent parcels.

(6) GCG will provide the County Tax Collector's Office with a GCG contact name and phone number to allow us to field calls from homeowners, realtors, appraisers, title companies, and other interested parties. The District can also forward all calls directly to GCG, and calls will generally be returned the day they are received.

EXHIBIT B

GOODWIN CONSULTING GROUP, INC.

TASK ORDER 2
FEE SCHEDULE WORK FOR ANNUAL ADMINISTRATION

CITY OF MODESTO
COMMUNITY FACILITIES DISTRICT NO. 2007-2
(KIERNAN BUSINESS PARK WEST)

A. Maximum Annual Budgets

The budget for annual administration for CFD No 2007-2 is $1,000 for fiscal year 2008-09, which amount may be adjusted for inflation thereafter.

B. Hourly Fee Schedule

Services provided pursuant to this scope of work will be billed using the following fee schedule:

GCG HOURLY SERVICE RATES *

Managing Principal	$225/Hour
Principal	215/Hour
Senior Associate	175/Hour
Associate	150/Hour
Analyst	135/Hour
Research Assistant	80/Hour

**** Effective through fiscal year 2008-09 and may be adjusted for inflation thereafter.***

C. General Terms and Conditions

GCG will charge for time and materials, using the hourly rates set forth in above, up to the proposed budget maximum, subject to the limitations below, unless otherwise agreed to by the City. Monthly invoices will be presented to the City to provide details of services rendered and expenses incurred. At the City's request, services in addition to those identified in the scope of work may be provided if the total fee to complete the tasks selected is less than the budget. Alternatively, if the selected tasks can be completed for less than the budget, only the hours actually expended will be billed.

In addition to fees for services, GCG will be reimbursed for mileage, photocopying, database services or materials, facsimile and telephone calls, clerical services, and other out-of-pocket expenses in an amount not to exceed $250 per year.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-254

A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008ANNUAL 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 2007-2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2007-2008 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 6th day of May 2008, 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, 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. 2008-255

A RESOLUTION APPROVING THREE (3) REQUEST FOR PROPOSAL (RFP) APPLICATIONS FOR THE CITY OF MODESTO TO APPLY TO BECOME A "HOST CITY" (START CITY, FINISH CITY OR FINISH/ START CITY) FOR THE FOURTH ANNUAL AMGEN TOUR OF CALIFORNIA, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE APPLICATION AND RELATED DOCUMENTS

WHEREAS, each February for the past 3 years the Amgen Tour of California has swept through California for eight days generating over $100 million of economic impact to the host cities and the state with over one billion marketing impressions created worldwide, and

WHEREAS, Modesto was the Host City for the Stage 3 Start of the third annual Amgen Tour of California on February 20, 2008, and

WHEREAS, the City of Modesto received lavish praise from local residents and from race officials and participants, and staff has been encouraged to submit a Request for Proposal application to again become a Host City for the fourth annual Amgen Tour of California in February 2009, and

WHEREAS, the Amgen Tour of California has posted their Request for Proposal (RFP) application for response from cities who wish to be considered as a "Host City" for the fourth Annual Amgen Tour of California in February 2009, and

WHEREAS, the City of Modesto would like to become a "Host City" for the Amgen Tour of California in February 2009, 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 approves the filing of three (3) Request for Proposal (RFP) applications for the City of Modesto to apply to become a "Host City" (start city, finish city or finish/start city) for the fourth annual Amgen Tour of California, and authorizing the Interim City Manager, or his designee, to sign the application and related documents.

BE IT FURTHER RESOLVED that the Interim 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 6th day of May, 2008, 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

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-256

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE "FLOYD AVENUE IMPROVEMENTS FROM ROSELLE AVENUE TO FINE AVENUE" PROJECT, ACCEPTING THE BID AND APPROVING A $2,072,323.65 CONTRACT WITH GEORGE REED, INC. FOR THE PROJECT TITLED, "FLOYD AVENUE IMPROVEMENTS FROM ROSELLE AVENUE TO FINE AVENUE," AND AUTHORIZING THE INTERIM DISTRICT ADMINISTRATOR, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the "Floyd Avenue Improvements from Roselle Avenue to Fine Avenue" project, and City staff recommends approval to the City Council, and

WHEREAS, the bids received for the "Floyd Avenue Improvements from Roselle Avenue to Fine Avenue" project were opened at 11:00 a.m. on April 1, 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 $2,072,323.65 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 project titled "Floyd Avenue Improvements from Roselle Avenue to Fine Avenue," accepts the bid of George Reed, Inc. in the amount of $2,072,323.65, and awards George Reed, Inc. the contract.

BE IT FURTHER RESOLVED that the Interim District Administrator, or his designee, is hereby authorized to execute the contract in the amount of $2,072,323.65 for the project titled "Floyd Avenue Improvements from Roselle Avenue to Fine Avenue".

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2008, 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. 2008-257

A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S AUTHORITY TO ISSUE CHANGE ORDERS ON THE "ROSELLE AVENUE AT FLOYD AVENUE IMPROVEMENTS" PROJECT FROM 8 PERCENT ($225,583.97) TO 10.6 PERCENT ($300,930.27) OF THE ORIGINAL CONTRACT PRICE WITH TEICHERT CONSTRUCTION

WHEREAS, on February 6, 2007, by Resolution No. 2007-091, the City Council awarded a $2,819,799.75 contract to Teichert Construction to construct the "Roselle Avenue at Floyd Avenue Improvements" project, and

WHEREAS, the contractor started work on February 20, 2007, and

WHEREAS, additional work not included in the original bid needed to be added to the project to allow completion of the roundabout, and

WHEREAS, the cost of the extra work was estimated to be as high as $300,930.27, an amount which exceeded the Director's authority for the project as established by the Council's Change Order Approval Policy adopted by Resolution No. 94-443, on July 19, 1994, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of $225,583.97,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director's authority to issue change orders on the "Roselle Avenue at Floyd Avenue Improvements" project from 8 percent ($225,583.97) to 10.6 percent ($300,930.27) of the original contract price with Teichert Construction.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2008, 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. 2008-258

A RESOLUTION ACCEPTING THE WORK BY TEICHERT CONSTRUCTION FOR THE PROJECT TITLED "ROSELLE AVENUE AT FLOYD AVENUE IMPROVEMENTS" 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 $3,120,730.02

WHEREAS, a report has been filed by the Public Works Director that the project titled "Roselle Avenue at Floyd Avenue Improvements" has been completed by Teichert Construction in accordance with the contract agreement dated February 6, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Roselle Avenue at Floyd Avenue Improvements" 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 $3,120,730.02 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 6th day of May, 2008, 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. 2008-259

A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S AUTHORITY TO ISSUE CHANGE ORDERS ON THE "INSTALLATION OF LIGHTED CROSSWALKS" PROJECT FROM $25,000.00 TO $36,436.05.

WHEREAS, on December 12, 2006, by Resolution No. 2006-774, the City Council awarded a $154,020.14 contract to Applegate Johnston, Inc. to construct the "Installation of Lighted Crosswalks at 4 Locations" project, and

WHEREAS, the contractor started work on April 23, 2007, and

WHEREAS, additional work not included in the original bid needed to be added to the project to allow completion of the crosswalks, and

WHEREAS, the cost of the extra work has been determined to be $36,436.05, an amount which exceeded the Director's authority for the project as established by the Council's Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of $25,000.00,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director's authority to issue change orders on the "Installation of Lighted Crosswalks at 4 Locations" project from $25,000.00 to $36,436.05.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2008, 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. 2008-260

A RESOLUTION ACCEPTING CERTAIN KAISER OFF-SITE IMPROVEMENTS AND AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION WITH THE STANISLAUS COUNTY RECORDER AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, the City Council, by Ordinance No. 3357-C.S., which became effective on October 8, 2004, approved the Development Agreement between the City of Modesto and Kaiser Foundation Hospitals for the development of Kaiser Modesto Medical Center/Cornerstone Business Park located in the Kiernan Business Park Specific Plan (DEVELOPMENT), and

WHEREAS, as a condition of said Development Agreement, Kaiser Foundation Hospitals (DEVELOPER) was required to construct certain Off-Site Improvements (IMPROVEMENTS) identified as follows:

1. Dale Road widening between Bangs Avenue and Kiernan Avenue
2. Health Care Way improvements from Dale Road to approximately 1250 feet west of Dale Road
3. Bangs Avenue improvements from Dale Road to approximately 600 feet east of Dale Road,

and

WHEREAS, the improvements along the north side of Health Care Way and the improvements along the east side of Dale Road are temporary and will be completed by others as the adjacent parcels develop, and

WHEREAS, the Construction Administration Office, in a memorandum to staff, indicates that said IMPROVEMENTS have been completed to the satisfaction of the Public Works Department, and

WHEREAS, DEVELOPER has provided a warranty for said IMPROVEMENTS, and

WHEREAS, the Construction Administration Office has indicated that it would be in order for the City Council to accept said IMPROVEMENTS as complete, and authorize the City Clerk to record a Notice of Completion with the Stanislaus County Recorder and to release securities upon expiration of statutory periods,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that certain Kaiser Remote Off-Site Improvements are hereby accepted.

BE IT FURTHER RESOLVED that the City Clerk, or her designee, is hereby authorized to file a Notice of Completion with the Stanislaus County Recorder and to release securities upon expiration of statutory periods.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2008, 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

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-261

A RESOLUTION APPROVING A STORM DRAINAGE DISCHARGE AGREEMENT BETWEEN THE MODESTO IRRIGATION DISTRICT (MID) AND THE CITY OF MODESTO TO ALLOW DISPOSAL OF DRAINAGE WATER FROM A NEW CITY PUMP STATION INTO MID LATERAL NO. 6, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Modesto Irrigation District (MID) owns, maintains and operates a distribution system consists of a network of canals, pipelines, ditches, weirs and appurtenant facilities for the transportation, control and distribution of irrigation water to lands within the District, and

WHEREAS, a segment of the MID's distribution system, identified as MID Lateral No. 6, is located in the vicinity of the City's Pelandale Avenue Widening Project and associated stormwater drainage basin, and

WHEREAS, the City seeks MID's permission to discharge said drainage waters from the City pump station into MID's distribution system into MID Lateral No. 6, which crosses Pelandale Avenue, west of Detroit Lane, and

WHEREAS, MID, as an accommodation in furtherance of the public interest and welfare, is willing to grant such permission on certain terms and conditions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Storm Drainage Discharge Agreement between the Modesto Irrigation District (MID) and the City of Modesto to allow disposal of drainage water from a new City pump station into MID Lateral No. 6.

BE IT FURTHER RESOLVED that the Interim 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 May, 2008, 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 WOODS, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-262

A RESOLUTION APPROVING AN AGREEMENT WITH CONSOLIDATED CM, INC. (CCM) FOR CONSTRUCTION MANAGEMENT SERVICES OF THE PHASE 1A TERTIARY WASTEWATER TREATMENT PROJECT IN AN AMOUNT NOT TO EXCEED $1,123,346, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE 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 current and anticipated regulatory requirements, and

WHEREAS, due to the lengthy process of implementing a full-scale tertiary facility, a phased approach is under way that will allow the City to comply with expected regulatory issues and continue with development within a short time frame, and

WHEREAS, the Phase 1A Tertiary Wastewater Treatment Project (Phase 1A Project) will include the construction and startup of new wastewater treatment facilities, as identified in the final Preliminary Design Report, which was accepted by City Council on June 26, 2007, by Resolution No. 2007-379, and

WHEREAS, the final design of the Phase 1A Project is expected to be completed by May 2008, and is scheduled to go out to bid in June 2008, and

WHEREAS, the selection process for construction management services followed the City's selection procedures for professional consultants, and

WHEREAS, in accordance with Administrative Directive 3.1, Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, in October 2007, Capital Improvement Services staff issued

a Request for Qualifications for construction management services for the Phase 1A Project, and

WHEREAS, a total of five firms submitted a Statement of Qualifications (SOQs), and City staff and the program management consultant (RMC Water and Environment) reviewed the SOQs and determined that four of the five firms were qualified for the Phase 1A Project, and

WHEREAS, all four firms were then interviewed by the review panel (comprised of City staff and RMC Water and Environment), and the panel ranked the firms based on qualifications and experience demonstrated in the proposal and the interview, and

WHEREAS, the cost proposals from the four qualified teams were not opened or shared with the review panel until after a firm was selected, and

WHEREAS, Consolidated CM, Inc. (CCM) was selected as the most qualified firm to provide construction management services, and

WHEREAS, CCM has experience managing similar types of projects and is currently providing construction management services on the City's Dissolved Air Flotation Project, and

WHEREAS, by approving this Agreement, CCM will perform a constructability review of the design documents before they go out to bid, which could identify any potential fatal flaws or significant issues in the design package, which can then be modified and resolved before issuing the documents to bidders, and

WHEREAS, final design is nearing completion and construction bid advertisement is scheduled for June 2008; however, the City does not currently have the

staffing level or expertise to manage the construction of the Phase 1A Project in-house, and

WHEREAS, Capital Improvement Services staff recommends that an agreement with the construction management services firm of Consolidated CM, Inc. be approved to perform the construction management services as current workload levels do not provide for timely in-house solutions/responses, and

WHEREAS, City desires to enter into an agreement with Consolidated CM, Inc., in an amount not-to-exceed $1,123,346, to perform construction management services for the Phase 1A Tertiary Wastewater Treatment Project, and

WHEREAS, Consolidated CM, Inc. will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate and other direct costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Consolidated CM, Inc., in an amount not-to-exceed $1,123,346, for construction management services for the Phase 1A Tertiary Wastewater Treatment Project.

BE IT FURTHER RESOLVED that the Interim 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 May, 2008, 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. 2008-263

A RESOLUTION APPROVING A TRIAL MODESTO AREA EXPRESS (MAX) BUS ROUTE TO PRIMARILY SERVE THE STANISLAUS COUNTY MEDICAL FACILITY LOCATED AT 401 PARADISE ROAD

WHEREAS, Stanislaus County provides medical services at a facility located at 401 Paradise Road, Modesto, and

WHEREAS, Modesto Area Express (MAX) provides service in that area but does not have a bus stop on the north side of Paradise Road adjacent to the new medical facility, and

WHEREAS, Stanislaus County requested that the City establish a bus stop on the north side of Paradise Road to serve the new facility, and

WHEREAS, Public Works Department staff concluded that a new bus route would be needed in order to establish a bus stop on the north side of Paradise Road as requested by Stanislaus County, and

WHEREAS, by an agenda report to the City Council dated April 23, 2008, from the Public Works Director, City staff recommended to the Council that a new bus route be established on a three-month trial basis.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that a trial Modesto Area Express bus route to primarily serve the Stanislaus County medical facility located at 401 Paradise Road is approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2008, 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. 2008-264

ADOPT A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF EIGHT (8) DUMP TRUCKS FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO THE FOLLOWING COMPANIES: HANSEL FORD, SANTA ROSA, CA, ONE (1) DUMP TRUCK, FOR AN ESTIMATED COST OF $47,159; COUNTRY FORD TRUCKS, INC., CERES, CA, TWO (2) DUMP TRUCKS, FOR AN ESTIMATED COST OF $166,902; INTERSTATE TRUCK CENTER, LLC, STOCKTON, CA, TWO (2) DUMP TRUCKS, FOR AN ESTIMATED COST OF $213,636; PAPE TRUCKS, FRENCH CAMP, CA, ONE (1) DUMP TRUCK, FOR AN ESTIMATED COST OF $95,075; AND BONANDER TRUCK, TURLOCK, CA, TWO (2) DUMP TRUCKS, FOR AN ESTIMATED COST OF $134,909, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE PURCHASE ORDERS FOR A TOTAL ESTIMATED COST OF $657,681

WHEREAS, on April 22, 2008, consent item #10, was continued for further discussion to the May 6, 2008, Council Meeting, and

WHEREAS, the fiscal impact of the continuance is a total estimated cost increase of $1,600, due to the body fabricators price increase dated April 21, 2008, and

WHEREAS, if the manufacturer cut off date is missed the minimum impact will be $2,448 for the Ford F650 from Hansel Ford. All other manufacturers have not indicated the cost increase of a 2009 model, and

WHEREAS, the Public Works Department, Fleet Services Division has determined that the current dump trucks have reached the end of their useful life and are scheduled for replacement, and

WHEREAS, on August 14, 2007, the City Council, by Resolution No. 2007-495, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 07/08 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, eight (8) dump trucks for various divisions were included in the FY 07/08 new vehicles and heavy equipment list authorized by Council and

WHEREAS, on December 5, 2007, the Purchasing Division issued RFB No. 0708-16 for the purchase of eight (8) dump trucks to thirty-eight (38) prospective bidders, posted the bid on the City's web site and formally advertised as required by law , and

WHEREAS, on December 11, 2007, a bidders conference was held. Five (5) companies were in attendance, and

WHEREAS, on January 22, 2008, RFB's were formally opened in the City Clerk's office. Of the thirty-eight (38) prospective bidders, six (6) companies chose to respond, and

WHEREAS, three (3) companies submitted non-responsive and non-responsible bids and their bid submittals were rejected, and

WHEREAS, based on being deemed the lowest responsive and responsible bids, City staff recommends the award of bid and contracts to the following companies:

Hansel Ford, Santa Rosa, CA, one (1) dump truck with three/four yard capacity, for an estimated cost of $47,159.

Country Ford Trucks, Inc., Ceres, CA, two (2) dump trucks with five/six yard capacity, for an estimated cost of $166,902.

Interstate Truck Center, LLC, Stockton, CA, two (2) dump trucks with fourteen yard capacity, for an estimated cost of $213,636.

Pape Trucks, French Camp, CA, one (1) dump truck with fourteen yard capacity, for an estimated cost of $95,075.

Bonander Truck, Turlock, CA, two (2) dump trucks with 22,000 GVW, for an estimated cost of $134,909.

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 eight (8) dump trucks for the Public Works Department, Fleet Services Division conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in the following accounts for the purchase of eight (8) dump trucks for FY 07/08, Fund 7210, Agency 480, Org 5814 and objects, 5794,5771,5798,5770,5772,5784,5804,5805, and

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 eight (8) dump trucks for the Public Works Department, Fleet Services Division, to the following companies: Hansel Ford, Santa Rosa, CA, one (1) dump truck, for an estimated cost of $47,159; Country Ford Trucks, Inc, Ceres, CA, two (2) dump trucks, for an estimated cost of $166,902; Interstate Truck Center, LLC, Stockton, CA, two (2) dump trucks, for an estimated cost of $213,636; Pape Trucks, French Camp, CA, one (1) dump truck, for an estimated cost of $95,075; and Bonander Truck, Turlock, CA, two (2) dump trucks, for an estimated cost of $134,909, and

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue purchase orders for a total estimated cost of $657,681.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2008, 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, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-265

ADOPT A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF TWO (2) TRUCKS WITH AERIAL BUCKETS FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO TEREX UTILITIES, INC., SACRAMENTO, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF $274,466

WHEREAS, on April 22, 2008, consent item #10, was continued for further discussion to the May 6, 2008, Council Meeting, and

WHEREAS, the fiscal impact of the continuance is a total estimated cost increase of $3,083, and

WHEREAS, the manufacture cut off date for orders has been missed on the specialized Ford chassis, and

WHEREAS, the two (2) trucks with aerial buckets will now be manufactured as 2009 models with a cost increase of $1,542 per vehicle. This increase will be drawn from the Fleet Replacement Fund, and

WHEREAS, the Public Works Department, Fleet Services Division, has determined that the current trucks with aerial buckets have reached the end of their useful life and are scheduled for replacement, and

WHEREAS, on August 14, 2007, the City Council, by Resolution No. 2007-495, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 07/08 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, two (2) trucks with aerial buckets for the Community Forestry Division were included in the FY 07/08 new vehicles and heavy equipment list authorized by Council, and

WHEREAS, on January 30, 2008, the Purchasing Division issued RFB No. 0708-22 for the purchase of two (2) trucks with aerial buckets to nineteen (19) prospective bidders, posted the bid on the City's web site and formally advertised as required by law , and

WHEREAS, on February 6, 2008, a bidders conference was held. One (1) company was in attendance, and

WHEREAS, on March 11, 2008, RFB's were formally opened in the City Clerk's office. Of the nineteen (19) prospective bidders, three (3) companies chose to respond, and

WHEREAS, all companies submitted responsive and responsible bids, and

WHEREAS, based on being deemed the lowest responsive and responsible bid, City staff recommends the award of bid and contract to Terex Utilities, Inc., Sacramento, CA, for a total estimated cost of $274,466, 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) trucks with aerial buckets for the Public Works Department, Fleet Services Division conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in the following accounts for the purchase of two (2) trucks with aerial buckets for FY 07/08, Account numbers 7210-480-5814-5779 and 7210-480-5814-5780, the increase in cost due to the continuance will be drawn from the Fleet Replacement fund

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) trucks

with aerial buckets for the Public Works Department, Fleet Services Division, to Terex Utilities, Inc., Sacramento, CA, for a total estimated cost of $274,466.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue purchase orders for a total estimated cost of $274,466.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2008, 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, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Lopez, O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-266

A RESOLUTION DENYING THE APPEAL BY PHILLIP PETERSON, OF PETERSON KING CONTRACT GLASS, INC., REGARDING THE DETERMINATION OF CAPITAL FACILITIES FEES ON BUILDING PERMIT NO. BLD 2007-53541 LOCATED WITHIN THE CITY'S SPHERE OF INFLUENCE AT 4812 STRATOS WAY

WHEREAS, on January 24, 2006, the Modesto City Council adopted Resolution No. 2006-055 updating its Capital Facilities Fee ("CFF") program for the establishment and collection of fees for future capital facilities, and

WHEREAS Resolution No. 2006-055 defines the categories of uses and rates on which the fees will be collected, and

WHEREAS, the categories identified in the CFF program include a broad range of uses based on square footage to ensure that each use pays its share of the CFF based on the anticipated impacts of the development, and

WHEREAS, the current City practice is to charge capital facilities fees within the City limits and within the City's Sphere of Influence based on use and square footage as a result of the comprehensive study undertaken to enact the CFF program which went into effect in September 2003, and

WHEREAS, on August 1, 2007, the Building Services Division issued Building Permit No. BLD2007-53541 for the conversion of a carport to a 764 square foot retail addition (showroom) located at 4812 Stratos Way, and

WHEREAS, 4812 Stratos Way is located outside the City of Modesto limits but within the City's Sphere of Influence, and

WHEREAS, in August 2007, staff met with Phillip Peterson ("Appellant") to discuss the CFF determination for his project, and

WHEREAS, in August 2007, Appellant placed a "Stop Payment" on his CFF payment, and

WHEREAS, since that time, staff has been unsuccessful in collecting payment of the CFF from Appellant, and

WHEREAS, on March 24, 2008, Appellant requested an appeal of his CFF determination for Peterson King Contract Glass, Inc., located within the City's Sphere of Influence, at 4812 Stratos Way, and

WHEREAS, said appeal was set for a public hearing before the City Council at its regular meeting place in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, on May 6, 2008, at 5:30 p.m., at which date and time said duly noticed public hearing was held and evidence, both oral and documentary, was received and considered,

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Modesto hereby finds and determines as follows:

1. The City Council has reviewed Phillip Peterson's request and has determined that 4812 Stratos Way is located within the City's Sphere of Influence and is required to pay capital facilities fees as outlined in the CFF program.

2. Said appeal should be denied as recommended.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby denies the appeal of Phillip Peterson regarding Peterson King Contract Glass, Inc., located at 4812 Stratos Way for modification of Capital Facilities Fees.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of May, 2008, 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, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-267

A RESOLUTION APPROVING THE CITY OF MODESTO DRAFT 2008-2009 HUD ANNUAL ACTION PLAN FOR THE USE OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG), HOME PARTNERSHIP GRANT (HOME), AND EMERGENCY SHELTER GRANT (ESG) FUNDS, AUTHORIZING SUBMISSION OF AN APPLICATION TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT PERTAINING TO THE 2008-2009 ANNUAL ACTION PLAN, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE REQUIRED CERTIFICATIONS AND DOCUMENTS FOR SUBMITTAL TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

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

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

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

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) recommended support of this item at its April 30, 2008, meeting, and

WHEREAS, a duly noticed public hearing was held by the City Council on May 6, 2008, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, to consider submission of an application to HUD pertaining to the 2008-2009 HUD Annual Action Plan, which describes how the City intends to spend Federal assistance received from HUD in the areas of Community Development, Housing Production and Homeless Assistance,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the City of Modesto draft 2008-2009 HUD Annual Action Plan for the use of Community Development Block Grant (CDBG), HOME Investment Partnership Program (HOME) funds 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 Interim 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 2008-2009 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 6th day of May, 2008, 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, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-268

A RESOLUTION APPOINTING STEPHANIE D. LOPEZ AS CITY CLERK OF THE CITY OF MODESTO AND AUTHORIZING THE MAYOR TO SIGN AN EMPLOYMENT AGREEMENT WITH STEPHANIE D. LOPEZ TO SERVE AS CITY CLERK OF THE CITY OF MODESTO, EFFECTIVE APRIL 8, 2008

WHEREAS, Section 900 of the Modesto City Charter provides that the City Clerk shall be appointed by and serve at the pleasure of the City Council of the City of Modesto, and

WHEREAS, the City Council desires to appoint Stephanie D. Lopez as City Clerk effective April 8, 2008 and enter into an employment agreement with Stephanie D. Lopez to serve as City Clerk at an annual salary of $96,200.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby appoints Stephanie D. Lopez to serve as City Clerk of the City of Modesto effective April 8, 2008 and authorizes the Mayor to sign an employment agreement with Stephanie D. Lopez to serve as City Clerk of the City of Modesto, at an annual salary of $96,200. Said employment agreement is attached hereto as **Exhibit "A"** and incorporated herein by this reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2008, 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

EMPLOYMENT AGREEMENT

This agreement, made and entered into this _____ day of May, 2008, by and between the CITY OF MODESTO, State of California, a municipal corporation, hereinafter called "CITY," and Stephanie D. Lopez, hereinafter referred to as "EMPLOYEE," both of whom understand as follows:

RECITALS:

WHEREAS, Section 900 of the CITY's Charter provides that the City Clerk of Modesto, California (City Clerk), shall be appointed by and serve at the pleasure of the City Council of the City of Modesto ("COUNCIL"), and

WHEREAS, CITY desires to employ the services of EMPLOYEE as City Clerk of the City of Modesto as provided by said City Charter, and

WHEREAS, COUNCIL desires to employ EMPLOYEE as City Clerk and to provide certain benefits, establish certain conditions of employment and set working conditions of EMPLOYEE, and

WHEREAS, EMPLOYEE desires to serve as City Clerk, and

WHEREAS, it is the desire of the parties hereto to provide the terms and conditions by which CITY shall receive and retain the services of EMPLOYEE and to provide for her to remain in such employment, to act as a deterrent against malfeasance or dishonesty for personal gain on her part; and to provide for terminating her services at such time as she may be unable to fully discharge her duties or when COUNCIL may otherwise desire to terminate her employ.

SECTION 1. Duties

CITY hereby agrees to employ said Stephanie D. Lopez as City Clerk of said CITY to perform the functions and duties specified in Section 901 of the Modesto City Charter and to

EXHIBIT "A"

perform other legally permissible and proper duties and functions as COUNCIL shall from time to time assign.

SECTION 2. Term

a. Effective April 8, 2008, EMPLOYEE shall fulfill the powers, functions and duties of City Clerk and shall serve in this capacity until such time as this agreement is terminated pursuant to Section 3, below.

b. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of COUNCIL to terminate the services of EMPLOYEE at any time subject only to the provisions set forth in Section 3, below.

c. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of EMPLOYEE to resign at any time from her position as City Clerk, subject only to the provisions as set forth in Section 3, below.

d. EMPLOYEE agrees to remain in exclusive employ of CITY, and neither to accept other employment or to become employed by any other employer until this agreement is terminated.

SECTION 3. Termination and Severance

a. EMPLOYEE may terminate this Agreement, with or without cause, by giving the CITY sixty (60) days written notice in advance of termination unless the parties agree otherwise. During the notice period, all the rights and obligations of the parties under this agreement shall remain in full force and effect. EMPLOYEE will not receive any severance pay if EMPLOYEE's resignation is solely voluntary on EMPLOYEE's part.

EXHIBIT "A"

b. The COUNCIL may terminate this Agreement upon affirmative vote of four (4) members of the COUNCIL, with or without cause. COUNCIL shall give EMPLOYEE a minimum of sixty (60) days written notice prior to terminating EMPLOYEE as City Clerk, provided however that if EMPLOYEE is terminated for cause as defined in this agreement, the sixty (60) day written notice requirement shall not apply and EMPLOYEE may be terminated effective immediately upon written notice.

c. If the COUNCIL discharges EMPLOYEE without cause during the term of this Agreement, and EMPLOYEE is willing and able to perform her duties under this Agreement, then EMPLOYEE shall be entitled to a severance payment equal to three (3) months of EMPLOYEE's then current annual base salary. This provision will not apply in the event the COUNCIL discharges EMPLOYEE for cause, in which case EMPLOYEE will not be entitled to any severance payment or continuation of benefits. The determination of whether there is good cause for termination shall be in the sole discretion of the COUNCIL.

d. For purposes of this agreement, cause shall mean:

(1) Willful and repeated failure to perform the duties of City Clerk;

(2) Conviction of an employment-related illegal act;

(3) Conviction of a felony; or

(4) Malfeasance materially related to the job.

e. Notwithstanding the provisions of this section and in accordance with Article IX, Section 900 of the City Charter, COUNCIL shall not terminate this agreement during or within ninety (90) days next succeeding the election of a member of the COUNCIL.

EXHIBIT "A"

SECTION 4. Salary

Effective the 8th day of April, 2008, CITY agrees to pay EMPLOYEE for her services rendered pursuant to this agreement an annual salary of ninety six thousand two hundred ($96,200.00) dollars, payable in installments at the same time as other employees of CITY are paid.

SECTION 5. Health, Long Term Disability and Life Insurance Benefits

a. CITY agrees to provide health, dental and vision insurance for EMPLOYEE and dependents equal to that which is provided to all other unrepresented Management and Confidential employees of CITY. CITY's contribution toward the premiums for said health, dental and vision coverage shall not be less than that which CITY contributes to other Executive employees of the CITY.

b. CITY agrees to provide long term disability coverage for EMPLOYEE at CITY's expense.

c. EMPLOYEE may elect to submit once per calendar year to a complete physical examination by the CITY medical provider or by the EMPLOYEE's physician under the EMPLOYEE's group insurance plan with CITY reimbursement for EMPLOYEE's out-of-pocket costs.

d. CITY shall pay the amount of premium due for a term life insurance policy consistent with that provided to other unrepresented Management and Confidential employees of CITY. EMPLOYEE shall name the beneficiary of the life insurance policy.

EXHIBIT "A"

SECTION 6. Retirement

a. CITY shall continue enrollment of EMPLOYEE in the California Public Employees' Retirement System (CalPERS). CITY shall pay 6.6% and EMPLOYEE shall pay 0.40% of the total 7% "Employee's share," and CITY shall pay 100% of the "Employer's share" on behalf of the EMPLOYEE.

b. CITY shall provide a qualified 401(a) defined contribution plan for EMPLOYEE in the form of a money purchase plan to which CITY shall contribute five (5%) percent of EMPLOYEE's base salary. EMPLOYEE shall match the CITY's contribution.

c. CITY shall provide a Section 457 deferred compensation plan for EMPLOYEE's voluntary participation. In addition to the base salary paid by CITY to EMPLOYEE, CITY agrees to pay an amount equal to one and one-half percent (1.5%) of EMPLOYEE's base salary, or greater, into the designated plan on the EMPLOYEE's behalf, in equal proportionate amounts each pay period. EMPLOYEE shall match CITY's contribution.

d. Any or all of the CITY and EMPLOYEE contribution amounts designated in this Section are subject to change in the event that COUNCIL authorizes such change for all Charter Officers of the CITY.

SECTION 7. Other Supplemental Benefits

a. Vacation Leave. Upon the effective date of this agreement, EMPLOYEE shall be credited with twenty (20) hours of vacation leave and commence accruing vacation at the rate of one hundred sixty (160) hours during year one (1). In each subsequent year, EMPLOYEE's vacation accrual rate shall increase on her employment

anniversary date of March 20th, consistent with the standard vacation accrual progression for Management and Confidential employees. This vacation accrual is in addition to the standard eighty (80) hours of Management Leave afforded annually to Executives and Charter Officers. EMPLOYEE shall be credited with a pro-rata share of Management Leave hours for calendar year 2008 hours, upon effective date of this agreement.

b. Automobile. EMPOYEE's functions and duties require that she shall have the use of an automobile during her employment with the CITY. CITY shall pay EMPLOYEE the monthly sum of $400 for the expense of owning, operating, and maintaining and insuring her personal automobile.

c. Other Benefits. All actions taken by COUNCIL relating to fringe benefits for unrepresented Management and Confidential employees shall be considered actions granting the same benefits to EMPLOYEE. As used herein, fringe benefits include but are not limited to vacation, sick leave, holidays, retirement (CalPERS) benefits and payments, health insurance, dental insurance, vision insurance, and life insurance.

SECTION 8. Professional Development

In its discretion, COUNCIL shall budget for and pay travel and subsistence expenses of EMPLOYEE for professional and official travel, meetings, courses, institutes and seminars adequate to continue her professional development and to adequately pursue necessary official and other functions on behalf of the CITY, including but not limited to the annual conference of the League of California Cities and the annual League of California Cities City Clerk's Department Conference.

EXHIBIT "A"

SECTION 9. Indemnification

CITY shall defend, save harmless and indemnify EMPLOYEE against any tort, professional liability claim or demand or any other legal action, whether groundless or otherwise, arising out of any alleged act or omission occurring in the course and scope of performance of EMPLOYEE's functions and duties. CITY may compromise and settle any claim or suit and shall pay the amounts of all settlements or judgments rendered against EMPLOYEE and/or CITY thereon.

SECTION 10. Performance Evaluation

a. COUNCIL shall review and evaluate EMPLOYEE's performance at least once a year.

b. Annually, the COUNCIL may define such goals and performance objectives as COUNCIL determines necessary for the proper operation of CITY and the attainment of the COUNCIL's policy objectives and may further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing. Said goals and objectives shall generally be attainable within the time limitations as specified in the annual operations and capital budgets and appropriations provided.

c. In effecting the provisions of this section, the COUNCIL and EMPLOYEE mutually agree to abide by the provisions of applicable law.

d. EMPLOYEE will timely cause to be placed on the COUNCIL agenda each year a "closed session" for purposes of her performance evaluation.

SECTION 11. Additional Term of Employment

COUNCIL, in consulting with EMPLOYEE, shall fix any such other terms and conditions of employment as it may determine from time to time relating to the performance of EMPLOYEE, provided that such terms and conditions are reduced to writing and included in an amendment to this agreement.

SECTION 12. Notices

Notices pursuant to this agreement shall be given by deposit in the custody of the United States Postal Service, postage pre-paid, addressed as follows, or as such address may be changed from time to time upon notice to the other:

CITY:
Mayor
City of Modesto
P. O. Box 642
1010 10th Street, Suite 6200
Modesto CA 95353

EMPLOYEE:
Stephanie D. Lopez
683 Kelcie Drive
Ripon CA 95366

Alternatively, notices required pursuant to this agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

SECTION 13. General Provisions

a. The text herein shall constitute the entire agreement between the parties.

b. This agreement shall be binding upon and inure to the benefit of the heirs at law and executors of EMPLOYEE.

c. This agreement shall become effective commencing the 8th day of April, 2008.

EXHIBIT "A"

d. If any provision, or any portion thereof, contained in this agreement is held unconstitutional, invalid or unenforceable, the remainder of this agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

IN WITNESS WHEREOF the CITY has caused this agreement to be signed and executed in its behalf by its Mayor under authority of Resolution No. _____, and EMPLOYEE has signed and executed this agreement, both in duplicate, the day and year first above written, and EMPLOYEE has caused this agreement to be duly executed.

CITY OF MODESTO
A MUNICIPAL CORPORATION:

By _____
Jim Ridenour, Mayor

EMPLOYEE:

By _____
Stephanie D. Lopez

(SEAL)

APPROVED AS TO FORM:

By_____
Susana Alcala Wood, City Attorney

EXHIBIT "A"

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-269

A RESOLUTION APPROVING A REQUEST FROM JESUSISLORD.COM/CHAD WRIGHT FOR AMPLIFIED MUSIC AT MANCINI BOWL FOR A "WEST COAST YOUTH EXPLOSION" EVENT TO BE HELD ON MAY 31, 2008, FROM 3:00 P.M. TO 8:00 P.M.

WHEREAS, on December 6, 2007, the Parks, Recreation and Neighborhoods Department staff received a request from Chad Wright of JesusIsLord.com for amplified music at Mancini Bowl for a "West Coast Youth Explosion" event to be held on May 31, 2008, from 3:00 p.m. to 8:00 p.m., and

WHEREAS, in addition to the amplified music, the event will also include food and non-alcohol drink concessions, biblical teachings and youth activities, and

WHEREAS, security personnel will be assigned to work the event, and

WHEREAS, this event was successfully held previously at the same location on June 2, 2007, and

WHEREAS, the use of amplified music requires approval from the City Council, and

WHEREAS, if the request for amplified music is approved, a team of staff members from the City of Modesto will meet with Chad Wright of JesusIsLord.com to work out all requirements and details for the event, and

WHEREAS, Chad Wright of JesusIsLord.com will be responsible for all fees related to this event,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a request from JesusIsLord.com/Chad Wright for amplified music at Mancini Bowl for a "West Coast Youth Explosion" event to be held on May 31, 2008, from 3:00 p.m. to 8:00 p.m.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 13th day of May, 2008, 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. 2008-270

A RESOLUTION AUTHORIZING THE SOLICITATION FOR QUALIFICATIONS AND BIDS FOR AIRPORT CONSULTING ENGINEERS FOR DESIGN AND CONSTRUCTION MANAGEMENT SERVICES FOR THE MODESTO CITY-COUNTY AIRPORT FOR A FIVE (5) YEAR TERM

WHEREAS, Modesto City-County Airport anticipates constructing various capital improvement projects over the next five years, and

WHEREAS, successful planning and timely execution of those projects will require the assistance of competent airport consulting engineers for design and construction management services, and

WHEREAS, the Federal Aviation Administration (FAA) funding for those projects includes provision for payment of design and construction management services, and

WHEREAS, the Economic Development Committee at its April 14, 2008, meeting supported approval for solicitation for qualifications and bids for airport consulting engineers for design and construction management services for the Modesto City-County Airport for a five (5) year term,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the solicitation for qualifications and bids for airport consulting engineers for design and construction management services for the Modesto City-County Airport for a five (5) year term.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2008, 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. 2008-271

A RESOLUTION APPROVING THE SUBMITTAL OF THE MODESTO CITY-COUNTY AIRPORT'S REVISED AIRPORT CAPITAL IMPROVEMENT PLAN (ACIP) TO THE FEDERAL AVIATION ADMINISTRATION (FAA)

WHEREAS, Modesto City-County Airport is a commercial service airport that is part of the federal airport system and eligible for federal funding through the Airport Improvement Program, and

WHEREAS, the Federal Aviation Administration (FAA) prioritizes airport funding needs through the Airport Capital Improvement Plans (ACIP) submitted by the nation's airports, and

WHEREAS, the FAA requires airports to update their ACIPs annually, and

WHEREAS, the FAA is requesting the City submit a revised 5-year ACIP, and

WHEREAS, the Economic Development Committee considered this item at its April 14, 2008 meeting and recommended approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submittal of the Modesto City-County Airport's revised Airport Capital Improvement Plan to the FAA.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2008, 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. 2008-272

A RESOLUTION APPROVING THE SUBMITTAL OF A FEDERAL AIRPORT IMPROVEMENT PROGRAM (AIP) GRANT APPLICATION IN THE AMOUNT OF $1,282,500 TO THE FEDERAL AVIATION ADMINISTRATION (FAA), AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE APPLICATION.

WHEREAS, Modesto City-County Airport is a commercial service airport and is eligible for Federal Airport Improvement Program (AIP) entitlement and discretionary funds, and

WHEREAS, the Federal Aviation Administration (FAA) has requested the City submit a new funding application for the Modesto City-County Airport capital funding, along with a revised Airport Capital Improvement Plan (ACIP), and

WHEREAS, the Economic Development Committee at its April 14, 2008 meeting recommended approval of the submittal of a AIP Grant Application for $1,282,500 to the FAA, and

WHEREAS, the Federal grant application is consistent with the City's approved revised ACIP, and

WHEREAS, the AIP Grant Application includes projects totaling $1,350,000, and

WHEREAS, the $1,282,500 Federal AIP Grant will pay 95% of the total projects and Passenger Facility Charges (PFCs) collected by the airlines from enplaning passengers or funds from the Airport Reserves will pay the remaining 5% ($67,500),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submittal of a Federal AIP Grant Application in the amount of $1,282,500 to the FAA.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2008, 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. 2008-273

A RESOLUTION AUTHORIZING THE SOLICITATION FOR QUALIFICATIONS AND BIDS FOR AIRPORT PLANNING FIRMS FOR PLANNING SERVICES FOR THE MODESTO CITY-COUNTY AIRPORT

WHEREAS, Modesto City-County Airport anticipates constructing various capital improvement projects over the next five years, and

WHEREAS, successful planning and timely execution of those projects will require the assistance of a competent airport planning firm to provide planning services in preparation for the projects, and

WHEREAS, the Federal Aviation Administration (FAA) funding for those projects includes provision for payment of planning services, and

WHEREAS, the Economic Development Committee at its April 14, 2008 meeting supported approval for solicitation for qualifications and bids for airport planning firms for planning services at the Modesto City-County Airport,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the solicitation for qualifications and bids for airport planning firms for planning services 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 13th day of May, 2008, 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. 2008-274

A RESOLUTION APPROVING THE DRAFT FINAL NOISE EXPOSURE MAPS (NEM) AND SUPPORTING DOCUMENTATION FOR THE MODESTO CITY-COUNTY AIRPORT 14 CFR PART 150 NOISE COMPATIBILITY STUDY, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE SPONSOR'S CERTIFICATION DOCUMENT

WHEREAS, in response to concerns regarding environmental impacts to aviation noise, Congress adopted federal support for airport noise compatibility programs 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 such studies, and

WHEREAS, on December 11, 2001, the City of Modesto entered into a Professional Services Agreement with Coffman and Associates to complete an Airport Master Plan for Modesto City-County Airport, update the airport layout plan, and complete an environmental review, and an additional $300,000 for an update to the Airport Noise Compatibility Program (NCP) once the City had received federal funding for the Noise Program Update, and

WHEREAS, on June 11, 2006, the City Council approved a $285,000 Grant Offer (AIP 3-06-0153-30) from the FAA for 95% funding of "airport development or noise program implementation", and

WHEREAS, on May 18, 2006, Coffman and Associates provided a revised Scope of Services and revised Final Cost Breakdown for the CFR 14 Part 150 NCP Update to reflect the inclusion of a "Housing Assessment," as requested by the FAA, to provide a

preliminary review of housing relocation issues for residences affected by aircraft noise, as well as the most current CFR 14 Part 15 requirements, and

WHEREAS, on October 24, 2006, the City Council approved an Amendment to the Professional Services Agreement with Coffman & Associates to reflect the revised Scope of Services and revised Final Cost Estimate for the NCP Update, and

WHEREAS, the first component of the NCP, the Draft Final Noise Exposure Maps, have been completed according to FAA guidelines and must be submitted to the FAA for approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Draft Noise Exposure Maps (NEM) and supporting documentation for the Modesto City-County Airport 14 CFR Part 150 Noise Compatibility Study, and

BE IT FURTHER RESOLVED that the Interim City Manager, or his designee, is hereby authorized to execute the Sponsor's Certification.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2008, 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. 2008-275

A RESOLUTION APPROVING AN AIRPORT/AIRLINE LEASE AGREEMENT WITH SKYWEST AIRLINES, INC., A UTAH CORPORATION, FOR CONTINUED USE OF AIRPORT FACILITIES TO OPERATE PASSENGER SERVICES AT MODESTO CITY-COUNTY AIRPORT, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on May 26, 1998, the City Council, by Resolution No. 98-290, approved a Lease Agreement with SkyWest Airlines, Inc. (SkyWest) to offer scheduled air carrier service at Modesto City-County Airport and lease space in the Airport passenger terminal, and

WHEREAS, on January 26, 1999, the City Council, by Resolution No. 99-40, approved an Amendment to the Agreement revising the square footage that was being leased to SkyWest, and

WHEREAS, the original 1998 Agreement expired on December 31, 2003, and has been carried forward on a month-to-month basis, and

WHEREAS, SkyWest operates flights to San Francisco and Los Angeles from Modesto City-County Airport at this time; however, Sky West has proposed discontinuing the four flights per day to Los Angles as of June 28, 2008 due to rising fuel costs, and

WHEREAS, the proposed discontinuance of Los Angeles service will not impact the five flights per day to San Francisco; therefore, Sky West has need of airport facilities to operate passenger service, and

WHEREAS, Airport Enterprise Fund Revenue Account No. 6310-440-5412-4413 will receive $31,163.88 annually for the lease of airport facilities to SkyWest, an increase of $9,827.88 per year over the previous lease terms, and

WHEREAS, pursuant to Modesto Municipal Code Section 7-3.417, the Council may enter into lease agreements at Modesto City-County Airport,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Airport/Airline Lease Agreement with SkyWest Airlines, Inc. for continued use of airport facilities to operate passenger services at Modesto City-County Airport.

BE IT FURTHER RESOLVED that the Interim City Manager, or his designee, is hereby authorized to execute the Airport/Airline Lease Agreement with SkyWest Airlines, Inc., a Utah Corporation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2008, 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 _____
SUSAN ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-276

A RESOLUTION AMENDING THE FISCAL YEAR 2007/2008 OPERATING BUDGET BY APPROVING THE APPROPRIATION IN THE AMOUNT OF $193,000 FROM THE GAS TAX RESERVE TO FUND 0700-160-1605, "ELECTRICAL UTILITY COST," IN ORDER TO FULLY FUND ELECTRICAL UTILITY COSTS FOR FISCAL YEAR 2007/2008

WHEREAS, electrical utility costs within the City of Modesto have increased over the course of the past three calendar years, and

WHEREAS, the City of Modesto experienced new building growth, adding more street lights and traffic signals into our utility system, and

WHEREAS, the increase experienced this fiscal year is estimated to be $193,000 over our utilities budget, and

WHEREAS, the Finance Committee at its April 28, 2008, meeting reviewed and concurred with staff's recommendation to amend the Fiscal Year 2007/2008 Operating Budget by approving the appropriation of funds in the amount of $193,000 from the Gas Tax Reserve to Fund 0700-160-1605, "Electrical Utility Cost," in order to fully fund electrical utility costs for the remainder of Fiscal Year 2007/2008, and

WHEREAS, existing policy requires City Council approval to appropriate funds from reserve to the Operating Budget,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2007/2008 Operating Budget approving the appropriation of funds in the amount of $193,000 from the Gas Tax Reserve to Fund 0700-160-1605, "Electrical Utility Cost," in order to fully fund the Electrical Utility costs for the remainder of Fiscal Year 2007/2008.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2008, 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. 2008-277

A RESOLUTION ACCEPTING THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION CALTRANS GRANT IN AN AMOUNT NOT TO EXCEED $12,000, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE NECESSARY GRANT DOCUMENTS

WHEREAS, in February, 2008, Traffic Engineering staff received a contract from CALTRANS for a grant in an amount not to exceed $12,000 for the project titled, "Section 130 Grade Crossing Improvement Program–Woodland Avenue," and

WHEREAS, the CALTRANS grant will pay for all necessary labor, materials, tools and equipment required to complete the project titled, "Section 130 Grade Crossing Improvement Program–Woodland Avenue," and

WHEREAS, the City of Modesto will be responsible for the total cost of the project and will prepare and submit to CALTRANS invoices for actual allowable costs incurred, and

WHEREAS, the invoices will be reviewed and payment will be made by CALTRANS to the City of Modesto within forty-five (45) days of the date of receipt of an invoice by CALTRANS,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the State of California Department of Transportation CALTRANS grant in an amount not to exceed $12,000.

BE IT FURTHER RESOLVED that the Interim City Manager or his designee, is hereby authorized to execute necessary 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 May, 2008, 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. 2008-278

A RESOLUTION AMENDING THE FISCAL YEAR 2007/2008 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET ACCEPTING THE GRANT FUNDS AND ESTABLISHING ONE NEW CIP PROJECT TITLED, "SECTION 130 GRADE CROSSING IMPROVEMENT PROGRAM–WOODLAND AVENUE," IN THE AMOUNT OF $12,000

WHEREAS, in February, 2008, City Traffic staff received a contract from State of California, Department of Transportation CALTRANS for a grant in an amount not to exceed $12,000 for the project titled, "Section 130 Grade Crossing Improvement Program-Woodlane Avenue," and

WHEREAS, the CALTRANS grant will provide for all necessary labor, materials, tools and equipment required to complete the project, and

WHEREAS, the City of Modesto will be responsible for the total cost of the project, and will prepare and submit to CALTRANS invoices for actual allowable costs incurred, and

WHEREAS, the invoices will be reviewed and payment will be made by CALTRANS to the City of Modesto within forty-five (45) days of the date of receipt of an invoice by CALTRANS,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2007/2008 Capital Improvement Program (CIP) budget accepting State of California, Department of Transportation grant an amount not to exceed $12,000 and establishing one new Capital Improvement Project titled, "Section 130 Grade Crossing Improvement Program–Woodland Avenue," in the amount of $12,000.

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 May, 2008, 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. 2008-279

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE SNYDER AVENUE IMPROVEMENTS FROM PRESCOTT ROAD TO CARVER ROAD PROJECT, ACCEPTING THE BID AND APPROVING A CONTRACT WITH ROSS F. CARROLL, INC. IN THE AMOUNT OF $590,692.05 FOR THE SNYDER AVENUE IMPROVEMENTS FROM PRESCOTT ROAD TO CARVER ROAD PROJECT, AND AUTHORIZING THE DISTRICT ADMINISTRATOR, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Snyder Avenue Improvements from Prescott Road to Carver Road project, and City staff recommends approval to the City Council, and

WHEREAS, the bids received for the Snyder Avenue Improvements from Prescott Road to Carver Road project were opened at 11:00 a.m. on April 22, 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 $590,692.05 received from Ross F. Carroll, Inc. be accepted as the lowest responsible bid and the contract be awarded to Ross F. Carroll, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Snyder Avenue Improvements from Prescott Road to Carver Road project, accepts the bid of Ross F. Carroll, Inc. in the amount of $590,692.05, and awards Ross F. Carroll, Inc. the contract.

BE IT FURTHER RESOLVED that the District Administrator, or his designee, is hereby authorized to execute the contract in the amount of $590,692.05 for the Snyder Avenue Improvements from Prescott Road to Carver Road project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2008, 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. 2008-280

A RESOLUTION FINDING THAT THE SNYDER AVENUE IMPROVEMENTS FROM PRESCOTT ROAD TO CARVER ROAD PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041).

WHEREAS, the City Council of the City of Modesto on March 4, 2003, by Resolution No. 2003-123, certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, the City of Modesto proposes to widen the south side of Snyder Avenue between Prescott Road and Carver Road to provide a curb and gutter on the south side and include landscaping and a bike path, 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 EIR 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 No. 2007-12 ("Initial Study") reviewed the proposed street project to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no new or

additional mitigation measures or alternatives are required, and that, therefore, the proposed project is within the scope of the project covered by the Master EIR, and

WHEREAS, in accordance with CEQA guidelines, on December 27, 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 Master EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public meeting, which was held on May 13, 2008, 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 street project a copy of which is attached hereto as **Exhibit "A",** and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The type of project is described in Chapter II of the Master EIR (SCH No. 1999082041).

2. 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.

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 and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

4. 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; and

c. The project is within the scope of the MEIR.

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 13th day of May, 2008, 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
Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the **Capital Project for widening of an existing street and installation of bicycle facility** is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

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

1. It will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. No new or additional mitigation measures or alternatives are required.

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

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

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 MEIR (SCH# 1999082041) was also consulted which lists both General Plan policies and mitigation measures for each area of environmental study.

II. PROJECT DESCRIPTION

A. Title: Widen South Side of Snyder Ave. between Prescott Ave. and Carver Ave. within existing Right of Way, Including Construction of Bicycle Facility

B. Location: South Side of Snyder Ave. between Prescott Ave. and Carver Ave., Modesto, Stanislaus County

C. Proponent: City of Modesto Public Works Department, Modesto, Stanislaus County

D. Contact Person: Vickey Dion, Senior Civil Engineer

Department:	Public Works Department
Phone Number:	(209) 571-5542
E-mail address:	vdion@modestogov.com

E. Current General Plan Designation(s): R, Residential

F. Current Zoning Classification(s): R-1, Single-family Residential

G. Surrounding Land Uses:
West: Single-Family Residential
North: Single-Family Residential
East: Single-Family Residential
South: Single-Family Residential

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):

Widen the south side of Snyder Ave. between Prescott and Carver within existing ROW. The road will be widened to provide a curb and gutter on the south side. Existing width of pavement is about 30'. Project will widen it to include about 40' from curb to curb (room for two-12' travel lanes and two-8' shoulders/parking areas. Along the south side, behind the curb will be 5' of landscaping, 8' of concrete bike path and another 5' of landscaping beyond the bike path. A 2' tall, concrete block wall with a 4' tall chain link fence on top of the block at the right-of-way line will provide separation from the canal bank.

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.

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.

Vickey Dion, Project Manager	Senior Civil Engineer	December 18, 2007
	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. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	☒	☐
(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 this document.	☒	☐
(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 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 mitigation measures identified in the General Plan Master EIR.	☒	☐

Discussion:

(1) The City of Modesto is the Lead Agency for the proposed street and bicycle lane improvements.

(2) The subject project proposes improvements to existing right of way located within the Pelandale-Snyder CPD, in conformance with the General Plan and Specific Plan.

(3) The Master EIR was last updated in March 2003. Since that update, there have been no changes to Federal, State, Regional and County regulations that have resulted in less restrictive regulations.

(4) This is a proposal to complete the improvement of existing right of way. No significant resources were identified in this proposal.

(5) The subject area is located within the Modesto Urban Area General Plan. All appropriate mitigation measures as listed in the Master EIR and attached to this document are incorporated into the project.

(6) A Global list of General Plan Policies and Mitigation Measures was reviewed and all appropriate Mitigation Measures will be required as part of the project's approval.

IV. ENVIRONMENTAL ANALYSIS

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

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

All environmental effects cited reflect 2025 build out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts:

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-1-6 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

The Master EIR for the Urban Area General Plan included the subject site. Because the project is not a high traffic inducing use, it is within the scope of the Master EIR analysis for traffic related impacts. No new or additional mitigation measures or alternatives are required for the project.

c. Project-Specific Effects

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

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

		YES	NO
(1)	The project would contribute more than an additional 100 average daily trips (ADT) to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR. City Engineering & Transportation Staff will review the project to determine whether the project contributes more than 100 ADT thresholds. Such Projects are presumed to generate more trips than assumed by the Master EIR.	☐	☒
(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:

(1-4) The proposed project is completion of right-of-way improvements including bike lane installation along Snyder Avenue and will not generate any additional traffic, increase any traffic hazard, affect emergency access, or affect parking capacity.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected 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 NO_X 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 in 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 IV, Mitigation Measures Applied to Project.

Discussion:

Construction impacts would be less than significant with implementation of Mitigation Measure Air-1 (page V-2-24 in the MEIR). No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate construction practices that satisfy City standards.

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.	☐	☒
(1)	The project does not incorporate the best management practices for PM_{10} 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:

(1-5) The proposed project is completion of right-of-way improvements including bike lane installation along Snyder Avenue and will not generate any additional emissions when in operation. Potential construction related effects will be mitigated by the adopted mitigation policies of the MEIR.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in exceedances of the City's Noise Significance Standards (see Table 3-3 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-3-9 through V-3-15 of the MEIR. All feasible measures appropriate to the project will be incorporated into this project and any new measures are listed in Section IV, Mitigation Applied to Project.

Discussion:

Although construction activities may create noise in excess of ambient levels, operation of the project is not expected to create a significant amount of noise and no mitigation measures from the MEIR are required to be applied to the project. The project will incorporate construction practices that satisfy City standards.

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:

(1-4) The proposed project is completion of right-of-way improvements including bike lane installation along Snyder Avenue and will not generate any additional noise when in operation. Potential construction related effects will be mitigated by the adopted mitigation policies of the MEIR.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts related 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-4-4 through V-4-8 in the MEIR.

Discussion:

The subject property is identified as an urbanized area by the California Department of Conservation. The project consists of the completion of street and bikeway improvements on existing right-of-way. No new or additional mitigation measures or alternatives are required for the project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.
Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(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:

(1-4) The proposed project is completion of right-of-way improvements including bike lane installation along Snyder Avenue on existing right-of-way. The Modesto Urban Area General Plan designates the site as R, Residential. There are no agricultural operations on the site and there will be no impact on agriculture as a result of the project.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer overdraft. 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 any 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 2020. Modesto will have 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 IV, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will satisfy City standards.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts on 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 completion of right-of-way improvements including bike lane installation along Snyder Avenue and will not generate any additional demand for water when in operation.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a)(MEIR mitigation SS-1, page V-6-2). Implementing the WMP, requiring the implementation of Best Management Practices for post-construction activities, and Urban Area General Plan policy V-D.2(a), 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 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 the Wastewater Master Plan MEIR 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-6-2 through V-6-7 of the MEIR. All feasible measures appropriate to the project are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will satisfy City development standards.

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 inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	☒

Discussion:

(1-2) The proposed project is completion of right-of-way improvements including bike lane installation along Snyder Avenue and will not generate any additional demand for wastewater collection/treatment when in operation.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less than significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to 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-7-15 through V-7-21 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 IV, Mitigation Measures Applied to Project.

Discussion:

The project site lies outside the Biological Resource Study Area, shown on Figure V-7-1a in the MEIR. Therefore, no mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project.

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:

(1-3) The proposed project is completion of right-of-way improvements including bike lane installation along Snyder Avenue. The subject site is designated as R, Residential Modesto Urban Area General Plan. The proposed improvements are consistent with the City's General Plan. The site lies outside the Biological Resource Study Area and

there is no specific information known that would suggest the possible presence of significant plant or animal species on or near the project site.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. No impact would be expected to occur, since the buildings to be removed or demolished are not considered to have historical significance.

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 pages V-8-9 through V-8-14 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 IV, Mitigation Applied to Project.

Discussion:

The project consists of the completion of street and bikeway improvements on existing right-of-way. No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will satisfy City standards.

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:

(1-2) The proposed project is completion of right-of-way improvements including bike lane installation along Snyder Avenue. The MEIR does not identify a listed or eligible cultural resource either on or in the vicinity of the site, thus no impacts are expected to occur.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less than significant.

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

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

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-3 through V-9-8 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 IV, Mitigation Measures Applied to Project.

Discussion:

The project consists of the completion of street and bikeway improvements on existing right-of-way. The proposed development would not be expected to create a significant increase in the

amount of storm water runoff that is not anticipated nor properly contained/processed and disposed. No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project.

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 off site.	☐	☒
(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 completion of right-of-way improvements including bike lane installation along Snyder Avenue, consistent with the General Plan and Specific Plan for the area.

(2-3) The added pavement would be expected to create a minor increase in the amount of storm water but will be handled in accordance with all requirements of the various agencies charged with storm water amelioration. No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project.

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-10-4 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 IV, Mitigation Applied to Project.

Discussion:

The project consists of the completion of street and bikeway improvements on existing right-of-way. As shown on Figure V-10-1a in the MEIR, the project site does not lie in an area having a potential for flooding. No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project.

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 completion of right-of-way improvements including bike lane installation along Snyder Avenue, consistent with the General Plan and Specific Plan for the area.

(2) Development of proposed improvements will be required to comply with the Clean Water Act and the Porter-Cologne Act.

(3) Development of the proposed improvements must comply with the City's Guidance Manual for New Development Storm Water Quality Control Measures. Compliance is ensured through review of improvement plans and construction inspection.

(4) This project alone will not create need for additional stormwater treatment.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. Impacts on parks and open space will be less than significant.

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. This impact is less than significant.

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

Parks and Open Space Mitigation Measure(s) pertinent to the proposed project are found on pages V-11-3 through V-11-9 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. All feasible measures appropriate to the project that will be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project.

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 completion of right-of-way improvements including bike lane installation along Snyder Avenue, consistent with the General Plan and Specific Plan for the area.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, eight middle schools, and seven high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that increased enrollment 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-12-3 through V-12-7 in the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the 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:

(1-2) The proposed project is completion of right-of-way improvements including bike lane installation along Snyder Avenue, consistent with the General Plan and Specific Plan for the area. It will have no effect on schools.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less than significant.

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. These policies reduce the impact to a less-than-significant level.

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

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-2 through V-13-4 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 IV, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the 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 completion of right-of-way improvements including bike lane installation along Snyder Avenue, consistent with the General Plan and Specific Plan for the area. It will have no effect on the demand for Police services

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. Impacts on fire services of development in these areas will be less than significant.

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. This impact would be less than significant.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These

are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study.

Fire Services mitigation measure(s) pertinent to the proposed project are found on pages V-14-2 through V-14-5 of the MEIR. All feasible measures appropriate to the project that will 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 from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the 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 completion of right-of-way improvements including bike lane installation along Snyder Avenue, consistent with the General Plan and Specific Plan for the area. It will have no effect on the demand for Fire services

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: Since the project would exceed available landfill capacity, it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. The project will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. The impact would be less than significant at such time as the Fink Road Landfill expansion is approved.

Effect: The project makes a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. This impact is significant and unavoidable.

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

Solid Waste Mitigation Measure(s) pertinent to the proposed project are found on pages V-15-3 through 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 IV, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the 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:

(1-2) The proposed project is completion of right-of-way improvements including bike lane installation along Snyder Avenue, consistent with the General Plan and Specific Plan for the area. It will have no effect on the demand for Solid Waste services

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less than significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

However, groundwater contamination consisting of TCE/TCM and PCE from a dry cleaning facility that once was located at the intersection of Oakdale Road and Orangeburg Avenue is

known to exist. Contaminated groundwater may be encountered during the construction of footings for the light standard/communications tower.

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 this document.

Hazardous Materials Mitigation Measures pertinent to the project being analyzed in this Initial Study are found on pages V-16-5 through V-16-12 in the MEIR. Mitigation measures from the MEIR will be applied to the project to ensure compliance will all appropriate regulations. 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 for the project. The presence of hazardous materials will not play any part in this development.

Tests will be conducted during construction for the presence of hazardous materials, if required, in accordance with the requirements of the Stanislaus County Department of Environmental Resources.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts due to 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 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 proposed project is completion of right-of-way improvements including bike lane installation along Snyder Avenue, consistent with the General Plan and Specific Plan for the area.

(2) The project will be conditioned to ensure that any hazardous materials used on site are properly identified, handled, and stored.

(3-5) The City's Final Master Environmental Impact Report lists hazardous materials sites and this project is not near any of those sites.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements; therefore, the project impact will be less than significant.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-5 through V-17-7 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 IV, Mitigation Measures Applied to Project:

Discussion:

Mitigation measures pertinent to the project are found on pages V-17-5 through V-16-12 in the MEIR. No new or additional mitigation measures or alternatives are required for the 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 completion of right-of-way improvements including bike lane installation along Snyder Avenue, consistent with the General Plan and Specific Plan for the area.

(2) According to the MEIR's physical description of the General Plan study area, the site is not located in area subject to landslide, lateral spreading, subsidence, liquefaction or collapse.

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. Projects will be subject to Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less-than-significant.

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

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the 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:

(1) The proposed project is completion of right-of-way improvements including bike lane installation along Snyder Avenue, consistent with the General Plan and Specific Plan for the area.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following thresholds. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan.	☐	☒
(3)	The project would physically divide an established community.	☐	☒

Discussion:

(1-3) The proposed project is completion of right-of-way improvements including bike lane installation along Snyder Avenue, consistent with the General Plan and Specific Plan for the area. The project does not divide an established community.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	☒
(2)	The project would have a substantial adverse effect on a scenic vista.	☐	☒
(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:

(1-4) The proposed project is completion of right-of-way improvements including bike lane installation along Snyder Avenue, consistent with the General Plan and Specific Plan for the area. As the project consists of completion of right-of-way improvements including bike land installation, no effect on scenic vistas is anticipated. The type of improvements are consistent with street improvements elsewhere in the area and throughout the City.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1 (c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures 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 Measures:

None – Traffic Study not required.

Air Quality Measures:

Air-1 (page V-2-24 of the MEIR)

a. SJVUAPCD Regulation VIII Control Measures for Construction Emissions of PM10. The following controls are required to be implemented at all construction sites:

1. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

2. All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

3. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

4. With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

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

6. All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. *(The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)*

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

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

9. Any site with 150 or more vehicle trips per day shall prevent carryout and track out.

Noise Measures:

None

Agricultural Land Measures:

None

Water Supply Measures:

None

Sanitary Sewer Service Measures:

None

Sensitive Wildlife and Plant Habitat Measures:

None

Archaeological or Historic Sites Measures:

None

Storm Drainage Measures:

None

Flooding and Water Quality Measures:

None

Parks and Open Space Measures:

None

Schools Measures:

None

Police Services:

None

Fire Services:

None

Generation of Solid Waste

None

Generation of Hazardous Materials

None

Potential for Landslides and Seismic Activity

None

Energy

None

Planning and Land Use

None

Aesthetics

None

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-281

A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET IN ORDER TO FULLY FUND THE CONTRACT WITH ROSS F. CARROLL, INC. BY TRANSFERRING $281,956 FROM ACCOUNT 2670-800-8000-8208 "CARVER/BANGS PELANDALE/SNYDER CFD RESERVES" TO CIP ACCOUNT 2680-020-A102 "SNYDER AVENUE (PRESCOTT & CARVER)" TO FULLY FUND THE SNYDER AVENUE IMPROVEMENTS FROM PRESCOTT ROAD TO CARVER ROAD PROJECT

WHEREAS, certain budgetary transactions are necessary to fully fund the construction contract with Ross F. Carroll, Inc. in the amount of $590,692.05 required for the Snyder Avenue Improvements from Prescott Road to Carver Road project, and

WHEREAS, to fully fund the construction contract including design/administration support, contingency and construction administration, the current Capital Improvement Program (CIP) budget must be amended by transferring funds in the amount of $281,956 from Account 2670-800-8000-8208 "Carver/Bangs Pelandale/Snyder CFD Reserves" to Account 2680-800-800-8208 "Pelandale/Snyder CFD Fund", then from Account 2680-800-800-8208 "Pelandale/Snyder CFD Fund" to Objects 6040-Construction in the amount of $190,693, 6041-City Forces in the amount of $10,000, 6050-Contingency in the amount of $58,604 and 6060-Construction Administration in the amount of $22,659 with CIP Account 2680-020-A102 "Snyder Avenue (Prescott & Carver)" to fully fund the Snyder Avenue Improvements between Prescott Road and Carver Road project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds as set forth herein to fully fund the construction contract including design/administration support, contingency and

construction administration required for the Snyder Avenue Improvements from Prescott Road to Carver Road project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2008, 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. 2008-282

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS - TIER 1 PRIORITY 1 AND 2 TURNOUTS PROJECT, ACCEPTING THE BID AND APPROVING A $2,685,000 CONTRACT WITH MOZINGO CONSTRUCTION, INC. FOR THE PROJECT TITLED, "DOWNSTREAM WATER SYSTEM IMPROVEMENTS - TIER 1 PRIORITY 1 AND 2 TURNOUTS," AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT.

WHEREAS, plans and specifications have been prepared for the Downstream Water System Improvements - Tier 1 Priority 1 and 2 Turnouts project and City staff recommends approval to the City Council, and

WHEREAS, the bids received for the Downstream Water System Improvements - Tier 1 Priority 1 and 2 Turnouts project were opened at 11:00 a.m. on April 15, 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 $2,685,000 received from Mozingo Construction, Inc. be accepted as the lowest responsible bid and the contract be awarded to Mozingo Construction, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of Mozingo Construction, Inc., in the amount $2,685,000.00, and hereby awards Mozingo Construction, Inc. the contract titled "Downstream Water System Improvements - Tier 1 Priority 1 and 2 Turnouts."

BE IT FURTHER RESOLVED that the Interim 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 13th day of May 2008, 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, 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. 2008-283

A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET BY REDUCING OBJECTS 6010 ENGINEERING/DESIGN/ ADMINISTRATION IN THE AMOUNT OF $38,685, 6040 CONSTRUCTION IN THE AMOUNT OF $1,560,000, AND 6060 CONSTRUCTION ADMINISTRATION IN THE AMOUNT OF $241,500 IN CIP ACCOUNT 6180-430-W361 "DOWNSTREAM IMPROVEMENTS PRVS-SECONDARY", AND REAPPROPRIATING FUNDS IN THE AMOUNT OF $187,750 TO OBJECT 6050 CONTINGENCY WITHIN THE SAME ACCOUNT, AND TRANSFERRING SURPLUS FUNDING IN THE AMOUNT OF $1,652,435 TO PRIMARY ACCOUNT 6180-430-W425 "DOWNSTREAM IMPROVEMENTS-PRIMARY"

WHEREAS, certain budgetary transactions are necessary to fully fund the construction contingency in the amount of $187,750 required for the Downstream Water System Improvements - Tier 1 Priority 1 and 2 Turnouts project, and

WHEREAS, to fully fund the construction contingency in the amount of $187,750, the current Capital Improvement Program (CIP) budget must be amended by increasing Object 6050 Contingency in the amount of $187,750 in CIP Account 6180-430-W361-6040 "Downstream Improvements PRVS-Secondary," and

WHEREAS, due to low bids, unused surplus funding in the amount of $1,652,435 is to be transferred from CIP Account 6180-430-W361 "Downstream Improvements PRVS - Secondary" to the Primary Account 6180-430-W425 "Downstream Improvements-Primary" to fund other phases of the Downstream Water System Improvements projects,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds as set forth herein to fully fund the construction contingency required for the Downstream Water System Improvements - Tier 1 Priority 1 and 2 Turnouts project, and return unused surplus funding back to the

Primary Account to fund other phases of the Downstream Water System Improvements projects.

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 May, 2008, 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, 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. 2008-284

A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S AUTHORITY TO ISSUE CHANGE ORDERS ON THE MARSHALL PARK IMPROVEMENTS AND SYLVAN PARK SPLASH PAD PROJECT FROM 10 PERCENT ($25,000.00) TO 15.3 PERCENT ($37,793.64) OF THE ORIGINAL CONTRACT PRICE WITH PLANNED ENVIRONMENTS, INC.

WHEREAS, the City Council on April 24, 2007, by Resolution No. 2007-243, awarded a $247,910.41 contract to Planned Environments, Inc. to construct the Marshall Park Improvements and Sylvan Park Splash Pad project, and

WHEREAS, the contractor started work on June 4, 2007, and

WHEREAS, additional work not included in the original bid needed to be added to the project to allow completion of the park improvements, and

WHEREAS, the cost of the extra work was estimated to be as high as $37,793.64, an amount which exceeded the Director's authority for the project as established by the Council's Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of $25,000.00,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director's authority to issue change orders on the Marshall Park Improvements and Sylvan Park Splash Pad project from 10 percent ($25,000.00) to 15.3 percent ($37,793.64) of the original contract price with Planned Environments, Inc.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2008, 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. 2008-285

A RESOLUTION ACCEPTING THE WORK BY PLANNED ENVIRONMENTS, INC. FOR THE MARSHALL PARK IMPROVEMENTS AND SYLVAN PARK SPLASH PAD 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 $285,704.05

WHEREAS, a report has been filed by the Public Works Director that the Marshall Park Improvements and Sylvan Park Splash Pad project has been completed by Planned Environments, Inc. in accordance with the contract agreement dated April 24, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Marshall Park Improvements and Sylvan Park Splash Pad project is hereby accepted as complete from said contractor Planned Environments, 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 $285,704.05 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2008, 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. 2008-286

A RESOLUTION APPROVING A FIVE- YEAR AGREEMENT WITH STORER TRANSIT SYSTEMS (STORER) TO OPERATE THE MODESTO AREA DIAL-A-RIDE (DAR) SYSTEM, COMMENCING JUNE 28, 2008, AND TERMINATING JUNE 27, 2013, AT AN ANNUAL COST OF APPROXIMATELY $2,478,450, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the existing agreement with Storer Transit Systems to operate the Modesto Area Dial-A-Ride service expires June 27, 2008, and

WHEREAS, the City wishes to continue providing Dial-A-Ride service to citizens of Modesto, and

WHERAS, the City Council authorized staff to solicit proposals for a new five-year contract to be effective June 28, 2008, and

WHEREAS, Storer Transit Systems submitted a reasonable and fair proposal for the five-year contract, and

WHERAS, by an agenda report to the City Council dated May 13, 2008, the Public Works Director recommended approval of the contract with Storer Transit System,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a five-year agreement with Storer Transit Systems, to operate the Modesto Dial-A-Ride system, commencing on June 28, 2008, and terminating June 27, 2013, at an annual cost of approximately $2, 478,450,

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

The following resolution was introduced at a regular meeting of the Council of the City of Modesto on the 13th day of May, 2008, 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. 2008-287

A RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE GOVERNOR'S OFFICE OF HOMELAND SECURITY (OHS) REQUESTING $175,000 IN FY 2007-08 CALIFORNIA TRANSIT SECURITY GRANT PROGRAM FUNDS FOR THE PURCHASE AND INSTALLATION OF A VIDEO SURVEILLANCE SYSTEM AT THE TRANSIT CENTER; AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT APPLICATION AND GRANT-RELATED DOCUMENTS

WHEREAS, the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006 was approved by the voters as Proposition 1B in the November 7, 2006 general election, and

WHEREAS, Senate Bill 88 (SB 88), enabling legislation for the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006, was signed by the Governor and chaptered into law on August 24, 2007, and

WHEREAS, SB 88 created the California Transit Assistance Funds administered by the Governor's Office of Homeland Security (OHS), and

WHEREAS, in Fiscal Year 2007-08 a total of $60,000,000 was appropriated to the California Transit Assistance Fund, and

WHEREAS, the Stanislaus Council of Governments (StanCOG) is the designated recipient for regional funds under GC 8879.58 (a)(2), and

WHEREAS, the StanCOG Policy Board passed a resolution April 9, 2008 designating $175,000 of the regional funds for the City of Modesto to purchase and install a video surveillance system at the Transit Center, and

WHEREAS, by a report to the Council dated April 24, 2008, from the Public Works Department, City staff recommended submitting a grant application for purchase

and installation of a video surveillance system at the Transit Center, (OHS ID number -- FY 07-08 Prop. 1B-6067-002),

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 requesting $175,000 in California Transit Assistance Funds for the purchase and installation of a video surveillance system at the Transit Center.

BE IT FURTHER RESOLVED that the Interim City Manager, 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 Interim City Manager may designate the Public Works Director to execute all grant application and grant agreement documents.

BE IT FURTHER RESOLVED that the Interim 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 Interim 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 13th day of May, 2008, 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. 2008-288

A RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE GOVERNOR'S OFFICE OF HOMELAND SECURITY (OHS) REQUESTING $100,000 IN FY 2007-08 CALIFORNIA TRANSIT SECURITY GRANT PROGRAM FUNDS FOR THE PURCHASE AND INSTALLATION OF A VIDEO SURVEILLANCE SYSTEM AT THE BUS MAINTENANCE FACILITY; AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT APPLICATION AND GRANT-RELATED DOCUMENTS

WHEREAS, the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006 was approved by the voters as Proposition 1B in the November 7, 2006 general election, and

WHEREAS, Senate Bill 88 (SB 88), enabling legislation for the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006, was signed by the Governor and chaptered into law on August 24, 2007, and

WHEREAS, SB 88 created the California Transit Assistance Funds administered by the Governor's Office of Homeland Security (OHS), and

WHEREAS, in Fiscal Year 2007-08 a total of $60,000,000 was appropriated to the California Transit Assistance Fund, and

WHEREAS, the Stanislaus Council of Governments (StanCOG) is the designated recipient for regional funds under GC 8879.58 (a)(2), and

WHEREAS, the StanCOG Policy Board passed a resolution April 9, 2008 designating $100,000 of the regional funds for the City of Modesto to purchase and install a video surveillance system at the bus maintenance facility, and

WHEREAS, by a report to the Council dated April 24, 2008, from the Public Works Department, City staff recommended submitting a grant application for purchase

and installation of a video surveillance at the bus maintenance, (OHS ID number -- FY 07-08 Prop. 1B-6067-002),

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 requesting $100,000 in California Transit Assistance Funds for a video surveillance system at the bus maintenance facility.

BE IT FURTHER RESOLVED that the Interim City Manager, 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 Interim City Manager may designate the Public Works Director to execute all grant application and grant agreement documents.

BE IT FURTHER RESOLVED that the Interim 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 Interim 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 13th day of May, 2008, 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. 2008-289

A RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE GOVERNOR'S OFFICE OF HOMELAND SECURITY (OHS) REQUESTING $25,606 IN FY 2007-08 CALIFORNIA TRANSIT SECURITY GRANT PROGRAM FUNDS FOR THE PURCHASE AND INSTALLATION OF VIDEO SURVEILLANCE SYSTEMS IN FOUR BUSES; AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT APPLICATION AND GRANT-RELATED DOCUMENTS

WHEREAS, the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006 was approved by the voters as Proposition 1B in the November 7, 2006 general election, and

WHEREAS, Senate Bill 88 (SB 88), enabling legislation for the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006, was signed by the Governor and chaptered into law on August 24, 2007, and

WHEREAS, SB 88 created the California Transit Assistance Funds administered by the Governor's Office of Homeland Security (OHS), and

WHEREAS, in Fiscal Year 2007-08 a total of $60,000,000 was appropriated to the California Transit Assistance Fund, and

WHEREAS, the California Transit Assistance Fund allocates $25,606 of GC 8879.58 (a)(3) funds for the City of Modesto , and

WHEREAS, by a report to the Council dated April 24, 2008, from the Public Works Department, City staff recommended submitting a grant application for the purchase and installation of video surveillance systems in four buses, (OHS ID number -- FY 07-08 Prop. 1B-6067-002),

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 requesting $25,606 in California Transit Assistance Funds for the purchase and installation of video surveillance systems in four buses.

BE IT FURTHER RESOLVED that the Interim City Manager, 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 Interim City Manager may designate the Public Works Director to execute all grant application and grant agreement documents.

BE IT FURTHER RESOLVED that the Interim 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 Interim 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 13th day of May, 2008, 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. 2008-290

A RESOLUTION AUTHORIZING THE SUBMITTAL OF A GRANT APPLICATION TO THE GOVERNOR'S OFFICE OF HOMELAND SECURITY (OHS) REQUESTING $48,426 IN FY 2007-08 CALIFORNIA TRANSIT SECURITY GRANT PROGRAM FUNDS FOR THE PURCHASE AND INSTALLATION OF VIDEO SURVEILLANCE SYSTEMS IN SIX BUSES; AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT APPLICATION AND GRANT-RELATED DOCUMENTS.

WHEREAS, the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006 was approved by the voters as Proposition 1B in the November 7, 2006 general election, and

WHEREAS, Senate Bill 88 (SB 88), enabling legislation for the Highway Safety, Traffic Reduction, Air Quality and Port Security Bond Act of 2006, was signed by the Governor and chaptered into law on August 24, 2007, and

WHEREAS, SB 88 created the California Transit Assistance Funds administered by the Governor's Office of Homeland Security (OHS), and

WHEREAS, in Fiscal Year 2007-08 a total of $60,000,000 was appropriated to the California Transit Assistance Fund, and

WHEREAS, the Stanislaus Council of Governments (StanCOG) is the designated recipient for regional funds under GC 8879.58 (a)(2), and

WHEREAS, the StanCOG Policy Board passed a resolution April 9, 2008 designating $48,426 of the regional funds for the City of Modesto to purchase and install a video surveillance system in six buses, and

WHEREAS, by a report to the Council dated April 24, 2008, from the Public Works Department, City staff recommended submitting a grant application for the

purchase and installation of video surveillance systems in six buses, (OHS ID number -- FY 07-08 Prop. 1B-6067-002),

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 requesting $48,426 in California Transit Assistance Funds for video surveillance in six buses.

BE IT FURTHER RESOLVED that the Interim City Manager, 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 Interim City Manager may designate the Public Works Director to execute all grant application and grant agreement documents.

BE IT FURTHER RESOLVED that the Interim 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 Interim 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 13th day of May, 2008, 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

RESCINDED

SEP - 8 2009

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2009-434

MODESTO CITY COUNCIL
RESOLUTION NO. 2008–291

A RESOLUTION ADJUSTING RENTAL CHARGES AND FEES FOR ACTIVITIES AND SERVICES AT THE MODESTO CITY-COUNTY AIRPORT/HARRY SHAM FIELD, AND RESCINDING COUNCIL RESOLUTION NOS. 2007–282 AND 2008-245

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, during the past year the Consumer Price Index (CPI) of the western United States increased at a rate of two and eight-tenths percent (2.8%), and

WHEREAS, Modesto City Council Resolution Nos. 2007-282 and 2008-245 established the current Airport Rental Charges and Fees and contain provisions for rate increases which went into effect July 1, 2007 and July 1, 2008, based upon an increase in the Consumer Price Index, and

WHEREAS, the Modesto City-County Airport Advisory Committee recommended adoption of the 2.8% rate increase at its meeting on March 19, 2008, and

WHEREAS, aircraft landing fees have not been increased since 1994 from their current rate of $0.66 per thousand pounds of gross weight, an increase of $0.02 to $0.68 per thousand pounds of landed gross weight is being recommended, and

WHEREAS, on February 26, 2008 (Reso. No. 2008-129) Council approved authorizing submittal of an application to the Federal Aviation Administration (FAA) to

RESCINDED

impose, collect and use a Passenger Facility Charge (PFC) by air carriers on passengers using the Modesto City-County Airport, and

WHEREAS, upon approval and authorization by the FAA airlines will begin collecting PFC fees in the new amount of $4.50 (up from the previous collection rate of $3.00) for each passenger enplanement, and

WHEREAS, airlines will be remitting those fees monthly to Modesto City-County Airport for use on federally eligible airport improvement projects, and

WHEREAS, by an agenda report dated April 16, 2008, from the Public Works Director, City staff recommended rate increases of

1) 2.8% for rental of aircraft hangars and tie-downs, and office space,

2) $0.02 for aircraft landing fees, and

3) $1.50 per PFC collection, and

WHEREAS, a duly noticed public hearing was held by the Council on May 13, 2008 at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing all interested persons were given the opportunity to be heard relative to the proposal to increase the rates and charges for the Modesto City-County Airport's aircraft hangars, office space, and tie-down rentals,

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

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

(a) T-Hangars

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
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, light single and multi-engine (under 12,500 lbs.) $39.00 per month

(b) Taxi-in Tie-Down – Permanent, light single and multi-engine (under 12,500 lbs.) $63.00 per month

(c) Taxi-in Tie-Down – Permanent, 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, twin-engine aircraft (under 12,500 lbs.) $9.25 per day

(f) Taxi-In Tie-Down – Transient, 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
(b)	Office Building No. 1	.....	$.86 per square foot
(c)	Office Building No. 2	.....	$.86 per square foot
(d)	Hangar Office Space	.....	$.50 per square foot

SECTION 4. TEMPORARY USE OF AIRPORT PASSENGER TERMINAL. Organization and service providers desiring to temporarily use the passenger terminal will be charged a daily rate:

(a)	Ticket counter	.....	$.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 – $.68 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 the greater of ten percent (10%) of gross on time mileage of vehicles rented or the monthly charge for passenger terminal advertisement space and

callboard phone service. Additionally, the operators will be accessed a parking fee at the same rate on-airport car rental operators are charged for vehicles left in the public parking area overnight.

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

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

SECTION 15. ANNUAL ADJUSTMENT OF RENTS, FEES AND CHARGES. Commencing July 1, 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 July 1, 2008.

SECTION 17. RESCIND. This resolution rescinds Council Resolution Nos. 2007-282 and 2008-245.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 13th day of May, 2008, 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:	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. 2008-292

ADOPT A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF EIGHTEEN (18) PICKUP TRUCKS FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO THE FOLLOWING COMPANIES: AMERICAN CHEVROLET, MODESTO, CA, TWO (2) PICKUP TRUCKS, FOR AN ESTIMATED COST OF $44,469; DOWNTOWN FORD, SACRAMENTO, CA, NINE (9) PICKUP TRUCKS, FOR AN ESTIMATED COST OF $205,590; GEWEKE FORD, LODI, CA, SEVEN (7) PICKUP TRUCKS, FOR AN ESTIMATED COST OF $141,105; AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE PURCHASE ORDERS FOR A TOTAL ESTIMATED COST OF $391,164

WHEREAS, on April 22, 2008, consent item #8, was continued for further discussion to the May 13, 2008, Council Meeting, and

WHEREAS, the fiscal impact of the continuance is based upon the City placing an order prior to the manufacturer cut-off date. At the time of this report the published manufacturer cut-off date is May 19, 2008, and is subject to change at any time, and

WHEREAS, should the City miss the manufacturer cut-off date, pricing will be based on the 2009 model and the increase cannot be calculated at this time, and

WHEREAS, the Public Works Department, Fleet Services Division has determined that the current pickup trucks have reached the end of their useful life and are scheduled for replacement, and

WHEREAS, on August 14, 2007, the City Council, by Resolution No. 2007-495, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 07/08 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, eighteen (18) pickup trucks for various divisions, were included in the FY 07/08 new vehicles and heavy equipment list authorized by Council, and

WHEREAS, on December 26, 2007, the Purchasing Division issued RFB No. 0708-15 for the purchase of nineteen (19) pickup trucks to fifty-six (56) prospective bidders, posted the bid on the City's web site and formally advertised as required by law, and

WHEREAS, on December 11, 2007, a bidders conference was held. Two (2) companies were in attendance, and

WHEREAS, On February 8, 2008, one pickup truck on Attachment A, PSER #4399 was cancelled by the using department, and

WHEREAS, on February 12, 2008, RFB's were formally opened in the City Clerk's office. Of the fifty-six (56) prospective bidders, nine (9) companies chose to respond, and

WHEREAS, three (3) companies submitted non-responsive and non-responsible bids and their bid submittals were rejected, and

WHERAS, based on being deemed the lowest responsive and responsible bids, staff recommends the award of bid and contract for the purchase of eighteen (18) pickup trucks to the following companies:

American Chevrolet, Modesto, CA, two (2) 2008 pickup trucks, for a total estimated cost of $44,469;

Downtown Ford, Sacramento, CA, nine (9) 2008 pickup trucks, for a total estimated cost of $205,590;

Geweke Ford, Lodi, CA, seven (7) 2008 pickup trucks, for a total estimated cost of $141,105, 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 eighteen (18)

pickup trucks for the Public Works Department, Fleet Services Division conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in the following accounts for the purchase of eighteen (18) pickup trucks for FY 07/08, Fund 7210, Agency 480, Org 5814 and objects,5812,5790,5802,5759,5764,5765,5766,5769,5777,5813,5793, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase of eighteen (18) pickup trucks to American Chevrolet, Modesto, CA, two (2) pickup trucks, for an estimated cost of $44,469; Downtown Ford, Sacramento, CA, nine (9) pickup trucks, for an estimated cost of $205,590; Geweke Ford, Lodi, CA, seven (7) pickup trucks, for an estimated cost of $141,105;

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue purchase orders for a total estimated cost of $391,164.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2008, 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

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-293

ADOPT A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF FIVE (5) TRUCKS WITH UTILITY BODIES FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, TO THE FOLLOWING COMPANIES: SAN FRANCISCO FORD, LINCOLN, MERCURY, SAN FRANCISCO, CA, FOUR (4) TRUCKS WITH UTILITY BODIES, FOR AN ESTIMATED COST OF $183,674; HANSEL FORD, SANTA ROSA, CA, ONE (1) TRUCK WITH UTILITY BODY, FOR AN ESTIMATED COST OF $56,593, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE PURCHASE ORDERS FOR A TOTAL ESTIMATED COST OF $240,267

WHEREAS, on April 22, 2008, consent item #9, was continued for further discussion to the May 13, 2008, Council Meeting, and

WHEREAS, the fiscal impact of the continuance is a total estimated cost increase of $1,600, due to the body fabricators price increase dated April 21, 2008, and

WHEREAS, if the manufacturer cut off date is missed the minimum impact will be $2,448 for the Ford F350 from Hansel Ford. All other manufacturers have not indicated the cost increase of a 2009 model, and

WHEREAS, the Public Works Department, Fleet Services Division has determined that the current trucks with utility bodies have reached the end of their useful life and are scheduled for replacement, and

WHEREAS, on August 14, 2007, the City Council, by Resolution No. 2007-495, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 07/08 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, five (5) trucks with utility bodies for various divisions were included in the FY 07/08 new vehicles and heavy equipment list authorized by Council, and

WHEREAS, On January 25, 2008, the Purchasing Division issued RFB No. 0708-21 for the purchase of five (5) trucks with utility bodies to thirty-one (31) prospective bidders, posted the bid on the City's web site and formally advertised as required by law, and

WHEREAS, on February 1, 2008, a bidders conference was held. One (1) company was in attendance, and

WHEREAS, on February 6, 2008, RFB's were formally opened in the City Clerk's office. Of the thirty-one (31) prospective bidders, six (6) companies chose to respond, and

WHEREAS, one (1) company submitted a non-responsive and non-responsible bid and their bid submittal was rejected, and

WHEREAS, based on being deemed the lowest responsive and responsible bids, City staff recommends the award of bid and contracts to the following companies:
San Francisco Ford, Lincoln, Mercury, San Francisco, CA, one (1), 17,950 lbs. GVWR Ford F-550 with crane, for an estimated cost of $92,757;
San Francisco Ford, Lincoln, Mercury, San Francisco, CA, three (3) half-ton extended cab pickup trucks with utility bodies, for an estimated cost of $90,917;
Hansel Ford, Santa Rosa, CA, one (1) Ford F-350 Super Cab pickup truck with utility body, for an estimated cost of $56,593, 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 five (5) trucks with utility bodies for the Public Works Department, Fleet Services Division, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in the following accounts for the purchase of five (5) trucks with utility bodies for FY 07/08, Fund 6510, Agency 165, Org 1678, Objects 5945,5003 and Fund 7210, Agency 480, Org 5814, Objects, 5789,5791,5792,5801,

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 five (5) trucks with utility bodies for the Public Works Department, Fleet Services Division, to the following companies: San Francisco Ford, Lincoln, Mercury, San Francisco, CA, four (4) trucks with utility bodies, for an estimated cost of $183,674; Hansel Ford, Santa Rosa, CA, one (1) truck with utility body, for an estimated cost of $56,593, and authorizing the Purchasing Manager to issue purchase orders for a total estimated cost of $240,267.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue purchase orders for a total estimated cost of $240,267.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13th day of May, 2008, 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

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-294

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO RELATING TO WATER REFUNDING REVENUE CERTIFICATES OF PARTICIPATION, SERIES 2008; APPROVING THE FORMS OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A 2008 SUPPLEMENTAL CONTRACT, A LIQUIDITY FACILITY AND A PURCHASE CONTRACT; APPROVING THE FORM OF AND AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL STATEMENT IN CONNECTION THEREWITH; AUTHORIZING THE 2008 SWAP AMENDMENTS AND AUTHORIZING CERTAIN OTHER RELATED ACTIONS

WHEREAS, the City of Modesto is a charter city and municipal corporation duly organized and existing under and by virtue of the Constitution and laws of the State of California (the "City");

WHEREAS, the City and the Modesto Public Financing Authority (the "Authority"), a joint exercise of powers authority duly organized and existing under and by virtue of the laws of the State of California, have previously entered into a Master Installment Purchase Contract, dated as of November 1, 1997 (the "Master Contract") in order to provide for the financing and refinancing from time to time of the costs of acquisition and construction of various additions, betterments, extensions and improvements to the City's Water Utility System;

WHEREAS, the City previously refinanced certain improvements to its Water Utility System, pursuant to the 1997 Supplemental Installment Purchase Contract, dated as of November 1, 1997, by and between the City and the Authority, supplementing the Master Contract, with proceeds of $25,585,000 in aggregate principal amount of Refunding Revenue Certificates of Participation (1997 Water Utility System Refinancing Project) (the "1997 Certificates") executed and delivered pursuant to a Trust Agreement, dated as of November 1,

1997, by and between the Authority and The Bank of New York Trust Company, N.A., as successor trustee;

WHEREAS, the City previously financed certain improvements to its Water Utility System (the "2006 Project"), pursuant to the 2006 Supplemental Installment Purchase Contract (the "2006 Supplement Contract"), dated as of November 1, 2006, by and between the City and the Authority, supplementing the Master Contract, with proceeds of $46,275,000 in aggregate principal amount of Water Revenue Certificates of Participation 2006 Series A (the "2006 Certificates"), executed and delivered pursuant to a Trust Agreement, dated as of November 1, 2006, by and between the Authority and The Bank of New York Trust Company, N.A., as trustee;

WHEREAS, pursuant to Article III of the Master Contract, the City may incur additional obligations payable on a parity thereunder, including by execution of a supplemental installment purchase contract;

WHEREAS, the City has experienced unusually high interest rates on its auction securities due to market disruptions;

WHEREAS, the City has determined that by refinancing the 2006 Certificates, the City can achieve interest cost savings and/or a desirable restructuring of debt obligations so as to minimize the impact of current and potentially future market instability;

WHEREAS, the City now desires to cause to be executed and delivered an additional series of certificates in an aggregate initial principal amount not to exceed $52,000,000 and designated as City of Modesto Water Refunding Revenue Certificates of Participation, Series

2008 (the "2008 Certificates") for the purpose of (i) refinancing the outstanding 2006 Series A Certificates, (ii) funding a parity reserve fund with cash, proceeds of the 2008 Certificates, or debt service reserve surety bonds and (iii) financing the costs of execution and delivery of the 2008 Certificates;

WHEREAS, the Authority and the City will enter into a 2008 Supplemental Installment Purchase Contract (the "2008 Supplemental Contract") to refinance the 2006 Project (the "2008 Project");

WHEREAS, pursuant to a Trust Agreement (the "2008 Trust Agreement") proposed to be executed and entered into by and between the Authority and The Bank of New York Trust Company, N.A., as trustee (the "2008 Trustee"), the Authority proposes to assign certain of its rights under the 2008 Supplemental Contract, including its right to receive the payments to be made by the City thereunder;

WHEREAS, in consideration of such assignment and the execution and entering into of the 2008 Trust Agreement by the 2008 Trustee and the Authority, the 2008 Trustee has agreed to execute and deliver the 2008 Certificates, evidencing and representing proportionate interests of the owners thereof in installment payments to be made by the City;

WHEREAS, the 2008 Certificates are expected to be initially executed and delivered as variable rate demand securities;

WHEREAS, Banc of America, N.A., as Liquidity Facility Provider (the "Liquidity Facility Provider"), the City and the Authority propose to execute and enter into a Stand-By

Certificate Purchase Agreement (the "Liquidity Facility"), relating to the performance of certain duties with respect to the remarketing of the 2008 Certificates;

WHEREAS, the City proposes to execute and enter into a Purchase Contract (the "Purchase Contract") with Banc of America Securities LLC (the "Underwriter") and the Authority, pursuant to which the Underwriter will purchase the 2008 Certificates for reoffering to the public;

WHEREAS, the City proposes to execute and deliver an Official Statement (the "Official Statement") relating to the 2008 Certificates and to authorize the distribution of such Official Statement to prospective and actual purchasers of the 2008 Certificates;

WHEREAS the City and Bank of America, N.A. (the "Counterparty"), as a qualified counterparty, previously entered into a ISDA Master Agreement (Local Currency–Single Jurisdiction 1992), the U.S. Municipal Counterparty Schedule thereto, a Credit Support Annex, each dated as of September 27, 2006, and a Confirmation, entered into on September 27, 2006 (collectively, the "2006 Interest Rate Swap Agreement");

WHEREAS the City and Bank of America, N.A., now desire to amend and supplement the 2006 Interest Rate Swap Agreement so as to relate the 2006 Interest Rate Swap Agreement to the 2008 Certificates and include certain provisions required by the Insurer (as defined below) (the "2008 Interest Rate Swap Amendments");

WHEREAS, the City intends to obtain from a municipal bond insurance provider (the "Insurer") municipal bond insurance policies to insure certain payments on the 2008 Certificates

and certain swap payments to be made by the City under the 2008 Interest Rate Swap Amendments and surety bonds to meet the parity reserve fund requirement; and

WHEREAS, all acts, conditions and things required by the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the transactions authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the City is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such transactions for the purpose, in the manner and upon the terms herein provided.

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

Section 1. Findings. The City Council hereby specifically finds and determines that the actions authorized hereby constitute and are with respect to the public affairs of the City and that the statements, findings and determinations of the City set forth above and in the preambles of the documents approved herein are true and correct and that the consummation of the transactions contemplated therein shall result in significant public benefits to the City.

Section 2. 2008 Supplemental Contract. The 2008 Supplemental Contract, proposed to be executed and entered into by and between the City and the Authority, in the form presented at this meeting and on file with the City Clerk of the City, is hereby approved. Each of the City Manager and the Finance Director, acting singly, is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver to the Authority the 2008 Supplemental Contract in substantially said form, with such changes therein as such officer executing the 2008 Supplemental Contract may require or approve, such approval to be conclusively evidenced by

the execution and delivery thereof; provided, that the schedule of the installment payments to be contained in the 2008 Supplemental Contract and to be attached as an exhibit thereto shall be determined by the City Manager or the Finance Director of the City upon the sale of the 2008 Certificates, the aggregate principal amount of 2008 Certificates to be executed and delivered shall not exceed $52,000,000, the final principal payment date of the 2008 Certificates shall not be later than 35 years from the initial installment payment, and the 2008 Certificates initially shall be issued as variable rate demand securities bearing interest at a rate not to exceed 12% per annum (except when such 2008 Certificates are held by the Liquidity Facility Provider).

Section 3. Liquidity Facility. The Liquidity Facility, proposed to be executed and entered into by and among the City, the Authority and the Liquidity Facility Provider, in the form presented at this meeting and on file with on file with the City Clerk, is hereby approved, and each of the City Manager and the Finance Director, acting singly, is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver to the Liquidity Facility Provider and the Authority the Liquidity Facility in substantially said form, with such changes therein as such officer executing the Liquidity Facility may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 4. Purchase Contract. The Purchase Contract, proposed to be executed and entered into by and among the City, the Authority, and the Underwriter, in the form presented at this meeting and on file with the City Clerk, is hereby approved, and each of the City Manager and the Finance Director, acting singly, is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver to the Underwriter and the Authority the Purchase Contract in substantially said form, with such changes therein as such officer executing

the Purchase Contract may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 5. Official Statement. The Official Statement, in the form presented at this meeting and on file with the City Clerk, is hereby approved. Each of the Mayor, the City Manager and the Finance Director, acting singly, is hereby authorized and directed to cause the Official Statement, in substantially said form, with such changes therein as such officer may require or approve, to be distributed to potential and actual purchasers of the 2008 Certificates. Each of the Mayor, the City Manager and the Finance Director, acting singly, is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Official Statement in substantially said form, with such changes therein as such officer executing the Official Statement may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 6. 2008 Interest Rate Swap Amendments. The execution and delivery of the 2008 Interest Rate Swap Amendments, in such form, as recommended by Sidley Austin LLP, and approved by the City Manager or the Finance Director, necessary to relate the 2006 Interest Rate Swap Agreement to the 2008 Certificates and obtain a swap insurance policy from the Insurer, is hereby approved and each of the City Manager and the Finance Director, acting singly, is hereby authorized and directed for and in the name and on behalf of the City to execute and deliver to the Counterparty the 2008 Interest Rate Swap Amendments, with such changes therein as such officer executing the 2008 Interest Rate Swap Amendments may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 7. Attestations. The City Clerk is hereby authorized and directed to attest the signature of the Mayor, the City Manager and the Finance Director and to affix and attest the seal of the City, as may be required or appropriate in connection with the execution and delivery of the 2008 Certificates and the documents approved by this Resolution.

Section 8. Other Actions. The officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or desirable in order to consummate the transactions authorized hereby and to consummate the sale, execution and delivery of the 2008 Certificates and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution, the 2008 Supplemental Contract, the Liquidity Facility, the Purchase Contract, the Official Statement, the 2008 Interest Rate Swap Amendments and the 2008 Certificates; to obtain municipal bond insurance policies and debt service reserve surety bonds, if upon the advice of the City's financial advisor such policies and surety bonds are projected to result in a savings to the City; to effect the redemption of the 2006 Certificates; and all such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

Section 9. Effective Date. This Resolution shall take effect immediately upon its passage.

The foregoing resolution was introduced at a meeting of the City of Modesto held on the 13th day of May, 2008, 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, Lopez, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating, O'Bryant

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-295

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF RICHARD MCFARREN FROM THE GOLF COURSES ADVISORY COMMITTEE

WHEREAS, RICHARD MCFARREN was appointed a member of the Golf Courses Advisory Committee, on March 11, 2008, and

WHEREAS, RICHARD MCFARREN has tendered his resignation from the aforementioned committee.

NOW, THEREFORE, BE IT RESOLVED that the resignation of RICHARD MCFARREN 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 RICHARD MCFARREN 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 27th day of May, 2008, 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: _____
for STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:
_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-296

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF BILL ZOSLOCKI FROM THE AIRPORT ADVISORY COMMITTEE

WHEREAS, BILL ZOSLOCKI was appointed a member of the Airport Advisory Committee September 6, 2005, and

WHEREAS, BILL ZOSLOCKI has tendered his resignation from the aforementioned committee, and

WHEREAS, BILL ZOSLOCKI has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of BILL ZOSLOCKI from the Airport 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 BILL ZOSLOCKI 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 27th day of May, 2008, 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:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-297

A RESOLUTION APPROVING AN EXTENSION TO THE SIX-MONTH PROVISIONAL APPOINTMENT OF BROOKS TAYLOR, ADMINISTRATIVE ANALYST, TO JUNE 30, 2008

WHEREAS, the City Attorney's Office has a vacant Deputy City Attorney position, and

WHEREAS, Brooks Taylor was provisionally appointed as Administrative Analyst to under-fill the vacant Deputy City Attorney position on November 13, 2007, and

WHEREAS, the City Attorney desires to extend the provisional appointment of Brooks Taylor, Administrative Analyst, until June 30, 2008, and

WHEREAS, Personnel Rule 7.5(c) requires Council approval if a provisional appointment is to exceed the six-month period authorized by said rule, and

WHEREAS, the City Attorney is requesting that the City Council approve an extension to the provisional appointment of Brooks Taylor, Administrative Analyst, to June 30, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that an extension to the provisional appointment of Brooks Taylor, Administrative Analyst, to June 30, 2008, is 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 May, 2008, 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. 2008-298

A RESOLUTION OF INTENTION TO ANNEX TERRITORY TO CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) AND TO AUTHORIZE THE LEVY OF SPECIAL TAXES THEREIN (ANNEXATION NO. 14)

WHEREAS, pursuant to Chapter 2.5 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 Article 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. 2004-199, adopted on April 6, 2004 (the "Resolution of Formation"), establish the City's Community Facilities District No. 2004-1 (Village One #2) (the "District"), and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 2004-681, adopted on December 14, 2004, clarify the Rate and Method of Apportionment with respect to the Maximum Special Taxes to be generated by a parcel that has been rezoned, and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 2004-683, adopted on December 14, 2004 ("Resolution of Creation of Tax Zone #2), create Tax Zone #2 within the District, and

WHEREAS, the One-Time Facilities Special Tax component of the special taxes is higher in Tax Zone #2 than in Tax Zone #1, and

WHEREAS, pursuant to California Streets and Highways Code Section 3113.5, this Council did, by its Resolution No. 2005-566, adopted on November 9, 2005, direct that all prior modifications, amendments and annexations to the District be consolidated into a single map of the District, specifically all prior boundary maps and amendments thereto related to formation of the District and Annexation Nos. 1 through 10 to the District, and

WHEREAS, on November 23, 2005, said boundary maps were consolidated into a single map entitled "Consolidation of Boundary Maps of Community Facilities District No. 2004-1 (Village One #2)" and recorded with the County Recorder of the County of Stanislaus at Book 4 of Maps of Assessments and Communities Facilities Districts, at Page 33 (the "Consolidated Boundary Map"), and

WHEREAS, subsequent to the recordation of the Consolidated Boundary Map, additional territory was annexed to the District through Annexations Nos. 11, 12 and 13, and

WHEREAS, this Council hereby determines that the public convenience and necessity require the annexation of additional certain territory to the District, and

WHEREAS, the territory to be annexed is within the City limits, and

WHEREAS, it is intended that the territory be annexed to Tax Zone #2,

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

SECTION 1. The above recitals are true and correct.

SECTION 2. The current boundaries of the District are shown on the Consolidated Boundary Map as supplemented by the map entitled "Annexation Map No. 11 of Community Facilities District No. 2004-1 (Village One #2)" on file with the County Recorder at Book 4 of Maps of Assessment and Community Facilities Districts, at Page 36, the map entitled "Annexation Map No. 12 of Community Facilities District No. 2004-1 (Village One #2) on file with the County Recorder at Book 4 of Maps of Assessment and Community Facilities Districts, at Page 42 and the map entitled "Annexation Map No. 13 of Community Facilities District NO. 2004-1 (Village One #2) on file with the County Recorder at Book 4 of Maps of Assessment and Community Facilities Districts at Page 57.

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. 14 of Community Facilities District No. 2004-1 (Village One #2), City of Modesto, County of Stanislaus, State of California," on file in the office of the City Clerk, which map is 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, 3110.5, and 3313 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 set forth in the Resolution of Formation. It is intended that the same special taxes be levied in the Territory, except that the increase of the One-Time Facilities Special Tax component of the special taxes, as authorized by the Resolution of Creation of Tax Zone #2, shall 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, June 10, 2008, at the regular meeting place of the City Council, City Council Chambers, Basement Level, 1010 Tenth Street, Modesto, California 95353, such time being not less than 30 or more than 60 days following the adoption hereof.

SECTION 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 27th day of May, 2008, 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

CITY OF MODESTO ANNEXATION MAP NO. 14 OF COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2)

CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA

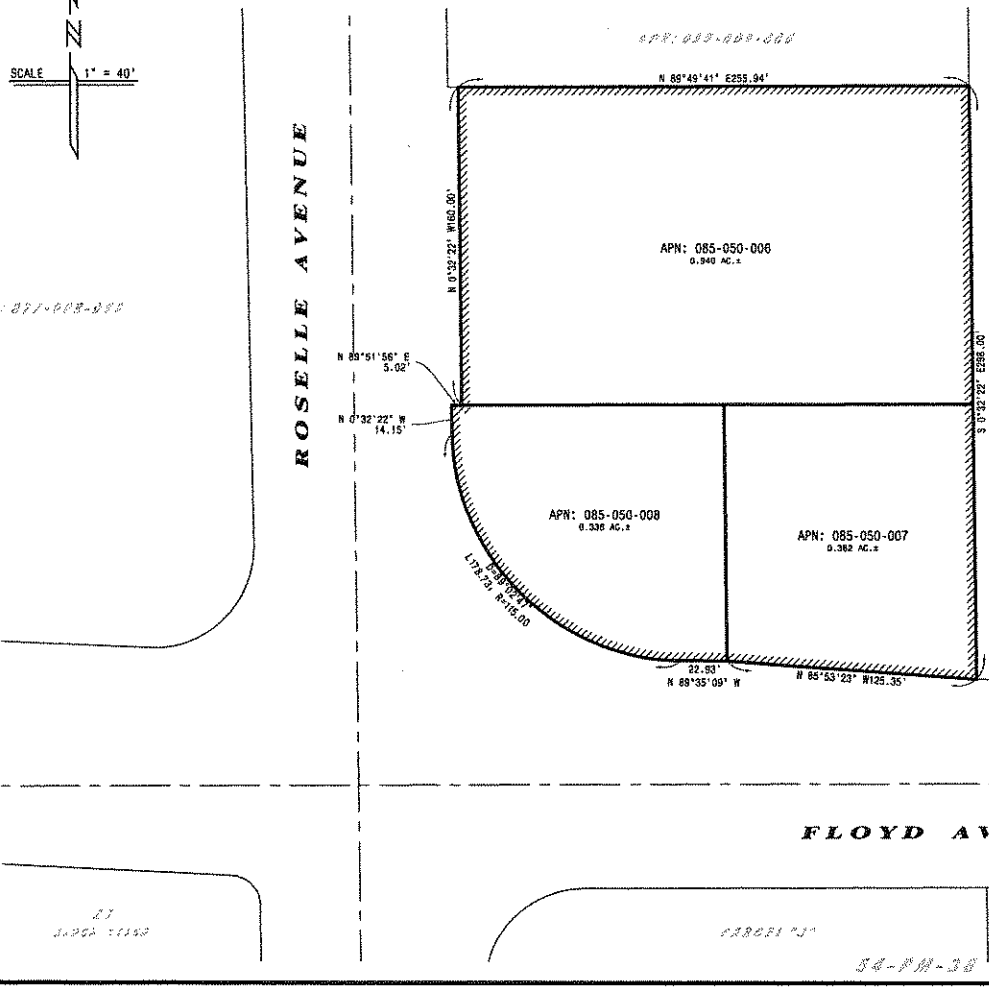
PREPARED BY:

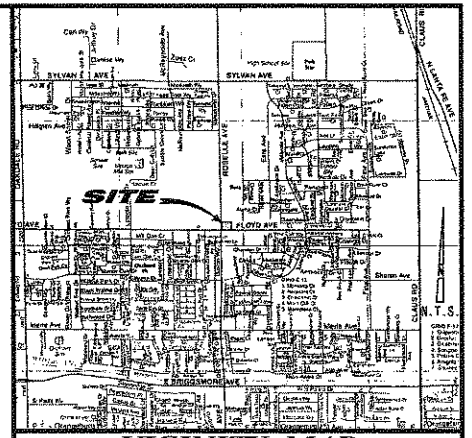
DELAMARE-FULTZ
ENGINEERING AND SURVEYING
3421 TULLY ROAD SUITE J MODESTO, CA. 95350
TELEPHONE (209) 529-7450

LEGEND

BOUNDARY OF PROPERTY TO BE ANNEXED

SCALE 1" = 40'





VICINITY MAP
NOT TO SCALE

CERTIFICATES REQUIRED:

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MODESTO THIS _____ DAY OF _____, 2008.

STEPHANIE LOPEZ, CITY CLERK

BY: _____

PRINT NAME

I HEREBY CERTIFY THAT THIS MAP SHOWING THE PROPOSED BOUNDARIES OF ANNEXATION NO.14 TO CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2),CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF MODESTO AT A REGULAR MEETING THEREOF, HELD ON THE _____ DAY OF _____, 2008, BY ITS RESOLUTION NO.2008-___.

STEPHANIE LOPEZ, CITY CLERK

BY: _____

PRINT NAME

THIS IS A MAP OF THE AREA PROPOSED TO BE ANNEXED TO THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO.2004-1 (VILLAGE ONE #2), CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, THE CONSOLIDATION BOUNDARY MAP FOR WHICH WAS RECORDED ON NOVEMBER 23, 2005, IN BOOK 4 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 33, IN THE OFFICE OF THE COUNTY RECORDER, OF STANISLAUS COUNTY, STATE OF CALIFORNIA.

A MAP OF ANNEXATION NO.11 TO THE DISTRICT WAS RECORDED ON FEBRUARY 9, 2006 IN BOOK 4 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 36, IN THAT OFFICE.

A MAP OF ANNEXATION NO.12 TO THE DISTRICT WAS RECORDED ON APRIL 26, 2006 IN BOOK 4 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 42, IN THAT OFFICE.

A MAP OF ANNEXATION NO.13 TO THE DISTRICT WAS RECORDED ON SEPTEMBER 8, 2006 IN BOOK 4 OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE 57, IN THAT OFFICE.

STEPHANIE LOPEZ, CITY CLERK

BY: _____

PRINT NAME

FILED THIS _____ DAY OF _____, 2008, AT THE HOUR OF _____ O'CLOCK ___. M. IN BOOK _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS AT PAGE(S) _____ IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA.

LEE LUNDRIGREN, COUNTY RECORDER OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA

BY: _____

PRINT NAME

SHEET 1 OF 1 SHEETS

R:\ACTIVE PROJECTS\05-0545\dwg\CFD-ANNEXATION\CFD-Annex1.dwg, YPM, Apr 23, 2008 1:37pm, eddie

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-299

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE FURNISHING OF PEST CONTROL SERVICE FOR USE CITY-WIDE, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF $40,000

WHEREAS, currently, pest control service is furnished to City owned buildings by various companies on a month-to-month basis, and

WHEREAS, improving efficencies by taking advantage of "economies of scale" and potentially reducing the overall cost to the City for this service, an RFB will be issued for pest control service for use City-wide, 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 furnishing of pest control service 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 furnishing of pest control service for use City-wide, 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 27th day of May, 2008, 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. 2008-300

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND THE STATE OF CALIFORNIA, OFFICE OF EMERGENCY SERVICES (OES), TO HOUSE AND MAINTAIN AN OES TYPE I FIRE APPARATUS, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the State of California, Office of Emergency Services (OES) maintains a fleet of fire apparatuses that are used at all-risk events, natural disasters, and emergency incidents, and

WHEREAS, the OES apparatus fleet is positioned strategically at local fire departments throughout the state and responds to events when requested by the OES, and

WHEREAS, the purpose of this apparatus placement is to provide quick and efficient additional fire resources to supplement federal, state, or local governments during large-scale events, and

WHEREAS, the responsibilities of the fire departments which house these apparatuses include responding directly to emergency incidents, covering vacant fire stations, and staging at a designated location for a planned event, and

WHEREAS, the OES would like to maintain three OES apparatuses in Stanislaus County, and approached the Modesto Fire Department with a proposal to house and maintain the third apparatus, and

WHEREAS, if the request is made by any party within the California Fire Assistance Agreement (CFAA), which includes Cal Fire; US Forest Service; Bureau of Land Management; US Fish and Wildlife; US Department of the Interior; and the California OES, then the reimbursement, once the deployment is beyond the initial 12 hours, will be made at 100% going back to the beginning of the deployment. The

majority of other mutual aid requests normally end in a disaster declaration and result in a minimum of 75% reimbursement, and

WHEREAS, the Safety and Communities Committee approved this request at the April 7, 2008, meeting for recommendation to the full Council,

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 State of California, Office of Emergency Services (OES), to house and maintaining an OES Type I fire apparatus.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2008, 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. 2008-301

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO CONDUCT A SOLE SOURCE PURCHASE FOR AN UPGRADE TO THE EXISTING XIOTECH MAGNITUDE 3D STORAGE SYSTEM FOR THE MODEST POLICE DEPARTMENT IN-CAR VIDEO STORAGE, FOR AN ESTIMATED TOTAL COST OF $68,000.00

WHEREAS, the Modesto Police Department's In-Car Video system, once installed, will require large amounts of additional digital video files to be stored and retained for long periods of time, and

WHEREAS, the existing Xiotech storage system that currently provides digital storage for the Modesto Police Department does not have the capacity to support the additional In-Car video storage requirement, and will need to be expanded, and

WHEREAS, the intended upgrade will provide additional storage and scalability to the In-Car Video digital recordings and archive files, and

WHEREAS, Modesto Municipal Code Section 8-3.204, states, "All purchases in excess of fifty thousand dollars ($50,000.00), or when directed by the City Manager for any purchase of fifty thousand dollars ($50,000.00) or less, shall follow formal bid procedures, except for the following, which shall be exempt from the bid requirement: (b) Where the Purchasing Agency's requirements can be met solely by a single article or process;" and

WHEREAS, due to the technical specifications required by the Information Technology Department, including complete compatibility with previously authorized and procured products, the procurement can only be conducted as a sole-source, and

WHEREAS, funds are budgeted and available in Police Department Account 0400-190-2923-5013 in the amount of $68,000 for the purchase of an upgrade to the

existing Xiotech Magnitude 3D Storage for the Modesto Police Department In-Car Video storage system,

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 purchase of an upgrade to the existing Xiotech Magnitude 3D Storage System for the Modesto Police Department In-Car Video Storage System, for an estimated total cost of $68,000.00.

The foregoing resolution was introduced at a meeting of the Council of the City of Modesto held on the 27th day of May 2008 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Olsen, was upon roll call and the resolution adopted by the following vote:

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

ATTEST: _____
for STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-302

A RESOLUTION APPROVING AN ADDITIONAL SIXTY (60) DAY EXTENSION TO A SIX-MONTH PROVISIONAL APPOINTMENT FOR JEANETTE MAURER AS ADMINISTRATIVE ANALYST/TECHNOLOGY SOLUTIONS ANALYST

WHEREAS, the Information Technology Department has a vacant Administrative Analyst/Technology Solutions Analyst position, and

WHEREAS, Jeanette Maurer was provisionally appointed as Administrative Analyst/Technology Solutions Analyst on July 24, 2007, and

WHEREAS, unforeseen delays in the adoption of the Bryce wall-to-wall study have caused a delay in filling the vacant Technology Solutions Analyst position, and

WHEREAS, the City Council on January 8, 2008, by Resolution No 2008-028, approved a sixty (60) day extension to the six-month provisional appointment for Jeanette Maurer as Administrative Analyst/Technology Solutions Analyst, and

WHEREAS, the City Council on April 1, 2008, by Resolution No 2008-177, approved an additional sixty (60) day extension to the six-month provisional appointment for Jeanette Maurer as Administrative Analyst/Technology Solutions Analyst, and

WHEREAS, this current extension is set to expire on June 1, 2008, and

WHEREAS, the Information Technology Department desires an additional extension to the provisional appointment of Jeanette Maurer for another sixty (60) days until a successful candidate can be hired in the capacity of Technology Solutions Analyst, and

WHEREAS, Modesto Personnel Rule 7.5 (c) requires Council approval if a provisional appointment is to exceed the six-month period authorized by said rule, and

WHEREAS, staff is requesting that the City Council approve an additional sixty (60) day extension to this provisional appointment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an additional sixty (60) day extension to the six-month provisional appointment of Jeanette Maurer to the position of Administrative Analyst/Technology Solutions Analyst.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2008, 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. 2008-303

A RESOLUTION AMENDING EXHIBIT "I" OF RESOLUTION NO. 2007-384 TO REVISE THE CLASS RANGE TABLE FOR EXECUTIVE MANAGEMENT TO AMEND THE SALARY RANGE FOR CITY MANAGER FROM SALARY RANGE 1433 TO SALARY RANGE 1436

WHEREAS, by Resolution No. 2008-182, adopted by the City Council on April 1, 2008, the Council authorized an amendment to Exhibit "I" of Resolution No. 2007-384, which approved the Class Range Table for Executive Management Classes, to establish the salary range for City Auditor and to re-title the classification of City Clerk/Auditor to City Clerk and to amend the salary range for City Clerk, and

WHEREAS, the City Council desires to further amend Exhibit "I" of Resolution No. 2007-384, which approved the Class Range Table for Executive Management Classes to amend the salary range for City Manager,

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 May 27, 2008," which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" amends the salary range for City Manager from salary range 1433 to salary range 1436.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after May 27, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2008, 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, Lopez, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: Keating, O'Bryant

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 **May 27, 2008**

RANGE	TITLE
1410-1413	
1414	City Auditor City Clerk
1415-1416	
1417	Emergency Dispatch Director
1418-1419	
1420	Finance Director Personnel Director
1421	
1422	Chief Information Officer Community Development Director Parks, Recreation, and Neighborhoods Director Public Works Director
1423-1426	
1427	Deputy City Manager Fire Chief Police Chief
1428	City Attorney
1429-1435	
1436	**City Manager**

Exhibit "A"

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-304

A RESOLUTION AMENDING EXHIBIT "J" OF RESOLUTION NO. 2007-384 TO REVISE THE SALARY SCHEDULE FOR EXECUTIVE MANAGEMENT TO ADD SALARY RANGES 1436 TO 1441

WHEREAS, by Resolution No. 2007-384, adopted by the City Council on June 26, 2007, the Council adopted Exhibit "J" entitled "City of Modesto Schedule of Salary Ranges in City Service for FY 07/08, Effective June 26, 2007 – Executive Management," and

WHEREAS, said Schedule of Salary Ranges established the minimum and maximum salary for salary ranges numbered Range 1405 through Range 1435, and

WHEREAS the Council desires to add additional Salary Ranges to said Schedule, up to and including Range 1441.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Exhibit "J" of Resolution No. 2007-384 entitled "City of Modesto Schedule of Salary Ranges in City Service for FY 07/08 Effective June 26, 2007" is hereby amended to add Salary Range 1436 through Range 1441, effective May 27, 2008, and is attached hereto as **Exhibit "A."**

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2008, 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, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	Keating, O'Bryant
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 **May 27, 2008**

RANGE	TITLE
1410-1413	
1414	City Auditor City Clerk
1415-1416	
1417	Emergency Dispatch Director
1418-1419	
1420	Finance Director Personnel Director
1421	
1422	Chief Information Officer Community Development Director Parks, Recreation, and Neighborhoods Director Public Works Director
1423-1426	
1427	Deputy City Manager Fire Chief Police Chief
1428	City Attorney
1429-1435	
1436	**City Manager**

Exhibit "A"

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-305

A RESOLUTION AUTHORIZING CHARTER OFFICERS' VEHICLE ALLOWANCES IN AN AMOUNT NOT TO EXCEED $500.00 PER MONTH, EXECUTIVES' VEHICLE ALLOWANCES IN THE AMOUNT OF $400.00 PER MONTH, DEPUTY DIRECTORS' VEHICLE ALLOWANCES IN THE AMOUNT OF $300.00 PER MONTH AND CITY MANAGER DISCRETION TO GRANT VEHICLE ALLOWANCES IN THE AMOUNT OF $100.00-$200.00 PER MONTH TO DESIGNATED MANAGEMENT POSITIONS, AND RESCINDING RESOLUTION NO. 92-348, 92-349, 94-398, 97-605, AND 2001-271

WHEREAS, by Resolution No. 2001-271 adopted by the City Council on June 12, 2001, the Council adopted a policy authorizing the City Manager to grant either a City vehicle or a vehicle allowance to each Executive in the amount of $400 per month, authorizing the City Manager to grant either a City vehicle or a vehicle allowance to Deputy Directors (or the equivalent classification) in the amount of $300 per month and authorizing the City Manager the discretion to grant vehicle allowances in the amount of $100 to $200 per month to designated Management positions. Positions so designated shall require Department Director recommendation and justification on an annual basis, based on use of a personal vehicle during the course of conducting City business. Furthermore, said policy authorized a vehicle allowance in the amount of $400 per month for Charter Officers, and

WHEREAS, the Council desires to amend the policy for Charter Officers to provide that the City Council shall authorize either a City vehicle or a vehicle allowance in an amount not to exceed $500 per month, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Charter Officers shall be authorized either an assigned City vehicle or a vehicle

allowance in an amount not to exceed Five Hundred Dollars ($500.00) per month.

BE IT FURTHER RESOLVED by the Council that the City Manager shall continue to be authorized to grant either an assigned City vehicle or a vehicle allowance to City Manager-appointed Executives in the amount of Four Hundred ($400.00) Dollars per month, effective July 1, 2001.

BE IT FURTHER RESOLVED that the City Manager shall continue to be authorized to grant an assigned City vehicle or a vehicle allowance to Deputy Directors in the amount of Three Hundred Dollars ($300.00) per month.

BE IT FURTHER RESOLVED that the City Manager shall continue to grant vehicle allowances in amounts ranging from One Hundred Dollars ($100.00) to Two Hundred Dollars ($200.00) per month, to employees in designated Management positions who use a personal vehicle during the course of conducting City business.

BE IT FURTHER RESOLVED that this resolution shall become effective June 1, 2008.

BE IT FURTHER RESOLVED that Resolution Nos. 92-348, 92-349, 94-398, 97-605, and 2001-271 are hereby rescinded upon adoption of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2008, 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, Lopez, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	Keating, O'Bryant
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-306

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH CONSOLIDATED CM FOR CONSTRUCTION MANAGEMENT SERVICES OF THE DISSOLVED AIR FLOTATION FACILITY IN THE NOT-TO-EXCEED AMOUNT OF $99,413.48, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO THE AGREEMENT

WHEREAS, the City Council, on January 2, 2007, by Resolution 2007-037, awarded a construction contract in the amount of $6,010,403, to Kaweah Construction Co. to construct the Dissolved Air Flotation (DAF) Facility project, and

WHEREAS, the DAF project is a large specialized project that requires construction management and inspection, and

WHEREAS, the City Council, on January 2, 2007, by Resolution 2007-038, approved an agreement in the amount of $698,716 with Consolidated CM, a construction management firm specializing in these types of inspections, to assist with this project, and

WHEREAS, in January 2008, the DAF project was on schedule to be completed on time, unfortunately the first DAF unit was destroyed during shipment, and

WHEREAS, a replacement unit is scheduled for a May 20, 2008, delivery and project completion is expected in early July 2008, and

WHEREAS, the shipping of the replacement DAF unit represents a 4-month project delay, and

WHEREAS, the delay extends the period of service required by the City's consultant, Consolidated CM, to complete the project, and

WHEREAS, there is a projected consultant contract shortfall of $99,413.48, or a 14 percent increase to the original Agreement of services, and

WHEREAS, as part of this Amendment, Consolidated CM will continue to provide full-time inspection and project close out assistance for the DAF project, and

WHEREAS, there are sufficient funds available in CIP Account 6210-430-A215 "DAF Dissolved Air Flotation" to continue work on the ongoing and additional tasks to complete the additional services, and

WHEREAS, the additional work associated with this Amendment brings the Agreement total to $798,129.48,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendment to the Agreement between City of Modesto and Consolidated CM for additional services related to the Dissolved Air Flotation Facility project in the amount of $99,413.48.

BE IT FURTHER RESOLVED that the Interim 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 27th day of May, 2008, 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. 2008-307

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PRINTING OF MONTHLY UTILITY BILL INSERTS FOR THE PUBLIC WORKS DEPARTMENT, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $19,000

WHEREAS, the Public Works Department has requested the annual purchase for printing of the monthly utility bill insert, and

WHEREAS, the utility bill insert has been included with the monthly billing statement since 1987, and

WHEREAS, the utility bill insert provides the City an economical means of reaching all households and businesses with important City information, and

WHEREAS, the utility bill insert has proven to be a most cost effective means of keeping the public informed about the City, resulting in improved customer understanding of City issues, and

WHEREAS, 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 furnishing of utility bill inserts conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted in the 2008/09 Proposed Budget for the printing of utility bill inserts in the following accounts:

6100-480-5009-0230	Water Services	$7,125
5210-480-5209-0230	Wastewater Services	$7,125
6280-480-5314-0230	Storm Drain	$1,575
0100-020-0201-0205	City Manager	$3,175,

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 advertise the call for public formal bids for the printing of monthly utility bill inserts of the Public Works Department, 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 27th day of May, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmemeber 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. 2008-308

A RESOLUTION APPROVING A THIRD AMENDMENT TO THE ON-CALL ENGINEERING AGREEMENT WITH CAROLLO ENGINEERS IN THE AMOUNT OF $75,000, FOR A TOTAL AMOUNT NOT TO EXCEED $197,000, AND AUTHORIZING THE INTERIM CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE THIRD AMENDMENT TO THE AGREEMENT

WHEREAS, on January 3, 2006, the City Council, by Resolution No. 2006-012, 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, City Council, by Resolution No. 2007-034, approved the first amendment for this agreement in the amount of $70,000 to pay for additional engineering services, increasing this agreement for FY 2006-07 to $114,000, and

WHEREAS, on November 27, 2007, City Council, by Resolution No. 2007-705, approved the second amendment in the amount of $78,000 to pay for Chief Plant Operator (CPO) services, increasing this agreement for FY 2007-08 to $122,000, and

WHEREAS, Modesto's Wastewater Treatment Plant is rated as a Class V facility based upon its design flow of 70 million gallons per day, and

WHEREAS, the State of California requires that the CPO be a Grade V operator as issued by the State Water Resources Control Board (SWRCB), and

WHEREAS, after the departure of the Wastewater Treatment Plant Manager, the City was faced with the prospect of not having a Grade V operator as required by the permit to operate issued by the SWRCB, and

WHEREAS, failure to have a licensed Grade V operator could expose the City to administrative sanctions, including fines, and

WHEREAS, On October 11, 2007 Public Works contracted with Carollo Engineers to provide CPO services under the on-call engineering agreement to ensure the City was in compliance with the Grade V operator requirement, and

WHEREAS, staff notified the SWRCB and Regional Water Quality Control Board (RWQCB) of the interim arrangement as is required by the permit, and

WHEREAS, staff is currently in the process of recruiting for the position of Wastewater Treatment Plant Manager, and

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

WHEREAS, staff is requesting this third amendment in the amount of $75,000 to continue CPO services through the end of December 2008, and

WHEREAS, funding for this third amendment to the agreement is available in Wastewater Reserves and a request to transfer $75,000 from Wastewater Reserves to the Operating Budget Account No. 6210-480-5213-0235 is under a separate Council action,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Third Amendment to the Agreement with Carollo Engineers for on-call engineering services reflecting the revised Scope of Services for FY 2007-08 in the amount of $75,000, for a total amount not to exceed $197,000.

BE IT FURTHER RESOLVED that the Council hereby authorizes the Interim City Manager, or his designee, to execute the Third Amendment to the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2008, 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. 2008-309

A RESOLUTION AUTHORIZING THE TRANSFER OF $75,000 FROM WASTEWATER RESERVES (6210-800-8000-8003) TO OPERATING ACCOUNT NO. 6210-480-5213-0235 TO FUND THE THIRD AMENDMENT TO THE ON-CALL ENGINEERING AGREEMENT WITH CAROLLO ENGINEERS

WHEREAS, on January 3, 2006, the City Council, by Resolution No. 2006-012, 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, City Council, by Resolution No. 2007-034, approved the first amendment for this agreement in the amount of $70,000 to pay for additional engineering services, increasing this agreement for FY 2006-07 to $114,000, and

WHEREAS, on November 27, 2007, City Council, by Resolution No. 2007-705, approved the second amendment in the amount of $78,000 to pay for Chief Plant Operator (CPO) services, increasing this agreement for FY 2007-08 to $122,000, and

WHEREAS, the Third Amendment to the Agreement for WQC is to reflect the CPO Services through December 2008 at an additional cost of $75,000 for a total agreement amount of $197,000 for FY 2007-08, and

WHEREAS, Council approved under separate action the Third Amendment to the On-Call Engineering Agreement with Carollo Engineers for CPO Services, and

WHEREAS, funding is available in Wastewater Reserves Account No. 6210-800-8000-8003 in the amount of $75,000 to fund the Third Amendment to the Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of $75,000 from Wastewater Reserves (6210-800-8000-8003) to Operating Account No. 6210-480-5213-0235 to fund the Third Amendment to On-Calling Engineering Services Agreement with Carollo Engineering.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2008, 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. 2008-310

A RESOLUTION AUTHORIZING THE PUBLIC WORKS DEPARTMENT – WASTEWATER SERVICES DIVISION TO PERFORM THE BYPASS OPERATIONS NECESSARY FOR WORK PERFORMED BY UNION PACIFIC RAILROAD AT THE SEVENTH STREET TRESTLE PER CITY CHARTER (SECTION 1307)

WHEREAS, in November 1968 the Southern Pacific Railroad (Railroad) granted the City of Modesto the right to construct, maintain, and operate two 27-inch, one 54-inch, and one 24-inch reinforced concrete pipelines beneath Railroad property near the Seventh Street Bridge, and

WHEREAS, this agreement holds the City responsible for all costs associated with maintenance and repair of the concrete pipelines and requires the City reimburse the Railroad for expenses incurred by the Railroad in connection with protection of the reinforced concrete pipes, and

WHEREAS, in February 1997 Southern Pacific Transportation Company established an agreement allowing the City to construct and maintain a 24-inch sewer pipe within a 42-inch steel casing, and

WHEREAS, on April 22, 1997, the City Council, by Resolution No. 97-216, approved the agreement with Southern Pacific Transportation Company, and

WHEREAS, on April 25, 2008 while performing routine underground utility markings, Wastewater Collections staff became aware of Union Pacific Railroad's plans to perform pile driving work near the Seventh Street Railroad Trestle, and

WHEREAS, staff realized that the east trunk line and the cannery segregation line were in the Railroad's work area and notified Public Works Engineering, and

WHEREAS, immediate contact was made with Union Pacific Railroad and discussion ensued over how to best protect the City's underground wastewater pipelines from the effects of the pile driving operations, and

WHEREAS, McGuire & Hester, the contractor for the Union Pacific Railroad, agreed to provide a Sanitary Sewer Emergency Pumping Plan, and

WHEREAS, the plan provides pumps and piping to bypass wastewater flows around the work area, as well as a video record of the interior condition of the lines before and after the pile driving work, and

WHEREAS, the cost estimates from McGuire & Hester were approximately $800,000 for the three lines over a two-week period, and

WHEREAS, staff considered this cost unreasonably high and gathered information from Rain-for-Rent, and determined bypass operations could be performed by City staff at a substantial savings, and

WHEREAS, the engineer's estimate for Bypass Operations Project is $200,000, and

WHEREAS, funding is available in Wastewater Reserves Account No. 6210-800-8000-8003 in the amount of $200,000 to fund this project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Public Works Department – Wastewater Services Division to perform the bypass operations as necessary for work performed by Union Pacific Railroad at the Seventh Street Trestle per City Charter (Section 1307).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2008, 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. 2008-311

A RESOLUTION AUTHORIZING THE PUBLIC WORKS DIRECTOR TO NEGOTIATE CONTRACTS FOR TIME AND MATERIALS WORK TO ASSIST CITY STAFF ON THE BYPASS OPERATIONS PROJECT

WHEREAS, in November 1968 the Southern Pacific Railroad (Railroad) granted the City of Modesto the right to construct, maintain, and operate two 27-inch, one 54-inch, and one 24-inch reinforced concrete pipelines beneath Railroad property near the Seventh Street Bridge, and

WHEREAS, this agreement holds the City responsible for all costs associated with maintenance and repair of the concrete pipelines and requires the City reimburse the Railroad for expenses incurred by the Railroad in connection with protection of the reinforced concrete pipes, and

WHEREAS, in February 1997 Southern Pacific Transportation Company established an agreement allowing the City to construct and maintain a 24-inch sewer pipe within a 42-inch steel casing, and

WHEREAS, on April 22, 1997, the City Council, by Resolution No. 97-216, approved the agreement with Southern Pacific Transportation Company, and

WHEREAS, on April 25, 2008 while performing routine underground utility markings Wastewater Collections staff became aware of Union Pacific Railroad's plans to perform pile driving work near the Seventh Street Railroad Trestle, and

WHEREAS, staff realized that the east trunk line and the cannery segregation line were in the Railroad's work area and notified Public Works Engineering, and

WHEREAS, immediate contact was made with Union Pacific Railroad and discussion ensued over how to best protect the City's underground wastewater pipelines from the effects of the pile driving operations, and

WHEREAS, McGuire & Hester, the contractor for the Union Pacific Railroad, agreed to provide a Sanitary Sewer Emergency Pumping Plan, and

WHEREAS, the plan provides pumps and piping to bypass wastewater flows around the work area, as well as a video record of the interior condition of the lines before and after the pile driving work, and

WHEREAS, the cost estimates from McGuire & Hester were approximately $800,000 for the three lines over a two-week period, and

WHEREAS, staff considered this cost unreasonably high and gathered information from Rain-for-Rent, and determined bypass operations could be performed by City staff at a substantial savings, and

WHEREAS, the engineer's estimate for Bypass Operations Project is $200,000, and

WHEREAS, funding is available in Wastewater Reserves Account No. 6210-800-8000-8003 in the amount of $200,000 to fund this project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Public Works Director to negotiate contracts for time and materials work to assist City staff on the Bypass Operations Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2008, 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. 2008-312

A RESOLUTION AUTHORIZING THE TRANSFER OF $200,000 FROM WASTEWATER RESERVES (6210-800-8000-8003) TO OPERATING ACCOUNT NO. 6210-480-5212-0235 TO FUND THE CONTRACTS FOR TIME AND MATERIALS WORK FOR THE BYPASS OPERATIONS PROJECT

WHEREAS, in November 1968 the Southern Pacific Railroad (Railroad) granted the City of Modesto the right to construct, maintain, and operate two 27-inch, one 54-inch, and one 24-inch reinforced concrete pipelines beneath Railroad property near the Seventh Street Bridge, and

WHEREAS, this agreement holds the City responsible for all costs associated with maintenance and repair of the concrete pipelines and requires the City reimburse the Railroad for expenses incurred by the Railroad in connection with protection of the reinforced concrete pipes, and

WHEREAS, in February 1997 Southern Pacific Transportation Company established an agreement allowing the City to construct and maintain a 24-inch sewer pipe within a 42-inch steel casing, and

WHEREAS, on April 22, 1997, the City Council, by Resolution No. 97-216, approved the agreement with Southern Pacific Transportation Company, and

WHEREAS, on April 25, 2008 while performing routine underground utility markings Wastewater Collections staff became aware of Union Pacific Railroad's plans to perform pile driving work near the Seventh Street Railroad Trestle, and

WHEREAS, staff realized that the east trunk line and the cannery segregation line were in the Railroad's work area and notified Public Works Engineering, and

WHEREAS, immediate contact was made with Union Pacific Railroad and discussion ensued over how to best protect the City's underground wastewater pipelines from the effects of the pile driving operations, and

WHEREAS, McGuire & Hester, the contractor for the Union Pacific Railroad, agreed to provide a Sanitary Sewer Emergency Pumping Plan, and

WHEREAS, the plan provides pumps and piping to bypass wastewater flows around the work area, as well as a video record of the interior condition of the lines before and after the pile driving work, and

WHEREAS, the cost estimates from McGuire & Hester were approximately $800,000 for the three lines over a two-week period, and

WHEREAS, staff considered this cost unreasonably high and gathered information from Rain-for-Rent, which determined bypass operations could be performed by City staff at a substantial savings, and

WHEREAS, the engineer's estimate for Bypass Operations Project is $200,000, and

WHEREAS, funding is available in Wastewater Reserves Account No. 6210-800-8000-8003 in the amount of $200,000 to fund this project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the transfer of $200,000 from Wastewater Reserves (6210-800-8000-8003) to Operating Account No. 6210-480-5212-0235 to fund the contracts for time and materials work for the Bypass Operations Project.

BE IT FURTHER RESOLVED, THAT THE Finance Director is hereby authorized to implement the provisions of this Resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2008, 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. 2008-313

A RESOLUTION ESTABLISHING JUNK DEALERS/RECYCLERS PERMIT FEES

WHEREAS, Section 4-21.08 of the Modesto Municipal Code provides that the City Council may from time to time establish a Junk Dealers/Recyclers Permit fee, and

WHEREAS, the Police Department estimates that the proposed fees will cover the costs of processing the initial application and the monitoring of permittee's daily reports, and

WHEREAS, after a survey of other California jurisdictions, including Stanislaus County's fees that were adopted in April 2007, and the costs of processing the license applications, these fees are equitable and fair, and

WHEREAS, at its September 5, 2007 meeting the Safety and Communities Committee approved staff's recommendation, and

WHEREAS, on October 18, 2007, the Fees Task Force Committee reviewed and approved the recommended fee schedule for Junk Dealers/Recyclers Permit fees, and

WHEREAS, staff anticipates a small amount of revenue will be generated with this activity and will be reported to Council with an implementation update and revenue projections,

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

SECTION 1. FEES: Permit fees for Junk Dealers/Recyclers authorized by Section 4-21.08 of the Modesto Municipal Code are hereby established as follows:

(a)	Initial Application Fee	$250.00

(b)	Annual Renewal Fee	$150.00
(c)	Fee to Appeal Denial of License	$50.00

SECTION 2. EFFECTIVE DATE: The fees established by this resolution shall become effective on and after June 12, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2008, by Councilmember Marsh, 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, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION 2008-314

A RESOLUTION DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN PROPERTY INTERESTS AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS PELANDALE AVENUE AT SISK/SR 99 IMPROVEMENT PROJECT.

Bright Development, a California corporation, Property Owners

Property Address: Real property and improvements to real property (in fee) located at the northeast corner of Pelandale Avenue and Sisk Road, Modesto, California

Assessor's Parcel No.: 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, it is desirable and necessary for the City of Modesto to acquire certain property interests located at the Northeast Corner of Pelandale Avenue and Sisk Road, Stanislaus County, California, Assessor's Parcel No. 135-29-019, for the Pelandale Avenue at Sisk Road/SR 99 Improvement Project (the "Project"), and the certain property interests to be acquired for the Project are as follows:

(1) fee simple title in and to a portion of the Subject Property as more particularly described and depicted in **Exhibit A**, attached hereto and by reference made a part hereof;

(2) two public utility easements as more particularly described and depicted in **Exhibit B**, attached hereto and by reference made a part hereof;

(3) one irrigation easement as more particularly described and depicted in **Exhibit C**, attached hereto and by reference made a part hereof; and

(4) one twelve-month temporary construction easement as more particularly described and depicted in **Exhibit D**, attached hereto and by reference made a part hereof; and

WHEREAS, the City of Modesto through its counsel, engaged a qualified appraiser who has prepared an appraisal of the property interests to be acquired; and

WHEREAS, on March 25, 2008, the City of Modesto made the written offer required by Section 7267.2 of the Government Code for the property interests as stated herein; 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, whom 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 property interests sought to be acquired are necessary for the Project;

(d) Whether the offer required by Government Code Section 7267.2 has been made to the owner of the property interests involved;

(e) Whether the City seeks the property interests sought to be acquired for a more compatible use pursuant to California Code of Civil Procedure Section 1240.510; and

(f) Whether the City seeks the property for a more necessary public use pursuant to California Code of Civil Procedure Section 1240.610; 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 property interests sought to be acquired are necessary for the Project;

(d) The offer required by Government Code Section 7267.2 has been made to the owner of the subject property interests;

(e) The proposed use of the Subject Project will not unreasonably interfere with or impair the continuance of the public use as it currently exists or may reasonably be expected to exist in the future, pursuant to California Code of Civil Procedure Section 1240.510; and

(f) The use for which the Subject Property is sought to be taken is a more necessary public use than the use to which the property is currently appropriated, pursuant to California Code of Civil Procedure Section 1240.610.

4. While continuing to make every reasonable effort to acquire the property interests by negotiation, the City Attorney of the City of Modesto and special counsel Meyers, Nave, Riback, Silver & Wilson are hereby authorized, empowered, and directed to institute, prosecute, and conduct to conclusion an action in eminent domain in the name of the City of Modesto for the acquisition of the interests aforesaid and to take such action as he may deem advisable or necessary in connection therewith.

5. An order for prejudgment possession may be obtained in said action and a warrant issued to the State Treasury Condemnation Fund, in the amount determined by the court to be so deposited, as a condition to the right of immediate possession.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2008, 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

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

LEGAL DESCRIPTION AND PLAT MAP: FEE ACQUISITION

Exhibit "A"-Page 1 of 1

Right of Way

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:

Beginning 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 said northerly line, South 89°33'02" West 88.60 feet to the northwesterly line of Sisk Road as shown on said map filed on December 7, 1987; thence along last said northwesterly line the following four (4) courses:

1. North 00°26'58" West 10.00 feet;
2. North 52°52'31" West 94.79 feet;
3. Along the arc of a non-tangent curve concave to the southwest having a radius of 630.05 feet, a chord bearing North 33°44'36" West 363.65 feet, through a central angle of 33°32'48" an arc length of 368.89 feet;
4. And North 00°08'10" West 12.85 feet

thence leaving said northwesterly line, South 52°14'50" East 58.57 feet; thence along the arc of a tangent curve concave to the southwest having a radius of 509.50 feet, a chord bearing South 39°20'06" East 227.70 feet, through a central angle of 25°49'27" an arc length of 229.64 feet to a non-tangent curve concave to the southwest having a radius of 633.82 feet, a chord bearing South 22°34'23" East, through a central angle of 7°27'38" an arc length of 82.53 feet to a point of reverse curvature; thence along the arc of a reverse curve concave to the northeast having a radius of 51.50 feet, a chord bearing South 54°38'45" East 60.25 feet, through a central angle of 71°36'19" an arc length of 64.36 feet; thence North 89°33'06" East 94.38 feet to the east line of said Section 3; thence along said east line South 00°26'54" East 59.50 feet to the **Point of Beginning.**

Containing 15,856 square feet (0.3640 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

LICENSED LAND SURVEYOR
ALBERT DE LEON
No. 7716
Exp. 3/31/09
STATE OF CALIFORNIA

March 24, 2008
Date

Pelandale Ave-Sisk Road
Right-of-way Acquisition
Parcel name: 135-029-019-rw 1

North: 2077948.2093 East : 6397254.8655
Line Course: S 00-26-54 E Length: 59.50
North: 2077888.7111 East : 6397255.3311
Line Course: S 89-33-02 W Length: 88.60
North: 2077888.0161 East : 6397166.7338
Line Course: N 00-26-58 W Length: 10.00
North: 2077898.0158 East : 6397166.6553
Line Course: N 52-52-31 W Length: 94.79
North: 2077955.2265 East : 6397091.0770
Curve Length: 368.89 Radius: 630.05
Delta: 33-32-48 Tangent: 189.90
Chord: 363.65 Course: N 33-44-36 W
Course In: S 73-01-48 W Course Out: N 39-29-00 E
RP North: 2077771.3332 East : 6396488.4609
End North: 2078257.6118 East : 6396889.0805
Line Course: N 00-08-10 W Length: 12.85
North: 2078270.4618 East : 6396889.0500
Line Course: S 52-14-50 E Length: 58.57
North: 2078234.6020 East : 6396935.3589
Curve Length: 229.64 Radius: 509.50
Delta: 25-49-27 Tangent: 116.80
Chord: 227.70 Course: S 39-20-06 E
Course In: S 37-45-10 W Course Out: N 63-34-37 E
RP North: 2077831.7607 East : 6396623.4147
End North: 2078058.4860 East : 6397079.6886
Curve Length: 82.53 Radius: 633.82
Delta: 7-27-38 Tangent: 41.32
Chord: 82.47 Course: S 22-34-24 E
Course In: S 63-41-47 W Course Out: N 71-09-25 E
RP North: 2077777.6228 East : 6396511.4953
End North: 2077982.3321 East : 6397111.3469
Curve Length: 64.36 Radius: 51.50
Delta: 71-36-19 Tangent: 37.15
Chord: 60.25 Course: S 54-38-45 E
Course In: N 71-09-25 E Course Out: S 00-26-54 E
RP North: 2077998.9654 East : 6397160.0868
End North: 2077947.4670 East : 6397160.4898
Line Course: N 89-33-06 E Length: 94.38
North: 2077948.2055 East : 6397254.8669
Line Course: N 89-33-01 E Length: 0.00
North: 2077948.2055 East : 6397254.8669

Perimeter: 1164.12 Area: 15,856.176 sq.ft. 0.3640 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.0041 Course: S 20-48-58 E
Error North: -0.00379 East : 0.00144
Precision 1: 283,929.27

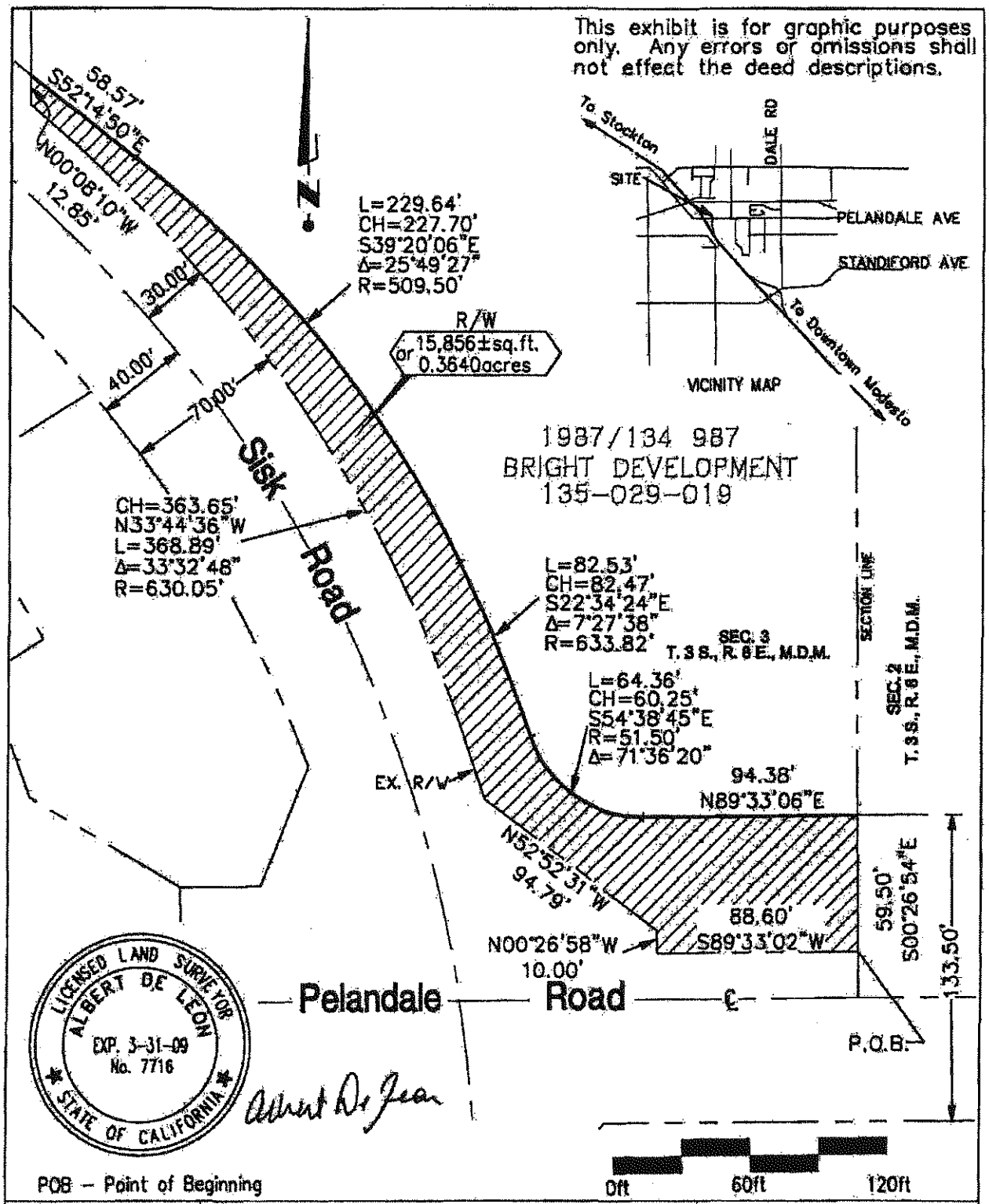
Pelendale Ave-Sisk Road
Amount encumbered by existing Easement (2000/70324)

Parcel name: 135-029-019-exrw esmt

North: 2077888.7113 East : 6397255.3312
Line Course: S 89-33-02 W Length: 88.60
North: 2077888.0163 East : 6397166.7339
Line Course: N 00-26-58 W Length: 10.00
North: 2077898.0160 East : 6397166.6555
Line Course: N 52-43-19 W Length: 24.29
North: 2077912.7280 East : 6397147.3278
Line Course: N 89-30-13 E Length: 107.81
North: 2077913.6620 East : 6397255.1337
Line Course: S 00-26-54 E Length: 24.95
North: 2077888.7128 East : 6397255.3290

Perimeter: 255.65 Area: 2,350.260 sq.ft. 0.0540 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)
Error Closure: 0.0027 Course: N 55-26-02 W
Error North: 0.00153 East : -0.00222
Precision 1: 94,685.19



Mark Thomas & Company Inc.

Scale 1"=60'
Date 24-Mar-2008
Drawn By saw
Checked By DeLeon

CITY OF MODESTO

EXHIBIT B

Plat to Accompany Legal Description of
RIGHT OF WAY ACQUISITION
for
Pelandale Road and Sisk Road

In Stanislaus County, California

Right of Way Acquisition Area 15,856±Sq.Ft.

EXHIBIT B

LEGAL DESCRIPTION AND PLAT MAP: PUBLIC UTILITY EASEMENT

Legal Description and Plat Map: Public Utility 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, and further described as follows:

Parcel 1

A 5.00 foot wide strip of land lying 2.50 feet, as measured at right angles, on each side of the following described centerline:

Commencing at the southeast corner of said parcel recorded on December 7, 1987 and on the north line of Pelandale Avenue (lying 20 feet northerly of centerline) as shown upon the map filed on December 7,1987 in Book 17 of Surveys at page 71, Stanislaus County Records, thence along last said northerly line South 89°33'02" West 88.60 feet to the northeasterly line of Sisk Road shown upon the map filed on December 7,1987; thence leaving last said northerly line and along said northeasterly line, North 00°26'58" West 10.00 feet; thence North 52°52'31" West 78.93 feet; thence along the arc of curve concave to the northeast, having a radius of 50.00 feet, through a central angle of 34°31'01", an arc length of 30.12 feet and a chord which bears North 35°37'00" West 29.67 feet; thence North 18°53'36" West 11.77 to a point hereinafter known as Point A; thence North 70°24'30" East 27.58 feet to the northeasterly line of the future Right of Way of Sisk Road and the **Point of Beginning**; thence leaving last said northeasterly line North 70°24'30" East 15.00 feet to the **Point of Termination.**

The sidelines of said strip to be shortened or lengthened to extend from the future northeasterly Right of Way line of said Sisk Road to the Point of Termination.

Containing 75 square feet (0.0017 Acres) more or less.

Legal Description and Plat Map: Public Utility Easement

Parcel 2

A strip of land of varying width extending from the northeasterly line of said Sisk Road in a northeasterly direction crossing through the Parcel described in said Grant Deed recorded December 7,1987, initially of the uniform width of 15 feet lying 7.5 feet on each side of the first course of the line described as follows:

Commencing at the hereandbefore described Point A; thence continuing along said northeasterly line, along the arc of a curve concave to the northwest, having a radius of 630.05 feet, through a central angle of 21°04'22", an arc length of 231.73 feet and a chord which bears North 29°57'53" West 230.42 feet; thence North 44°37'01" East 19.54 feet to the future Right of Way line of Sisk Road and the **Point of Beginning of Parcel 2**; thence North 44°37'01" 5.03 feet; thence changing from the uniform width of 15 feet to the uniform width of 5 feet, lying 2.5 feet on each side of the following described line; thence North 44°37'01" East 9.97 feet to the **Point of Termination.**

The sidelines of said strip to be shortened or lengthened to extend from the northeasterly line of said Sisk Road to the Point of Termination.

Containing 124 square feet (0.0029 Acres) more or less.

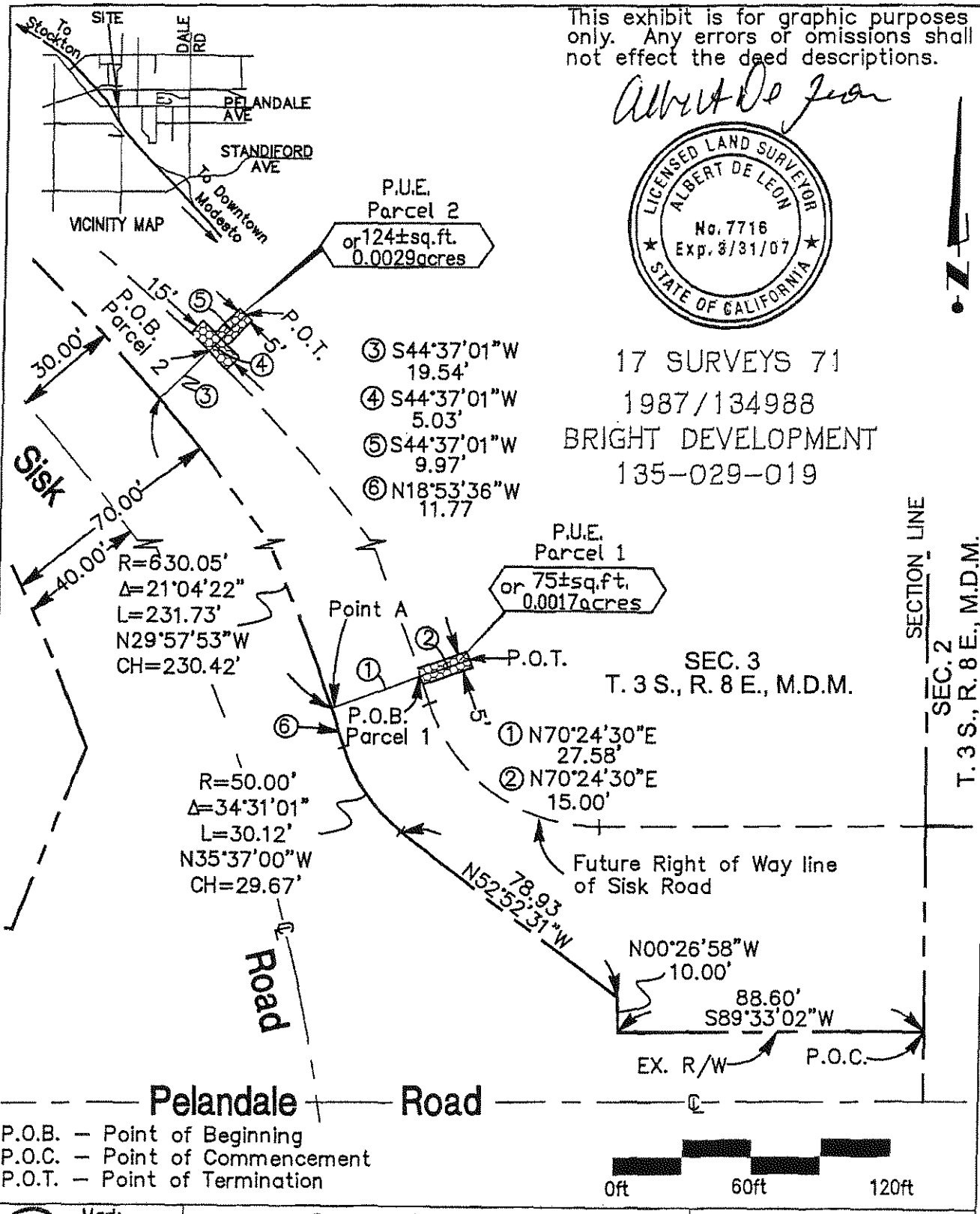
This real property description has been prepared at Mark Thomas & Company, Inc., by me or under my direction, in conformance with the Professional Land Surveyors Act.

Albert De Leon

Albert De Leon LS 7716

LICENSED LAND SURVEYOR
ALBERT DE LEON
No. 7716
Exp. 3/31/07
STATE OF CALIFORNIA

December 21, 2006
Date



Mark Thomas & Company Inc.	CITY OF MODESTO	In Stanislaus County, California
Scale 1"=60' Date 19-Dec-2006 Drawn By saw Checked By axd	EXHIBIT B Plat to Accompany Legal Description of Public Utility Easement for Pelandale Road and Sisk Road	Easement Acquisition Area 213±Sq.Ft.

EXHIBIT C

LEGAL DESCRIPTION AND PLAT MAP: PERMANENT IRRIGATION EASEMENT

Legal Description and Plat Map: Permanent Irrigation 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, and further described as follows:

A 10.00 foot wide strip of land lying 5.00 feet, as measured at right angles, on each side of the following described centerline:

Commencing at the southeast corner of said parcel recorded on December 7, 1987 and on the north line of Pelandale Avenue (lying 20 feet northerly of centerline) as shown upon the map filed on December 7, 1987 in Book 17 of Surveys at page 71, Stanislaus County Records, thence along last said northerly line South 89°33'02" West 88.60 feet to the northeasterly line of Sisk Road shown upon said map filed on December 7, 1987; thence leaving last said northerly line and along said northeasterly line, North 00°26'58" West 10.00 feet; thence North 52°52'31" West 78.93 feet to the beginning of a curve concave northeasterly having a radius of 50.00 feet; thence northwesterly 2.47 feet along said curve through a central angle of 02°49'59"; thence leaving said northeasterly line, North 13°26'10" West 130.89 feet to the future northeasterly Right of Way of Sisk Road and the **Point of Beginning**: thence North 13°26'10" West 25.93 feet to the **Point of Termination.**

The sidelines of said strip to be shortened or lengthened to extend from the future northeasterly Right of Way of said Sisk Road to the Point of Termination.

Containing 264 square feet (0.0061 Acres) more or less.

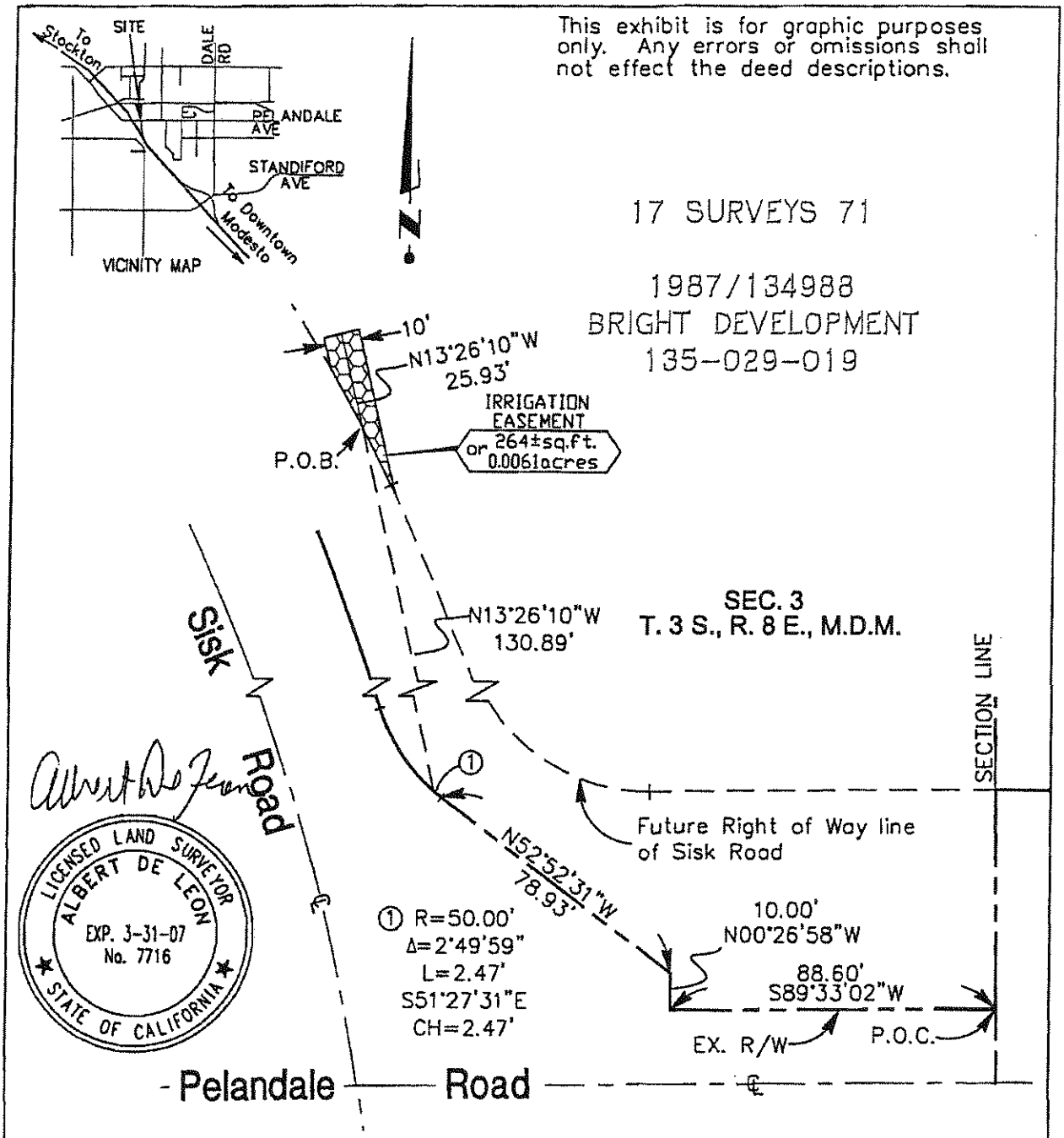
This real property description has been prepared at Mark Thomas & Company, Inc., by me or under my direction, in conformance with the Professional Land Surveyors Act.

Albert De Leon

Albert De Leon LS 7716

February 26, 2007
Date





Mark Thomas & Company Inc.	CITY OF MODESTO EXHIBIT B Plat to Accompany Legal Description of IRRIGATION EASEMENT for APN: 135-029-019	In Stanislaus County, California
Scale 1"=60' Date 26-Feb-2007 Drawn By saw Checked By axd		Easement Acquisition Area 585±Sq.Ft.

EXHIBIT D

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:

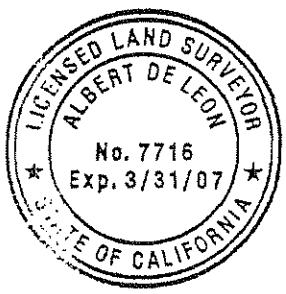
Commencing at the southeast corner of said Parcel recorded on December 7,1987 and on the northerly line of Pelandale Avenue (lying 20.00 feet northerly of centerline) as shown upon the map filed on December 7,1987 in Book 17 of Surveys at Page 71; thence along the easterly line of said Parcel, North 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.

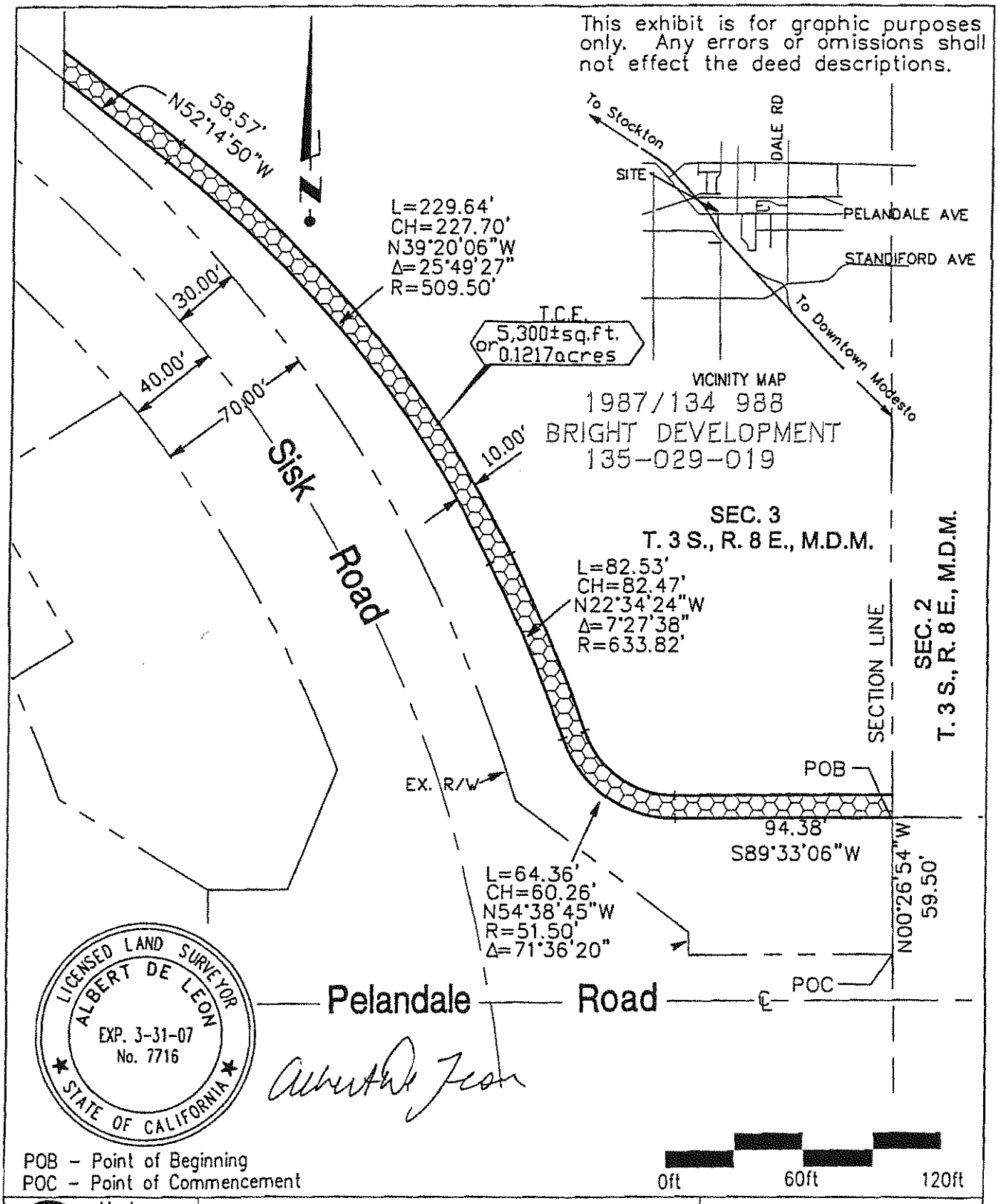
Containing 5,300 square feet (0.1217 Acres) more or less.

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

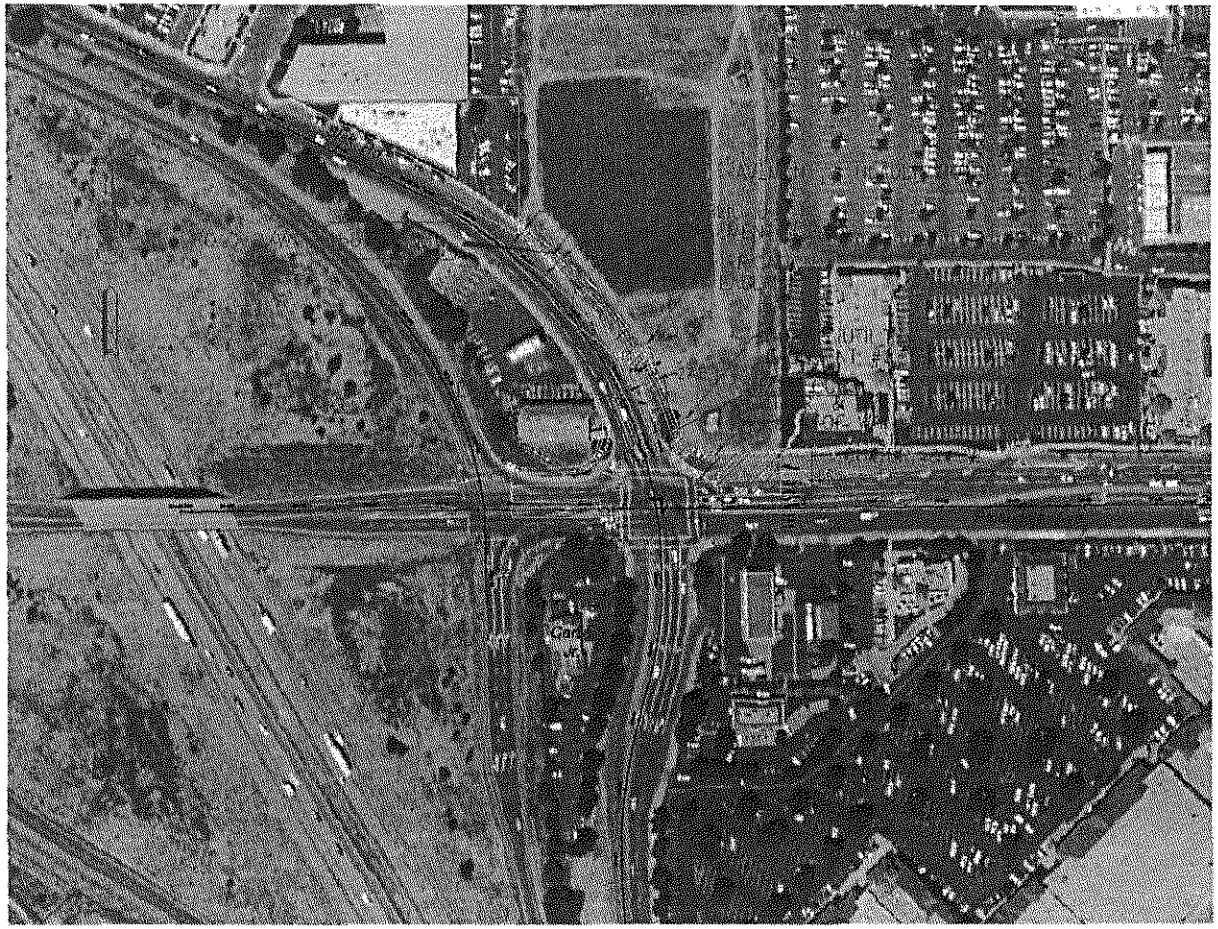


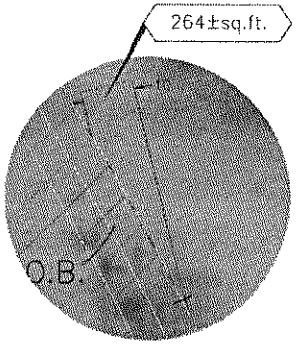
February 22, 2007
Date



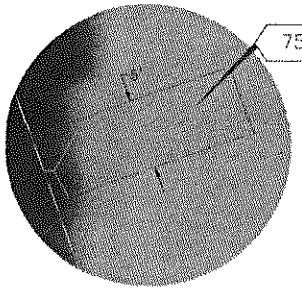
Mark Thomas & Company Inc.	CITY OF MODESTO EXHIBIT B Plat to Accompany Legal Description of TEMPORARY CONSTRUCTION EASEMENT for Pelandale Road and Sisk Road	In Stanislaus County, California
Scale 1"=60' Date 16-Feb-2007 Drawn By sow Checked By DeLeon		Temporary Construction Easement Area 5,300±Sq.Ft.

ATTACHMENT 2

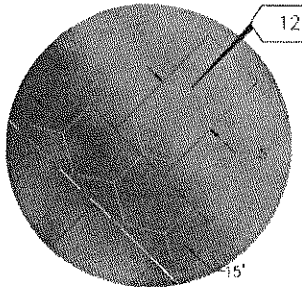




IRRIGATION
EASEMENT



PUBLIC UTILITY
EASEMENT #1



PUBLIC UTILITY
EASEMENT #2

Improvements

Sisk Road

Widening to 2 lanes along Bright Dev. frontage to accept dual lefts from EB Pelandale.

Construct pavement with header board at edge of pavement.

No curb, gutter or sidewalk is being built.

Pelandale Ave

Construct new paving, curb, gutter, and sidewalk along Pelandale to meet existing improvements.

Improvements

Improvements/Striping

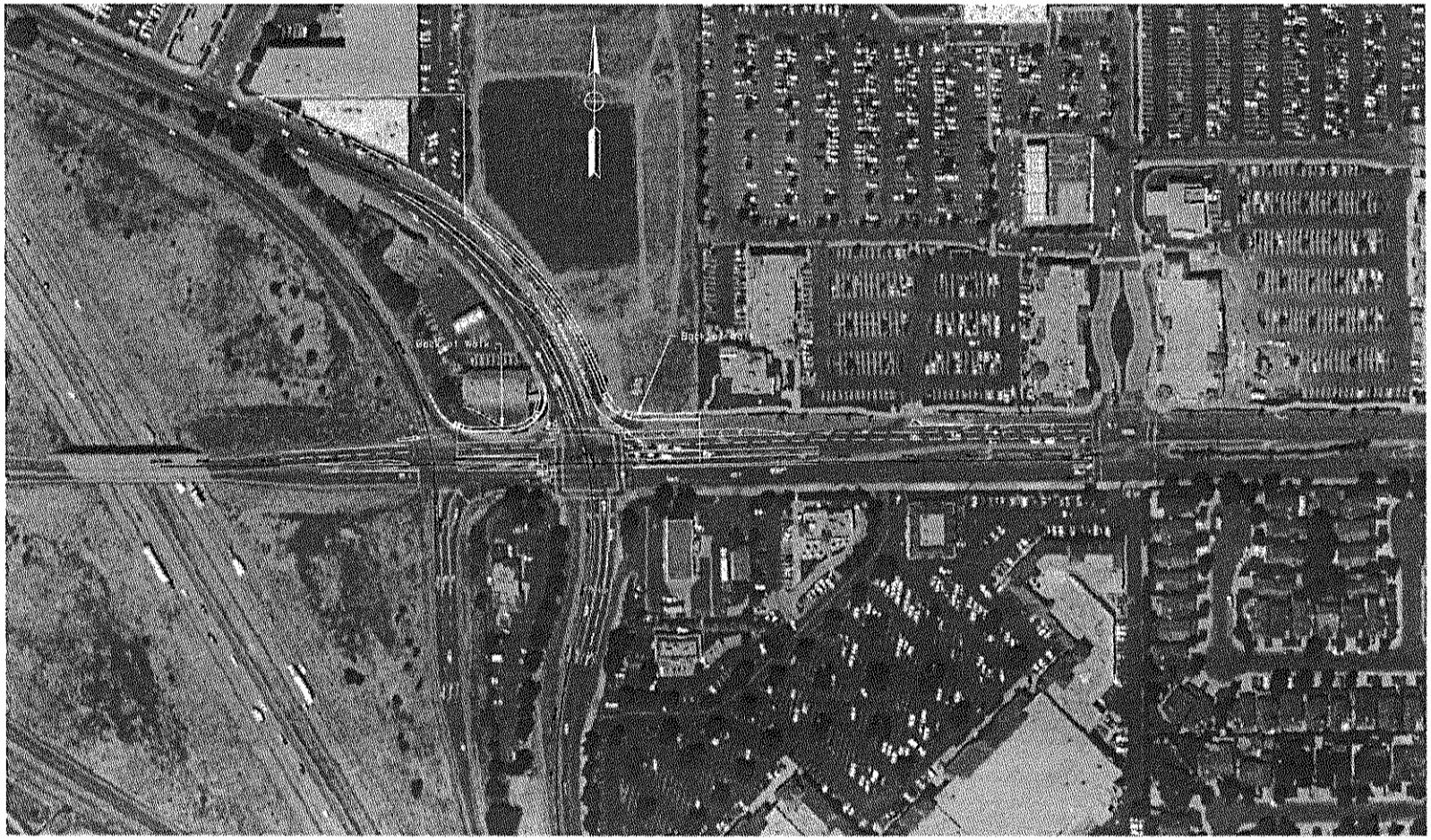
Roadway Right of Way Acquisition

Easements

SCALE 1"=80'

MARK THOMAS & COMPANY, INC.
Providing Engineering, Surveying and Planning Services

BRIGHT DEVELOPMENT PARCEL
RIGHT OF WAY EXHIBIT
PELANDALE AVE./SISK RD.
SR 99 NORTHBOUND ON-RAMP



SCALE: 1"=80'

MARK THOMAS & COMPANY, INC.
Providing Engineering, Surveying and Planning Services

PELANDALE AVE./SISK RD.
SR 99 NORTHBOUND ON-RAMP
GEOMETRY EXHIBIT

RESCINDED
Print
MAR 11 2014
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION
2014-90

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-315

A RESOLUTION ESTABLISHING PASSENGER FARES FOR ALL MODESTO AREA EXPRESS (MAX) AND MODESTO AREA DIAL-A-RIDE (MADAR) SERVICES EFFECTIVE JULY 1, 2008, AND RESCINDING RESOLUTION NOS. 2005-222 AND 2005-277

WHEREAS, passenger fares for Modesto Area Express (MAX) cover approximately 24% of the operating expenses for the urban bus route, and

WHEREAS, Modesto Area Dial-A-Ride (MADAR) passenger fares cover approximately 8% of the operating costs for Dial-A-Ride services, and

WHEREAS, Local Transportation Fund (LTF) monies cover 82% of the remaining costs and the balance of 20% is covered by Federal Transit Administration (FTA) funds, and

WHEREAS, BART Commuter Express service FARES were last raised August 1, 2005, by Resolution No. 2005-222, and

WHEREAS, MAX and MADAR fares were last raised August 1, 2005 by Resolution No. 2005-277, and

WHEREAS, ON April 14, 2008, the Economic Development Committee reviewed this item and recommended it to be forwarded to the Council for consideration and approval, and

WHEREAS, said proposal is projected to increase fare revenue by $350,000 annually, and

WHEREAS, a duly noticed public hearing was held by the City Council on May 27, 2008, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto,

California, at which public hearing all interested persons were given an opportunity to be heard relative to the proposed fare increases,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the following fares are hereby established for passengers riding on MAX and MADAR:

MODESTO AREA EXPRESS	
Urban Service	
Cash Fares (one trip)	
Regular	$1.25
Student	$1.00
Senior/Disabled	$0.60
Day Pass (unlimited trips)	$2.75
Student Field Trip	$0.45
Monthly Passes (unlimited trips)	
Regular Monthly Pass	$41.00
Student Monthly Pass	$31.00
Senior/Disabled Monthly Pass	$20.00
Ticket Books (50 Tickets)	
Regular	$55.00
Student	$47.00
Senior/Disabled	$27.00
BART Express Commuter Service	
Monthly	$160.00
Beginning the 8th of the month	$125.00
Beginning the 15th of the month	$85.00
Beginning the 22nd of the month	$45.00
Half-Month Pass (1st – 15th ea Mo.)	$85.00
One-Way	$14.00
Round-Trip	$16.00
ACE Express Commuter Service	
Single Trip (No change proposed)	$2.00
20 Ride Ticket	$35.00
MODESTO AREA DIAL-A-RIDE	
Cash	$2.50
Ticket Book (10 Tickets)	$22.00

BE IT FURTHER RESOLVED that Resolution Nos. 2005-222 and 2005-277 are hereby rescinded effective June 30, 2008.

BE IT FURTHER RESOLVED that this resolution shall go into effect on and after July 1, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2008, by Councilmember O'Bryant, 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. 2008-316

A RESOLUTION APPROVING A REQUEST BY THE SALVATION ARMY TO APPLY THE 2005 SEWER CONNECTION FEE RATES TO THE CURRENT EXPANSION OF THE HOMELESS SHELTER LOCATED AT 320 9TH STREET

WHEREAS, on January 18, 2006, The Salvation Army submitted a written request for waiver of the development fees associated with the homeless shelter located at 320 9th Street, and

WHEREAS, they requested the waiver of the Conditional Use Permit application fee, the impact fees, connection fees and any off-site and on-site improvement fees, and

WHEREAS, on January 26, 2006, the Community and Economic Development (CEDD) Director responded to this request, acknowledged receipt and stated that a complete analysis would be prepared, and

WHEREAS, subsequently, the CEDD Director resigned from the City of Modesto and an analysis and response was not prepared, and

WHEREAS, on February 12, 2008, the Shelter Committee Chair for The Salvation Army faxed copies of the above referenced correspondence to the Interim City Manager, and

WHEREAS, the request was then directed to the CEDD Director for follow-up, and

WHEREAS, in August, 2006, The Salvation Army applied for a Conditional Use Permit, and

WHEREAS, the total amount of the fee was $5,993, which includes a $50 recording fee for the County Clerk, and

WHEREAS, this Conditional Use Permit was applied for on August 17, 2006, and approved by the Board of Zoning Adjustment on October 17, 2006, by Resolution No. 2006-22, and

WHEREAS, The Salvation Army submitted plans on August 29, 2007, and

WHEREAS, the total amount of the building permit fee at this time is $7,404.58, and

WHEREAS, no Capital Facilities Fees are due on this project as submitted as it is a change in use and there is no increase in square footage, and

WHEREAS, currently, The Salvation Army has a 1" domestic water meter, and

WHEREAS, there are plans to expand the shelter now and possibly again in the future, and

WHEREAS, expansion would likely impact the water connection requirement and necessitate upsizing to a 2" or 4" water line, and

WHEREAS, the existing curb, gutter and sidewalk do not meet existing standards and there is a right of way dedication required at the intersection of D Street and 9th Street, and

WHEREAS, in February, 2008 The Salvation Army was sent a notification reminding them that the building permit had not been issued, and

WHEREAS, The Salvation Army responded on February 6, 2008, requesting an extension to September 29, 2008, and

WHEREAS, on February 6, and February 12, 2008, a letter was sent to The Salvation Army advising that the new California Building Code allowed a maximum

extension of 180 days and therefore their request for an extension was granted to June 1, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the request by The Salvation Army to apply the 2005 sewer connection fee rates to the current expansion of the homeless shelter located at 320 9th Street.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of May, 2008, 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. 2008-325

A RESOLUTION APPROVING AND AUTHORIZING SUBMISSION OF THE CITY'S TRANSPORTATION DEVELOPMENT ACT TRANSIT CLAIM FOR FISCAL YEAR 2008/09 IN THE AMOUNT OF $6,959,832 TO THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG) AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE TRANSIT CLAIM

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, StanCOG has informed the Finance Department that LTF and STA funding has been apportioned by the State to StanCOG for allocation to public transit agencies pursuant to Sections 99233.3 and 99234 of the California Public Utilities Code (PUC), and

WHEREAS, the City has developed an application for Fiscal Year 2008/09 TDA reimbursement pursuant to Section 99233.3 of the California PUC, and

WHEREAS, the City's Transit TDA Claim for Fiscal Year 2008/09 is $6,959,832, composed of $1,476,824 in LTF funds and $5,483,008 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 2008/09 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 approves the TDA transit claim 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 and submit the TDA transit claim 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 3rd day of June, 2008, 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:	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. 2008-326

A RESOLUTION APPROVING AND AUTHORIZING SUBMISSION OF THE CITY'S TRANSPORTATION DEVELOPMENT ACT TRANSIT CLAIM #2 FOR FISCAL YEAR 2007/08 IN THE AMOUNT OF $9,167,552 TO THE STANISLAUS COUNCIL OF GOVERNMENTS (STANCOG) AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE TRANSIT CLAIM

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 6, 2007, and

WHEREAS, the State budget increased the STA amount for 2007/08 by $1,572,916, 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 2006/07 is now $9,167,552 and is composed of $6,253,729 in LTF funds and $2,913,823 in STA funds, and

WHEREAS, the total Transit Operating Budget for Fiscal Year 2006/07 is $13,244,725 and

WHEREAS, the added Transit Capital Budget for Fiscal Year 2006/07 is $2,820,855, 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 2007/08 in the amount of $9,167,552.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute and submit TDA Transit Claim to StanCOG for Fiscal Year 2007/08.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2008, 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:	Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
Noes:	Councilmembers:	None
Absent:	Councilmembers:	Hawn

ATTEST: _____
for STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

RESOLUTION NO. 2008-317

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

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 an 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

WEREAS, 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 CFDs 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 3rd day of June, 2008 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

Community Facilities District No. 2004-1(Village One #2)

APN	Year	Installment	Amount*
077-055-008-000	2005/06	2nd	$492.09
	2006/07	2nd	$519.97
	2007/08	both	$1,060.74
077-055-025-000	2006/07	both	$1,039.94
	2007/08	both	$1,060.74
077-055-045-000	2006/07	2nd	$519.97
	2007/08	both	$1,060.74
077-055-084-000	2006/07	2nd	$519.97
	2007/08	both	$1,060.74
077-055-089-000	2005/06	2nd	$492.09
	2007/08	both	$1,060.74
077-056-003-000	2006/07	both	$1,291.98
	2007/08	both	$1,317.82
077-056-016-000	2006/07	both	$1,291.98
	2007/08	both	$1,317.82
077-056-019-000	2006/07	both	$1,291.98
	2007/08	both	$1,317.82
077-056-034-000	2006/07	2nd	$645.99
	2007/08	both	$1,317.82
077-060-035-000	2006/07	both	$1,213.48
	2007/08	both	$1,237.76
077-060-060-000	2006/07	both	$1,213.48
	2007/08	both	$1,237.76
077-060-063-000	2006/07	both	$1,213.48
	2007/08	both	$1,237.76
077-060-065-000	2006/07	2nd	$606.74
	2007/08	both	$1,237.76
077-061-001-000	2006/07	both	$1,677.52
	2007/08	both	$1,711.08
077-061-005-000	2006/07	2nd	$838.76
	2007/08	both	$1,711.08
077-061-014-000	2006/07	both	$1,677.52
	2007/08	both	$1,711.08
077-063-013-000	2006/07	both	$1,371.62
	2007/08	both	$1,399.06
077-063-024-000	2006/07	2nd	$707.77
	2007/08	both	$1,443.86
077-063-036-000	2006/07	both	$1,415.54
	2007/08	both	$1,443.86
077-063-037-000	2006/07	both	$1,415.54
	2007/08	both	$1,443.86
077-064-056-000	2006/07	2nd	$685.81
	2007/08	both	$1,399.06
077-064-071-000	2006/07	2nd	$707.77
	2007/08	both	$1,443.86
077-064-072-000	2006/07	2nd	$685.81
	2007/08	both	$1,399.06
085-018-060-000	2007/08	2nd	$5,165.75
085-050-001-000	2007/08	both	$23,585.72

*Exclusive of Delinquent and Redemption Penalties.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-318

RESOLUTION APPROVING THE PROPERTY ACQUISITION FROM UNION PACIFIC RAILROAD COMPANY FOR TWO (2) PARCELS LOCATED AT THE INTERSECTION OF 9TH STREET AND D STREETS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY RELATED PROPERTY DOCUMENTS AS GRANTEE ON BEHALF OF THE CITY OF MODESTO FOR THE FOLLOWING PARCELS: APN: 106-045-003; 106-046-003 FOR THE RAILROAD CONSOLIDATION PROJECT AND AUTHORIZING A CAPITAL IMPROVEMENT PROGRAM ACCOUNT, AND TRANSFERRING $32,952 FROM GAS TAX RESERVES ACCOUNT No. 0700-800-8000-8003 INTO LINE ITEM 0700-160-E002-6030

WHEREAS, on September 8, 1998, the City Council approved an agreement between the City and the Union Pacific Railroad Company (the "Railroad") for Phase II of the Railroad Consolidation Project (the "Consolidation Agreement") which Consolidation Agreement included a condition whereby the Railroad would quitclaim two (2) real properties to the City identified as Assessor Parcel Numbers 106-045-003 and 106-046-003, and

WHEREAS, said real properties were evaluated by the City, including environmental analysis, and

WHEREAS, said real properties were determined to be free of environmental contamination, liens and easements, and

WHEREAS, the subject parcels are being quitclaimed by the Railroad to the City with no compensation to the Railroad, and

WHEREAS, the City has agreed to pay for all land transfer costs which are estimated to total approximately $32,952, and

WHEREAS, in order to fund the full cost of the 9th and D Street Property Acquisition, staff is recommending the creation of a Capital Improvement Program Project, and

WHEREAS, funding is available in Gas Tax Reserves Account No. 0700-800-8000-8003

in the amount of $32,952 to fund the land transfer costs, and

WHEREAS, said Consolidation Agreement is part of the City's project to remove the railroad tracks from 9th Street and the Council has directed staff to maximize the use of the land surrounding these previous rail corridors to the benefit of the City, and

WHEREAS, the potential impacts of this project have been adequately addressed within the context of the previously completed and certified Modesto Redevelopment Agency Program Environmental Impact Report SCH No. 2006071118 and no changes have been proposed in this project subsequent to the just referenced action which would require important revisions of the environmental document and, further, pursuant to Section 15180(c) and 15168(c) of the CEQA Guidelines, no new environmental review need be completed, and this subsequent activity is entirely consistent with the anticipated project(s) that are analyzed in the previous environmental determination,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Quitclaim Deed between City of Modesto and the Union Pacific Railroad Company transferring the real properties identified as Assessor Parcel Numbers 106-045-003 and 106-046-003 to the City of Modesto for the Railroad Consolidation Project is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to pay land transfer and related costs in the amount of $35,047 to complete said land transfer.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Quitclaim Deeds and any related real estate documents.

BE IT FURTHER RESOLVED that the Council of the City of Modesto hereby approves the amendment of the 2007-08 Capital Improvement Program to add CIP Project E002 and that unexpended funds appropriated to CIP Project E002 on June 30, 2008 are hereby re-appropriated for the project for which it was appropriated and shall be part of the 2008-09 Capital Improvement Program, and that the Council hereby approves the transfer of $32,952 from Gas Tax Reserves (0700-800-8000-8003) to CIP Project No. E002 (0700-160-E002-6030) to fund the land transfer costs of the two subject parcels.

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to implement the provisions of the Resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2008, 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: Shelly Hain, Deputy
for STEPHANIE LOPEZ, City Clerk

(SEAL)

Approved as to Form:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-319

RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN ACCEPTANCE FORMS FOR QUITCLAIM DEEDS FOR THE ACQUISITION OF PROPERTIES OWNED BY UNION PACIFIC RAILROAD COMPANY FOR TWO PARCELS LOCATED AT THE INTERSECTION OF 9TH STREET AND D STREETS ON BEHALF OF THE CITY OF MODESTO FOR THE FOLLOWING PARCELS: APN: 106-045-003; 106-046-003 FOR THE RAILROAD CONSOLIDATION 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 from the Union Pacific Railroad Company the following parcels for City purposes as part of the Railroad Consolidation Project: APN: 106-045-003; 106-046-003,

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 two (2) Quitclaim Deeds for the acquisition of the following properties owned by Union Pacific Railroad Company as part of the Railroad Consolidation Project:

APN: 106-045-003; 106-046-003

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2008, 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: Shelly Nain, Deputy
for STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-320

A RESOLUTION APPROVING A STANDARD CONSULTANT AGREEMENT WITH SHIBUMI CONSULTING SERVICES, LLC, IN AN AMOUNT NOT TO EXCEED $100,000 PER FISCAL YEAR, TO PERFORM SUPPORT SERVICES THAT INCLUDE TRAINING, RATE RECONSTRUCTURING, TROUBLESHOOTING AND DATA EXTRACTION FROM THE HTE UTILITY BILLING SYSTEM FOR THE CUSTOMER SERVICES DIVISION OF THE FINANCE DEPARTMENT, AND OTHER CITY DEPARTMENTS, BEGINNING FISCAL YEAR 2008/2009; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on June 27, 2006, the City Council, by Resolution No.2006-386, approved a Standard Agreement for Consultant Services with Shibumi Consulting Services, LLC, to provide on-call software services for the Customer Services Division of the Finance Department, in an amount not to exceed $50,000 per fiscal year, and

WHEREAS, on April 22, 2008, the City Council, by Resolution No. 2008-226, approved an Amendment to Agreement with Shibumi Consulting Services, LLC, to include an additional amount of $30,000 for the remainder of Fiscal Year 2007/2008, and

WHEREAS, Shibumi Consulting Services, LLC, has assisted the Customer Services Division of the Finance Department, and other City departments, with the HTE Utility Billing System and special projects for the past nine years. They are on site for upgrades, rate restructuring, training and troubleshooting. Additionally, they provide major data extractions and respond to special reporting needs for the City's Utility Rate Task Force, verifying that the system is prepared to bill timely and correctly as changes are made to the water, sewer, storm drain and garbage rates, and

WHEREAS, there is a regular ongoing demand for detailed data from other departments outside of the Customer Services Division of the Finance Department.

Shibumi Consulting Services, LLC, provides specific formatted information as requested from citizens, media and other departments,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby approves a Standard Agreement for Consulting Services with Shibumi Consulting Services, LLC, in an amount not to exceed $100,000 per fiscal year, for support services, training, and data extraction from HTE Utility Billing System for the Customer Services Division of the Finance Department, and other City departments, beginning Fiscal Year 2008/2009.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2008, 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:	Councilmember's:	Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmember's:	None
ABSENT:	Councilmember's:	Hawn

ATTEST: Sheila Main, Deputy
for STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-321

A RESOLUTION ESTABLISHING A FEE TO RECOUP IN-HOUSE PRE-COLLECTION COSTS WITHIN THE CUSTOMER SERVICES DIVISION OF THE FINANCE DEPARTMENT

WHEREAS, the Accounts Receivable Customer Services Division of the Finance Department estimates that annually 1,000 miscellaneous receivable accounts become delinquent and require collection efforts, and

WHEREAS, the Accounts Receivable Customer Services Division of the Finance Department estimates the City spends $37,250.00 annually for staff time, special mailings, delinquency delivery and other research tools to identify and collect delinquent accounts, and

WHEREAS, City staff recommends setting a fee of $37.25 on each delinquent account to recoup the costs associated with in-house pre-collection of delinquent accounts, and

WHEREAS, City staff estimates the proposed fee will generate additional revenue to the General Fund, estimated at $37,250.00 annually,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby approves a fee of $37.25 on each delinquent account to recoup in-house pre-collection costs within the Customer Services Division of the Finance Department.

BE IT FURTHER RESOLVED that this resolution shall become effective on and after July 1, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2008, 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:	Councilmember's:	Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmember's:	None
ABSENT:	Councilmember's:	Hawn

ATTEST: Shelly Jain, Deputy
for STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-322

A RESOLUTION ESTABLISHING A RETURNED CHECK FEE WITHIN THE CUSTOMER SERVICES DIVISION OF THE FINANCE DEPARTMENT

WHEREAS, California Government Code Section 6157(b) states, "If any personal check offered in payment pursuant to this section is returned without payment, for any reason, a reasonable charge for the returned check, not to exceed the actual costs incurred by the public agency, may be imposed to recover the public agency's processing and collection costs."

WHEREAS, since before the mid 1960s the returned check fee for the Customer Services Division of the Finance Department has been $10.00, and

WHEREAS, the current fee is not reflective of the processing costs, nor is it consistent with other agencies, and

WHEREAS, City staff estimates it costs $31.76 to process a returned check, and

WHEREAS, City staff recommends the returned check fee within the Customer Services Division of the Finance Department be increased to $25.00, and

WHEREAS, City staff estimates that increasing the returned check fee will generate additional revenue for the General Fund, estimated at $15,600 annually,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an increase in the returned check fee within the Customer Services Division of the Finance Department to $25.00.

BE IT FURTHER RESOLVED that this resolution shall become effective on and after July 1, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2008, 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. 2008-323

A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CERTIFICATE OF ACCEPTANCE OF AN OFFER MADE TO ACQUIRE A PARCEL AT 412 DOWNEY AVENUE OWNED BY BRENT AND LINDA LARGENT (APN: 107-001-002) FOR THE DOWNEY AVENUE AFFORDABLE HOUSING PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE ACCEPTANCE FORMS FOR THE GRANT DEED FOR THE PROPERTY LOCATED AT 412 DOWNEY AVENUE (APN: 107-001-002) IN THE AMOUNT OF $292,000 IN COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS

WHEREAS, Government Code Section 27281 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 parcel at 412 Downey Avenue owned by Brent and Linda Largent (APN: 107-001-002) for the Downey Avenue Affordable Housing Project, and

WHEREAS, this project will be funded using CDBG funds for the Acquisition for Property budget account #1151-320-3271-0507, in which funds are available, and

WHEREAS, on May 18, 2007, the Citizens Housing and Community Development Committee recommended allocation of funding for the pre-development activities for the Downey Avenue Affordable Housing 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 the Certificate of Acceptance of an offer made to acquire a parcel at 412 Downey Avenue owned by Brent and Linda Largent (APN: 107-001-002) for the Downey Avenue Affordable Housing Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Acceptance Forms for the Grant Deed for the property located at 412 Downey Avenue (APN: 107-001-002) in the amount of $292,000 in Community Development Block Grant Funds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2008, 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: _____
for STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-324

A RESOLUTION AUTHORIZING STAFF TO ENTER INTO NEGOTIATIONS WITH FM GOLF AND VALLEYCREST AND TO EXERCISE THE CITY OF MODESTO'S RIGHT TO OFFER CONTRACT EXTENSIONS TO FM GOLF AND VALLEYCREST AS OF JUNE 30, 2008

WHEREAS, the City of Modesto currently contracts with FM Golf for golf operations and ValleyCrest for golf maintenance services at its three golf courses, and

WHEREAS, the current contracts with FM Golf and ValleyCrest are due to expire on June 30, 2009, and

WHEREAS, the City of Modesto has the sole and exclusive right to offer to extend these agreements for an additional five (5) year period, and

WHEREAS, the City of Modesto must give written notice to FM Golf and ValleyCrest at least three hundred sixty-five (365) days prior to the expiration of the initial term of these agreements to either begin negotiations leading to a possible five-year extension, or to advise of termination at the expiration of the existing contract, and

WHEREAS, at its April 28, 2008, meeting, the Finance Committee supported staff's recommendation to enter into negotiations and to exercise City's right to offer to extend agreements with FM Golf and ValleyCrest as of June 30, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to enter into negotiations with FM Golf and ValleyCrest and to exercise the City of Modesto's right to offer contract extensions with FM Golf and ValleyCrest as of June 30, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2008, 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: Shelly Jain, Deputy
for STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-327

A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH AVAIL TECHNOLOGIES, INC., IN THE AMOUNT OF $175,600, FOR SYSTEM UPGRADES TO THE MODESTO AREA EXPRESS (MAX) COMPUTER AIDED DISPATCH/AUTOMATIC VEHICLE LOCATION (CAD/AVL) SYSTEM AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, the City Council, on March 6, 2007, by Resolution No. 2007-161, awarded a development and installation contract in the approximate amount of $948,000 to Avail Technologies, Inc., to install a Computer Aided Dispatch/Automatic Vehicle Location (CAD/AVL) system on the Modesto Area Express (MAX) bus fleet, and

WHEREAS, on December 11, 2007, the City entered into an Agreement with Avail Technologies, Inc., for the development of a CAD/AVL system for the MAX bus fleet, and

WHEREAS, during the CAD/AVL development process it has been determined that several system enhancements are both feasible and cost effective, and

WHEREAS, the MAX bus fleet has grown from 47 buses to 52 buses since the original agreement was executed, and

WHEREAS, by an agenda report to the City Council dated May 12, 2008, from the Public Works Director, City staff recommended that the Council approve an Amendment to Agreement with Avail Technologies, Inc., in the amount of $175,600 for upgrades to the CAD/AVL.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement with Avail Technologies, Inc., in

the amount of $175,600 for system upgrades to the Modesto Area Express (MAX) Computer Aided Dispatch/Automatic Vehicle Location (CAD/AVL) system.

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 3 day of June, 2008, 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: _____
for STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANNA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-328

A RESOLUTION AMENDING THE CURRENT FY 2007-2008 CAPITAL IMPROVEMENT PROGRAM BUDGET FOR PROJECT 6510-165-A044 (AUTOMATIC VEHICLE LOCATION SYSTEM)

WHEREAS, the City Council, on March 6, 2007, by Resolution No. 2007-161, awarded a development and installation contract in the approximate amount of $948,000 to Avail Technologies, Inc., to install a Computer Aided Dispatch/Automatic Vehicle Location (CAD/AVL) system on the Modesto Area Express (MAX) bus fleet, and

WHEREAS, on December 11, 2007, the City entered into an Agreement with Avail Technologies, Inc., for the development of a CAD/AVL system for the MAX bus fleet, and

WHEREAS, during the CAD/AVL development process it has been determined that several system enhancements are both feasible and cost effective, and

WHEREAS, the MAX bus fleet has grown from 47 buses to 52 buses since the original agreement was executed, and

WHEREAS, by an agenda report to the City Council dated May 12, 2008, from the Public Works Director, City staff recommended that the Council approve an Amendment to Agreement with Avail Technologies, Inc., in the amount of $175,600 for upgrades to the CAD/AVL, and

WHEREAS, the FY2007-2008 CIP Budget for project 6510-165-A044 needs to be amended to allow funding for this project, and

WHEREAS, the expense budget needs to be increased by $175,600 in account 6510-165-A044-6070, and

WHEREAS, the revenue budget needs to be increased by $3,458 in account 6510-165-A044-3159 (Local Transportation Fund Prior Year), increased by $97,017 in account 6510-165-A044-3552 (FTA Y310) and increased by $75,125 in account 6510-165-A044-3557 (FTA Y487),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the following budget adjustments to fully fund the Amendment to Agreement with Avail Technologies, Inc.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2008, 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: Shelly Hain, Deputy
for STEPANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-329

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE CARVER ROAD SEWER LINE REPLACEMENT PROJECT, ACCEPTING THE BID AND APPROVING A CONTRACT WITH ROLFE CONSTRUCTION IN THE AMOUNT OF $55,840 FOR THE CARVER ROAD SEWER LINE REPLACEMENT PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Carver Road Sewer Line Replacement Project and City staff recommends approval to the City Council, and

WHEREAS, the bids received for the Carver Road Sewer Line Replacement Project were opened at 11:00 a.m. on May 13, 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 $55,840 received from Rolfe Construction be accepted as the lowest responsible bid and the contract be awarded to Rolfe Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Carver Road Sewer Line Replacement Project, accepts the bid of Rolfe Construction in the amount of $55,840, and awards Rolfe Construction the contract for the Carver Road Sewer Line Replacement Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract with Rolfe Construction in the amount of $55,840 for the Carver Road Sewer Line Replacement Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2008, 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: _____
for STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-330

A RESOLUTION ACCEPTING THE PRELIMINARY DESIGN REPORT FOR THE H STREET REHABILITATION FROM 17TH STREET TO BURNEY STREET, DATED JANUARY 7, 2008, AS COMPLETE

WHEREAS, the rehabilitation of H Street from 17th Street to Burney Street is included in the 2008 Capital Improvement Budget approved by City Council on January 8, 2008, and

WHEREAS, Nichols Consulting Engineers performed the pavement testing and analysis for H Street and their report states that reconstruction is necessary for H Street 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 $1.4M, and

WHEREAS, the PDR has been successfully completed and will serve as the basis for the final design for rehabilitation of H Street from 17th Street to Burney Street,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Preliminary Design report for the H Street Rehabilitation from 17th Street to Burney Street, dated January 7, 2008, as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2008, 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: Sheila Main, Deputy
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008 - 331

A RESOLUTION APPROVING THE AMENDMENT OF THE 2007-08 GENERAL FUND BUDGET TO MAINTAIN THE CITY'S 8% GENERAL FUND POLICY RESERVE

WHEREAS, staff has reviewed the year-to-date revenue and expenditure projections for the 2007-08 fiscal year, and

WHEREAS, the Interim City Manager requested all department heads to review their operating budgets and provide further reductions that would not result in reductions in force or reduced service levels, and

WHEREAS, the Mayor has identified revenue enhancement and expenditure reduction items shown in Exhibit A, which is incorporated by reference herein, and

WHEREAS, staff made presentations to the Finance Committee during the public hearings held during the week of May 19, 2008 regarding the financial status of the General Fund, and

WHEREAS, the Finance Department has informed the Finance Committee that due to current economic conditions, the City's projected General Fund revenue and expenditure forecasts must be adjusted to reflect current economic trends and maintain the 8% General Fund Reserve Policy, and

WHEREAS, the Finance Committee reviewed the proposed revenue and expenditure adjustments including those put forth by the Mayor and has forwarded its recommendations to the full City Council, and

WHEREAS, the City Council considered the recommendations of the Finance Committee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approve the following:

REVENUE AND EXPENDITURE BUDGET ADJUSTMENTS. That the proposed adjustments to the General Fund revenues and expenditures, which incorporate the Mayor's recommendations, shown in the column labeled "2007-2008 Projected 4/30/08" in the **attached** proforma, which is incorporated by reference herein, shall be approved.

BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to take the steps necessary to implement the approved budget adjustments shown in the **attached** proforma.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2008, by Councilmember Olsen, who moved its adoption, which motion is being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted the following vote:

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

ATTEST: Sheeler Nair, Deputy
for STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

FY 2008-09
DRAFT GENERAL FUND PROFORMA

			2005-06	2006-07	2007-08	2007-08	2008-09
	B	C	D	E	F	G	H
		Draft 05-02-08 6e	**Actual**	**Actual**	**Adopted**	**Projected 04/30/2008**	**Mayor's Proposed 04/30/2008**
1	REV	BEGINNING FUND BALANCE	$20,415,059	$21,665,322	$12,686,043	$12,147,386	$10,463,668
2	REV	Projected Dept. Savings		$0	$3,885,735	$625,000	$625,000
3							
4		REVENUES - ONGOING					
5	REV	Sales Tax	$29,627,907	$27,884,852	$29,420,526	$26,938,062	$26,726,430
6	REV	Property Tax	$14,318,747	$16,456,379	$18,056,366	$16,100,367	$16,115,503
7	REV	VLF Flip	$13,850,014	$14,676,912	$15,704,296	$15,811,000	$15,958,000
8	REV	Utility Users Tax	$17,584,060	$18,319,657	$20,238,990	$19,418,836	$19,615,000
9	REV	Franchise Fees	$2,890,805	$2,976,772	$3,216,342	$3,301,401	$4,273,751
10	REV	VLF	$1,296,992	$1,556,350	$1,657,399	$1,150,000	$1,259,190
11	REV	Business License/Mill Tax	$10,374,157	$10,359,058	$11,155,380	$10,800,000	$10,970,111
12	REV	Transient Occupancy Tax	$2,181,467	$2,264,699	$2,301,737	$2,200,000	$2,222,000
13	REV	Construction Related	$3,528,268	$3,035,439	$3,351,181	$3,065,793	$3,255,850
14	REV	Other GF Rev	$18,036,926	$18,587,002	$18,414,824	$19,979,761	$20,656,307
15		Sub-total Ongoing Rev.	$113,689,343	$116,117,120	$123,517,041	$118,765,220	$121,052,142
		REVENUES - ADDITIONAL					
18	REV	Additional Revenues	$1,120,832	$1,815,561	$885,000	$0	
19	REV	RDA Loan Repayment (Gallo Center)				$1,324,000	$0
20	REV	Transfers In	$2,111,925	$2,437,022	$3,387,375	$6,557,376	$4,684,937
21		Sub-total Add'l Rev.	$3,232,757	$4,252,583	$4,272,375	$7,881,376	$4,684,937
22							
23	REV	Total Revenues	$116,922,100	$120,369,703	$127,789,416	$126,646,596	$125,737,079
24							
25		GRAND TOTAL RESOURCES	$137,337,159	$142,035,025	$144,361,194	$139,418,982	$136,825,747
26							
27		EXPENDITURES					
28	EXP	Non-Department	($1,468,427)	($2,353,010)	($1,552,951)	($1,271,432)	($2,025,859)
29	EXP	City Council	($194,297)	($181,554)	($208,136)	($251,580)	($482,063)
30	EXP	City Council (Measure M)				($70,000)	($45,000)
31	EXP	City Manager	($1,059,052)	($1,258,507)	($1,319,994)	($1,368,704)	($1,188,243)
32	EXP	Personnel	($1,382,206)	($1,587,680)	($1,801,796)	($1,809,071)	($1,712,260)
33	EXP	City Attorney	($2,898,489)	($1,845,850)	($2,099,775)	($2,192,019)	($2,131,027)
34	EXP	City Clerk	($476,692)	($613,562)	($715,184)	($681,292)	($402,275)
35	EXP	Office of the Auditor				$0	($437,427)
36	EXP	Info. Technology	($56,277)	($3,401)	($66,500)	($106,136)	$0
	EXP	Finance	($5,845,693)	($6,161,685)	($6,563,346)	($6,304,968)	($6,634,481)
	EXP	Community & Econ. Dev.	($5,201,794)	($5,362,327)	($7,992,486)	($8,018,214)	($7,770,469)
39	EXP	Fire	($23,865,064)	($26,623,750)	($27,663,900)	($27,856,281)	($26,996,800)
40	EXP	Police	($48,560,335)	($52,371,555)	($55,989,148)	($54,392,512)	($53,877,465)
41	EXP	Parks, Rec. & Neighborhoods	($11,560,029)	($12,144,004)	($13,141,754)	($12,863,160)	($11,965,370)

FY 2008-09
DRAFT GENERAL FUND PROFORMA

			2005-06	2006-07	2007-08	2007-08	2008-09
A	B	C	D	E	F	G	H
		Draft 05-02-08 6e	**Actual**	**Actual**	**Adopted**	**Projected 04/30/2008**	**Mayor's Proposed 04/30/2008**
42	EXP	Public Works	($1,719,587)	($6,383,524)	($5,257,639)	($5,510,474)	($4,400,615)
43		Department Operating Expenditures	($104,287,942)	($116,890,409)	($124,372,609)	($122,695,843)	($120,069,354)
44							
45		ADJUSTMENTS					
46	EXP	MOU (set-aside for MCEA)				($216,000)	($216,000)
47	EXP	Fund 1300 Sp Fnd Road Maint		($1,800,000)			
48	EXP	PD Personnel (Grants Expiring)					($132,216)
49	EXP	PD Towing Expense Budget					
50		Sub-total Adj	$0	($1,800,000)	$0	($216,000)	($348,216)
51							
52	EXP	Transfers Out	($9,739,702)	($10,539,933)	($9,343,798)	($7,853,471)	($7,338,228)
53							
54		GRAND TOTAL EXPENDITURES	($114,027,644)	($129,230,342)	($133,716,407)	($130,765,314)	($127,755,798)
55							
56		ENDING FUND BALANCE	$23,309,515	$12,804,683	$10,644,787	$8,653,668	$9,069,949
57		Reduce Restriction	($1,644,193)	($657,297)	$100,000	$60,000	
58		Fleet Loan Adjustment				$1,750,000	
59							
60		UNRESTRICTED BALANCE	$21,665,322	$12,147,386	$10,744,787	$10,463,668	$9,069,949
61							
62		Reserve at 8%	($9,122,212)	($10,338,427)	($10,744,787)	($10,461,225)	($10,220,464)
63		Excess (Def.) to 8% policy	$12,543,110	$1,808,959	($0)	$2,443	($1,150,515)
64			**19.0%**	**9.4%**	**8.0%**	**8.0%**	**7.1%**
65							
66		Reserve at 7%					($8,942,906)
67		Excess (Def.) to 7% policy					$127,043
68							**7.1%**
69							
70							
71							
72							
73	**** Potential Revenue/Expense Reductions/Comments						
74		Cost for Animal Shelter not included in GF Proforma					
75		PD Revenue - Prop 172 Sales Tax Alloc of $775k may be held by State in FY 2008-09					
76		Cost of potential future litigation not shown in GF Proforma					

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008 - 332

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 2008-09 BUDGET DEVELOPMENT PROCESS.

WHEREAS, as part of the Mayor's Proposed Budget for FY 2008-09, 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 2008-09 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 A and B**.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of June, 2008 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:	Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Hawn

ATTEST: _____, Deputy
for STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE FY 2007-08

Line No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recommended 07-08	Finance Committee	Frequency
1	City-wide 2007-08	Recover Morris Comm. Ctr. Costs	This amount recognized in April 2008.	$138,848	$138,848	One-Time
2	City-wide 2007-08	Reduce transfer in FY 2007-08 to Storm Drain Fund for Master Plan	No impact as funding will come from Gas Tax Fund.	$430,000	$430,000	One-Time
3	City-wide 2007-08	Reduce transfer in FY 2007-08 to Storm Drain Fund for Rate Study	Staff evaluating regulatory fees for specific services that are not system-wide.	$150,000	$150,000	One-Time
4	City-wide 2007-08	Reduce Travel Training Line Items		$500,000	$500,000	One-Time
5	City-wide 2007-08	Reduce Office/Field Supply Line Items		$225,987	$225,987	One-Time
6	City-wide 2007-08	Reduce Golf operating Subsidy Transfer in FY 2007-08		$50,000	$50,000	One-Time
7	City-wide 2007-08	Reduce Transfer to Gas Tax Fund in FY 2007-08		$500,000	$500,000	One-Time
8	City-wide 2007-08	Forgive Fleet Payment in FY 2007-08		$212,000	$212,000	One-Time
9	FIRE	Service credit for Fire support to airport operations for FY 2007-08	None. Enterprise Fund (Airport) reimburses Fire for cost of providing staffing and equipment resources to the Airport per FAA regulations.	$100,060	$100,060	On-Going
10	FIRE	Service for Fire training and response for confined space activities for FY 2007-08	None. Utility funds reimburse Fire for cost of confined space and technical rescue services.	$52,027	$52,027	On-Going
11	**City-wide 2007-08**			**$2,358,922**	**$2,358,922**	

ATTACHMENT A

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
1	CEDD	Thurman Field Improvements - As the City's 'consultants' for environmental assessments and CEQA-related compliance, Planning staff will be expected to assist in the review and coordination of environmental documentation prepared for the John Thurman Field	New Service Credit Agreement for Parks, Recreation, & Neighborhood Department - Capital Improvement Program (CIP)	$2,061	$2,061	One-Time	$0
2	CEDD	Manage Pelandale Interchange Project	New Service Credit Agreement for Public Works - E740	$28,603	$28,603	One-Time	$0
3	CEDD	Improve fee recovery % for development function (new fee update in July; est. 80% recovery)	Increased revenue potential resulting from new fees adopted from Development User Fee Update	$100,000	$100,000	On-Going	$0
4	CEDD	Increase RDA payback of loans from GF ($100,000 current proposal from CRAC)	May impact the RDA's ability to initiate or complete area projects.	$250,000	$250,000	One-Time	$0
5	CEDD	Sal & Wages, Part-Time: Eliminate Planning Intern (1)	The Planning Intern is responsible for a wide variety of current & long-range planning activities, including assisting customers, conducting & presenting research studies, provides administrative support, & perform related duties as assigned. Intern assistance is needed for the Comprehensive General Plan Update (tasks would include: preparation of land use surveys, assistance with preparing for & conducting public workshops, meetings & hearings, conducting research, preparation of mapping, graphics, etc. Removeal of this position impacts ability to complete the Comprehensive General Plan Update.	$13,780		On-Going	($13,780)

ATTACHMENT B

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
6	CEDD	Remove appropriation for Senior Planner - Salary/Benefits	Will impact the ability to complete the Comprehensive General Plan Update.	$93,572	$46,800	On-Going	($46,772)
7	CEDD	Professional Services	The reduction to the Professional Services account equates to a 49% decrease. This account is used to pay for market and financial studies to produce demographics and statistics in the attraction of new projects, including new and diverse businesses. The cost for a market study typically ranges from $7500 to $15,000. This reduction will eliminate 1-2 market studies, which will limit our ability to attract new projects and/or business prospects.	$14,085	$14,085	One-Time	$0
8	CEDD	Remove appropriation for Associate Civil Engineer - Salary/Benefits	Will delay processing of planning referrals, plan checks, etc. Will impact sewer and water related customer service. Will impact processing of parcel and final maps. Will impact issuance of encroachment permits. Will require release for hire of 2 current vacant Assistant Civil Engineer positions.	$116,574	$116,574	On-Going	$0

ATTACHMENT B

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
9	CEDD	Hold Associate Civil Engineer position (8.5 mths) Salary & Benefits	Structural plan checks will continue to be sent to a third party. Commercial plan review turnaround times will continue to hover around 50% of target range. Commercial development continues to progress. We will never be able to totally streamline our process and give the customer efficient service without this position being filled. Eliminating plan check contracts will hamper our efforts to provide efficient service to our customers. We anticipate a range of about 20-30% of the target without the use of a contract plan service. If a large development such as a 14th and J would happen to break free, that project would overwhelm current staff. Other smaller projects would suffer and would possibly require senior staff to intervene. Other nonessential projects would be put on hold to service this customer.	$78,137	$78,137	On-Going	$0
10	CEDD	Remove appropriation for third Building Inspector II - Salary/Benefits	Two Building Inspection positions are already held to meet City Manager's 3% reduction target. This will be the third position held. All are vacant due to unfilled vacancies. At the time of the vacancies the inspection staff was overburden and the inspections per day ratio was out of alignment. However, for the past several years residential construction has been steadily declining, thus the immediate need for these positions was not realized. By eliminating these positions, we will need to rely on contract personnel when the next building increase arises until the appropriate staffing levels can be restored. The budget impact for these contract personnel would cost more for the same level of service.	$78,270	$78,270	On-Going	$0

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
11	CEDD	Professional Services: Consultant Plan Check	Eliminating plan check contracts will hamper our efforts to provide efficient service to our customers. We anticipate a range of about 20-30% of the target without the use of a contract plan service. If a large development such as a 14th and J would happen to break free, that project would overwhelm current staff. Other smaller projects would suffer and would possibly require senior staff to intervene. Other nonessential projects would be put on hold to service this customer.	$36,484	$36,484	On-Going	$0
12	CEDD	Professional Services: Web Design & Maintenance	Will reduce consultant services for department web page and Development Center management.	$11,000	$11,000	One-Time	$0
13	CEDD	Professional Services: Web Design & Maintenance	Will eliminate outside professional agreement for department web page and Development Center management.	$29,000		One-Time	($29,000)
13a	CEDD	Professional Services: Land Surveyor Services	Will impact signing of maps (parcel and final)		$20,000	One-Time	$20,000
13b	CEDD	Fleet Management	Return of Equipment replacement funds for 2 vehicles that will not be replaced.		$26,512		$26,512
13c	CEDD	Printing and Binding: Reduct budget in half from $4,000 to $2,000	Reduce the ability for division to produce documents expected by the public, i.e. Planning Commission packets, BZA packets, agendas, studies, etc.		$2,000	One-Time	$2,000

ATTACHMENT B

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
13d	CEDD	Advertising/Marketing	The reduction of the marketing budget equates to a 58.5% decrease and the reduction to the Printing account equates to a 20% decrease. The direct mailing campaign to target site selectors would be eliminated ($20,000). In addition, the upgrades to the economic development website (Choosemodesto.com) would be eliminated ($10,000). The goal of the marketing campaign is to put Modesto's name on the short list of site selection for target industries. Without direct mailers and with an outdated website, our ability to achieve our goal would be severely impacted.		$5,000	One-Time	$5,000
13e	CEDD	Printing and Binding: Customer Outreach Brochures/Handouts (6,000); Community Development Newsletter (6,000)	The newsletter, brochures and handouts are links to our customers and a good way to communicate vital information about our process, achievements and marketing of the Building Safety Division.		$3,000	One-Time	$3,000
13f	CEDD	Quarterly Department & Monthly Meetings	Will reduce Department quarterly and division monthly meetings		$2,752	One-Time	$2,752
13g	CEDD	SPIE (3% reduction based on the funding of $15,000)	Reduction will impact programs ability for outreach.		$5,000	One-Time	$5,000
	CEDD Total			**$851,566**	**$826,278**		**($25,288)**
15	City Attorney	PCE reimbursements/settlements for City Attorney's fees	Reimbursement for General Fund expenditures made on behalf of PCE litigation.	$500,000	$500,000	One-Time	$0
16	City Attorney	Employment Agencies - Temps	Will reduce funds available for temporary help.	$1,019	$1,019	One-Time	$0
17	City Attorney	Services Professional & Other	Will reduce funds available for outside professional services such as attorneys, experts, investigations, services professional & other; reduce ability to pay for costs associated with equal employment complaint related investigations.	$14,200	$14,200	One-Time	$0

ATTACHMENT B

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
18	City Attorney	Remove appropriation for vacant Administrative Office Assistant II position (includes salary & Benefits)	Legal Secretaries can absorb additional workload, however, this will require us to close our front receptionist desk.	$51,602	$51,602	On-Going	$0
19	City Attorney	Remove appropriation for vacant Deputy City Attorney position (includes salary & benefits)	Existing attorney staff can absorb some of the additional workload, however, because the City Attorney's office is minimally staffed we are quickly depleting our ability to take on additional work or new cases. As a result this will necessitate utilizing outside counsel more frequently. As of July 1, 2008, we will no longer appear on Pitchess motions, but will work with Police Department personnel to train them on the process. Additionally, the following actions may become necessary based on the increase in workload: - Stop prosecuting misdemeanors - Send all litigation outside - Limit administrative and criminal enforcement support to only the highest priority cases as identified by the SMART Team.	$100,782	$100,782	On-Going	$0
	City Attorney Total			**$667,603**	**$667,603**		**$0**
21	City Mgr	This action reduces by 25% the undesignated allocation for consultant services.	About $10,000 will remain in undesignated funds within this program for limited consultant activity.	$10,750	$10,750	On-Going	$0
22	City Mgr	This action eliminates funding for part-time clerical/receptionist support in the City Manager's Office	There is currently one person to handle receptionist duties for both the Council and City Manager's Office. Additionally, this staff person will assist with the clerical support needs for the Auditor's Office during FY 08-09. To offset this impact, staff will continue to evaluate and utilize where appropriate free programs through the County and MJC for staffing support in receptionist area.	$11,677	$11,677	On-Going	$0

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
23	City Mgr	This reduction eliminates the State Lobbyist contract for FY 08-09.	City will allow the current annual contract to expire at the end of June and will rely more on Mayor/Council and executive level staff to lobby at the State level for items of interest to City.	$80,000	$80,000	One-Time	$0
	City Mgr Total			**$102,427**	**$102,427**		**$0**
25	City-wide 2008-09	All non-city use of City facilities will be on a cost-recovery basis		$30,000	$30,000	One-Time	$0
26	City-wide 2008-09	Capture Investment Gains		$200,000	$200,000	One-Time	$0
27	City-wide 2008-09	Have Redevelopment Agency (RDA) purchase Downey site; Community Dev. & Block Grant Program (CDBG) funds to purchase property next door		$215,000	$215,000	One-Time	$0
28	City-wide 2008-09	Return Employee Benefit Fund supplemental allocation to General Fund		$872,874	$872,874	One-Time	$0
29	City-wide 2008-09	Revenue Reduction from Cost Allocation Plan		($214,051)	($214,051)	One-Time	$0
30	City-wide 2008-09	Reduce Golf operating Subsidy Transfer in FY 2008-09		$100,000	$100,000	One-Time	$0
31	City-wide 2008-09	Reduce Golf CIP Transfer in FY 2008-09		$50,000	$50,000	One-Time	$0
32	City-wide 2008-09	Reduce Transfer to Gas Tax Fund in FY 2008-09		$1,000,000	$1,000,000	One-Time	$0
33	City-wide 2008-09	Fleet Rate Holiday		$795,576	$795,576	One-Time	$0

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
34	City-wide 2008-09	Forgive Fleet Payment in FY 2008-09		$212,000	$212,000	One-Time	$0
35	City-wide 2008-09	Recognize savings from Tenth Street Place JPA 2008-09 budget		$23,620	$23,620	One-Time	$0
36	City-wide 2008-09	Eliminate bottled water purchases and private refrigeration units		$30,000	$30,000	On-Going	$0
37	City-wide 2008-09	Reduce Travel and Training budgets by 50% (Objects 0207,0208, 0209)		$500,000	$500,000	One-Time	$0
	City-wide 2008-09 Total			**$3,815,019**	**$3,815,019**		**$0**
39	Clerk	Charge Businesses (8 books) for Quarterly Municipal Code updates	Fee is already established but has not been previously implemented or recognized.	$1,032	$1,032	On-Going	$0
40	Clerk	Reduce appropriation for unfilled clerical staff for Auditor and share with City Clerk/City Manager's Office (CMO)	Should be minimal. If Auditor has been hired by the start of the FY, then CMO and City Clerk will jointly provide support for Auditor while the office gets up and running. This will also give the Auditor time to thoroughly evaluate staffing needs.	$45,000	$45,000	One-Time	$0
	Clerk Total			**$46,032**	**$46,032**		**$0**
42	FINANCE	Increase in Return Check Fee	Increase fee from $10 to $25 - fee has not been increased since the mid-1990's (at a minimum). Approved by Finance Committee in March.	$15,600	$15,600	On-Going	$0
43	FINANCE	Fee for pre-collection activities.	Fee would capture costs associated with in-house precollection of delinquent accounts. Approved by Finance Committee in March.	$37,250	$37,250	On-Going	$0

ATTACHMENT B

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
44	FINANCE	Enhanced enforcement of Business License requirement	Business licensing and mil tax collection are currently on honor basis. This would provide for field audits on regular and on-going basis. Finance Committee has requested further information.	$50,000	$50,000	On-Going	$0
45	FINANCE	Business License Application Fee	Covers cost of providing reviews on new business license applications by Finance, Planning, Neighborhood Preservation Unit (NPU), and Fire. Finance Committee has requested further information.	$120,000	$120,000	On-Going	$0
46	FINANCE	Reduce books and periodicals	Spending on these materials will be cut in half.	$328	$328	On-Going	$0
47	FINANCE	Reduce advertising expenses	Any special advertising costs will have to be absorbed by savings in other line items.	$768	$768	On-going	$0
48	FINANCE	Reduce Office Supplies	The budget for this division is already limited. Staff will have to conserve materials as much as possible.	$1,513	$1,513	One-time	$0
49	FINANCE	Reduce Office Supplies	This will reduce the line item by 1/3. Staff will have to conserve materials and attempt to stock up if possible before the end of the current year.	$1,938	$1,938	One-Time	$0
50	FINANCE	Remove Computer replacement costs	Any additional computer needs will come from forced budget savings in other line items	$3,395	$3,395	One-Time	$0
51	FINANCE	Reduce Office Supplies	Staff will attempt to stock-up on materials needed before the end of the current year. Some printed documents will be prepared without combed spines and plastic covers.	$3,558	$3,558	One-Time	$0
52	FINANCE	Reduce professional services	The use of any outside consultants for the preparation of special reports or claims will be limited.	$3,625	$3,625	One-Time	$0
53	FINANCE	Printing cost reduction for Comprehesive Annual Financial Report (CAFR)	Staff will print less copies of CAFR and will economize on the cost of those printed.	$5,000	$5,000	On-going	$0
54	FINANCE	Reduce outside contract service costs	Opportunities to bring in software specialists to upgrade budget software will be reduced.	$21,567	$21,567	One-Time	$0

ATTACHMENT B

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
55	FINANCE	Recognize salary savings from filling Administrative Analyst position	Salary savings will occur as the result of holding other positions vacant when the Administrative Analyst position is filled.	$55,088	$55,088	One-Time	$0
55a	FINANCE	Office Supplies	Staff will share materials with other orgs as necessary		$1,292	On-Going	$1,292
55b	FINANCE	Remove Temp Labor Funding	Loss of this funding will eliminate any opportunities to apply extra help that may be needed to manage the budget process		$6,305	One-Time	$6,305
55c	FINANCE	Reduce Office Supplies by 1/3	Staff will have to carry supplies over to the new year. Some reports will be issued in simpler formats and without covers.		$1,615	One-Time	$1,615
55d	FINANCE	Remove Miscellaneous Services Funding	This will not have a significant impact.		$1,455	One-Time	$1,455
	FINANCE Total			**$319,630**	**$330,297**		**$10,667**
57	FIRE	Sell Fire Station #2 after Neighborhood Center opens	None. Water pumping station at this location has also been closed for some time.	$200,000	$200,000		$0
58	FIRE	Service credit for Fire support to airport operations for FY 2008-09	None. Enterprise Fund (Airport) reimburses Fire for cost of providing staffing and equipment resources to the Airport per FAA regulations.	$94,660	$94,660	On-Going	$0
59	FIRE	Service for Fire training and response for confined space activities for FY 2008-09	None. Utility funds reimburse Fire for cost of confined space and technical rescue services.	$52,900	$52,900	On-Going	$0
60	FIRE	On-Call Investigator - eliminating April 1, 2008	On-call program eliminated. Will utilize paging system.	$11,270	$11,270	On-going	$0
61	FIRE	On-Call Investigator - eliminating April 1, 2008	On-call program eliminated. Will utilize paging system.	$14,030	$14,030	On-going	$0
62	FIRE	Redude Part-Time Clerical	Eliminate funding for a part-time position which has been kept vacant during the FY 07-08.	$18,000	$18,000	On-going	$0
63	FIRE	Reduce Fire Prevention Education program	Reduces specialized Fire Prevention and Safety programs.	$29,000	$29,000	One-Time	$0
64	FIRE	Overtime - Non-Constant Staffing	Limits additional assistance with training and attendance at special classes.	$50,000	$50,000	On-going	$0

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
65	FIRE	Remove appropriation for one filled Fire Prevention AOA III position.	Fire Prevention unit to perform all of their own clerical functions. This will result in the lay-off of one (1) filled position.	$56,652	$56,652	On-going	$0
66	FIRE	Full Time 40-hour Investigator - reduced to Part-time (860 hr) Investigator	This transfers partial responsibility for follow-up and administrative duties to shift investigators.	$101,712	$101,712	On-going	$0
67	FIRE	Discretionary Appropriations	Reduces ability to maintain facilities. Will result in the delay of the apparatus bay door replacement program, the delay in painting of stations, and the delay in flooring replacement.	$151,100	$151,100	One-Time	$0
68	FIRE	Remove appropriation for vacant Training Officer position	A portion of the mandated training accountability falls to Captains and Battalion Chiefs.	$158,000	$158,000	On-going	$0
69	FIRE	4th Person on Truck 1 for 6 months - Three Firefighters (Jan - June)	Leave positions vacant for a portion of the year - Requires additional units to respond to complex emergencies. This results in full year vacancy for these positions as the first six months was part of the base reductions.	$163,000	$163,000	On-going	$0
70	FIRE	Remove appropriation for vacant Division Chief	Administrative duties will fall to others in the Department.	$180,000	$180,000	On-going	$0
71	FIRE	New Engine - purchase over two fiscal years	Delays apparatus replacement schedule. Older less reliable fleet.	$220,000	$220,000	One-Time	$0
72	FIRE	Eliminate staffing at Station 8	Other apparatus would respond to airport needs during flight operations.	$775,000	$775,000	On-going	$0
73	FIRE	4th Person on Truck 5 - 3 Firefighters	Additional units required to respond to complex emergencies.	$326,000	$326,000	On-Going	$0
	FIRE Total			**$2,601,324**	**$2,601,324**		**$0**
75	I T	Institute $0.75 Public Education & Government (PEG) fee	This fee can offset General Fund costs for PEG capital, broadcasting equipment, and facilities costs.	$131,500	$131,500		$0

ATTACHMENT B

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
76	I T	General Fund litigation support	Legal expenses if incurred may need to be covered in the IT Reserve.	$33,005	$33,005		$0
	I T Total			**$164,505**	**$164,505**		**$0**
78	Personnel	Additional service credit for two (2) Employee Relations Specialist (ERS) services to Water Fund	Proposed service credit (10% each x 2 ERS positions) to Water Fund	$21,470	$21,470	On-going	$0
79	Personnel	Additional service credit for two (2) Employee Relations Specialist services to Sewer Fund	Proposed service credit (10% each x 2 ERS positions) to Sewer Fund	$21,470	$21,470	On-going	$0
80	Personnel	Professional services	Will reduce professional services (training/legal expertise); impact is minimal	$979	$979	On-Going	$0
81	Personnel	Reduction of overtime expense	Overtime reduction; limits the ability for after hours or weekend testing	$1,000	$1,000	On-Going	$0
82	Personnel	Printing and binding	Significant reduction to printing and binding limits the number of job flyers and Memorandums of Understanding (MOUs) that can be printed; printing costs for job flyers may be pushed back to the department for funding	$5,000	$5,000	On-Going	$0
83	Personnel	PC Software and supplies	Will defer purchase of laptop/LCD projector; experiencing technical problems with laptop/LCD projector which impacts testing and training presentations	$5,000	$5,000	One-Time	$0
84	Personnel	Eliminate Annual Recognition/Retirement Luncheon	Eliminate General Fund impact for expenses incurred for annual luncheon	$5,000	$5,000	On-Going	$0
85	Personnel	Adjusted salary	Adjusted salary for newly-filled position (proposed vs. actual)	$5,181	$5,181	One-Time	$0

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
86	Personnel	Advertising	Significant reduction to advertising expenses will limit the amount of advertising that can be conducted for open recruitments; could hinder recruitment efforts unless the requesting department absorbs the cost of advertising	$5,280	$5,280	On-Going	$0
87	Personnel	Reduction of part-time wages	Reduce part-time clerical assistance resulting in labor relations impact; timeliness issues	$5,406	$5,406	One-Time	$0
88	Personnel	Reduction to salaries/wages	Employee retirement pending; leave position vacant for 6 months; recruitment will be affected due to reduced staff	$52,491	$52,491	One-Time	$0
89	Personnel	Eliminate Educational Partnership Program	Eliminate General Fund impact for expenses incurred for continuing education program for employees	$37,000	$37,000	One-Time	$0
	Personnel Total			**$165,277**	**$165,277**		**$0**
91	Police	Charge other agencies for use of Police Firing Range	A number of other public agencies utilize the firing range at no cost. Police Department (PD) to develop a fee to help offset costs of operating and maintaining the facility.	$50,000	$50,000	On-Going	$0
92	Police	Reduction of part-time assistance.	32% Reduction in part-time assistance	$3,000	$3,000	One-Time	$0
93	Police	No idling of PD cars	Minimal	$15,000	$15,000	On-Going	$0
94	Police	Remove appropriation for filled Police Civilian Supervisor (PCS) position effective 1/1/09.	Will operate with 20% reduction in front-line supervision of the Records program. This will be accomplished with the demotion of current PCS and the layoff of a Police Clerk.	$40,786	$40,786	On-Going	$0
95	Police	Remove appropriation for vacant Evidence & Property Specialist position.	More time needed to process evidence, backlog of evidence to be booked will result in overtime and reduced level of service for citizens at the Evidence facility. Will continue to operate with 20% less personnel services for the Property & Evidence Program	$56,712	$56,712	On-going	$0

ATTACHMENT B

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
96	Police	Remove appropriation for vacant Animal Control Officer (ACO) position.	This will reduce the total number of vacant ACO to 2 with 1 eliminated as part of the 3% reduction. Longer response to animal control related calls, officers will respond to critical ACO calls (officers lack the tools and training to effectively handle these types of calls). Will continue to operate with 40% reduction in Animal Control Services program.	$63,216	$63,216	On-going	$0
97	Police	Remove appropriation for Sergeant effective 1/1/09	Incumbent planning to retire 12/31/08 reduces front-line supervision by 50% in the Youth Services program.	$63,578	$63,578	On-going	$0
98	Police	Remove appropriation for Sergeant effective 1/1/09	Total reduction 2 positions, 1 Sergeant eliminated to make 3% reduction (incumbent planning to retire 12/31/08). This will increase the span of supervisory control for front line police services.	$64,550	$64,550	On-going	$0
99	Police	Remove appropriation for vacant Crime Analyst position.	Less crime stats available resulting in less efficient deployment of police resources. Delayed response to Council/City Hall requests for information & statistics. The Department will operate with a 25% reduction in the Crime Analysis program.	$69,084	$69,084	On-going	$0
100	Police	Eliminate on-site SMART Team	This will eliminate the formal Beat Health program, but activities will continue through inter-department coordination. This action results in the elimination of one Supervising Building Inspector position and has the potential for the lay-off of one position.	$100,000		On-Going	($100,000)
101	Police	Reduction of City of Modesto contribution to County drug enforcement unit.	Recent changes to the JPA formula to determine participant contributions resulted in a decrease in the amount to be paid by the City of Modesto for JPA personnel costs. No impact of this reduction.	$120,000	$120,000	On-Going	$0

ATTACHMENT B

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
102	Police	Training Site Project	Eliminate PD operations transfer for Training Facility. Stop further development of the training facility. This will result in potential lack of adequate facilities in the future for some types of officer training.	$120,000	$120,000	One-Time	$0
103	Police	Remove appropriation for vacant Lieutenant position.	Leave current Lieutenant position vacant and operate with only one Lieutenant in the Investigations Division. This will leave two Lieutenant positions vacant since one position in the Operations Division was included as part of the 3% reduction. This will result in less management oversight in both the Operations and Investigations Divisions.	$150,330	$150,330	On-Going	$0
104	Police	Remove appropriations for 3 vacant Police Clerk positions	Overall, this reduction will mean the loss of five Police Clerks as 2 were included in the 3% reduction. There will be a reduced capacity to process critical information quickly, mandated reporting requirements will require overtime, case preparation for prosecution will be delayed. Service to the Community will be affected with slow availability of police reports and limited hours for public access. The Records Unit will continue to operate with 15% less clerical support in the Records program.	$161,122	$161,122	On-Going	$0
105	Police	Remove appropriation for 2 vacant Detective positions.	Two detective positions will be unfilled. Fewer follow-up on cases referred, citizens will receive little or no investigation for some crimes. Will continue to operate with a 12% staffing reduction in Investigations program.	$214,682	$214,682	On-Going	$0
106	Police	Remove appropriation for 4 vacant Police Officer positions	The reduction of four Police Officers will impact Special Units - MNET, Street Crimes and Tactical Patrol Unit. Special units throughout the department reduce the calls for service for the 24/7 patrol operations. We will continue to manage patrol staffing at current levels while monitoring the affects of reductions that will be made in the special units.	$380,379	$285,284	On-Going	($95,095)

ATTACHMENT B

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
107	Police	Reduction of part-time assistance.	32% Reduction in part-time assistance	$3,000	$3,000		$0
108	Police	Reduction of part-time assistance.	Eliminate all part-time assistance in the Chief's office.	$9,420	$9,420		$0
109	Police	Reduction of part-time assistance.	Staffing had been increased in order to expand parking enforcement outside of the downtown area. The assignment will be reduced by one position (18%)	$15,000	$15,000		$0
110	Police	Reduction of part-time assistance.	33% Reduction in part-time assistance.	$30,000	$30,000		$0
111	Police	Reduction of part-time assistance.	36% Reduction in part-time assistance	$40,000	$40,000		$0
112	Police	Remove all GF funding of PAL Program	Transfer responsibility for Police Athletic League (PAL)to non-profit. Reduction or elimination of a critical program for youth determined by the availability of non-profit funding	$47,000	$47,000	On-Going	$0
113	Police	Reduction of part-time assistance.	32% Reduction in part-time assistance,	$233,300	$233,300		$0
	Police Total			**$2,050,159**	**$1,855,064**		**($195,095)**
115	PR&N	Replacement funds and sale price of sedan that will not be replaced. ($14,045 ***)	Neighborhood Preservation Unit Supervisor will receive car allowance in lieu of City vehicle.	$14,055	$14,055	On-Going	$0
116	PR&N	Increase Swim fees	Alternative is to reduce hours for open swim	$15,300	$15,300	On-Going	$0
117	PR&N	Develop sponsors for Leisure Bucks program or eliminate	Participation in recreation programs could decline.	$40,000	$40,000	On-Going	$0
118	PR&N	Pay for portion of park maintenance programs through fund development	Donations would be focused toward maintenance rather than programs and development.	$100,000	$100,000	On-Going	$0
119	PR&N	$5 fee on all youth sports program participants	Participation in youth sports could decline.	$100,000	$100,000	On-Going	$0
120	PR&N	Charge Spray Crew to Gas Tax Fund	Option is to eliminate Spray Crew, resulting in unsightly weeds and fire hazard.	$144,663	$144,663	On-Going	$0

ATTACHMENT B

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
121	PR&N	Sell John Muir site @ $400k (General Fund receives 1/2 of revenues)	Funding would not be available for grant matches, programs, or open space development and maintenance	$200,000	$200,000	One-Time	$0
122	PR&N	Sell Coldwell and Virginia recreation site	Funding would not be available for grant matches, programs, or open space development and maintenance	$215,000	$215,000	One-Time	$0
123	PR&N	Re-program Section 108 Loan Interest to Project	Funding will not be available for program activities	$320,000	$320,000	One-Time	$0
124	PR&N	Eliminate 1 sedan; reassign existing SUV to Code Enf Officer; and car allowance to replace vehicle	Supervisor will receive car allowance rather than assigned City vehicle.	$766	$766	On-Going	$0
125	PR&N	Eliminate All-Comers Track Meet	Facility rental costs have increased 20% and attendance is low.	$1,792	$1,792	On-Going	$0
126	PR&N	Eliminate funding for Maxicom weather stations	No impact - maintained by Grover	$4,001	$4,001	On-Going	$0
127	PR&N	Reduce rent at Codoni facility	No impact	$9,000	$9,000	On-Going	$0
128	PR&N	Eliminate Part-time Clerical Support	This action would eliminate all funding for part-time support, which will impact the work unit's ability to respond to cases, and could require a Code Enforcement Officer to cover office duties.	$13,816		One-Time	($13,816)
129	PR&N	Eliminate Adult Soccer	Program has been eliminated. Players form their own leagues and rent city fields.	$36,543	$36,543	On-Going	$0
130	PR&N	Delay Mansion Foundation Study	Further structural deterioration could occur.	$42,478	$42,478	One-Time	$0
131	PR&N	Recognize salary savings from filling positions and discontinuing acting assignments.	Budgeted funds that are not needed to run existing programs.	$45,176	$45,176	On-Going	$0
132	PR&N	Remove appropriation for vacant Parks Crew leader	General Service level reduction.	$58,158	$58,158	On-Going	$0
133	PR&N	Eliminate funding for Culture Commission grants	Local organizations will have to seek funding elsewhere or reduce prgram offerings	$57,231		One-Time	($57,231)
134	PR&N	Remove appropriation for vacant Park Planning Coordinator	Grant funded projects could be jeopardized if current staff can not manage all projects.	$75,000	$75,000	On-Going	$0

ATTACHMENT B

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
135	PR&N	Do not renew school agreements for multi-purpose rooms and pools except for pools at Johansen and Modesto High School (will also impact part-time staffing)	Open swim and swim lessons will be reduced.	$100,000	$100,000	On-Going	$0
136	PR&N	Reduce custodial budget through managed competition or service level changes	Anticipated savings from management competition process.	$200,000	$200,000	On-Going	$0
137	PR&N	Eliminate Recreation-based Neighborhood Programs	Pools are failing, and repair would require extensive work; Closes 12 pools; 7 pools would be demolished; corresponding reduction in part-time staffing. This cut would result in the elimination of a filled position.	$256,037	$186,037	On-Going	($70,000)
138	PR&N	Reduce funding for pool chemicals	Minimal impact	$2,000	$2,000	On-Going	$0
139	PR&N	Reduce Senior class offering from 2 to 1	Duplicate classes will be eliminated.	$7,156	$7,156	On-Going	$0
140	PR&N	Limit number of teams per league	Minimal impact. If additional teams wish to play, they will be self-supporting and revenue will increase.	$40,686	$40,686	N/A	$0
140a	PR&N	Reduce contribution to Convention and Visitors Bureau (CVB) to Transient Occupancy Tax (TOT) estimate	Based on estimated TOT of $2.2M		$34,000	N/A	$34,000
140b	PR&N	Decrease MoBand Café from 6 weeks to 5 weeks	One week will be eliminated.		$565	N/A	$565
140c	PR&N	Reduce camps to 5-week program	Attendees will be accommodated in the other 5 weeks of camp.		$1,489	N/A	$1,489
140d	PR&N	Reduce Youth Classes	Classes that have not met attendance minimums will be eliminated.		$3,855	N/A	$3,855
140e	PR&N	Fill vacant benefited Supervisor II position with 400 hours part-time Supervisor	This reduction could be accomplished with proposed service level reductions.		$58,519	N/A	$58,519
140f	PR&N	Eliminate Spring Basketball League, reduce adult basketball from 50 wks to 35 wks	3 leagues would continue. Spring attendance is low with other options.		$4,570	N/A	$4,570

ATTACHMENT B

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
	PR&N Total			**$2,098,858**	**$2,060,809**		**($38,049)**
142	PW	Sell portion of fleet pool vehicles	Fleet motor pool is overstocked for history of usage. This would reduce the motor pool by 8 vehicles and sell them at auction.	$43,400	$43,400	One-Time	$0
143	PW	Photocopy - Rent, Service Supply	This action will surplus one copier and eliminate the maintenance contract on that copier. This action will have no impact on service delivery.	$1,031	$1,031	One-Time	$0
144	PW	Professional Services	This action results in the elimination of 100% in expenses for professional services such as web	$4,047	$4,047	One-Time	$0
145	PW	Reduction in purchase of replacement tools used by field crews in the course of carrying out their day to day work.	Reduces ability to replace/provide tools such as chainsaws etc. in Community Forestry.	$4,421	$4,421	One-Time	$0
146	PW	Reduction of a proportional share of all objects support engineering services for General Fund related activities.	Results in a reduced ability to support General Fund related activities including, but not limited to Capital Projects, General Plan update, Specific Plan input, and general engineering support	$6,054	$6,054	One-Time	$0
147	PW	Reduction in funding used to purchase paint, equipment and supplies used in the removal of graffiti from various surfaces.	This action will reduce paint, equipment and other supplies and materials used by graffiti crews by 14%.	$10,309	$10,309	One-Time	$0
148	PW	Reduction in funding for weed abatement in public right of ways	Reduction in budget to match actual contract expenses.	$10,595	$10,595	One-Time	$0

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
149	PW	Remove 1/2 appropriation for Temporary Graffiti Technician	This action results in the reduction of one full-time temporary laborer to one half-time temporary laborer, which accounts for 1/6 of the City's labor force assigned to Graffiti Abatement. Program impacts include a 17% reduction in the removal of graffiti overall during 2008-09. Suspension in the use of one pick-up truck for a period of 6-months would result, however Org 4722 would continue to incur these costs for a full-year. Customer impacts include longer response time for graffiti removal.	$17,371	$17,371	On-Going	$0
150	PW	Reduction in use of service contracts for outside subject matter expertise	This action will eliminate available funding used to hire consultants or pay city staff assigned to other funds to conduct feasibility studies for transportation related projects prior to packaging and submitting a request for grant funding. These projects include intersection improvements and roadway projects. This work is a precursor to preliminary engineering.	$21,507	$21,507	One-Time	$0
151	PW	Reduction in use of temporary labor in Forestry programs	Reduce temporary labor staff. This equates to approx. 3-4 full-time temporary laborers. This action will impact service frequencies in Tree Preservation, Tree/Stump Removal, Service Request Pruning Programs. Cycle Pruning frequency will change from a 5-year to a 6-year cycle.	$47,007	$47,007	One-Time	$0
152	PW	Remove appropriation for 2 vacant Tree Trimmer positions.	Hold 2 vacant positions in the Tree Trimmer classification. This action will impact service level frequencies in Tree Preservation and Cycle Pruning.	$112,752	$112,752	On-Going	$0
153	PW	Reduction in the purchase of gardening and horticulture supplies	Continue suspension of tree replanting program in older neighborhoods. Results in a loss of the replanting of approx. 1,146 trees at a cost of $100 per tree including labor and supplies.	$114,593	$114,593	One-Time	$0

CITY OF MODESTO
MAYOR'S BUDGET RECOMMENDATIONS
AS REVIEWED AND ENDORSED BY FINANCE COMMITTEE
FY 2008-09

No.	Dept	Proposed Program Reduction	Overall Program Impact	Mayor's Recomm 08-09	Finance Committee	Frequency	Diff
153a	PW	Remove appropriation for 1/2 of a Maintenance Worker II position which is currently vacant	This funding has been used to hire temporary labor to assist staff as well as to cover costs for OT due to storm events etc. Loss of these funds will impact service delivery.		$26,786	N/A	$26,786
	PW Total			**$393,087**	**$419,873**		**$26,786**
	Grand Total			**$13,275,487**	**$13,054,508**		**($220,979)**

ATTACHMENT B

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-333

A RESOLUTION OF INTENTION TO LEVY AND COLLECT ASSESSMENTS FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK MEADOWS SUBDIVISIONS NOS. 1 – 6, AND SETTING A PUBLIC HEARING ON THE PROPOSED ASSESSMENTS TO BE HELD ON AUGUST 6, 2008

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 the Streets and Highways Code Section 22625, and the place for hearing by the legislative body (the City Council) on the levy of the proposed assessment.

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

1. The City Council intends to levy and collect assessments within Landscape Maintenance Assessment District No. 1 during the fiscal year 2008-09.

2. There are no proposed new improvements or any substantial changes in existing improvements in Dry Creek Meadows Subdivisions Nos. 1-6 and that

the existing improvements to be made in said assessment district are generally described as follows:

The City shall provide maintenance, in perpetuity, of landscaping and any and all improvements required for such maintenance including, but not limited to, landscape irrigation systems in the following locations:

a. Street medians in Creekwood Drive

b. Areas adjacent to the access control walls along Creekwood Drive

c. Areas adjacent to the access control walls along Claus Road

3. Landscape Maintenance Assessment District No. 1 is located in the County of Stanislaus, within the City Limits of the City of Modesto and is more specifically located on the west side of Claus Road, between Modesto Irrigation District Lateral No. 2 and State Route 132 (Yosemite Boulevard).

4. Said annual report filed with the City Clerk and approved by the Council by motion does provide a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within Landscape Maintenance Assessment District No. 1.

5. On Wednesday, the 6th day of August, 2008, 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 10th day of June, 2008, 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. 2008-334

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 & 2; AND SETTING A PUBLIC HEARING ON THE PROPOSED ASSESSMENTS TO BE HELD ON AUGUST 6, 2008

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 & 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 this Council as Engineer of Work for Assessment District No. 2, to prepare and file an annual report, and

WHEREAS, the City Engineer, said Engineer of Work, has prepared and filed said annual report with the City Clerk, and

WHEREAS, the Council has approved said annual report by motion, and

WHEREAS, 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 said annual report.

b. General description of the existing improvements and proposed improvements and any substantial changes proposed to be made in the existing improvements.

c. Reference to the assessment district by its distinctive designation and indication of the general location of the district.

d. Reference to said annual report, on file with the City Clerk, for a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the district.

e. Notice of the time, as fixed by Streets and Highways Code Section 22625, and the place for hearing by the legislative body (the City Council) on the levy of the proposed assessment.

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

1. The City Council intends to levy and collect assessments within Landscape Maintenance Assessment District No. 2 during the fiscal year 2008-09.

2. There are no proposed new improvements or any substantial changes in the existing improvements within the existing Landscape Maintenance

Assessment District No. 2, and the existing improvements to be made in said assessment district are generally described as follows:

The City shall provide maintenance, in perpetuity, of landscaping and any and all improvements required for such maintenance including, but not limited to, landscape irrigation systems in the following locations:

a. Street medians in Creekwood Drive

b. Areas adjacent to the access control walls along Creekwood Drive

c. Areas adjacent to the access control walls along Claus Road

3. Landscape Maintenance Assessment District No. 2 is located in the County of Stanislaus, within the City limits of the City of Modesto and is more specifically located on the west side of Claus Road, between Modesto Irrigation District Lateral No. 2 and State Route 132 (Yosemite Boulevard).

4. Said annual report filed with the City Clerk and approved by the Council by motion does provide a full and detailed description of the improvements, the boundaries of the assessment district and any zones therein, and the proposed assessments upon assessable lots and parcels of land within Landscape Maintenance Assessment District No. 2.

5. On Wednesday, the 6th day of August, 2008, 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 10th day of June, 2008, 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.2008-335

A RESOLUTION AMENDING RESOLUTION NO. 2008-052 TITLED, "A RESOLUTION APPROVING THE FINAL MAP AND ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE GRAHAM ESTATES SUBDIVISION IN THE VILLAGE ONE SPECIFIC PLAN AREA OF THE CITY OF MODESTO, AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH GRAHAM ESTATES, LLC" TO INCLUDE LANGUAGE APPROVING THE ABANDONMENT OF A 10-FOOT CITY OF MODESTO PUBLIC UTILITY EASEMENT ALONG THE EAST PROPERTY LINE, AND A 10-FOOT CITY OF MODESTO IRRIGATION EASEMENT ALONG THE WEST PROPERTY LINE PER THE FINAL MAP

WHEREAS, on May 6 2008, the City Council of the City of Modesto approved Resolution No. 2008-052 titled, "A Resolution approving the Final Map and accepting the public improvements for the Graham Estates Subdivision in the Village One Specific Plan Area of the City of Modesto, authorizing the City Manager to execute a subdivision agreement with Graham Estates, LLC", and

WHEREAS, Resolution No. 2008-047, approved the Final Map of 1000 Brighton, and

WHEREAS, the City Clerk was unable to record the Final Map because Resolution No. 2008-047 did not include language approving the abandonment of the 10-foot City of Modesto Public Utility Easement along the east property line and the 10-foot City of Modesto Irrigation Easement along the west property line per the Final Map,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending Resolution No. 2008-052 titled, "A Resolution approving the Final Map and accepting the public improvements for the Graham Estates Subdivision in the Village One Specific Plan Area of the City of Modesto, authorizing the City Manager to execute a subdivision agreement with Graham Estates, LLC", to include language approving the abandonment of the 10-foot City of Modesto Public Utility Easement along the east property line and the 10-foot City of Modesto Irrigation Easement along the west property line per the Final Map.

BE IT FURTHER RESOLVED, that the City Clerk is hereby authorized to record the Final Map for Graham Estates with the Stanislaus County Clerk Recorder.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2008, 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. 2008-336

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR PROPOSALS (RFP) FOR THE FURNISHING OF PUBLIC AUCTION SERVICES FOR CITY PROPERTY, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY

WHEREAS, Section 801 of the City Charter authorizes the City Manager to sell obsolete, unused, or surplus personal property of the City with approval of City Council, and

WHEREAS, surplus, lost, stolen, unclaimed and/or seized property, and miscellaneous property is accumulated by City departments, and

WHEREAS, the Central Stores Division is responsible for processing surplus property in accordance with established procedures for auctioning by a designated auctioneer, and

WHEREAS, the current agreement to furnish public auction services is due to expire in 2008, and

WHEREAS, by issuing a formal RFP the City will meet Modesto Municipal Code requirements for the formal bid process, 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 RFP for the furnishing of public auction services for City property 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 furnishing of public auction services for City property, 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 Central Stores 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 the10th day of June, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmemeber 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:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-337

A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008 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 2007-2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2007-2008 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 10th day of June, 2008, 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, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-338

A RESOLUTION ESTABLISHING THE CALCULATION FOR THE APPROPRIATION LIMIT FOR THE FISCAL YEAR 2008-2009 ANNUAL BUDGET

WHEREAS, Proposition 4 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 10th day of June, 2008, 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, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

SCHEDULE A

FY2008-2009

PROPOSITION 4

APPROPRIATION LIMIT CALCULATION

FY2007-2008 Appropriation Limit		$317,409,812
Adjustment Factors		
Per Capita Personal Income Change	4.29%	
Population Change (Stanislaus County)	1.34%	
Per Capita converted to a ratio	1.0429	
Population converted to a ratio	1.0134	
Calculation of factor for FY2008-2009	1.0569	
Adjustment		$18,060,618
FY2008-2009 Appropriation Limit		$335,470,430

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, interest earnings on invested tax revenues, and any revenues collected by a regulatory license fee or user charge in excess of the amount needed to cover the cost of providing the regulation, product, or service.

Appropriations from nontax revenues, including the City's enterprise funds, are not subject to the limit.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-339

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO AMENDING THE BUDGET OF GAS TAX, LOCAL TRANSPORTATION AND CAPITAL GRANT FUNDS TO REFLECT THE CURRENT ESTIMATES FOR REVENUES AND EXPENDITURES IN THE 2007-2008 FISCAL YEAR

WHEREAS, the staff has reviewed the revenue and expenditure trends in the Gas Tax, Local Transportation and Capital Grant Fund Budgets for the 2007-2008 fiscal year; and

WHEREAS, the State of California has retained the city's share of Gas Tax Revenues beginning in April 2008; and

WHEREAS, the Gas Tax, Local Transportation and Capital Grant Fund budgets must be amended to reflect the current economic conditions; and

WHEREAS, the current estimates for certain project and program costs have been revised based on current circumstances; and

WHEREAS, **Exhibit** A, which is incorporated by reference herein, identifies the various changes that are proposed to be made to the Gas Tax, Local Transportation and Capital Grant Fund Budgets;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Finance Director to take all steps necessary to amend the Gas Tax, Local Transportation and Capital Grant Fund Budgets as shown in **Exhibit** A to this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2008, 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, 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

DEPARTMENTAL REVENUES				
Gas Tax Revenue Adjustments (Per Proforma)				
08-0700-160-1612-4019	500	9,500	10,000	Subdivision Inspections
08-0700-160-1612-4051	32,000	(7,000)	25,000	Traffic Sig Maint/Sweep State Hwys
08-0700-160-1612-8122	1,000	54,000	55,000	Refunds/Damages/Cost Recovery
08-0700-160-1612-8155	8,000	(7,000)	1,000	Miscellaneous Revenue
08-0700-430-4360-3203	800,000	(800,000)	-	Prob 1B Revunue
08-0700-480-4612-3203	-	800,000	800,000	Prob 1B Revunue
08-0700-430-4370-3110	750,000	(163,240)	586,760	Gas Tax 2106B
08-0700-430-4370-3120	800,000	144,546	944,546	Gas Tax 2105
08-0700-430-4370-3125	1,300,000	(37,518)	1,262,482	Gas Tax 2107
08-0700-430-4370-4013	5,000	(3,900)	1,100	Canal Crossing Fee
08-0700-430-4370-6101	40,000	127,000	167,000	Interest
08-0700-480-4612-2211	8,000	2,000	10,000	Trech Cut Fees
08-0700-480-4612-8122	100	1,100	1,200	Refunds/Damages/Cost Recovery
08-0700-480-4622-4055	9,000	(9,000)	-	Street Name Signs
08-0700-480-4622-4909	89,299	7,879	97,178	Service Credit Revenue
Total	3,842,899	118,367	3,961,266	
LTF Revenue Adjustments (Per Proforma)				
08-0510-430-4310-1213	2,412,025	(2,146,025)	266,000	LTF Streets and Roads New
08-0510-430-4310-6101	-	50,000	50,000	Interest
Total	2,412,025	(2,096,025)	316,000	
EXPENSE ADJUSTMENT				
Gas Tax Expense Adjustments (Per Proforma)				
MY-0700-430-4380-0235	1,489,321	(830,000)	659,321	Slurry Seal
MY-0700-430-4380-0255	770,668	(429,989)	340,679	Slurry Seal
MY-0700-480-4615-0235	8,692	(8,692)	-	Services, Professional & Other
MY-0700-480-4615-0359	8,692	(8,692)	-	Services City forces-Intrafund
MY-0700-430-C926-6010	49,150	(46,092)	3,058	7th Street Bridge Prelim Design
MY-0700-160-E453-6040	77,655	(17,986)	59,669	Maintain ATMS CCTV
MY-0700-160-E453-6041	72,000	(49,814)	22,186	Maintain ATMS CCTV
MY-0700-430-F265-6040	10,900,342	(242,652)	10,657,690	Kansas/Needem Overhead
MY-0700-430-H592-6040	45,000	(45,000)	-	Developer Reimbursement
Total	18,245,570	(5,870,967)	12,374,603	
TRANSFERS IN				
Transfers In to Gas Tax (from General Fund)				
MY-0700-700-4380-9010	550,702	(490,702)	60,000	General Fund - Slurry Seal
Transfers In to Gas Tax (from LTF)				
08-0700-700-4612-9051	1,771,783	(477,444)	1,294,339	LTF Street Maint.
TRANSFERS OUT				
Transfers Out of LTF (to Gas Tax)				
08-0510-700-4612-7070	1,771,783	(477,444)	1,294,339	LTF Street Maint.
Transfers Out of Gas Tax (to Capital Grants)				
MY-0700-700-A010-7230	27,528	9,646	37,174	Match Funding
MY-0700-700-A265-7230	340,976	34,099	375,075	Match Funding
MY-0700-700-M203-7230	99,371	(10,920)	88,451	Match Funding
MY-0700-700-M203-7230	200,000	(62,807)	137,193	Match Funding
MY-0700-700-N062-7230	39,353	(20,804)	18,549	Match Funding
Total	4,250,794	(1,005,674)	3,245,120	
Transfers Out of Gas Tax (to Capital Grants-Gas Tax)				
MY-0700-700-E330-7237	139,477	58,872	198,349	Match Funding
MY-0700-700-E602-7237	452,841	(351,615)	101,226	Match Funding
MY-0700-700-E632-7237	56,440	6,551	62,991	Match Funding
MY-0700-700-E640-7237	25,930	1,041	26,971	Match Funding
MY-0700-700-E645-7237	89,900	21,167	111,067	Match Funding
MY-0700-700-E646-7237	31,457	1,800	33,257	Match Funding
MY-0700-700-E662-7237	82,947	5,890	88,837	Match Funding
MY-0700-700-E663-7237	133,625	367	133,992	Match Funding
MY-0700-700-E667-7237	38,359	1,280	39,639	Match Funding
MY-0700-700-E690-7237	41,116	(3,629)	37,487	Match Funding
MY-0700-700-E701-7237	18,500	19,804	38,304	Match Funding
MY-0700-700-E736-7237	40,000	(39,079)	921	Match Funding
MY-0700-700-E736-7237	50,000	(343)	49,657	Match Funding
MY-0700-700-H151-7237	15,000	175,000	190,000	Match Funding
MY-0700-700-H475-7237	129,353	(129,353)	-	Match Funding
MY-0700-700-H580-7237	574,133	(394,619)	179,514	Match Funding
MY-0700-700-H769-7237	15,000	3,182	18,182	Match Funding
MY-0700-700-H930-7237	30,000	12,401	42,401	Match Funding
Total	1,964,078	(611,283)	1,352,795	

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-340

A RESOLUTION APPROVING AN ADDITIONAL SIXTY (60) DAY EXTENSION TO A SIX MONTH PROVISIONAL APPOINTMENT FOR LISA BAYSINGER AS ACCOUNTANT I

WHEREAS, the Finance Department has a vacant Accountant I position, and

WHEREAS, Lisa Baysinger was provisionally appointed as Accountant I on December 18, 2007, and

WHEREAS, the Finance Department desires an additional extension to the provisional appointment of Lisa Baysinger for another sixty (60) days, and

WHEREAS, a current recruitment for an Accountant I is currently underway, and

WHEREAS, Modesto Personnel Rule 7.5 (c) requires Council approval if a provisional appointment is to exceed the six-month period authorized by said rule, and

WHEREAS, staff is requesting that the City Council approve an additional sixty (60) day extension to this provisional appointment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an additional sixty (60) day extension to the six-month provisional appointment of Lisa Baysinger to the position of Accountant I.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2008, 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, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

Resolution No. 2008-341

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 for an Exclusion of elected City Council members prospectively only.

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

June 10, 2008
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 10th day of June, 2008, 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: _____
SUSANNA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-342

A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND MODESTO CITY SCHOOLS IN THE AMOUNT OF $449,295 FOR THE PROVISION OF EIGHT MODESTO POLICE OFFICERS/SCHOOL RESOURCE OFFICERS (SROs) TO PROVIDE DIRECT LAW ENFORCEMENT SERVICES, CAMPUS SUPERVISOR TRAINING, IN SERVICES, AND CONSULTATIONS WITH SITE STAFF AND DISTRICT ADMINISTRATORS, AND ACT AS A LIAISON BETWEEN MODESTO POLICE DEPARTMENT AND MODESTO CITY SCHOOLS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Modesto City Schools would like to have the services of eight Modesto Police Officers to provide prevention, intervention, and enforcement services to students, their families and staff at Beyer, Davis, Downey, Johansen, Modesto, and Enochs High Schools, and Elliott Alternative Education Center, and LaLoma, Mark Twain, Hanshaw, and Roosevelt Junior High Schools, 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 Modesto City Schools, 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, 2008, to June 30, 2009, and

WHEREAS, the City shall be compensated by Modesto City Schools in the amount of $449,295 for the services of nine Modesto Police Officers, one 12-month officer at $68,683 and seven 9.5-month officers at $380,613,

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 the amount of $449,295 for the provision of eight Modesto Police Officers/School Resource Officers (SROs) to provide direct law enforcement services, campus supervisor training, in services, and consultations with site staff and District administrators, and act as a liaison between the Modesto Police Department and Modesto City Schools.

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 June, 2008, 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. 2008-343

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "PHASE 1A TERTIARY WASTEWATER TREATMENT PROJECT OXIDATION DITCH AERATION AND MIXING EQUIPMENT PROCUREMENT," ACCEPTING THE BID AND APPROVING A $323,533 CONTRACT WITH WESTECH ENGINEERING, INC. FOR THE "PHASE 1A TERTIARY WASTEWATER TREATMENT PROJECT OXIDATION DITCH AERATION AND MIXING EQUIPMENT PROCUREMENT," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Phase 1A Tertiary Wastewater Treatment Project Oxidation Ditch Aeration and Mixing Equipment Procurement and City staff recommends approval to the City Council, and

WHEREAS, the City of Modesto provided bid packages to interested Oxidation Ditch Aeration and Mixing Equipment suppliers on March 12, 2008, and received qualifications and bids on May 6, 2008, and

WHEREAS, the bids received for the Phase 1A Tertiary Wastewater Treatment Project Oxidation Ditch Aeration and Mixing Equipment Procurement were opened at 11:00 a.m. on May 13, 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 $323,533 received from WesTech Engineering, Inc. be accepted as the lowest responsible bid and the contract be awarded to WesTech Engineering, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Phase 1A Tertiary Wastewater Treatment Project Oxidation Ditch Aeration and Mixing Equipment Procurement, accepts the bid of WesTech Engineering, Inc. in the amount of $323,533, and awards WesTech

Engineering, Inc. the contract for the Phase 1A Tertiary Wastewater Treatment Project Oxidation Ditch Aeration and Mixing Equipment Procurement.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract with WesTech Engineering, Inc., in the amount of $323,533, for the Phase 1A Tertiary Wastewater Treatment Project Oxidation Ditch Aeration and Mixing Equipment Procurement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2008, 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. 2008-344

A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT WITH ICM GROUP, INC. FOR CONSTRUCTION MANAGEMENT SERVICES OF THE VIRGINIA CORRIDOR PHASE III WITH DOWNSTREAM WATER SYSTEM IMPROVEMENTS PROJECT, IN THE NOT-TO-EXCEED AMOUNT OF $12,517.50, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO THE AGREEMENT

WHEREAS, the City Council, on June 12, 2007, by Resolution No. 2007-354, approved the plans and specifications for the Virginia Corridor Phase III with Downstream Water System Improvements Project accepting the bid and awarded a $3,224,959.00 construction contract to George Reed, Inc., and

WHEREAS, the Virginia Corridor Phase III with Downstream Water System Improvements project is a large specialized project that requires construction management and inspection, and

WHEREAS, the City Council, on July 3, 2007, by Resolution 2007-405, approved an agreement in the amount of $126,324 with ICM Group, Inc., a construction management firm specializing in these types of inspections, to assist with this project, and

WHEREAS, construction is approximately 90 percent complete for the original project scope, and

WHEREAS, ICM Group has managed and inspected an additional $123,802.32 of change order work exclusively for the Virginia Corridor Phase III portion of the project, and

WHEREAS, this extra work pertaining only to the Virginia Corridor Phase III project has extended the Parks Department portion of the construction contract an additional 13 weeks, and

WHEREAS, additionally, there is over $50,000 of proposed change order work, and

WHEREAS, in order for ICM Group to complete the management and inspection duties of the remaining work, an Amendment to the Agreement is required on behalf of the Virginia Corridor Phase III project, and

WHEREAS, amending ICM Group's construction management and inspection agreement will provide continuity of administration of the project work, and

WHEREAS, staffing levels will not provide for timely in-house construction management and inspection, and

WHEREAS, City staff recommends approving the Amendment to ICM Group's Agreement, and

WHEREAS, there are sufficient funds available in CIP Account 2300-310-P713 "Virginia Corridor Phase III" to perform the extra work pertaining only to the Virginia Corridor Phase III portion of the project, and

WHEREAS, the additional work associated with this Amendment brings the Agreement total to $138,841.50,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendment to the Agreement between City of Modesto and ICM Group, Inc. for additional services related to the Virginia Corridor Phase III with Downstream Water System Improvements project in the amount of $12,517.50.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2008, 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. 2008-345

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE ROSE AVENUE SEWER MANHOLE INSTALLATION PROJECT, ACCEPTING THE BID AND APPROVING A CONTRACT WITH PRESTON PIPELINES, INC., IN THE AMOUNT OF $24,000, FOR THE ROSE AVENUE SEWER MANHOLE INSTALLATION PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Rose Avenue Sewer Manhole Installation project and City staff recommends approval to the City Council, and

WHEREAS, the bids received for the Rose Avenue Sewer Manhole Installation project were opened at 11:00 a.m. on May 20, 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 $24,000 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 Rose Avenue Sewer Manhole Installation project, accepts the bid of Preston Pipelines, Inc. in the amount of $24,000, and awards Preston Pipelines, Inc. the contract for the Rose Avenue Sewer Manhole Installation 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 $24,000, for the Rose Avenue Sewer Manhole Installation project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2008, 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. 2008-346

A RESOLUTION ACCEPTING AN AIRPORT IMPROVEMENT PROGRAM (AIP) GRANT OFFER (AIP PROJECT NO. 3-06-0153-32) IN THE AMOUNT OF $1,045,000 FROM THE FEDERAL AVIATION ADMINISTRATION TO FUND "PREPARING THE DESIGN FOR REHABILITATING THE GENERAL-AVIATION APRON AND IMPROVING RUNWAY 10R/28L SAFETY AREAS, AND TO ACQUIRE A 1,500 GALLON AIRCRAFT RESCUE AND FIREFIGHTING (ARFF) VEHICLE", AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE ACCEPTANCE OF THE GRANT ON BEHALF OF THE CITY

WHEREAS, Modesto City-County Airport is a commercial service airport and is eligible for Federal Airport Improvement Program (AIP) entitlement and discretionary funds, and

WHEREAS, on May 13, 2008, the City Council authorized staff to submit two grant applications to the Federal Aviation Administration (FAA) in the amount of $1,282,500 to fund approved Airport Capital Improvement Plan (ACIP) projects, and

WHEREAS, the FAA notified the City that one AIP Grant Offer of $1,045,000 has been made to Modesto to fund "preparing the design for rehabilitating the general-aviation apron and improving Runway 10R/28L safety areas, and to acquire a 1,500 gallon aircraft rescue and firefighting (ARFF) vehicle", and

WHEREAS, this Grant Offer (AIP Project No. 3-06-0153-32) must be accepted by the City on or before its expiration date of June 14, 2008, and

WHEREAS, the acceptance of the Grant Offer will provide Federal Funds in the amount of $1,045,000 to pay 95% of the identified projects' costs, and

WHEREAS, Passenger Facility Charges (PFCs) collected by the airlines from enplaning passengers or funds from the Airport Reserves will pay the remaining 5% ($55,000),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts an Airport Improvement Grant Offer for AIP Project No. 3-06-0153-3200 in the amount of $1,045,000 from the Federal Aviation Administration to fund "preparing the design for rehabilitating the general-aviation apron and improving Runway 10R/28L safety areas, and to acquire a 1,500 gallon aircraft rescue and firefighting (ARFF) vehicle".

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the acceptance of the Grant on behalf of the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2008, 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:	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. 2008-347

A RESOLUTION ACCEPTING AN AIRPORT IMPROVEMENT PROGRAM (AIP) GRANT OFFER (AIP PROJECT NO. 3-06-0153-33) IN THE AMOUNT OF $237,500 FROM THE FEDERAL AVIATION ADMINISTRATION TO FUND "PLANNING STUDIES", AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE ACCEPTANCE OF THE GRANT ON BEHALF OF THE CITY

WHEREAS, Modesto City-County Airport is a commercial service airport and is eligible for Federal Airport Improvement Program (AIP) entitlement and discretionary funds, and

WHEREAS, on May 13, 2008, the City Council authorized staff to submit two grant applications to the Federal Aviation Administration (FAA) in the amount of $1,282,500 to fund approved Airport Capital Improvement Plan (ACIP) projects, and

WHEREAS, the FAA verbally notified the City on June 10, 2008 that an AIP Grant Offer of $237,500 has been made to Modesto to fund "Planning Studies: (a) Airport Layout Plan Update, (b) Program Narrative Report Summary, (c) Terminal Complex Study; (1) terminal analysis and recommendation, (2) terminal proposal cost benefit analysis and (3) finance plan", and

WHEREAS, this Grant Offer (AIP Project No. 3-06-0153-33) must be accepted by the City on or before its expiration date of June 20, 2008, and

WHEREAS, due to the short timeframe for acceptance, a Finding of Necessity was made for presentation of this additional Grant Offer after Council agenda publication for the June 10, 2008 meeting, and

WHEREAS, the acceptance of the Grant Offer will provide Federal Funds in the amount of $237,500 to pay 95% of the identified projects' costs, and

WHEREAS, Passenger Facility Charges (PFCs) collected by the airlines from enplaning passengers or funds from the Airport Reserves will pay the remaining 5% ($12,500),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts an Airport Improvement Grant Offer for AIP Project No. 3-06-0153-3300 in the amount of $237,500 from the Federal Aviation Administration to fund "Planning Studies: (a) Airport Layout Plan Update, (b) Program Narrative Report Summary, (c) Terminal Complex Study; (1) terminal analysis and recommendation, (2) terminal proposal cost benefit analysis and (3) finance plan".

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the acceptance of the Grant Offer 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 10th day of June, 2008, 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:	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. 2008-348

A RESOLUTION RECINDING ALL PREVIOUS SEWER FEES RESOLUTIONS AND ESTABLISHING FEES FOR THE PROVISION OF SEWER SERVICE

WHEREAS, Section 11-6.09 of the Modesto Municipal Code authorizes the Council to establish sewer service charges from time to time by resolution, and

WHEREAS, the Council has previously established sewer service charges, and

WHEREAS, Proposition 218 was passed in November of 1996 and became effective with respect to sewer rates on July 1, 1997, and

WHEREAS, on July 24, 2007, the Council held a public hearing pursuant to Proposition 218 with respect to adjustment of sewer rates, and

WHEREAS, on July 24, 2007, the Council approved resolution 2007-463, which established maximum fees for sewer service starting August 1, 2007 with annual increases effective July 1st of each year through July 1, 2011, and

WHEREAS, resolution 2007-463 also requires that the Council shall review each increase prior to the implementation of said increase for all fiscal years after June 30, 2008, and

WHEREAS, a review of the proposed sewer rate increase has been performed and a recommendation has been made to the Council

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

SECTION 1. DEFINITIONS. Unless the context requires a different meaning, for the purposes of this resolution the definitions set forth in Section 5-6.103 of Chapter 6 of Title 5 of the Modesto Municipal Code entitled "DEFINITIONS" shall apply.

1. Director: The City officer or designee in charge of utilities.

2. Monthly account charge: A monthly fee charged to every sewer account to pay the actual fixed sewer system costs not allocable to sewer flow and strength components.

3. Person. Any individual, partnership, corporation or other legal entity whatsoever applying for or receiving City sewer service.

SECTION 2. AUTHORITY

Pursuant to the Proposition 218 constitutional process that culminated in an unsuccessful protest vote on July 24, 2007, and the authority granted in Section 2 of City Council Resolution no. 2007-463 subsequent to the Proposition 218 process, the following sewer service fees are established for the year commencing July 1, 2008.

SECTION 3. SEWER SERVICE CHARGES FOR RESIDENTIAL SERVICE.

Each person receiving residential sewer service shall pay a sewer service charge to the City in accordance with the following rates:

(a) The maximum monthly sewer service charges for dwelling units, mobile homes and mobile home spaces in mobile home parks shall be as follows:

	Year 1	Year 2	Year 3	Year 4	Year 5
Maximum Residential Rates	1-Aug-07	1-Jul-08	1-Jul-09	1-Jul-10	1-Jul-11
Monthly Account Charge ($/Account)	$2.57	$3.33	$4.26	$4.53	$4.74
plus Dwelling Unit Charge ($/Dwelling Unit)					
Single Family Residential	$15.97	$20.78	$26.65	$29.48	$30.98
Multiple Family (2-4 Dwelling Units), one additional Dwelling Unit or Mobile Home on a lot	$13.71	$17.84	$22.89	$25.31	$26.60
Apartments (5 or more Dwelling Units), Mobile Home Space in a Mobile Home Park	$10.41	$13.54	$17.37	$19.21	$20.19

SECTION 4. SEWER SERVICE CHARGES FOR COMMERCIAL SERVICE.

Each person receiving commercial sewer service shall pay a maximum sewer service charge to the City in accordance with the following rates:

(a) Commercial users shall be grouped according to Biochemical Oxygen Demand (hereinafter referred to as BOD) and Total Suspended Solids (hereinafter referred to as TSS) strength characteristics and shall pay sewer service charges based on the quantity of water used, and the waste strength characteristics measured in milligrams per liter (hereinafter referred to as mg/l). The Director shall determine the waste strength characteristics of commercial users and assign them to one of the following commercial users groups:

	Year 1	Year 2	Year 3	Year 4	Year 5
Maximum Commercial Rates	1-Aug-07	1-Jul-08	1-Jul-09	1-Jul-10	1-Jul-11
Monthly Account Charge ($/Account)	$2.57	$3.33	$4.26	$4.53	$4.74
plus Quantity Charge ($/100 cubic feet)					
Group 1-BOD + TSS is 400 mg/l or less	$1.35	$1.77	$2.26	$2.50	$2.63
Group 2-BOD + TSS is 401 mg/l to 900 mg/l	$1.67	$2.17	$2.78	$3.11	$3.27
Group 3-BOD + TSS is 901 mg/l to 1,400 mg/l	$1.98	$2.58	$3.31	$3.73	$3.91
Group 4-BOD + TSS is 1,401 mg/l or more	$2.36	$3.07	$3.94	$4.46	$4.69

(b) Commercial users shall have all water used on the premises metered in order to determine the users' sewer service charges.

(1) Commercial users on a public water system other than the City's shall obtain a metered water service from the water purveyor and shall pay the sewer service charge which would be made were such water from the City's water system.

(2) Commercial users receiving any water from a private source shall allow the City to furnish, install and maintain a water meter with the user paying for the cost of the meter and installation. The user shall pay the sewer service charge which would be made were such water from the City's water system. Authorization shall be granted to City from user to install, read and maintain said meter by user executing an agreement on a form furnished by the Director.

(c) In the case of existing meters which are under the ownership of users, the City will assume responsibility for maintenance of such meters upon:

(1) Receipt of transfer of title from the owner in a form satisfactory to the Director, and

(2) Authorization being granted to City for reading and maintaining the meter as set forth in paragraph (b) above.

(d) Schools, churches, assembly halls and similar facilities shall be considered Group 1.

SECTION 5. SEWER SERVICE CHARGES FOR INDUSTRIAL SERVICE.

Each person receiving industrial sewer service shall pay a maximum sewer service charge to the City in accordance with the following rates:

(a) The monthly sewer service charges for industrial users shall be at the following rate of per million gallons of total flow.

Maximum Industrial (Major and Minor) Rates	Year 1 1-Aug-07	Year 2 1-Jul-08	Year 3 1-Jul-09	Year 4 1-Jul-10	Year 5 1-Jul-11
Monthly Account Charge ($/Account)	$2.57	$3.33	$4.26	$4.53	$4.74
plus Quantity Charges (these three components are additive)					
Flow Charge ($/Million gallons)	$1,475.66	$1918.51	$2,460.12	$2,687.91	$2,822.83
BOD Charge ($/1,000 lbs)	$72.98	$95.25	$122.61	$144.69	$152.53
TSS Charge ($/1,000 lbs)	$127.82	$166.57	$214.11	$247.48	$260.51

(1) If the Industry has an effluent meter for industrial flow measurement and a sanitary sewage meter, the total flow shall be the sum of the metered flows.

Sanitary Sewage Flow: If Industry has an unmetered connection for disposal of sanitary sewage, the estimated volume may be established by the Director. The estimated volume shall be based on the number and type of plumbing fixture units contributing to the system along with any other flow information available which indicates the total volume of sanitary sewage.

(2) In the absence of an effluent meter, an influent meter shall be used, and total flow shall be based upon the influent meter reading.

(3) The BOD and TSS charges for industrial and sanitary discharges shall be based on the measured or estimated BOD and TSS for each type of flow.

SECTION 6. FLOW ESTIMATES. The Director will estimate flow where he/she determines metered flow measurements are unreliable.

SECTION 7. SEWER SERVICE CHARGES FOR DUMPING OF SEPTIC WASTE AT THE SEWAGE TREATMENT PLANT

Charge	Year 1 1-Aug-07	Year 2 1-Jul-08	Year 3 1-Jul-09	Year 4 1-Jul-10	Year 5 1-Jul-11
Flow charge per 1,000 gallons	$38.94	$50.17	$63.93	$73.59	$77.44

SECTION 8. INFLATOR INDEX AND REASSESSMENT OF COST OF SERVICE. The cost of service set forth above shall be re-examined not less than every four years by professionals competent in the field. Such professionals shall provide a report to the City updating both the fixed and volume based costs as appropriate and as recommended to the Council by the Director and Finance Director. Beginning on July 1, 2012 and annually thereafter, the Finance Director with the concurrence of the Director, shall have the authority to adjust the above rates by an amount not to exceed the not-seasonally-adjusted annual percentage increase in the April Consumer Price Index (CPI) for Urban Wage Earners and Clerical Workers for the San Francisco CMSA that is currently prepared by the Department of Finance.

SECTION 9. SULFIDE CORROSION CHARGES. Any wastewater discharge which exceeds 0.5 parts per million of sulfides shall pay a sulfide corrosion charge, an impact fee, determined on a case-by-case basis as follows:

(a) The projected accelerated corrosion of collection system pipes and pump stations will be calculated based on the EPA Pomeroy Model for Sulfide Corrosion (EPA Design Manual, EPA/625/1-85-018, Section 2.5.2.1 - Corrosion Predictive Model).

(b) The sulfide corrosion charge will then be calculated based on the actual pipes and pump stations, up to the Water Quality Control Plant Headworks, impacted by the discharge, and on the current estimates of replacement costs and the time value of money.

(c) Discharges of sulfide above 0.5 ppm shall also not have a pH lower than 7.

(d) The discharger may request that the sulfide charge be recalculated each year, if the amount of sulfide discharged is documented as having changed significantly from the previous year. The discharger may elect to receive the billing for this service charge on an annual or monthly basis. No prepayment discount will apply.

(e) This service charge is an impact fee based on sulfide crown corrosion of collection system pipes and pumping facilities. It is not intended to compensate the City for increased corrosion or odor generation in the Water Quality Control Plant. It is not intended to liquidate the responsibility of a party whose wastewater discharge escapes from the collection system causing soil or groundwater contamination. Discharge of concentrated sulfides under the provisions of this section constitutes acceptance of these terms.

SECTION 10. SEWAGE TREATMENT FOR OUTSIDE PUBLIC AGENCIES. Pursuant to agreements approved from time to time by the City Council and the City Attorney (as to form), other public agencies will own and operate, and the City of Modesto will accept and treat sewage collected from, sewer systems external to the City and City's Sewer District No. 1.

SECTION 11. EFFECTIVE DATE. This resolution shall go into effect and be in full force and operation on and after July 1, 2008.

SECTION 12. RESCINDING PRIOR RESOLUTIONS. With the exception of resolution #2007-463, all previous sewer fees resolutions are hereby rescinded effective July 1, 2008.

Section 13. ANNUAL REVIEW OF ADOPTED RATE INCREASES. The City Council, for fiscal years beginning after June 30, 2008, shall conduct a review of each adopted sewer rate increase prior to its implementation. Said review shall be acted upon by the City Council in a reasonable amount of time in advance of the new sewer rate becoming effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of June, 2008, 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:	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 A. WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-349

A RESOLUTION ACKNOWLEDGING THE FUNDRAISING EFFORTS OF THE STANISLAUS COMMUNITY FOUNDATION AND OF JORGE PEREZ, ERIC DOMEN JR. AND RAUL DOMINGUEZ TO KEEP THE RECREATION PROGRAM OPEN AT CÉSAR CHÁVEZ PARK AND AUTHORIZING STAFF TO OPEN A SIX-WEEK SUMMER POOL AND RECREATION PROGRAM AT CÉSAR CHÁVEZ PARK ON JUNE 25, 2008, FOR THE SUMMER 2008 SEASON

WHEREAS, as part of the Fiscal Year 2008-09 budget reductions, the City Council elected to close some of Modesto's park pools and to not operate a summer park program at those parks, and

WHEREAS, César Chávez Park is one of the sites chosen to close, and

WHEREAS, the Stanislaus Community Foundation is committed to providing funding to support the City's pool and recreation program at César Chávez Park, and

WHEREAS, three members of Modesto's west-side community (Jorge Perez, Eric Domen Jr. and Raul Dominguez) met with staff from the Parks, Recreation and Neighborhoods Department (PR&N) on June 6, 2008, and

WHEREAS, these citizens are interested in spearheading a fundraising effort to keep the pool and recreation program open at César Chávez Park for six weeks during the summer 2008 season, and

WHEREAS, the program will run from June 25 through July 30, and

WHEREAS, total cost of this program is estimated at $15,000 ($12,510 for part-time salaries and benefits for Recreation Leaders and $2,490 for supplies), and

WHEREAS, the program costs will be paid through the funding raised through the community effort, and

WHEREAS, staff is recommending that the pool and recreation program open on June 25, 2008, even if the entire amount of funding needed has not been raised at that time,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby acknowledges the fundraising efforts of Jorge Perez, Eric Domen Jr. and Raul Dominguez to keep the recreation program open at César Chávez Park.

BE IT FURTHER RESOLVED that the Council hereby authorizes staff to open a six-week summer pool and recreation program at César Chávez Park from June 25 to July 30, 2008, for the summer 2008 season.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2008, 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. 2008-350

A RESOLUTION AMENDING THE FISCAL YEAR 2008-09 OPERATING BUDGET TO ESTIMATE $15,000 IN REVENUE FROM COMMUNITY DONATIONS AND TO APPROPRIATE A TOTAL OF $15,000 TO 0100-370-3712-0140 ($11,475), 0100-370-3712-0189 ($1,035) AND 0100-370-3712-0315 ($2,490) TO FUND A SIX-WEEK SUMMER 2008 POOL AND RECREATION PROGRAM AT CÉSAR CHÁVEZ PARK

WHEREAS, as part of the Fiscal Year 2008-09 budget reductions, the City Council elected to close some of Modesto's park pools and to not operate a summer park program at those parks, and

WHEREAS, César Chávez Park is one of the sites chosen to close, and

WHEREAS, three members of Modesto's west-side community (Jorge Perez, Eric Domen Jr. and Raul Dominguez) met with staff from the Parks, Recreation and Neighborhoods Department (PR&N) on June 6, 2008, and

WHEREAS, these citizens are interested in spearheading a fundraising effort to keep the pool and recreation program open at César Chávez Park for six weeks during the summer 2008 season, and

WHEREAS, the program will run from June 25 through July 30, and

WHEREAS, total cost of this program is estimated at $15,000 ($12,510 for part-time salaries and benefits for Recreation Leaders and $2,490 for supplies), and

WHEREAS, the program costs will be paid for through the funding raised through this community effort, and

WHEREAS, estimated cost is $15,000, of which $12,510 is for part-time salaries and benefits for Recreation Leaders and $2,490 is for supplies, and

WHEREAS, supervision and program oversight will be through existing staff, and

WHEREAS, $15,000 in revenue will be estimated to 0100-370-3712-8107, Donations, and

WHEREAS, specific expenditure accounts are: 0100-370-3712-0140, Salaries, Part-time, ($11,475); 0100-370-3712-0189, Benefits, Part-time ($1,035); and 0100-370-3712-0315, Vocational and Recreational Supplies ($2,490),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2008-09 operating budget to estimate $15,000 in revenue from community donations and to appropriate a total of $15,000 to 0100-370-3712-0140 ($11,475), 0100-370-3712-0189 ($1,035) and 0100-370-3712-0315 ($2,490) to fund a six-week summer 2008 pool and recreation program at César Chávez Park.

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 June, 2008, 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. 2008-351

A RESOLUTION APPOINTING EDWARD BEARDEN AS THE POET LAUREATE OF THE CITY OF MODESTO FOR A TWO-YEAR TERM FROM JULY 1, 2008 THROUGH JUNE 30, 2010.

WHEREAS, on July 13, 1993, by Resolution No. 93-412, the City Council established a non-salaried honorary position to be known as "The Poet Laureate of the City of Modesto", and

WHEREAS, the purpose of a Poet Laureate is to present original poems at various official occasions, and

WHEREAS, the Culture Commission has the responsibility for nominating and recommending appointments to the Poet Laureate position, and

WHEREAS, on April 28, 2008, the Culture Commission recommended the appointment of Edward Bearden as Poet Laureate of the City of Modesto, and

WHEREAS, on June 2, 2008, the Safety and Communities Committee met on June 2, 2008, and supported the Culture Commission's recommendation to appoint Edward Bearden as the City of Modesto's Poet Laureate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the appointment of Edward Bearden as the Poet Laureate of the City of Modesto from July 1, 2008 through June 30, 2010.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2008, 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. 2008-352

A RESOLUTION APPROVING A FIRST AMENDMENT TO THE AGREEMENT WITH NATIONAL DEMOGRAPHICS CORPORATION, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, in the February 5, 2008 election, the electorate overwhelmingly approved Measure N, and

WHEREAS, pursuant to the terms of Measure N, the City of Modesto will be moving from an at-large election system to a district election system, and

WHEREAS, Measure N requires the formation of a Citizens' Districting Commission to prepare a districting plan for the City of Modesto, and requires the City to engage necessary consultants to aid them in their work, and

WHEREAS, on May 6, 2008, by Resolution No. 2008-250, the City Council approved an Agreement for Consultant Services with National Demographics Corporation which has the necessary experience and qualifications to assist the Commission with the creation of a districting plan, and

WHEREAS, the City and National Demographics Corporation wish to amend the Agreement to include additional services not specified in the original Agreement which additional services include updating the 2008 census information and creating public participation kits to better encourage vital public input, and

WHEREAS, the original Agreement was for $70,000, and the Amendment is for an additional $18,000, bringing the total contract to $88,000, and

WHEREAS, funding for the Amendment to Agreement is available in City Attorney Professional Services and Other Account 010-040-0401-0235-50,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Agreement for Consultant Services with National Demographics Corporation.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by 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

ATTTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-353

A RESOLUTION APPROVING A STANDARD AGREEMENT FOR CONSULTANT SERVICES WITH AARON READ AND ASSOCIATES FOR STATE LOBBYING SERVICES FOR AN AMOUNT OF $1.00 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in 2002, the City entered into a two-year agreement with Aaron Read & Associates (ARA) in the annual amount of $69,300, and

WHEREAS, in 2004, the City entered into another two-year agreement with ARA in the annual amount of $69,300, and

WHEREAS, in 2006, the City entered into another two-year agreement with ARA in the amount of $74,340 for the first year, and $79,344 for the second year, and

WHEREAS, ARA has continued to provide key and critical advocacy for the City, and

WHEREAS, as part of the budget reductions for 2008-09, it was recommended that the City allow the current contract to expire at the end of June 2008, and

WHEREAS, ARA has graciously agreed to continue to provide legislative advocacy services from July 1, 2008 through June 30, 2009, for a flat fee of $1.00,

NOW, THEREFORE, BE IT RESOLVED by 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 in the amount of One Dollar ($1.00).

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 June, 2008, 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. 2008-354

A RESOLUTION APPROVING TWO (2) ANNUAL RETAIL ADVERTISING CONTRACTS WITH THE MODESTO BEE (MCCLATCHY NEWSPAPER GROUP), TO COINCIDE WITH THE FISCAL YEAR CALENDAR, CONSISTING OF, ONE CONTRACT FOR A RETAIL NON-PROFIT "NO-COMMITMENT" ADVERTISING RATE OF $51.68 PER COLUMN INCH AND ONE CONTRACT FOR A "13X COMMITMENT" BUSINESS PACKAGE ADVERTISING PLAN "B", AT A STANDARD AD SIZE AVERAGE RATE OF $31.30 PER COLUMN INCH AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACTS

WHEREAS, the City of Modesto is currently using the Modesto Bee (McClatchy Newspaper Group) as its primary advertising source for its advertising requirements, and

WHEREAS, the advertising services are required for classified and legal advertisements as required by law, and for retail advertisements for public information purposes, and

WHEREAS, in May of 2002 Council directed staff to consolidate the procurement of advertising through a central source in order to obtain the best contractual pricing available for the City, and

WHEREAS, 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, in June of 2005 staff went before Council with a recommendation to approve two (2) annual retail advertising contracts with the Modesto Bee to coincide with the fiscal year calendar, and

WHEREAS, in June of 2005, by Resolution No. 2005-322, Council approved both contracts and authorized the City Manager to sign the retail advertising contracts, and

WHEREAS, both retail contracts will expire on June 30, 2008, and

WHEREAS, staff 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, the "non-profit no-commitment" will be at a contract rate of $51.68 per column inch, and

WHEREAS, this year the "13x -commitment business package" Plan "B" rate will once again include a single insertion in the Weekend Shopper and Vida with the average per column inch rate of $31.30, 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 (MMC) Section 8-3.204(d), and

WHEREAS, once signed, both advertising contracts 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 two (2), annual retail advertising contracts 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 and the other contract for a "13x-commitment" business package advertising plan "B" at an average rate of $31.30 per column inch, based on a standard 2x5 inch ad size run three (3) times in the Bee, combined with one-time insertions in both the Weekend Shopper and Vida as outlined in plan "B".

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 24th day of June, 2008, 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. 2008-355

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE AND INSTALLATION OF A HIGH DENSITY STORAGE SYSTEM FOR THE MODESTO POLICE DEPARTMENT TO SYSTEM CONCEPTS, INC., SO. SAN FRANCISCO, CA, FOR AN ESTIMATED TOTAL COST OF $91,439, AND AUTHORIZE THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER

WHEREAS, the Evidence and Property facility is located at 1124 F Street, a building leased by the Modesto Police Department to store all property and evidence obtained by MPD personnel, and

WHEREAS, the storage capacity of the building is limited, and

WHEREAS, the standard shelving that is currently in place is at approximately 85% storage capacity, and the purchase of a high density storage system will begin modifying storage shelving so that the current facility can handle the increase of evidence that must be stored, and

WHEREAS, on April 22, 2008, by Resolution No. 2008-233, the Council authorized the Purchasing Manager to formally issue Request for Bids (RFB) for the purchase and installation of a high density storage system for the Modesto Police Department, and

WHEREAS, on April 29, 2008, the Purchasing Division issued RFB No. 0708-27 for the purchase and installation of a high density storage system to eight (8) prospective bidders, one of which was a local company, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on May 27, 2008, RFB's were formally opened in the City Clerk's office. Of the eight (8) prospective bidders, five (5) companies chose to respond. Of the five (5) bids received two (2) were responsive and responsible, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract to System Concepts, Inc., So. San Francisco, CA, for an estimated total cost of $91,439, 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 and installation of a high density storage system for the Modesto Police Department to System Concepts, Inc., So. San Francisco, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in accounts 0400-190-2923-5011 and 0100-190-1921-0223 for the purchase and installation of a high density storage system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for the purchase and installation of a high density storage system for the Modesto Police Department to System Concepts, Inc., So. San Francisco, CA, for an estimated total cost of $91,439.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2008, 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

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-356

A RESOLUTION APPROVING A COOPERATIVE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS FOR FINANCING OF VILLAGE ONE APARTMENTS, LOCATED AT BELHARBOUR AND ROSELLE STREET, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE COOPERATIVE AGREEMENT

WHEREAS, the Housing Authority of the County of Stanislaus (the "Housing Authority") is constructing 20 units of residential rental housing (the "Village One Project"), located at the corner of Belharbour and Roselle Street in the City of Modesto (the "City"), and intends to finance a portion of the construction of the Village One Project with the proceeds of a tax-exempt bond to be sold by the Housing Authority to Farmers & Merchants Bank of Central California; and

WHEREAS, under Section 34209 of the California Health and Safety Code, the Housing Authority may only operate in the City if the City Council consents to such operation; and

WHEREAS, the Housing Authority has submitted a request for the City Council to consider and approve a Cooperative Agreement that does not impose any financial obligation on the City, but will allow the Housing Authority to move forward with the financing and operation of the Village One Project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a Cooperative Agreement between the City of Modesto and the Housing Authority of the County of Stanislaus related to the financing and operation by the Housing Authority of the Village One Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2008, 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. 2008-357

A RESOLUTION APPROVING FOUR SUBORDINATION AGREEMENTS FOR THE HOME LOANS PROVIDED TO THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS FOR THE PRE-DEVELOPMENT AND CONSTRUCTION OF THE VILLAGE ONE TOWN CENTER PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SUBORDINATION AGREEMENTS AND RELATED DOCUMENTS

WHEREAS, in Fiscal Year 2002-2003, the City of Modesto allocated funding to the Housing Authority of Stanislaus County (Housing Authority) for project pre-development costs for the Village One Town Center project, and the City pledged 80% of that year's HOME funds for the construction of this project to assist the Housing Authority to accomplish the pre-development phase with neighborhood participation, and

WHEREAS, on October 26, 2004, by Resolution No. 2004-564, the City Council approved an additional allocation of $1,030,791 from Fiscal Year 2004-2005 HOME funds to the Housing Authority of Stanislaus County for the development of the Village One multi-family housing project, and

WHEREAS, on February 5, 2007, Bill Fagan, Executive Director for the Housing Authority of Stanislaus County, submitted a letter to the City of Modesto, Parks, Recreation and Neighborhoods Department (PRND) requesting additional HOME funds for the Village One Town Center Project, and

WHEREAS, On May 22, 2007, by Resolution No. 2007-299, the City Council approved a loan agreement in the amount of $785,307 from Fiscal Year 2005-2006 HOME funds to the Housing Authority for the Village One Town Center Project, and

WHEREAS, in order to secure the permanent financing, the financial lending institution lending the funds to the Housing Authority requires, as a condition to providing the loan, that it remains at all times prior and superior to other loans, and

WHEREAS, the subordination agreements set forth the priority of repayment rights against the borrower and its assets,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves four Subordination Agreements for the HOME loans provided to the Housing Authority of the County of Stanislaus for the pre-development and construction of the Village One Town Center project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the subordination agreements and 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 June, 2008, 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

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-357

A RESOLUTION APPROVING FOUR SUBORDINATION AGREEMENTS FOR THE HOME LOANS PROVIDED TO THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS FOR THE PRE-DEVELOPMENT AND CONSTRUCTION OF THE VILLAGE ONE TOWN CENTER PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SUBORDINATION AGREEMENTS AND RELATED DOCUMENTS

WHEREAS, in Fiscal Year 2002-2003, the City of Modesto allocated funding to the Housing Authority of Stanislaus County (Housing Authority) for project pre-development costs for the Village One Town Center project, and the City pledged 80% of that year's HOME funds for the construction of this project to assist the Housing Authority to accomplish the pre-development phase with neighborhood participation, and

WHEREAS, on October 26, 2004, by Resolution No. 2004-564, the City Council approved an additional allocation of $1,030,791 from Fiscal Year 2004-2005 HOME funds to the Housing Authority of Stanislaus County for the development of the Village One multi-family housing project, and

WHEREAS, on February 5, 2007, Bill Fagan, Executive Director for the Housing Authority of Stanislaus County, submitted a letter to the City of Modesto, Parks, Recreation and Neighborhoods Department (PRND) requesting additional HOME funds for the Village One Town Center Project, and

WHEREAS, On May 22, 2007, by Resolution No. 2007-299, the City Council approved a loan agreement in the amount of $785,307 from Fiscal Year 2005-2006 HOME funds to the Housing Authority for the Village One Town Center Project, and

WHEREAS, in order to secure the permanent financing, the financial lending institution lending the funds to the Housing Authority requires, as a condition to providing the loan, that it remains at all times prior and superior to other loans, and

WHEREAS, the subordination agreements set forth the priority of repayment rights against the borrower and its assets,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves four Subordination Agreements for the HOME loans provided to the Housing Authority of the County of Stanislaus for the pre-development and construction of the Village One Town Center project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the subordination agreements and 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 June, 2008, 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

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-358

A RESOLUTION APPROVING A COOPERATIVE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS FOR FINANCING OF COOLIDGE APARTMENTS, LOCATED AT 201 E. COOLIDGE AVENUE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE COOPERATIVE AGREEMENT

WHEREAS, the Housing Authority of the County of Stanislaus (the "Housing Authority") has entered into a contract to purchase the rental housing facility (the "Coolidge Project") located at 201 E. Coolidge Avenue in the City of Modesto (the "City"), and intends to finance a portion of the purchase price of the Coolidge Project with the proceeds of a tax-exempt bond to be sold by the Housing Authority to Farmers & Merchants Bank of Central California; and

WHEREAS, under Section 34209 of the California Health and Safety Code, the Housing Authority may only operate in the City if the City Council consents to such operation; and

WHEREAS, the Housing Authority has submitted a request for the City Council to consider and approve a Cooperative Agreement that does not impose any financial obligation on the City, but will allow the Housing Authority to move forward with the acquisition, financing and operation of the Coolidge Project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a Cooperative Agreement between the City of Modesto and the Housing Authority of the County of Stanislaus related to the acquisition, financing and operation by the Housing Authority of the Coolidge Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2008, 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. 2008-359

A RESOLUTION APPROVING A SUBORDINATION AGREEMENT FOR THE HOME LOANS PROVIDED TO THE HOUSING AUTHORITY OF THE COUNTY OF STANISLAUS FOR THE ACQUISITION OF THE PALM VALLEY APARTMENTS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SUBORDINATION AGREEMENT AND RELATED DOCUMENTS

WHEREAS, on April 22, 2008, by Resolution No. 2008-230, the City Council approved a loan agreement with the Housing Authority of the County of Stanislaus for the acquisition of the Palm Valley Apartments t in the amount of $1,000,000 in FY 06-07 HOME Entitlement Funds, and

WHEREAS, in order to secure the permanent financing, the financial lending institution lending the funds to the Housing Authority requires, as a condition to providing the loan, that it remains at all times prior and superior to other loans, and

WHEREAS, the subordination agreements set forth the priority of repayment rights against the borrower and its assets,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a Subordination Agreement for the HOME loans provided to the Housing Authority of the County of Stanislaus for the acquisition of the Palm Valley Apartments.

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 24th day of June, 2008, 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. 2008-360

A RESOLUTION APPROVING AN AMENDMENT TO THE SALVATION ARMY'S COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AGREEMENT FOR FISCAL YEAR 2007-2008 FOR ROOF REPLACEMENT AT THE BERBERIAN WINTER SHELTER, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, on December 12, 2006, by Resolution Nos. 2006-777, 2006-778, 2006-779 and 2006-780, the City Council approved the allocation of CDBG funding for fiscal year 2007-2008, and

WHEREAS, included in the approved funding was $95,000 to the Salvation Army for replacement of the roof at the Berberian Winter Shelter, and

WHEREAS, on May 16, 2008, the Salvation Army requested an amendment to the CDBG agreement for Fiscal Year 2007-08 for the roof replacement of the Berberian Winter Shelter, and

WHEREAS, through May 2008, the Salvation Army has expended $58,428.38, and

WHEREAS, the agreement for services between the Salvation Army and the City of Modesto for the CDBG funding ends on June 28, 2008, and

WHEREAS, the Salvation Army's request is to amend the agreement to extend the agreement for an additional 90 days in order to expend the remaining $36,571.62 of the total monies allocated for the roof replacement, and

WHEREAS the Citizens Housing and Community Development Committee met on June 18, 2008, and supported approval of this Amendment to the Salvation Army Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Agreement with the Salvation Army for Community Development Block Grant (CDBG) funds for Fiscal Year 2007-2008 for roof replacement at the Berberian Winter Shelter.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2008, 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. 2008-361

A RESOLUTION APPROVING A LETTER TO RIVER PARTNERS, TO BE SIGNED BY MAYOR JIM RIDENOUR, IN SUPPORT OF THE PROPOSED LEGISLATION INTRODUCED BY CONGRESSMAN DENNIS CARDOZA TO EXPAND THE SAN JOAQUIN RIVER NATIONAL WILDLIFE (SJRNW) REFUGE TO INCLUDE THE DOS RIOS RANCH AT THE CONFLUENCE OF THE TUOLUMNE AND SAN JOAQUIN RIVERS

WHEREAS, the Honorable Dennis Cardoza introduced to Congress proposed legislation to expand the San Joaquin River National Wildlife Refuge to include the Dos Rios Ranch at the confluence of the Tuolumne and San Joaquin Rivers, and

WHEREAS, the City of Modesto is the lead agency of the Tuolumne River Regional Park Joint Powers Authority, and

WHEREAS, expansion of the San Joaquin River National Wildlife Refuge is a key component in further implementing the "Lower Tuolumne River Parkway Framework for the Future" document adopted by the Tuolumne River governing jurisdictions in 2005, and

WHEREAS, the proposed expansion will increase recreational and preservation opportunities on all sides of the confluence of the Tuolumne and San Joaquin Rivers and will serve as a valuable asset to the public,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a letter to River Partners, to be signed by Mayor Jim Ridenour, in support of the proposed legislation introduced by Congressman Dennis Cardoza to expand the San Joaquin River National Wildlife Refuge to include the Dos Rios Ranch at the confluence of the Tuolumne and San Joaquin Rivers.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June 2008, 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. 2008-362

A RESOLUTION APPROVING AN AMENDMENT TO THE COMMUNITY HOUSING AND SHELTER SERVICES' EMERGENCY SHELTER GRANT (ESG) AGREEMENT FOR FISCAL YEAR 2007-2008 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO THE AGREEMENT

WHEREAS, on April 24, 2007, by Resolution No. 2007-227, the City Council approved the allocation of ESG funding for fiscal year 2007-2008. Included in the approved funding was $26,939 to Community Housing and Shelter Services for Case Management, and

WHEREAS, on May 27, 2008, Community Housing and Shelter Services (CHSS) requested an amendment to the ESG agreement, which allows for $12,239 for salaries and $14,700 for motel vouchers, and

WHEREAS, through May 2008, CHSS has expended $18,770.13, and

WHEREAS, the agreement for services between CHSS and the City of Modesto for the ESG funding ends on June 28, 2008, and

WHEREAS, CHHS's request is to amend the agreement to move the remaining funding in the salaries line item of $6,918.87 into the motel voucher line item, and

WHEREAS, the motel voucher line item would be increased from $14,700 to $21,618.87, allowing for approximately 138 more nights of hotel vouchers, and

WHEREAS, the Citizens Housing and Community Development Committee met on June 18, 2008 and supported amending the Agreement to allow for additional motel vouchers,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an amendment to the Community Housing and Shelter Services' Emergency Shelter Grant (ESG) Agreement for Fiscal Year 2007-2008.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2008, 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. 2008-363

A RESOLUTION APPROVING AN ALLOCATION OF $608,000 IN HOME COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO) SET-ASIDE FUNDS AND $332,427 IN HOME FUNDS TO STANCO FOR THE PURCHASE OF REAL PROPERTY AND THE DEVELOPMENT OF 18 SENIOR HOUSING UNITS AT 421 LINCOLN AVENUE, MODESTO, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE HOME AGREEMENT AND RELATED DOCUMENTS

WHEREAS, on September 12, 2007, the Citizens Housing and Community Development Committee (CH&CDC) accepted staff's recommendation to solicit proposals for qualifications (RFQs) for the development of new construction or rehabilitation of existing market rate housing to be converted to affordable units for low-income households, and

WHEREAS, the RFQ required that the project be located in the City limits, have site control and that the City's financial assistance be used to leverage other funding sources; bonus points were given to homeownership, mixed income, mixed use projects, services and amenities within the project and projects proposing multi-family housing, due to the tremendous need in this area, and

WHEREAS, an RFQ sub-committee was appointed by the CH&CDC on September 12, 2007, and

WHEREAS, Stanislaus Affordable Housing Corporation (STANCO) is requesting $940,427 in HOME funds for the development of 18 senior housing units at 421 Lincoln Avenue, Modesto, and

WHEREAS, the project will serve older adult men and women who are homeless or at risk of homelessness with mental health disabilities, and

WHEREAS, occupancy will be limited to those whose income does not exceed 30% of the median income level, and

WHEREAS, the RFQ subcommittee recommended allocation of $608,000 in HOME CHDO Set-Aside funds and $332,427 in HOME funds for the purchase of real property and the development of the 421 Lincoln Avenue Project for development of this project, and

WHEREAS, the Citizens Housing and Community Development Committee met on April 30, 2008, and supported staff's recommendation to provide $608,000 in CHDO Set-Aside funds and $332,427 in HOME funds to STANCO for the development of the 421 Lincoln Avenue Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an allocation of $608,000 in HOME Community Housing Development Organization (CHDO) Set-Aside funds and $332,427 in HOME funds to STANCO for the development of 18 senior housing units at 421 Lincoln Avenue, Modesto.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the HOME Agreement and 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 June, 2008, 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

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-364

A RESOLUTION APPROVING AN ALLOCATION OF $713,162 IN HOME FUNDS TO STANCO FOR THE PURCHASE OF REAL PROPERTY AND THE DEVELOPMENT OF 32 HOUSING UNITS AT 605 E. COOLIDGE AVENUE, MODESTO, FOR PERMANENT SUPPORTIVE HOUSING FOR INDIVIDUALS WITH MENTAL HEALTH DISABILITIES AND THEIR FAMILIES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE HOME AGREEMENT AND RELATED DOCUMENTS

WHEREAS, On September 12, 2007, the Citizens Housing and Community Development Committee (CH&CDC) accepted staff's recommendation to solicit proposals for qualifications (RFQs) for the development of new construction or rehabilitation of existing market rate housing to be converted to affordable units for low-income households, and

WHEREAS, the RFQ required that the project be located in the City limits, have site control and that the City's financial assistance be used to leverage other funding sources, and

WHEREAS, an RFQ sub-committee was appointed by the CH&CDC on September 12, 2007, and

WHEREAS, STANCO is requesting $1,000,000 in HOME funds for the development of 31 units of permanent supportive housing for Mental Health Services Act (MHSA) target population plus one additional unit for an on-site manager, and

WHEREAS, the project will serve transitional youth 18 to 24 years old and adult men and women who are homeless, or at risk of homelessness, with mental health disabilities, and

WHEREAS, all potential residents must be referred to the housing project through the Behavioral Health and Recovery Services Housing Services Program, and

WHEREAS, occupancy will be limited to those whose income does not exceed 30% of the median income level, and

WHEREAS, the review sub-committee made a recommendation to partially fund this project and directed staff to look into adding future HOME funds to this project, and

WHEREAS, the subcommittee recommended allocating $370,162 in HOME funds to the 605 E. Coolidge project for its development, and

WHEREAS, the Citizens Housing and Community Development Committee met on April 30, 2008, and supported the subcommittee's recommendation to provide $370,162 in HOME funds to the 605 E. Coolidge Avenue project for its development, and

WHEREAS, the Citizens Housing and Community Development Committee met on June 18, 2008, and supported staff's recommendation to provide an additional $343,000 in HOME funds to the 605 E. Coolidge Avenue project for its development,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an allocation of $713,162 in HOME funds to STANCO for the purchase of real property and the development of 32 housing units on 605 E. Coolidge Avenue, Modesto, for permanent supportive housing for individuals with mental health disabilities and their families.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the HOME Agreement and 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 June, 2008, 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

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-365

A RESOLUTION APPROVING AN ALLOCATION OF $42,000 IN HOME COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO) SET-ASIDE FUNDS AND $42,000 IN HOME FUNDS TO STANCO FOR ACQUISITION OF THE 615 5TH STREET PROPERTY TO EXPAND THE GARDEN GATE APARTMENT COMPLEX OWNED BY STANCO LOCATED AT 5TH AND F STREETS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE HOME AGREEMENT AND RELATED DOCUMENTS

WHEREAS, On September 12, 2007, the Citizens Housing and Community Development Committee (CH&CDC) accepted staff's recommendation to solicit proposals for qualifications (RFQs) for the development of new construction or rehabilitation of existing market rate housing to be converted to affordable units for low-income households, and

WHEREAS, the RFQ required that the project be located in the City limits, have site control and that the City's financial assistance be used to leverage other funding sources, and

WHEREAS, an RFQ sub-committee was appointed by the CH&CDC on September 12, 2007, and

WHEREAS, STANCO is requesting $42,000 in CHDO set-aside funds for the acquisition of 615 5th Street, and

WHEREAS, this project represents an expansion of STANCO's Garden Gate Apartment complex at 5th and F Street, and

WHEREAS, the RFQ subcommittee recommended allocating $42,000 in CHDO set-aside funds for the acquisition of this property, and

WHEREAS, the Citizens Housing and Community Development Committee met on April 30, 2008, and supported the RFQ subcommittee's recommendation to allocate $42,000 in CHDO set-aside funds for the acquisition of this property, and also recommended allocating $42,000 in HOME funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an allocation of $42,000 in CHDO set-aside funds and $42,000 in HOME funds to STANCO for acquisition of the 615 5th Street property to expand the Garden Gate apartment Complex owned by STANCO located at 5th and F Streets.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the HOME Agreement and 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 June, 2008, 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

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-366

A RESOLUTION AUTHORIZING THE CITY MANAGER, PERSONNEL DIRECTOR, OR DESIGNEE TO MAKE INITIAL DETERMINATIONS RELATING TO THE DISABILITY RETIREMENT FOR LOCAL SAFETY MEMBERS APPLICATIONS, DELEGATING FULL AUTHORITY TO THE CALIFORNIA STATE OFFICE OF ADMINISTRATIVE HEARINGS TO DETERMINE INDIVIDUAL DISABILITY DISPUTES, ESTABLISHING RULES OF PROCEDURE FOR LOCAL SAFETY MEMBERS FOR THE INITIATION OF A DISABILITY RETIREMENT APPLICATION, DISPUTE RESOLUTION OF DISABILITY RETIREMENTS, AND REINSTATEMENT FROM DISABILITY RETIREMENT; AND RESCINDING RESOLUTION NO. 94-235

RESCINDED
SEP 13 2016
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2016-350

WHEREAS, The City Council of the City of Modesto finds:

A. The City of Modesto is a contracting agency of the California Public Employees' Retirement System ("CalPERS"), and

B. Government Code §§ 21150 et seq. of CalPERS retirement law requires that a contracting agency determine whether a local safety member employee is incapacitated from the member's job duties for purposes of the Public Employees' Retirement Law and whether such disability is "industrial" within the meaning of such law, and

C. Upon submission of an application for retirement or reinstatement of a previously retired local safety member of the City of Modesto, an initial determination regarding incapacity will be made by the Personnel Director or designee. The Personnel Director or designee will also make determinations regarding the filing of disability retirement applications, and may initiate applications for reinstatement from retirement for local safety members. Undisputed applications for disability retirement or reinstatement shall be certified to CalPERS by the City Manager or designee, and

D. In the event of a dispute regarding disability retirement of a local safety member, where a judicial determination of incapacity is necessary, the City Council is required by

California Government Code §§ 21156 and 11512, as well as the holdings in *Usher v. County of Monterey* (1998) 65 Cal.App.4th 210 and *Langan v. City of El Monte* (2000) 79 Cal.App.4th 608, to hear the appeal itself with an Administrative Law Judge ("ALJ") to assist and advise the Council in the conduct of the hearing, or to delegate the decision to the ALJ who will conduct the hearing. In each case, the appeal hearing is required to be conducted consistent with the provisions of the Administrative Procedures Act ("APA"), and

E. The delegation of decision-making authority to an ALJ in disability retirement or reinstatement matters for local safety members is in the best interest of the City, and

F. In the event of a dispute regarding reinstatement of a retired local safety member where a judicial determination is necessary the City further delegates such decision-making authority to an Administrative Law Judge, and

G. Once the final determination has been made on the retirement or reinstatement, the City Manager or designee will so certify to CalPERS by letter, within a reasonable time period.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that pursuant to the California Government Code,

1. The Personnel Director or designee is delegated authority to make initial determinations regarding disability retirement for local safety members, file applications for disability retirement, and initiate applications for reinstatement from retirement for all local safety members and to establish related procedures. In undisputed applications, the final determination shall be certified to CalPERS by the City Manager or designee.

2. The City Council of the City of Modesto hereby delegates full authority to the California State Office of Administrative Hearings (including such ALJ's as may be appointed

from time to time) to determine individual disputes regarding the disability status of a local safety member or the reinstatement of a previously retired employee, subject to judicial review by writ of mandate in Stanislaus County Superior Court; and to make any other related determinations which are necessary in order to adjudicate the rights and duties of the parties.

3. In the absence of Superior Court review, which may be sought by any aggrieved party, the ALJ's decision shall be the final decision of the City Council, and the ALJ's decision shall be certified by the City Manager to CalPERS by letter within thirty days of service of the ALJ's decision.

4. This Resolution, including the Rules of Procedure set forth in **Exhibit "A"** (attached) and promulgated from time to time by the Personnel Director to implement this Resolution, is intended to constitute the City's comprehensive plan for resolving disputed disability cases when an application for disability retirement is initiated either by the local safety member or by the City of Modesto, as well as in cases where a previously retired local safety member seeks reinstatement or in which the City seeks to reinstate a previously retired local safety member. Rules of Procedure set forth in Exhibit "A" may be amended from time to time by the Personnel Director.

BE IT FURTHER RESOLVED that Resolution No. 94-235, is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2008, 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

RULES OF PROCEDURE

EXHIBIT "A"

PROCEDURES FOR LOCAL SAFETY MEMBERS FOR THE INITIATION OF A DISABILITY RETIREMENT APPLICATION, DISPUTE RESOLUTION OF DISABILITY RETIREMENTS, AND REINSTATEMENT FROM DISABILITY RETIREMENT

I. INTRODUCTION.

Under California Government Code §21150, et seq., it is the City's responsibility to make determinations relating to disability retirement applications for its employees who are local safety members of the California Public Employees' Retirement System ("Cal PERS"), as well as to reinstatement of such retirees. The procedures set forth herein describe the process to be followed when there is: (1) a local safety member or City initiated disability retirement application, (2) dispute(s) regarding disability retirement determinations, and (3) a local safety member or City initiated reinstatement application. The following paragraphs set forth the procedures to be followed in such cases.

II. LOCAL SAFETY MEMBER-INITIATED APPLICATION FOR DISABILITY RETIREMENT.

A. An application for disability retirement may be obtained from the City of Modesto's Risk Management office or from CalPERS. At the time the employee is provided with an application for disability retirement from the Risk Management office, the employee shall also be provided with a copy of these Procedures.

B. The employee must fully complete and sign the application and submit it, along with any supporting documentation, to the Risk Management office or directly to CalPERS.

C. If the employee submits a completed application to the Risk Management office, that office shall copy the form with one copy retained in the employee's file, one copy returned to the employee, and the original mailed to CalPERS.

D. Investigation. Upon application for disability retirement, the Personnel Director in conjunction with the Risk Manager or such other persons as the Personnel Director shall designate, shall investigate all facts and circumstances pertaining to the application for disability

retirement. The assessment of incapacity from the substantial range of duties may include securing medical and other records, taking statements of the employee and/or others, and ordering the employee to submit to medical and/or psychiatric examination(s) including testing.

E. Medical Examinations. All medical information transmitted by the physicians shall be in conformity with all laws and regulations (e.g. "Confidentiality of Medical Information Act," Civil Code §56, et seq. and the "Health Insurance Portability and Accountability Act of 1996" PL 104-191 ("HIPAA"). Medical examinations shall address the functional limitations of the employee with respect to performing the job requirements and essential functions of the employee's classification, but shall not include diagnosis or treatment plan except insofar as they may pertain to the employee's ability to perform the essential functions of the classification. Medical reports generated in connection with any workers' compensation proceedings, including any diagnostic and treatment information contained in such reports relating to the question of incapacity, may also be considered.

It is the employee's responsibility to fully cooperate and to provide all relevant facts, to include the authorization of the release of medical records and to attend medical evaluations. Failure to cooperate may constitute grounds for denial of the application.

F. Initial Determination. Upon completion of the City's investigation, the Personnel Director or designee, based upon the investigation, shall determine whether to approve or deny the application for disability retirement.

If the application is approved, the City Manager or designee shall certify the determination to CalPERS. If the application is denied, this initial determination will be noticed to CalPERS by the Personnel Director or designee. In either case the employee shall be advised of the employee's rights to appeal the determination as described in Section IX herein. If no appeal is timely filed by the employee, the City Manager or designee shall certify the final determination to CalPERS.

III. CITY-INITIATED APPLICATION FOR DISABILITY RETIREMENT OF A LOCAL SAFETY MEMBER.

A. If the City determines the employee is incapacitated from performing the substantial range of job duties based upon medical and other available evidence, and if the disability is of permanent or uncertain duration, and an application for disability retirement has

not been filed with CalPERS by the employee, the Personnel Director or designee may make application for disability retirement of the safety member. The employee shall be notified (1) that an initial determination of incapacity from the performance of duty has been made; (2) that an application for disability retirement has been submitted to CalPERS by the City; (3) whether the condition is determined to be industrial or non-industrial; and (4) will be provided information regarding his/her right to appeal the determination, as described in Section IX herein.

B. In situations where the City files an application for disability retirement with CalPERS pursuant to Government Code section 21153, nothing shall prevent either the local safety member or the City from contesting the retirement and proceeding with the investigative and medical evaluation procedures set forth in paragraph II D and E, above, and the Hearing Procedures set forth in paragraph IX.

IV. CITY-INITIATED REINSTATEMENT OF PREVIOUSLY RETIRED LOCAL SAFETY MEMBER.

A. Government Code § 21192 permits periodic medical evaluations of previously retired safety employees for the purpose of determining whether incapacity from performance of the substantial range of essential job duties from which the employee was retired is still present. Should the City initiate such medical evaluation, it is the responsibility of the retired employee to fully cooperate in the investigation including the authorization for the release of medical records. Failure to cooperate may constitute grounds for cancellation of all or part of the disability retirement under Government Code § 21175. The City shall provide notice to the retired employee of the date, time and place of the medical evaluation, the name and address of the medical evaluator, and will provide the cost of transportation in connection with the medical evaluation.

B. Pursuant to Government Code sections 21190 et seq., if the City determines from a medical evaluation(s) and other available evidence that the previously retired employee is no longer incapacitated from his/her employment, and that there is a current open position within the Department and classification from which the person was retired, the person shall be reinstated to the previous classification and the retirement cancelled. Such reinstatement may be conditional upon 1) successful completion of such additional training as may be necessary to

reestablish skills or other requirements of the classification, and 2) successful completion of a psychological evaluation and background investigation. It is the responsibility of the retiree to fully cooperate in any training, psychological evaluation, and background investigation that may be necessary to meet the requirements of the classification. Failure to cooperate with any of the above requirements may constitute grounds for cancellation of the retirement.

C. Should the retiree object to reinstatement, the retiree shall be advised of his/ her rights to appeal the determination as described in Section IX herein.

V. MEMBER-INITIATED APPLICATION FOR REINSTATEMENT OF A PREVIOUSLY RETIRED LOCAL SAFETY MEMBER.

A. Government Code §21190 et seq. permits a local safety member receiving a disability retirement to seek reinstatement on the grounds that the incapacity no longer exists, and set forth the process and requirements.

B. As part of the application for reinstatement, the retiree shall provide a written statement of all the facts and circumstances upon which the request for reinstatement is based and shall include all medical, psychiatric and other documentation supporting the request. In conjunction with the application for reinstatement, the City may initiate medical evaluations to determine fitness for duty. It is the responsibility of the retired employee to fully cooperate including, if requested, authorization for the release of medical records. If the City determines that the incapacity no longer exists, and the safety member successfully completes any training, psychological evaluation, and background investigation that may be necessary to meet the requirements of the classification, when an opening occurs in the department from which the employee was previously retired, the employee shall be reinstated to the employee's former classification. Such reinstatement may be conditional upon completion of such additional training as may be necessary to reestablish skills or other requirements of the position. Failure to cooperate in any portion of the reinstatement process may constitute grounds for cancellation of the retirement and/or denial of reinstatement.

C. If the City determines the reinstatement application should be denied, the retiree shall be advised of the retiree's rights to appeal the determination as described in Section IX herein.

VI. DISPUTED INDUSTRIAL CAUSATION WITH RESPECT TO DISABILITY RETIREMENT APPLICATIONS.

A. If, following the evaluation and consideration of medical reports and other evidence, the City determines that the cause of the claimed incapacity is not industrial, the employee shall be given written notice of the City's determination.

B. If the employee wishes to contest the determination regarding industrial causation, the issue of industrial causation shall be resolved by the Workers' Compensation Appeals Board pursuant to Government Code §21166, and shall be initiated by the employee by filing a timely petition for finding of industrial causation pursuant to Government Code §21166.

C. Following the decision of the Workers' Compensation Administrative Law Judge ("WCALJ"), the party aggrieved by the WCALJ's decision may seek appellate review pursuant to Government Code §§21167 and 21168.

VII. TIME LIMITS FOR ACTION BY CITY AND LOCAL SAFETY MEMBER.

A. Pursuant to Government Code §21157, all determinations with respect to applications for disability retirement or for reinstatement shall be acted upon by the City within six months of the date of receipt of the request from CalPERS, unless such time is waived by the employee. A waiver of the six-month time limitation does not prevent the City from making its determination before six months has elapsed from the notice of the application from CalPERS.

Pursuant to Section II F., above, the Personnel Director will give notice of the City's initial determination to CalPERS and the employee. Such notice to the employee shall be by certified mail (return receipt requested) or by personal service.

B. In the event that the employee/retiree objects to the City's initial determination, the person may make a written request to the Personnel Director for a hearing before an ALJ. Such written request shall be made no later than 30 calendar days from the date of notification by the Personnel Director or designee of the City's initial determination. If no objection to the City's initial determination is made within 30 calendar days of notice by the Personnel Director, the City Manager or designee shall certify the disposition of the matter to CalPERS.

VIII. OPTIONAL INFORMAL CONFERENCE IF OBJECTION TIMELY FILED AND PRE-HEARING CONFERENCE WITH ADMINISTRATIVE LAW JUDGE.

A. If timely objection is made by the employee to the City's determination regarding disability retirement or reinstatement, the Personnel Director or designee shall schedule an informal conference within 30 calendar days after receipt of the objection. Written notice of the conference shall be given to the employee/retiree and/or designated representative, if any, and to such other personnel or agents as the employee or retiree deems appropriate. The informal conference shall be scheduled at the mutual convenience of the parties and notice of the time and place of the informal conference shall be given by U.S. Mail, postage prepaid, at least ten calendar days prior to the conference. The Personnel Director or designee shall conduct the conference.

B. The purpose of the informal conference shall be to afford the parties the opportunity to reach agreement as to final disposition of the matter; and if no agreement is reached, to enter into stipulations and ascertain the issues to be determined at the appeal hearing. The informal conference provisions of this section may be waived by either party.

C. The parties shall endeavor to schedule a hearing with the Office of Administrative Hearings no later than 90 calendar days after the date of the informal conference.

D. Whether or not an informal conference takes place, any party may request a Pre-hearing Conference before an ALJ to be assigned by the Office of Administrative Hearings.

If a Pre-hearing Conference is scheduled, the subjects to be addressed at the Pre-hearing Conference may include the following:

1. Clarification and narrowing of issues.
2. Stipulations.
3. Settlement of any or all issues in dispute.
4. Discovery schedule.
5. Trial date.
6. Briefing schedule.
7. Issuance of subpoenas to ensure witness attendance at hearing.
8. Order of proof.
9. Burden of proof.
10. Scope of evidence including such matters as receipt of medical reports in lieu of live testimony.
11. Recording of proceedings by certified shorthand reporter.

12. Other procedural matters.

13. Other matters that bear upon the issues in dispute.

IX. HEARING PROCEDURES.

A. Following the initial determination by the City and the timely filing of a request for hearing by the employee/retiree, the appeal hearing shall be conducted by the ALJ in conformity with the Administrative Procedures Act ("APA").

B. The City shall inform the employee/retiree of the date, time and place of the hearing.

C. The ALJ shall conduct the hearing, and shall render a decision on all contested issues, with the exception of industrial causation. As set forth in paragraph XI, review of the ALJ's decision shall be by Writ of Mandate in the Stanislaus County Superior Court, with no interim review by the City Manager or City Council.

D. Costs. The parties shall each bear all costs incurred by that party, including the costs of witnesses and representatives, and the costs of any transcript of the hearing ordered by the party. The per diem costs of the court reporter and the hearing officer, and the cost of the ALJ's transcript, if requested by the ALJ, shall be the responsibility of the City.

E. Findings and Conclusions. Consistent with time requirements of the APA, the ALJ shall render a decision in the matter containing the findings of fact and conclusions of law reached by said ALJ. The City Manager or designee shall (a) certify the ALJ's decision to CalPERS in the event of an application for disability retirement, or shall order or deny reinstatement of a retiree based thereon, or (b) if aggrieved by the decision of the ALJ, seek judicial review. Pursuant to Code of Civil Procedure §1094.6, the ALJ and/or the Personnel Director or designee shall state the limitation period for seeking judicial review in the decision rendered. An Affidavit of Mailing shall accompany the decision when sent to the employee/retiree.

X. ADVANCE DISABILITY RETIREMENT BENEFITS

For those employees receiving advance industrial disability retirement benefits pursuant to Labor Code §4850.4, said benefits shall continue until such time as the ALJ renders a decision and serves it on the parties.

XI. JUDICIAL REVIEW.

A. Any judicial review of the decision of the Administrative Law Judge shall be taken by the aggrieved party pursuant to Code of Civil Procedure §§1094.5 and 1094.6 within the time limits provided by law. The decision of the ALJ will be considered final for purposes of any appeal or writ upon service of the decision on the parties.

B. If a Petition for Writ of Mandate or Review is filed in the Superior Court, the Personnel Director or designee shall inform CalPERS.

C. Upon completion of all appellate review and the decision having become final, the Personnel Director or designee shall inform CalPERS.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-367

A RESOLUTION ACCEPTING THE BUCKLE-UP STANISLAUS GRANT IN THE AMOUNT OF $139,761 FROM THE STATE OF CALIFORNIA, OFFICE OF TRAFFIC SAFETY (OTS), TO CONTINUE FUNDING FOR ONE FULL-TIME COMMUNITY SERVICE OFFICER AND OFFICER OVERTIME TO CONDUCT COMMUNITY CAR SEAT CHECKUPS, CHILD SAFETY SEAT OBSERVATIONAL SURVEYS, AND PROMOTE THE PROPER USE OF SEAT BELTS AND CHILD RESTRAINT SYSTEMS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, the City of Modesto Police Department desires to continue a grant designated as the Buckle-Up Stanislaus grant to be funded from the State of California, Office of Traffic Safety (OTS), and

WHEREAS, said $139,761 grant will provide 100% funding for a Community Service Officer for the one-year program to oversee and run the Buckle-Up Stanislaus Program, and

WHEREAS, these funds will also provide overtime for officers to conduct Child Passenger Safety Checkups, and

WHEREAS, this grant will focus on decreasing the child passenger safety seat misuse rate, and

WHEREAS, the Buckle-Up Stanislaus grant commences on October 1, 2008, and ends September 30, 2009, and

WHEREAS, there is no fiscal impact to the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the Buckle-Up Stanislaus grant in the amount of $139,761 from the State of California, Office of Traffic Safety (OTS).

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents, including any extensions, amendments, or subsequent contracts with the State of California, Office of Traffic Safety.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2008, 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. 2008-368

A RESOLUTION AMENDING THE MULTI-YEAR 2008/09 OPERATING BUDGET, ESTIMATING EXPENDITURES AND REVENUE OF $139,761 FOR THE BUCKLE-UP STANISLAUS GRANT AND TO ALSO SET UP ORGANIZATIONAL UNIT 2971 TO TRACK GRANT REVENUE AND EXPENDITURES

WHEREAS, the City of Modesto Police Department desires to continue a grant designated as the Buckle-Up Stanislaus grant to be funded from the State of California, Office of Traffic Safety (OTS), and

WHEREAS, said $139,761 grant will provide 100% funding for a Community Service Officer for the one-year program to oversee and run the Buckle-Up Stanislaus Program, and

WHEREAS, upon completion of the grant the one Community Service Officer position will be absorbed into the General Fund or eliminated through attrition, and

WHEREAS, these funds will also provide overtime for officers to conduct Child Passenger Safety Checkups, and

WHEREAS, this grant will focus on decreasing the child passenger safety seat misuse rate, and

WHEREAS, this is a multi-year project, and

WHEREAS, the Buckle-Up Stanislaus grant commences on October 1, 2008, and ends Setpember 30, 2009, 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 the FY 2008/2009 Operating Budget is hereby amended as indicated below to initiate said grant:

	Expense:		
To:	0410-190-2971-0110	$49,692	Salaries
	0410-190-2971-0130	12,192	Overtime
	0410-190-2971-0188	18,933	Benefits
	0410-190-2971-0209	9,000	Training
	0410-190-2971-0235	24,444	Contractual Services
	0410-190-2971-0308	18,000	Field Supplies (Safety Seats, checkup supplies, educational items)
	0410-190-2971-0350	3,500	Computer Equipment
	0410-190-2971-0205	3,000	Printing
	0410-190-2971-0301	1,000	Office Supplies
	TOTAL	$139,761	
	Revenue:		
To:	0410-190-2971-3490	$139,761	State Grants

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 June, 2008, 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. 2008-369

A RESOLUTION ACCEPTING THE 2008 ALCOHOLIC BEVERAGE CONTROL (ABC) GRANT PROJECT IN THE AMOUNT OF $100,000 FROM THE STATE DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY GRANT DOCUMENTS.

WHEREAS, the City of Modesto Police Department desires to undertake a certain project designated as the Modesto ABC Project to be funded in part from funds made available through the Grant Assistance to Local Law Enforcement Agencies Project administered by the Department of Alcoholic Beverage Control (hereafter referred to as "ABC"), and

WHEREAS, the Police Department was awarded a grant in the 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 2008 Alcoholic Beverage Control (ABC) Grant Project in the amount of $100,000 from the State Department of Alcoholic Beverage Control to reduce crime and excessive calls for service in and around Stanislaus County's disorderly and to reduce sales of alcohol to minors.

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 24th day of June, 2008, 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. 2008-370

A RESOLUTION AMENDING THE FISCAL YEAR 2008/2009 OPERATING BUDGET, ESTIMATING REVENUE OF $100,000 AND APPROPRIATING FUNDS TO THE POLICE DEPARTMENT'S OPERATING BUDGET

WHEREAS, the Police Department acquired a grant award in the sum of $100,000 from the State Department of Alcoholic Beverage Control for a project to reduce crime and excessive calls for service in and around Stanislaus County's disorderly and disruptive ABC licensed establishments and to reduce sales of alcohol to minors, and

WHEREAS, there is no local match required for this program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2008/2009 Operating Budget is hereby amended as indicated below to initiate said grant project:

	Expense:		
To:	0410-190-2992-0130	$65,100	Officers' Overtime Hours Cost
	0410-190-2992-0240	27,900	Intergovernmental Services
	0410-190-2992-0262	1,500	Officers' Operating Expenses
	0410-190-2992-0356	2,500	Program Equipment
	0410-190-2992-0207	3,000	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 24th day of June, 2008, 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. 2008-371

A RESOLUTION AUTHORIZING SUBMITTAL OF AN APPLICATION FOR THE 2008 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM WITH THE U.S. DEPARTMENT OF JUSTICE, IN THE AMOUNT OF $47,285, FOR FIREARMS UPGRADE, AND AUTHORIZING THE CITY MANAGER, OR HIS AUTHORIZED DESIGNEE, TO EXECUTE SAID GRANT APPLICATION

WHEREAS, the City of Modesto Police Department can make application to the U.S. Department of Justice for the 2008 Edward Byrne Memorial Justice Assistance Grant (JAG) Program, and

WHEREAS, the Police Department wishes to submit an application to assist in firearms upgrade, and

WHEREAS, the firearms the department are currently using are twelve years old and need to be updated, and

WHEREAS, the total grant will be $47,285, and

WHEREAS, there is no local match required for this program, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes submittal of an application for the 2008 Edward Byrne Justice Memorial Justice Assistance Grant (JAG) Program with the U.S. Department of Justice, in the amount of $47,285, for firearms upgrade.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2008, 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 2008-372

A RESOLUTION AMENDING THE MULTI-YEAR 2008/09 OPERATING BUDGET ESTIMATING REVENUE OF $47,285 AND APPROPRIATING FUNDS IN ORGANIZATION 2909, UPON ACCEPTANCE OF THE GRANT.

WHEREAS, the Police Department can make application to the U.S. Department of Justice for the 2008 Edward Byrne Memorial Justice Assistance grant (JAG) Program in the sum of $47,285, and

WHEREAS, the funds will be used for firearms upgrade, and

WHEREAS, the grant will commence on October 1, 2008 and end on September 30, 2009, and

WHEREAS, the City shall be compensated $47,285 from the U.S. Department of Justice for this program, and

WHEREAS, there is no local match required for this program.,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the multi-year 2008/09 Operating Budget is hereby amended as follows:

Expenses:

To:	0410-190-2909-5000	$ 47,285	2007 Byrne Justice Assistance Grant

Revenue:

From:	0410-190-2909-3508	$ 47,285	Grant Revenue

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 24th day of June, 2008, 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. 2008-373

A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S AUTHORITY TO ISSUE CHANGE ORDERS ON THE "COLLECTION SYSTEM REHABILITATION 2006" PROJECT FROM 11.1 PERCENT ($68,055.03) TO APPROXIMATELY 18.2 PERCENT ($113,055.03) OF THE ORIGINAL CONTRACT PRICE WITH D.A. WOOD CONSTRUCTION

WHEREAS, on January 9, 2007, by Resolution No. 2007-060, the City Council awarded a $620,019.70 contract to D.A. Wood Construction to construct the "Collection System Rehabilitation 2006" project, and

WHEREAS, the contractor started work on February 26, 2007, and

WHEREAS, additional unforeseen work not included in the original bid needed to be added to the project to allow completion of the new sewer pipeline, and

WHEREAS, the cost of the extra work was estimated to be as high as $113,055.03, an amount which exceeded the Director's authority for the project as established by the Council's Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of $68,055.03,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director's authority to issue change orders on the project entitled "Collection System Rehabilitation 2006" from 11.1 percent ($68,055.03) to 18.2 percent ($113,055.03) of the original contract price with D.A. Wood Construction.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2008, 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, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	Keating
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-374

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE CLARATINA AVENUE EXTENSION BETWEEN COFFEE ROAD AND OAKDALE ROAD PROJECT, ACCEPTING THE BID AND APPROVING A $1,083,508.05 CONTRACT WITH TEICHERT CONSTRUCTION FOR THE PROJECT TITLED, "CLARATINA AVENUE EXTENSION BETWEEN COFFEE ROAD AND OAKDALE ROAD," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Claratina Avenue Extension between Coffee Road and Oakdale Road project and City staff recommends approval to the City Council, and

WHEREAS, the bids received for the Claratina Avenue Extension between Coffee Road and Oakdale Road project were opened at 11:00 a.m. on May 27, 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 $1,083,508.05 received from Teichert Construction be accepted as the lowest responsible bid and the contract be awarded to Teichert Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of Teichert Construction in the amount $1,083,508.05, and hereby awards Teichert Construction, the contract titled "Claratina Avenue Extension between Coffee Road and Oakdale Road."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June 2008, 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. 2008-375

A RESOLUTION ADOPTING AN INITIAL STUDY FOR THE CLARATINA AVENUE EXTENSION – COFFEE ROAD TO OAKDALE ROAD IN THE CITY OF MODESTO, AND ADOPTING A FINDING THAT THE CITY COUNCIL HAS REVIEWED AND CONSIDERED AND MADE FINDINGS REGARDING THE CEQA ENVIRONMENTAL REVIEW DOCUMENT (ATTACHMENT B).

WHEREAS, on March 4, 2003, the City Council of the City of Modesto adopted Resolution No. 2003-123 certifying that the Modesto Urban Area General Plan Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan is complete and adequate pursuant to Section 15090 of the California Environmental Quality Act ("CEQA") Guidelines, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for 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 Public Works Department, by Initial Study, E.A./P.W. No. 2008-05, reviewed the proposed Claratina Avenue Extension between Coffee Road and Oakdale Road, which determined that the proposed project is within the scope of the project covered by the Master EIR and that the project will have no additional significant effect on the environment that was not identified in the Master EIR; and further, that no new or additional mitigation measures or alternatives may be required, and

WHEREAS, on March 20, 2008, the Public Works Department caused to be published notification of the determination conferred in Initial Study E.A./P.W. No. 2008-05, pursuant to Public Resources Code Section 21092, and

WHEREAS, said matter was considered by the City Council at a duly noticed meeting held on the 24th day of June, 2008, 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 E.A./P.W. No. 2008-05 prepared for the proposed Claratina Avenue Extension between Coffee Road and Oakdale Road project, a copy of which is attached hereto as **Attachment "B"**, and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

A. The proposed Claratina Avenue Extension is within the scope of the General Plan Master EIR (SCH No. 1999082041), which analyzed the potential impacts of build out of the Urban Area General Plan, including roadways in this area.

B. No additional significant environmental effects will occur as a result of the Claratina Avenue Extension that were not previously examined in the General Plan Master EIR.

C. No new mitigation measures or alternatives will be required as a result of the proposed Claratina Avenue Extension that were not previously considered in the General Plan Master EIR.

D. There are no specific features unique to the Claratina Avenue Extension that requires project specific mitigation measures. All certified mitigation measures identified in the MEIR would apply city wide, including this project as appropriate.

E. This initial study provides substantial evidence to support findings A, B, C, and D above.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2008, 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. 2008-376

A RESOLUTION AUTHORIZING THE SOLICITATION OF REQUEST FOR PROPOSALS (RFP) FOR PROFESSIONAL SERVICES TO COMPLETE SPECIAL STUDIES REQUIRED IN THE CITY'S NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT FOR DISCHARGE TO THE SAN JOAQUIN RIVER IN AN AMOUNT NOT TO EXCEED $242,000 THE FIRST YEAR, WITH OPTIONS FOR TWO (2) ONE-YEAR RENEWALS, NOT TO EXCEED $100,000 EACH YEAR

WHEREAS, the treated effluent from the City's wastewater treatment facilities is discharged to the San Joaquin River, and

WHEREAS, this discharge is regulated by the California Central Valley Regional Water Quality Control Board (Board) through an NPDES permit, and

WHEREAS, on April 25, 2008, the City received Waste Discharge Requirements Order No. R5-2008-0059 (Permit) issued by the Board, and

WHEREAS, the Permit becomes effective June 14, 2008, and

WHEREAS, NPDES permits are becoming increasingly more stringent with respect to what can be discharged to the river, and

WHEREAS, the Permit requires that the City demonstrate scientifically-based and appropriate discharge levels for the City's wastewater effluent through special studies that will need to be developed, reviewed, and reported, and

WHEREAS, in order to meet these requirements, staff is requesting an RFP to solicit consultants who will be able to perform these studies within the time lines required by the Board, and

WHEREAS, this work will need to be completed during the next 12 – 24 months at a cost of $242,000 the first year and, if necessary, $100,000 per year for the next two years, and

WHEREAS, results of some of these studies could potentially save the City some capital expenses in the future, and

WHEREAS, funds are budgeted in Account No. 6210-480-5217-0235.

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 complete special studies required in the City's National Pollutant Discharge Elimination System (NPDES) Permit for discharge to the San Joaquin River in an amount not to exceed $242,000 for the first year, with options for two (2) one-year renewals, not to exceed $100,000 each year.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2008, 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. 2008-377

A RESOLUTION APPROVING THE STANISLAUS COUNTY 2008 TRANSPORTATION FINANCIAL EXPENDITURE PLAN

WHEREAS, the Stanislaus Council of Governments (StanCOG), at its Policy Board meeting of January 9, 2008, was directed to proceed with the development of a framework for a 2008 Transportation Financial Expenditure Plan for Stanislaus County, and

WHEREAS, the framework was developed, completed and approved by each of the nine Cities and the County Chief Executive Officer prior to the February 13, 2008 StanCOG Policy Board meeting, and

WHEREAS the StanCOG Policy Board adopted the proposed framework at its February 13, 2008 meeting, and

WHEREAS, on June 11, 2008, the StanCOG Policy Board approved the Final Draft Expenditure Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Stanislaus County 2008 Transportation Financial Expenditure Plan, attached hereto as **Attachment 1.**

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2008, 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:	O'Bryant
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Excellence in Regional Planning

tanCOG

Stanislaus Council Of Governments

20-Year Countywide Transportation ½ Cent Sales Tax Measure Financial Expenditure Plan

Final Draft



Stanislaus Council of Governments
900 H Street, Suite D.
Modesto, CA 95354

Table of Contents

Introduction	1
Overview – The Expenditure Plan	1
Responding to Community Values	2
Expected Measure Revenues	3
Elements of the New Plan: What We Will Do	4
Expenditure Plan Projects	6
For Further Information	16

Appendices

Appendix A – Plan Administration	31
Appendix B – Citizens Advisory Committee	35

List of Tables

Table 1 Local Traffic Improvement and Road Maintenance Program-Funding Distribution	7
Table 2 Local Traffic Improvement and Road Maintenance Program-Project Listing by Jurisdiction	8-14
Table 3 Regional Capital Corridor Projects	15

List of Figures

Figure 1 Expenditures to Transportation Programs	1
Figure 2 Overview of Regional Capital Corridor Projects	17
Figure 3 - Figure 13 By Jurisdiction Local Traffic Improvement and Road Maintenance Projects	18-30

Final Draft

Introduction

The Stanislaus County 1/2 Cent Transportation Sales Tax Financial Expenditure Plan (Expenditure Plan), was prepared to:

Guide more than $700 million in transportation fund expenditures generated through the approval of a Stanislaus County 1/2-cent transportation sales tax over the next 20 years, if approved by voters in the November 2008 election.

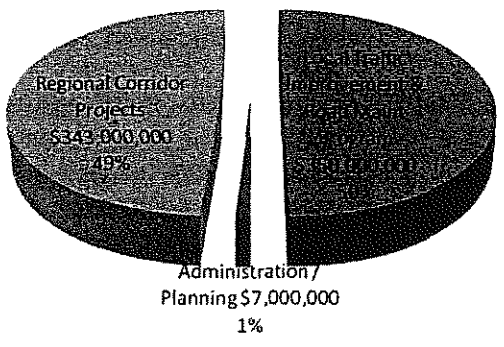
The Expenditure Plan, developed by the Stanislaus Council of Governments (StanCOG) and ten member agencies (Ceres, Hughson, Modesto, Newman, Oakdale, Patterson, Riverbank, Turlock, Waterford and Stanislaus County) representing diverse community interests, will address major transportation needs in Stanislaus County through the Year 2029 with the initiation of a ½ cent sales tax. StanCOG considered established local and regional needs, and obtained input from all of the City/County member agencies. To ensure the Expenditure Plan addressed transportation needs of all County residents, the Stanislaus Council of Governments:

- Adhered to requirements contained in the Public Utilities Code 180000 et seq.;
- Reviewed other transportation sales tax measure programs recently passed in other counties (best practices review); and
- Reviewed established transportation needs in Stanislaus County's Regional Transportation Plan (RTP).

Overview - Expenditure Plan: Where the money will go

Figure 1 provides an overview of the proposed Expenditure Plan that outlines where the funds will be spent and what categories of projects will be funded. The funding programs include Local Traffic Improvement and Road Maintenance, Regional Capital Corridor Projects and Administration. The formulas and breakdown of the expenditures were approved by the Stanislaus Council of Governments Policy Board, all nine City Councils and the Stanislaus County Board of Supervisors. The proposed 20 Year Transportation Measure is expected to generate approximately $700 million. 49% of this amount is allocated for Regional Capital Corridor Projects.

Figure 1
2008 1/2 Cent Sales Tax Transportation Measure Expenditures to Programs



These projects are included in the adopted Regional Transportation Plan (RTP) approved by all member agencies in Stanislaus County. The purpose of the RTP is to present a long-range plan for our transportation system that is built on public consensus and reflective of our region's unique nature. The RTP includes an assessment of overall growth and economic trends in the region and provides strategic direction for transportation capital investments.

Referencing Figure 1, the remaining Expenditure Plan allocations consider the many diversified transportation needs of Stanislaus County and have the following components, as shown:

- 50% of the expected Transportation Measure funds are allocated to "Local Programs". Due to the diverse needs of the Cities and the County, the Local Programs category was created. The Local Programs category allows each of the member agencies to develop a priority list of projects based on community needs. This allows each jurisdiction, flexibility to determine local needs. This category will allow funding for projects ranging from "pot-hole repair", road rehabilitation, new roadway sections to transit enhancements.
- The remaining 1% of the total expected Transportation Measure funding is directed to program implementation activities.

Details regarding the implementation of each of the programs are provided in Appendix A and B.

Responding to Community Values

Two-thirds (66.67%) voter approval is necessary to pass the Transportation Measure in November 2008. In order to determine that the Stanislaus Council of Governments had crafted a supportable Expenditure Plan framework, each City Council and the Stanislaus County Board of Supervisors were asked to review the framework and decide whether it would appeal to their jurisdictions. After review, all the City Councils and the County Board of Supervisors endorsed the proposed Expenditure Plan framework to impose a half cent sales tax for transportation improvements in Stanislaus County.

Meeting the needs of Stanislaus County residents requires leveraging State and Federal expenditures with local resources. Even with passage of the Transportation Measure there will not be enough funding available to address the more than $1.5 billion in transportation needs. The Transportation Measure will generate approximately $700 million over the next 20 years to address a portion of this need. Therefore, leveraging additional federal and state dollars, beyond what the region expects, is critical. Most State and Federal grants require a match. Agencies that pass transportation sales tax measures are referred to as "Self-Help" and can generate the revenues for a match. Similar measures throughout the Valley and California have been very successful in this regard. Such measures have been viewed as the most important transportation programs ever approved by voters in those counties. Stanislaus County needs to become a "Self-Help" County.

The Cities, the County of Stanislaus, and StanCOG worked together to develop the Expenditure Plan categories and distribution of funding, and the list of Regional Capital Corridor projects and local Traffic Improvement and Road Maintenance projects. Regional Projects were based on the adopted RTP approved by all agencies. The Expenditure Plan responds to the following identified community values: maintaining a vibrant economy, improving the quality of our air, local control of measure funds, leveraging matching funds from Federal and State sources, and having a Measure Citizens' Advisory Committee.

Final Draft

Stanislaus County Transportation Authority

The Stanislaus Council of Governments (StanCOG) is designated by the Stanislaus County Board of Supervisors as the Stanislaus County Local Transportation Authority (Authority), pursuant to the provisions of Public Utilities Code Section I, Division 19 commencing with Section 180050.

StanCOG Board Members

Fiscal Year 2007 – 2008

City of Ceres	Anthony Canella
City of Hughson	Henry Hesling
City of Modesto	Brad Hawn
City of Modesto	Janice Keating
City of Modesto	Jim Ridenour
City of Newman	John Fantazia
City of Oakdale	Ferrell Jackson
City of Patterson	Becky Campo
City of Riverbank	Chris Crifasi
City of Turlock	Ted Howze
City of Waterford	William Broderick
Stanislaus County	Jim DeMartini
Stanislaus County	Jeff Grover
Stanislaus County	Dick Monteith
Stanislaus County	Tom Mayfield
Stanislaus County	William O'Brien
Caltrans (Ex-Officio)	Ken Baxter, District 10

Annual Audit of Transportation Measure Programs

The Transportation Measure expenditures and accounts of the local agencies and the Authority will be audited on an annual basis by an independent audit firm retained by the Authority. Appendix A provides additional detail regarding the Transportation Measure audit process.

Citizen Oversight

To inform the public and to ensure that the Transportation Measure revenues and expenditures are spent as promised to the public, a Citizens Advisory Committee will be formed by the Authority as part of the new Transportation Measure. Details regarding the Committee are provided in Appendix B.

Expected Measure Revenues

If voters approve the Transportation Measure in November 2008, they will allow the Authority to impose a ½ cent retail transaction and use tax for 20 years (between April 1, 2009 and March 31, 2029). The Transportation Measure Sales Tax will:

Final Draft

Provide approximately $700 million in new revenues for transportation improvements according to financial projections through the year 2029.

This estimate considers current sales tax receipts (with no growth rate in sales tax proceeds) through March 2029. Since the project funding is shown in current dollars, the projected revenues are shown in current dollars. The allocation of projected sales tax revenues to specific types of transportation funding programs and improvement projects is described in the following sections of this Expenditure Plan. A Strategic/Work Plan detailing current transportation projects will be updated every two (2) years to adjust the projection of sales tax receipts, ensuring that the projections are consistent with future expenditures and promises made in this initial Expenditure Plan. The Authority will have the option of issuing bonds to deliver Transportation Measure projects and programs contained in this Expenditure Plan to reduce project costs by delivering them earlier.

Elements of the New Plan: What We Will Do

Through intense discussion and hard work, the following Transportation Measure funding program commitments were developed by the Stanislaus Council of Governments and member agencies. StanCOG realized that providing funds for both local and regional projects would meet the quality of life intent of the new Transportation Measure. This would in turn enable agencies within Stanislaus County to address the needs of residents, businesses, and major industries over the 20-year life of the Transportation Measure. The Expenditure Plan will:

Provide funds for local road improvements and regional capital projects that improve mobility and air quality within the County and each of the 9 cities.

LOCAL TRAFFIC IMPROVEMENT AND ROAD MAINTENANCE PROGRAM—50% or approximately $350 Million

The goal is to improve each individual City's and the County's local transportation systems. *50% or approximately $17.5* ***million a year*** has been guaranteed for local determined projects. Each City and the County will receive funding based on a formula using population and sales tax generated in each jurisdiction. The funding will help cities and the County to meet scheduled maintenance needs, rehabilitate aging transportation systems, construct bike-ways, provide street enhancements and transit enhancements.

Potential uses include:

- Pothole repair
- Repave streets
- Bridge repair or replacement
- Traffic signals
- Add additional lanes to existing streets and roads
- Improve sidewalks
- Separate street traffic from rail traffic
- Bike Paths
- Streetscape
- Transit Enhancements



The local agencies in Stanislaus County know what

Final Draft

their needs are and how best to address those needs. However, it is difficult to accurately identify 20 years of local transportation improvements upfront. Conditions in each of the 9 Cities and the unincorporated areas of Stanislaus County may change over the next 20 years and the locations and kind of improvements need to match these changes. As an example, a jurisdiction may want to provide street enhancements based on planned expansion; while another jurisdiction may have more road deterioration needs which must be addressed immediately. This could require pavement overlays or even full road construction; therefore, the local Traffic Improvement and Road Maintenance Program needs to be flexible in order for each jurisdiction to prioritize and address their individual needs. Funds can be used for all phases of project development and implementation.

REGIONAL CAPITAL CORRIDOR PROJECTS (Regional Transportation Program) – 49% or approximately $343 MILLION

Authorizes major new projects to:
- Improve regional mobility and reduce congestion
- Improve and reconstruct major commute corridors
- Improve freeway interchanges
- Add additional lanes
- Increase safety

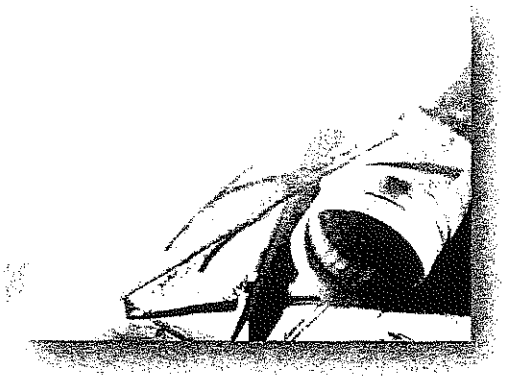


2 These projects provide for the movement of goods, services, and people through Stanislaus County. Major highlights of this Regional Transportation Program include the funding of 3 Regional Capital Corridors in the County. The 3 Corridors identified provide both east/west and north/south mobility improvements. The Corridors have been designated as: (1) North Corridor, (2) Central Corridor and (3) Southern Corridor. See Figure 2 for a map of the Regional Capital Corridor Projects. Funds can be used for all phases of project development and implementation. These projects will be built in phases, but are expected to be completed within the life of the Transportation Measure. This funding program requires matching funds from Federal sources and from the State Transportation Improvement Program (STIP) administered locally through the Authority.

ADMINISTRATION AND PLANNING PROGRAM – 1% or approximately $7 million

Transportation Measure funding is provided to the Authority to:
- Prepare Strategic/Work Plan updates
- Develop funding allocation requirements
- Administer and conduct specified activities identified in the two (2) programs described above
- Prepare Annual Transportation Measure Report and contract for an independent audit

3



Draft

Expenditure Plan Projects

This section identifies local and regional capital project improvements to be implemented over the life of the Measure or by the year 2029. The projects would be funded with Transportation Measure, State Transportation Improvement Program (STIP), and/or other transportation funding.

The projects to be addressed in the "Local Traffic Improvement and Road Maintenance Program" are included in Tables 1 and 2 and graphically displayed in Figures 3-13. These tables list improvements that the jurisdictions have currently identified for this program. Regional Capital Corridor projects are included in Table 3 and graphically presented in Figure 2. These regional projects will be funded using:

- Measure funding (***approximately $343 million***).
- A portion of State Transportation Improvement Program (STIP) funding expected over the 20-year period is projected to support these projects
- Other sources including local contributions and Federal transportation funding is also anticipated to complete these projects

During preparation of the Strategic/Work Plan Updates, the Authority will develop a detailed improvement program that specifies the timing and delivery of projects or funding order considering project cost benefit, project readiness, and funding availability. A description of funding commitments and guidelines for local roads and the Regional Capital Corridor Projects are provided in **Appendix A.**

Final Draft

Table 1

Local Traffic Improvement and Road Maintenance Program

Funding Distribution

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
Jurisdiction	**Taxable Sales (2005) (in1000's)**	**Sales Tax Share (%)**	**Allocation Based On Sales Tax Only ($)**	**Population (1/1/2007)**	**Population Share (%)**	**Allocation Based On Population Only ($)**	**Base Funding to Cities Established Using 98% of the Greater of Sales Tax or Population Percentage ($)**	**Annual Base Funding Using 98% of the Greater of Sales Tax or Population Percentages ($)**
Ceres	426,056	5.85%	20,475,000	41,997	8.05%	28,186,068	**27,622,347**	**1,381,117**
Hughson	52,155	0.72%	2,520,000	6,082	1.17%	4,081,903	**4,000,265**	**200,013**
Modesto	2,748,009	37.72%	132,020,000	209,174	40.11%	140, 386,042	**137,578,322**	**6,878,916**
Newman	44,804	0.61%	2,135,000	10,302	1.98%	6,914,134	**6,775,851**	**338,793**
Oakdale	311,884	4.28%	14,980,000	18,628	3.57%	12,502,085	**14,680,400**	**734,020**
Patterson	103,342	1.42%	4,970,000	20,875	4.00%	14,010,148	**13,729,945**	**686,497**
Riverbank	128,245	1.76%	6,160,000	21,492	4.12%	14,424,244	**14,135,759**	**706,788**
Turlock	1,024,325	14.06%	49,210,000	69,321	13.29%	46,524,429	**48,225,800**	**2,411,290**
Waterford	30,958	0.42%	1,470,000	8,590	1.65	5,765,134	**5,649,831**	**282,492**
Subtotal Cities	4,869,778			406,461			**272,398,519**	**13,619,926**
County	2,416,122	33.16%	116,060,000	115,036	22.06%	77,205,813	**77,601,481**	**3,880,074**
TOTALS	**7,285,900**	**100.00%**	**350,000,000**	**521,497**	**100.00%**	**350,000,000**	**350,000,000**	**17,500,000**

Notes

1. Population is based on California Department of Finance 2007 Annual Estimate.
2. Sales Tax Transactions based on 2005 California Board of Equalization Taxable Sales in thousands.
3. Total "Local Traffic Improvement and Road Maintenance Program distribution based on 50% of estimated total Transportation Measure Revenues.
4. Program funding distributions to each city are based on using 98% of the greater of Sales Tax amounts shown in column 4 compared to Population amounts shown in column 7. The funding distribution provided to the County is the amount remaining after City distributions have been provided.
5. Total funding of this Program to be distributed to each jurisdiction over 20 years is based on column (8).
6. Total Annual Distribution provided to each jurisdiction is based on column (9).

Final Draft

Table 2

Local Traffic Improvement and Road Maintenance Program
Project Listings by Jurisdiction

City of Ceres

Project	Description	Total
Mitchell/Service Interchange Improvements	Interchange Improvement	$10,000,000
Mitchell @ Service	Entryway Treatment and Signage	
Mitchell @ Bridge	Entryway Treatment and Signage	
Hatch @ Faith Home	Entryway Treatment and Signage	
Hatch @ Herdon	Entryway Treatment and Signage	$2,100,000
Whitmore @ 4th	Entryway Treatment and Signage	
Whitmore exit @ Whitmore Park	Entryway Treatment and Signage	
Whitmore @ RR tracks, Service east of Crows Landing	Entryway Treatment and Signage	
Alleys—Angie Mitchell, 6th St., 5th St., 4th St.	Road, Alley, Sidewalk Improvements	
3rth St., 2nd St., Central Ave., Magnolia St.	Road, Alley, Sidewalk Improvements	$5,500,000
Poplar St., Grandview Ave., Hatch Rd.,	Road, Alley, Sidewalk Improvements	
Belmont Ave., Herndon Rd.	Road, Alley, Sidewalk Improvements	
Landscaped Medians	Landscaped Medians	$2,300,000
Roeding Road, Bridge, Overlay, Mitchell/Canal	Road Improvements	$1,500,000
Right Turn Lane Mitchell to Whitmore	Road Improvements	$500,000
Reconstruct/Overlay Whitmore, Faith Home/Central	Road Improvements	$1,000,000
Reconstruct/Overlay 10th, Magnolia to Whitmore	Road Improvements	$250,000
Rockefeller Dr., Foundry Dr.,	Slurry Seal	
Hil-Mor Dr., Fairview Dr., Sandpoint Dr.,	Slurry Seal	$275,000
Cedarvale Dr.	Slurry Seal	
Mauna Kea Dr., Milky Way, Trina Ln.	Overlay	
Lundard Dr., Venus Dr., Dupre Dr. Uranus Dr.	Overlay	
Pisces Way, Sagittarius Ave., Moonview Dr.,	Overlay	$750,000
Lindsay Way, Cleta Ct., Puma Way, Denny Cr.	Overlay	
Transit		$690,000
Congestion Relief and Pavement Management	Pedestrians and Bicycle Paths	$3,067,347
	Sidewalks	
TOTAL CERES		**$27,622,347**

Final Draft

Table 2

Local Traffic Improvement and Road Maintenance Program

Project Listings by Jurisdiction

City of Hughson

Project	Description	Total
Santa Fe Avenue	Widen to 4 lanes: From Hatch Road to 7th Street with intersection improvements at Tully Road, Whitmore Avenue, and 7th Street	$2,500,000*
Mountain View Road	Extend as 4 lane Arterial: Hatch Road Canal to Santa Fe	$500,000*
Euclid Avenue	Realignment: From Santa Fe Avenue/Service Road to a location north of Service Road on Santa Fe Avenue	$500,000*
Congestion Relief and Pavement Management	Various locations in Hughson	$500,265
TOTAL HUGHSON		**$4,000,265**

* Does not represent the full cost of the project. Budget for Project to be supplemented by other sources

City of Modesto

Project	Description	Total
Overlay and Reconstruction (specific locations)		
9th Street	Overlay & Reconstruct: Tully to Carver	
Oakdale Road	Overlay: Floyd to Sylvan	
Oakdale Road	Overlay: Briggsmore to Floyd	
Claus Road	Overlay: Scenic to Briggsmore	
E. Rumble Road	Overlay: East of Coffee Road to West of Keller Street	
G Street	Overlay: East of 9th Street to West of Burney	
Carpenter	Overlay: Maze to End of C Street and G Street	
Woodland Avenue	City Portion Only: Morse to Carpenter	
Dale Road	Overlay: Standiford to Nightingale	
Prescott Rd.	Overlay: Rumble to Cheyenne	
B Street	Overlay: East of 9th Street to West of 12th Street	
Oakdale Road	Overlay: North of Scenic to South of Wylie Drive	
Tully Road	Overlay: Yale to Briggsmore	
Tully Road	Reconstruct: West Rumble to Standiford	$20,683,000
Lakewood Avenue	Overlay: Scenic to Briggsmore	
Paradise Road	Overlay: Sutter to Ellen	
7TH Street	Overlay: I Street to K Street	
Prescott Road	Overlay: Cheyenne to Snyder	
Dale Road	Overlay: Nightengale to Pelandale	
Kansas Avenue	Overlay & Reconstruct: West of Carpenter to Rosemore Ave	
Needham Avenue	Overlay & Reconstruct: East of College to west of L Street	
H Street	Overlay: 5th Street to Sutter	
Rosemore	Overlay: Woodland to Bluegum	
San Juan	Overlay & Reconstruct: North of Yosemite to south of Miller	
Penny Lane	Overlay: Pirinen to 170' to the East	
Hatch Road	Overlay: East of Dallas Road to east of Ustick Road	

Table 2

Local Traffic Improvement and Road Maintenance Program

Project Listings by Jurisdiction

City of Modesto

Project	Description	Total
College Avenue	Overlay: Briggsmore to Bowen	
Kingswood Drive	Overlay: North of Sylvan to west of Forest Glen	
Forest Glen Drive	Overlay: South of Sylvan to south of Sylvan Meadow	
Semple Street	Overlay: North of Jones Street to south of Morris Avenue	
Whitmore Avenue	Overlay: West of Tuscon to City Limit	
Plaza Parkway	Overlay: Sisk Road to Prescott Road	
Rosemore	City Portion only from Kansas to Woodland	
Lincoln Avenue	Overlay: Yosemite to Dry Creek	
Intersection and Interchange Improvements (specific locations)		
Oakdale/ Scenic	Intersection Improvements*	$14,556,000
Beckwith	Ramps Widening*	
Carpenter/Kansas	Interchange Improvements*	
Pelandale	Interchange Improvements*	
Slurry/ Cape Seals/ Surface Treatment	Various Locations*	
Construction Relief and Pavement Management (various locations)		
Overlay Reconstruction	Various Locations	$33,761,000
Pothole Repair – minor	Various Locations	
Repairs/PM	Various Locations	
Roadway Improvement	Various Locations*	
Intersection Improvements	Various Locations*	
Local Match	Provide local match funds For State and Federal Programs	
First 10 Year Total		**$69,000,000**
Overlay/Reconstruction	Various Locations	$33,534,799
Intersection/Interchange Improvements	Various Locations*	$14,538,605
Congestion relief/pavement mgmt	Various Locations*	$20,504,918
Second 10 Year Total		**$68,578,322**
TOTAL MODESTO		**$137,578,322**

*Does not represent the full cost of the project. Budget for Project to be supplemented by other sources.

Table 2

Local Traffic Improvement and Road Maintenance Program

Project Listings by Jurisdiction

City of Newman

Project	Description	Total
Inyo Avenue	Widen to 4 lanes: Complete Right-of-Way Improvements	$300,000
L Street	Reconstruction: Merced Street to Inyo Avenue	$300,000
Highway 33 @ Inyo Avenue	Intersection Improvement: Install Traffic Signal	$300,000
Safe Routes to School Program	Sidewalks and Bike Route Improvements	$300,000
Pavement Management	Improve and maintain local roadways	$4,000,000
Local Match	Provide local match funds for State and Federal Funding Programs	$1,000,000
Congestion Relief and Pavement Management	Various locations in Newman	$575,851
TOTAL NEWMAN		**$6,775,851**

City of Oakdale

Project	Description	Total
Various Local Streets	Pavement Overlay of 11 miles of Roadways	$5,000,000
Sierra Road	Improvements: From Fifth Avenue to Pedersen Road	$1,000,000
Orsi Road	Improvements: From F Street to Sierra Avenue	$3,000,000
Trails, Path, & Safe Routes to School	Various Trail Improvements in Oakdale	$2,000,000
Various Intersection Locations	Intersection Improvements: Install Traffic Signals	$1,500,000
Various Community Locations	Install Traffic Calming Devices	$500,000
Congestion Relief and Pavement Management	Various Locations in Oakdale	$1,680,400
TOTAL OAKDALE		**$14,680,400**

City of Patterson

Project	Description	Total
M Street and Hwy 33 Intersection	Traffic Signal and re-alignment	$200,000
Sperry Avenue and I-5	Intersection Improvements	$1,000,000
Hwy 33 and Sperry Ave. / Orange Ave.	Traffic Signal and re-alignment	$480,000
Ward Avenue and Hwy 33	Traffic Signal and re-alignment	$400,000
Sperry Avenue (Ward Ave. to Hwy. 33)	Widening	$650,000
Overlay/resurface	Various Locations in Patterson	$3,201,650
Reconstruction of local street	Various Locations in Patterson	$6,487,395
Slurry seal/surface treatment	Various Locations in Patterson	$310,900
Congestion Relief and Pavement Management	Various Locations in Patterson	$1,000,000
TOTAL PATTERSON		**$13,729,945**

Final

Table 2

Local Traffic Improvement and Road Maintenance Program

Project Listings by Jurisdiction

City of Riverbank

Project	Description	Total
Roselle Avenue	Widen and Repair: Patterson to Claribel	$8,135,759
Various Local Streets	Infill Sidewalks and provide Curb and Gutters @ Various Locations	$1,000,000
Central Avenue / California Avenue	Roadway Rehabilitation: Widen, Repave and provide Drainage System	$750,000
Pedestrian / Bikeway	Stanislaus River to Jacob Myers Park Crossing	$3,250,000
Congestion Relief and Pavement Management	Various Locations in Riverbank	$1,000,000
TOTAL RIVERBANK		**$14,135,759**

City of Turlock

Project	Description	Total
Capital Reconstruction Projects (Arterials)		
Linwood Avenue	Adjoining Cunningham Elementary School: Lander to West Avenue South	$14,500,000
East Canal Drive	Golden State Blvd. to Daubenberger	
South Golden State Blvd.	Crane Street to South city limits	
North Golden State Blvd.	Fulkerth Road to Tuolumne Road	
East Hawkeye Avenue	Quincy Road to Palmer Drive	
West Main Street	Lander Avenue to West Avenue South	
South Kilroy Rd.	Spengler to Linwood Ave	
Geer Road	Monte Vista Avenue to Taylor Road	
North Olive Avenue	Monte Vista Avenue to Fullerton	
Pedras Road	Geer Road to Del's Lane	
Fulkerth Road	Tully Road to North Golden State Blvd.	
West Monte Vista Avenue	Crowell Road to Geer Road	
Intersection Improvement Projects		
Golden State Blvd. @ F Street	Intersection Improvements: Install Traffic Signal	$1,500,000
West Main @ Tegner Road	Intersection Improvements: Install Traffic Signal	
Capital Reconstruction Projects		
Various Street Locations Congestion Relief and Pavement Management	Pavement Overlay/ Resurfacing of residential streets Various Locations in Turlock	$32,225,800
TOTAL TURLOCK		**$48,225,800**

Final Draft

Table 2

Local Traffic Improvement and Road Maintenance Program

Project Listings by Jurisdiction

City of Waterford

Project	Description	Total
Western/State Highway 132	Design and improve intersection. Install traffic signal. Curb and sidewalk improvements to extend East to Bentley Street. Storm Drain Improvements	$660,000
Downtown Business Area Streets	Renovate and Improve Various Downtown Business Streets, Drainage upgrades, Pavement Overlays, add Sidewalks	$800,000
Downtown Residential Area Streets	Drainage System, Upgrade Pavement, Add Sidewalks, Curb and Gutter	$1,500,000
North Reinway Road	Pavement Overlay: Add Curb, Gutter and Sidewalk	$120,000
Bentley Street	Pavement Overlay: Tim Bell Road to Canal	$350,000
South Western Avenue	Pavement Overlay: Washington Avenue to Riverside	$30,000
Welch Street	Overlay Welch from Tim Bell to Tohera Lane	$55,000
Tim Bell / SR 132	Intersection Improvements: Add Turning Lanes, Improve Drainage and sidewalks	$1,250,000
Riverside Road	Redesign and reconstruct roadway above Tuolumne River, Improve Storm Drainage, Add Curb, gutter and storm drainage where appropriate	$375,000
Sawmill Court and Burns Creek area	Address road subsidence issues	$40,000
Bonnie Bray Avenue	Overlay, curb, gutter sidewalk and landscaping from C street to Tim Bell Road	$250,000
Congestion Relief and Pavement Management	Various Locations in Waterford	$219,831
TOTAL WATERFORD		**$5,649,831**

Final Draft

Table 2

Local Traffic Improvement and Road Maintenance Program

Project Listings by Jurisdiction

County of Stanislaus Unincorporated Areas

Project	Description	Total
Claribel @ Coffee Road	Intersection Improvements: Install Traffic Signal	
Claribel @ Roselle Avenue	Intersection Improvements: Install Traffic Signal	
Claribel @ Terminal Road	Intersection Improvements: Install Traffic Signal	
Crows Landing @ Grayson	Intersection Improvements: Install Traffic Signal	
Crows Landing @ Keyes	Intersection Improvements: Install Traffic Signal	
Crows Landing @ West Main	Intersection Improvements: Install Traffic Signal	
Carpenter Road @ Hatch Road	Intersection Improvements: Install Traffic Signal	
Carpenter Road @ Whitmore	Intersection Improvements: Install Traffic Signal	
Faith Home @ Keyes	Intersection Improvements: Install Traffic Signal	
Main Rd @ Santa Fe Ave.	Intersection Improvements: Install Traffic Signal	
Service Rd @ Santa Fe Ave	Intersection Improvements: Install Traffic Signal	
Keyes @ Central Ave.	Intersection Improvements: Install Traffic Signal	
Claribel Road	Widening: McHenry to Albers	$25,740,000
Crows Landing	Widening: Keyes Road to SR 33	
Hatch Road	Widening: Faith Home Road to Santa Fe Avenue	
Albers Road	Widening: Faith Home Road to Santa Fe Avenue	
Carpenter Road	Widening: Whitmore Ave to West Main	
Claus Road	Widening: Whitmore Avenue to West Main	
East Avenue	Widening: Daubenberger Road to Gratton Road	
Faith Home Road	Widening: Keyes Road to Redwood Road	
Geer Road	Widening: Taylor Road to Yosemite	
McHenry Avenue	Widening: Ladd Road to San Joaquin County	
Santa Fe Avenue	Widening: Tuolumne River to Keyes Road	
Keyes Road	Widening: Montpellier to Carpenter	
Geer Road Bridge	Seismic Rehab: Strengthen Bridge Seismic	
Santa Fe Bridge	Seismic Capacity: Increase Bridge from 2 lanes to 5	
Crows Landing Bridge	Seismic Capacity: Increase Bridge from 2 lanes to 5	
McHenry Bridge	Seismic Capacity: Increase Bridge from 2 lanes to 5	
Hickman Bridge	River Scour: Bridge Replacement	$13,260,000
Tim Bell Bridge	Wooden Bridge: Replace Maintenance Intensive Bridge	
Crabtree Bridge	Obsolete Bridge: Weight and Height Restricted Bridge	
Ceres Main Canal @ Keyes	Obsolete Bridge: Weight Restricted Bridge	
Hills Ferry / River Road	Seismic: Strengthen Bridge Seismic	
Pleasant Valley Bridge	Wooden Bridge: Replace Maintenance Intensive Bridge	
Roadway Maintenance Program	Roadway resurfacing and maintenance	$38,601,481
TOTAL STANISLAUS COUNTY		**$77,601,481**

Final Draft

Table 3
Regional Capital Corridor Projects

NORTHERN CORRIDOR	Total Sales Tax Allocation
1. North County Corridor (NCC) Project Description: A new East/ West Expressway to provide 2 to 4 Lanes Extending from Dale Road to East of the City of Oakdale	**34.015% or approximately $116.67 million**

CENTRAL CORRIDOR	Total Sales Tax Allocation
2. State Route 99/ Mitchell Road—Service Road Interchange Project Description: Reconstruct the existing SR99/ Service—Mitchell Interchange. Improve Access Operability, Mobility and provide Congestion Relief.	**9.038% or approximately $31 million**
3. State Route 132 Improvements Project Description: Improve existing SR132 from Western Stanislaus County Line to City of Waterford. Improvements between County Line and SR99 include partial roadway realignment and widening from 2 to 4 lanes. Additional improvements include upgrading access connections between SR132 and SR99, and providing operational improvements from SR99 to the City of Waterford.	**22.932% or approximately $78.66 million**

SOUTHERN CORRIDOR	Total Sales Tax Allocation
4. West Main/ Fulkerth Road Corridor Improvements Project Description: Improve East/ West Mobility between the Cities of Turlock and Patterson; from State Route 99 to Interstate 5. Improvements will include operational Upgrades, Roadway Widening from 2 to 4 Lanes, and interchange Improvements.	**34.015% or approximately $116.67 MILLION**

TOTAL REGIONAL PROJECTS	100% or approximately $343 MILLION

Notes

1. The Projects are not listed by priority.
2. Corridor Projects shown are the adopted Regional Projects for 20 Years.
3. Corridor Projects shown are included in the approved StanCOG 2007 RTP.

Final Draft

For Further Information:

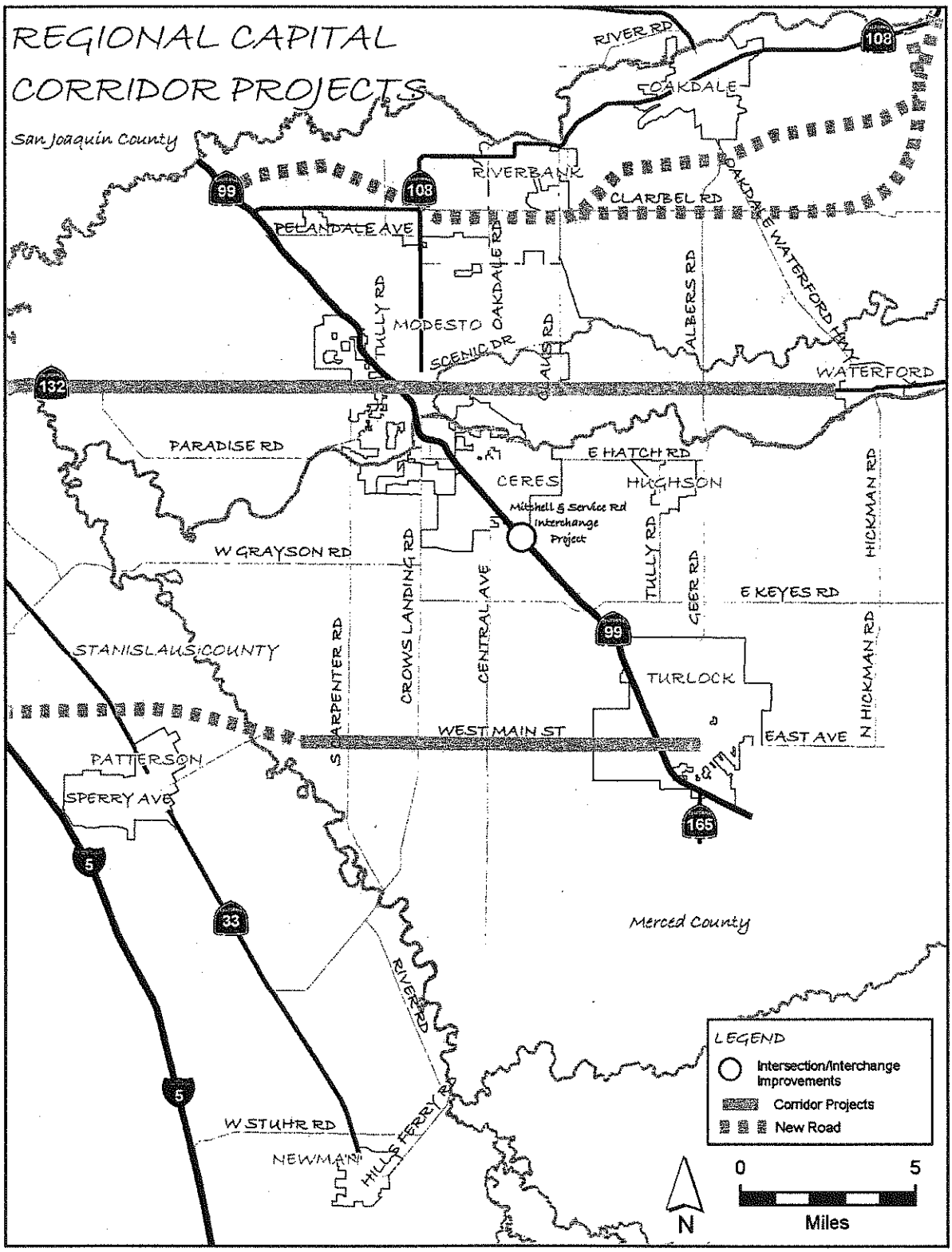
Contact the Stanislaus Council of Governments to inquire about the Transportation Measure Process, discuss the Candidate Projects and Programs contained in this Expenditure Plan, or to inquire about the next steps in the Measure Process.

Stanislaus Council of Governments
900 H Street, Suite D
Modesto, CA 95354
Ph: (209) 558-7830 Fax: (209) 525-4600

Visit the StanCOG website at http://www.stancog.org/ for more information, to sign up for our email list, and to receive updates on Measure Planning Activities.

Final Draft

Figure 2 – Overview of Regional Capital Corridor Projects



Final Draft

Figure 3 – Overview of Local Traffic Improvement & Road Maintenance Program for City of Ceres

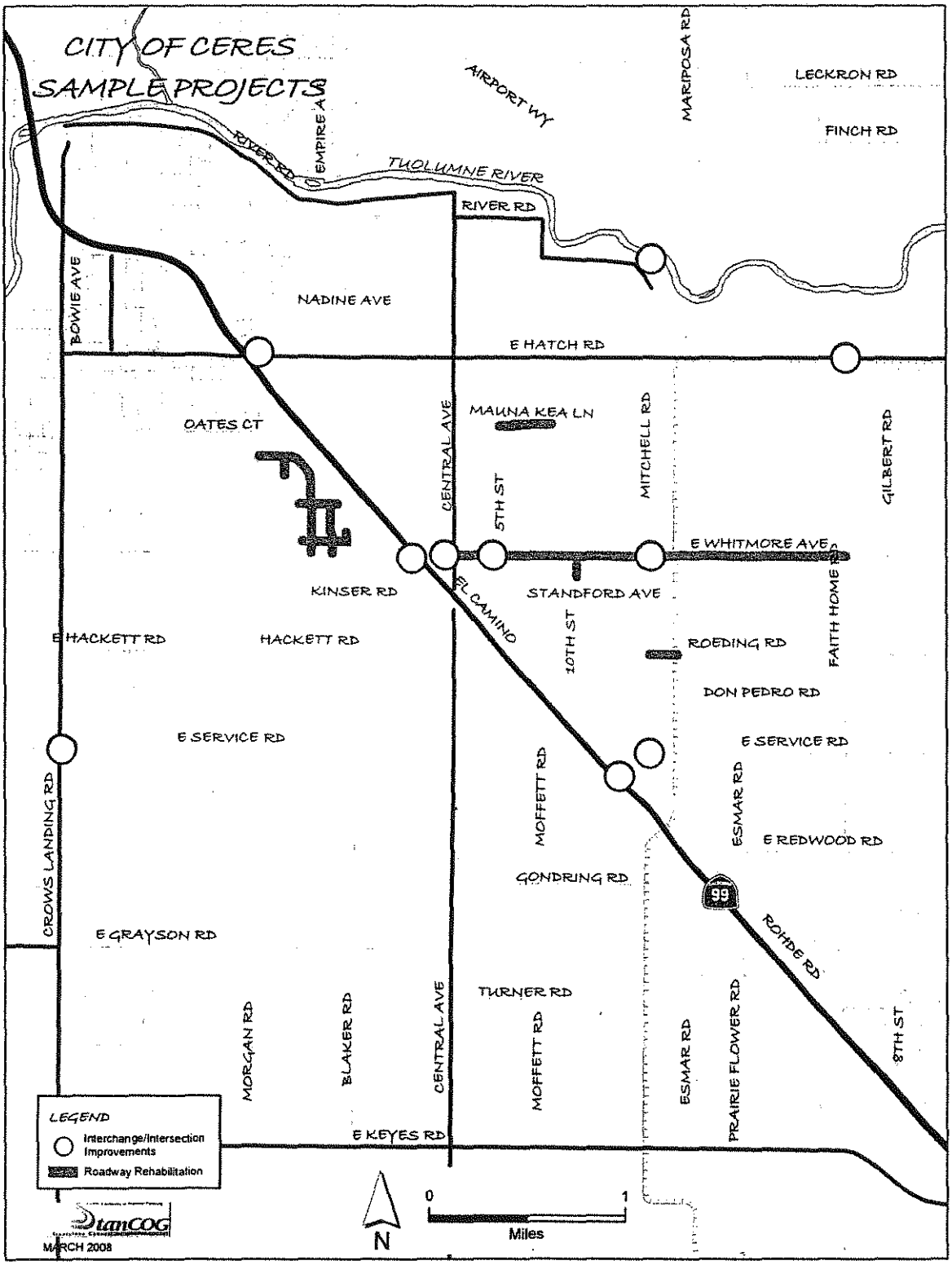
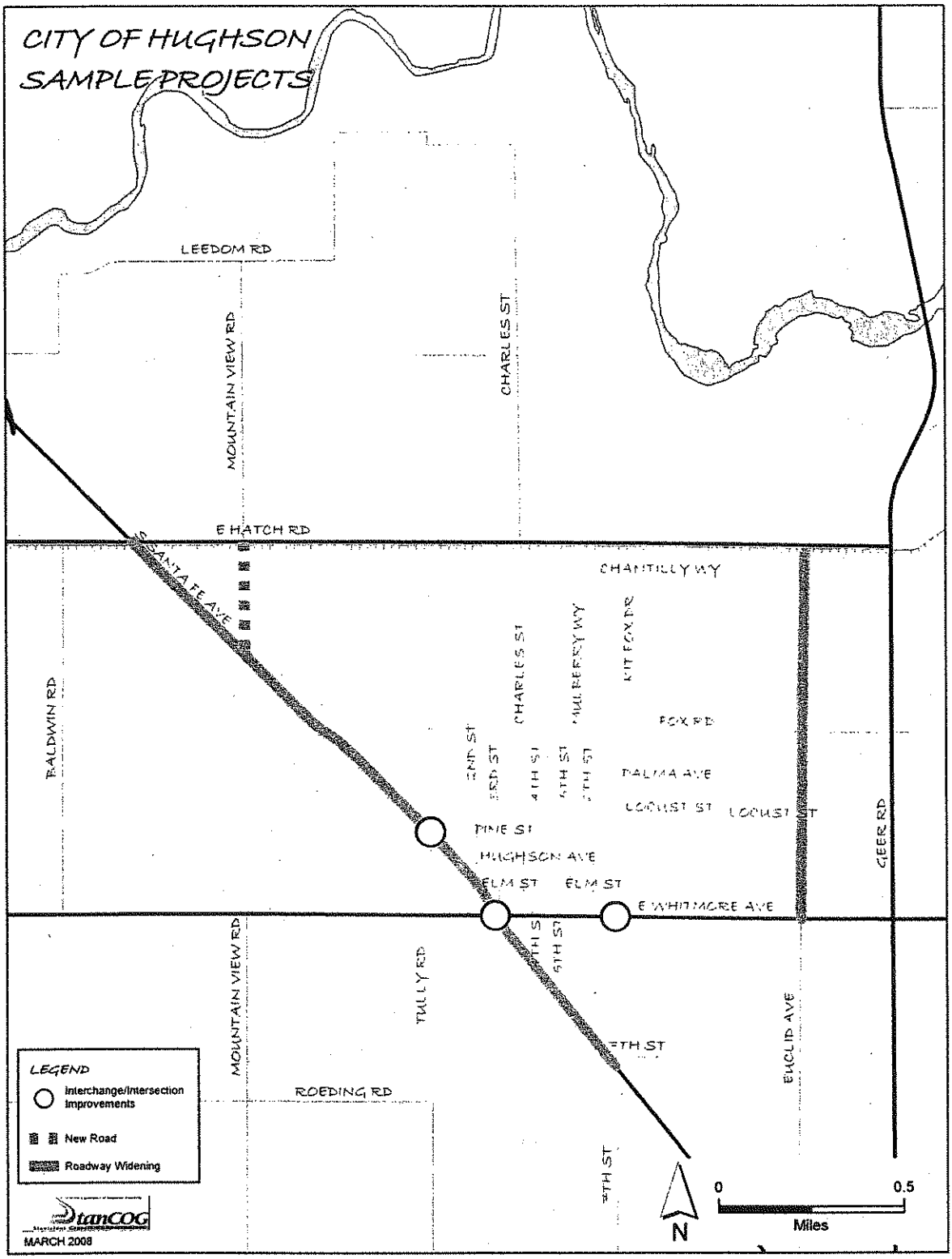


Figure 4 – Overview of Local Traffic Improvement & Road Maintenance Program for City of Hughson



Final Draft

Figure 5a – Overview of Local Traffic Improvement & Road Maintenance Program for City of Modesto Quadrant 1

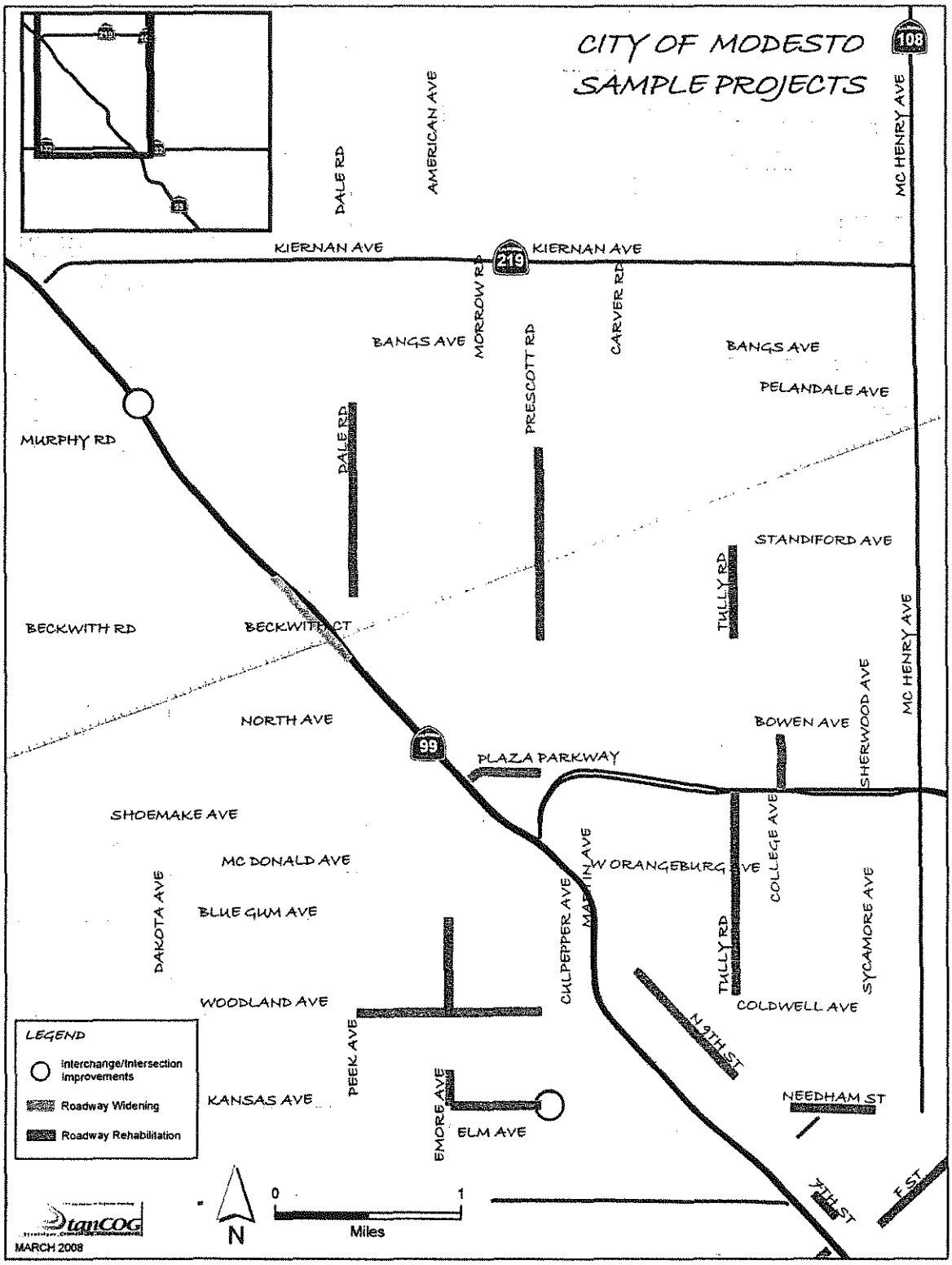
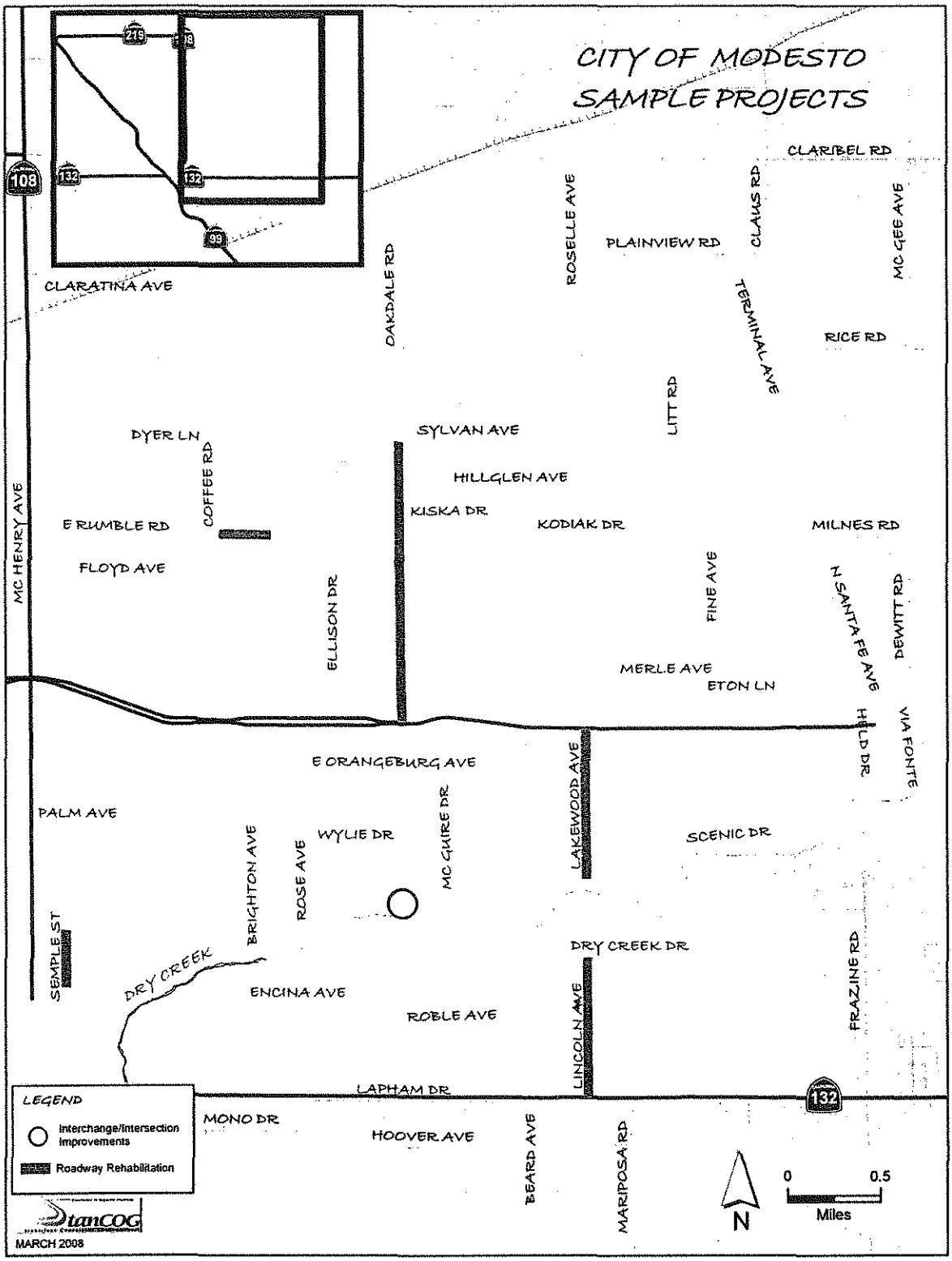


Figure 5b – Overview of Local Traffic Improvement & Road Maintenance Program for City of Modesto Quadrant 2



Final Draft

Figure 5c – Overview of Local Traffic Improvement & Road Maintenance Program for City of Modesto Quadrant 3

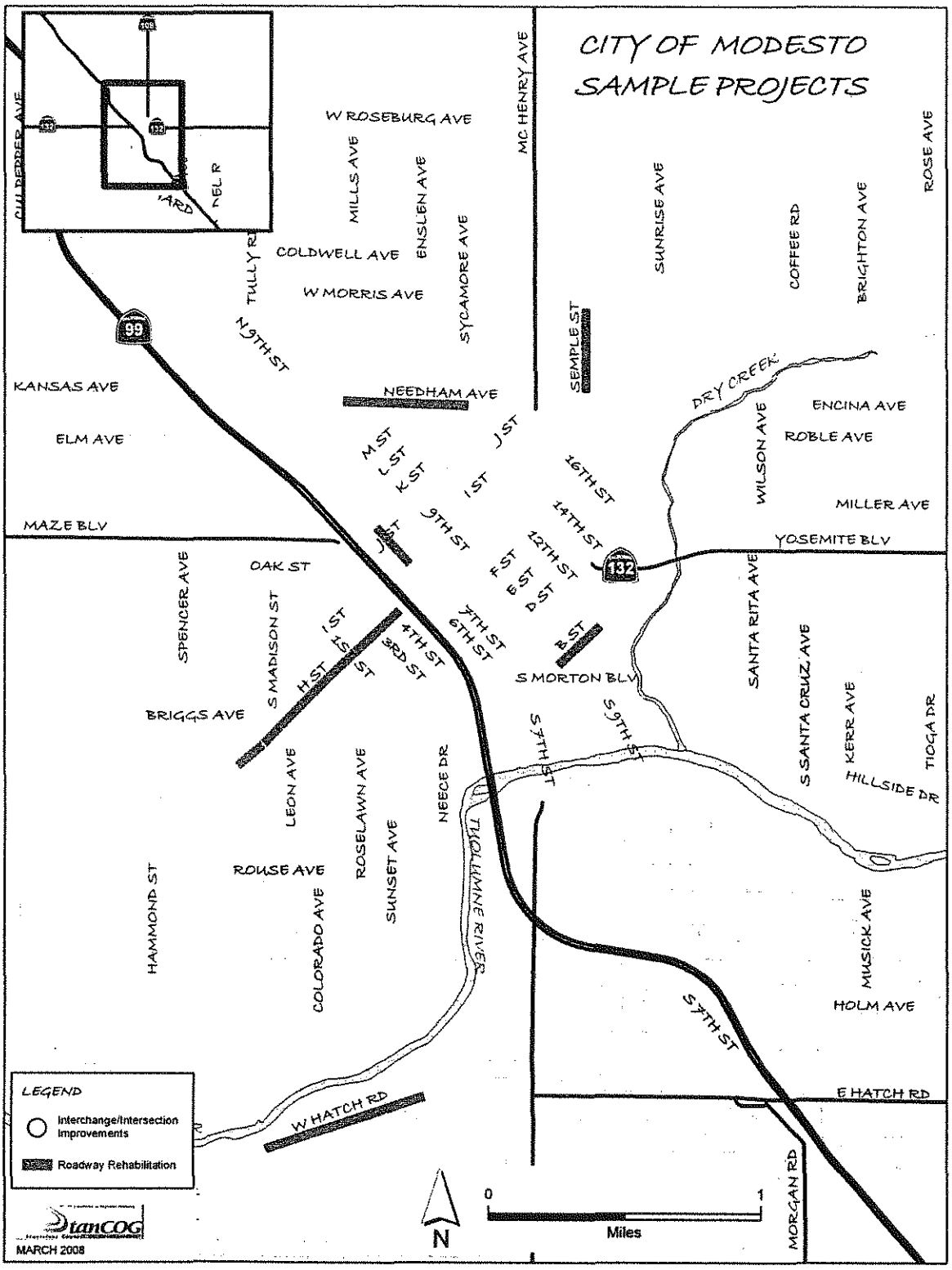
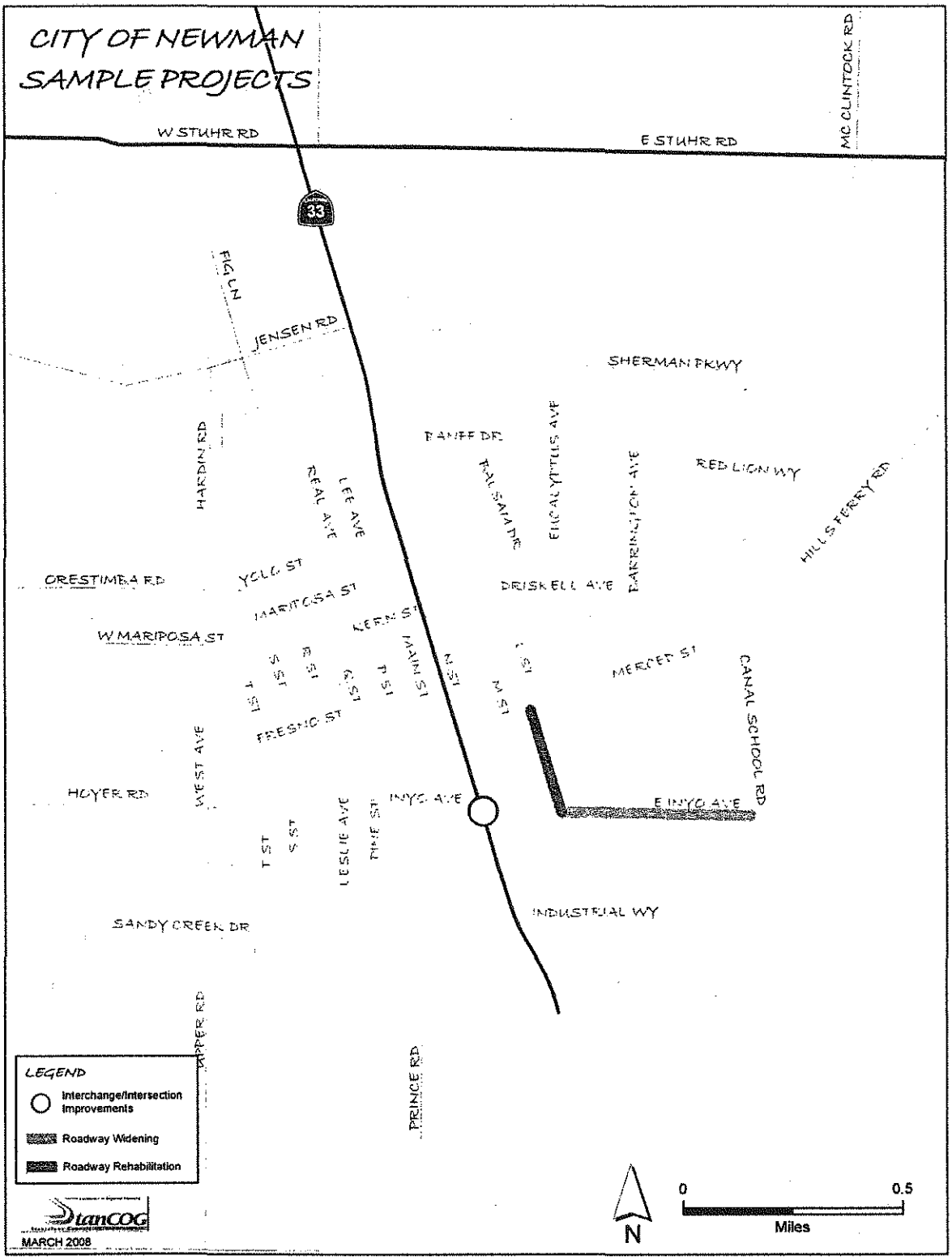


Figure 6 – Overview of Local Traffic Improvement & Road Maintenance Program for City of Newman



Final Draft

Figure 7 – Overview of Local Traffic Improvement & Road Maintenance Program for City of Oakdale

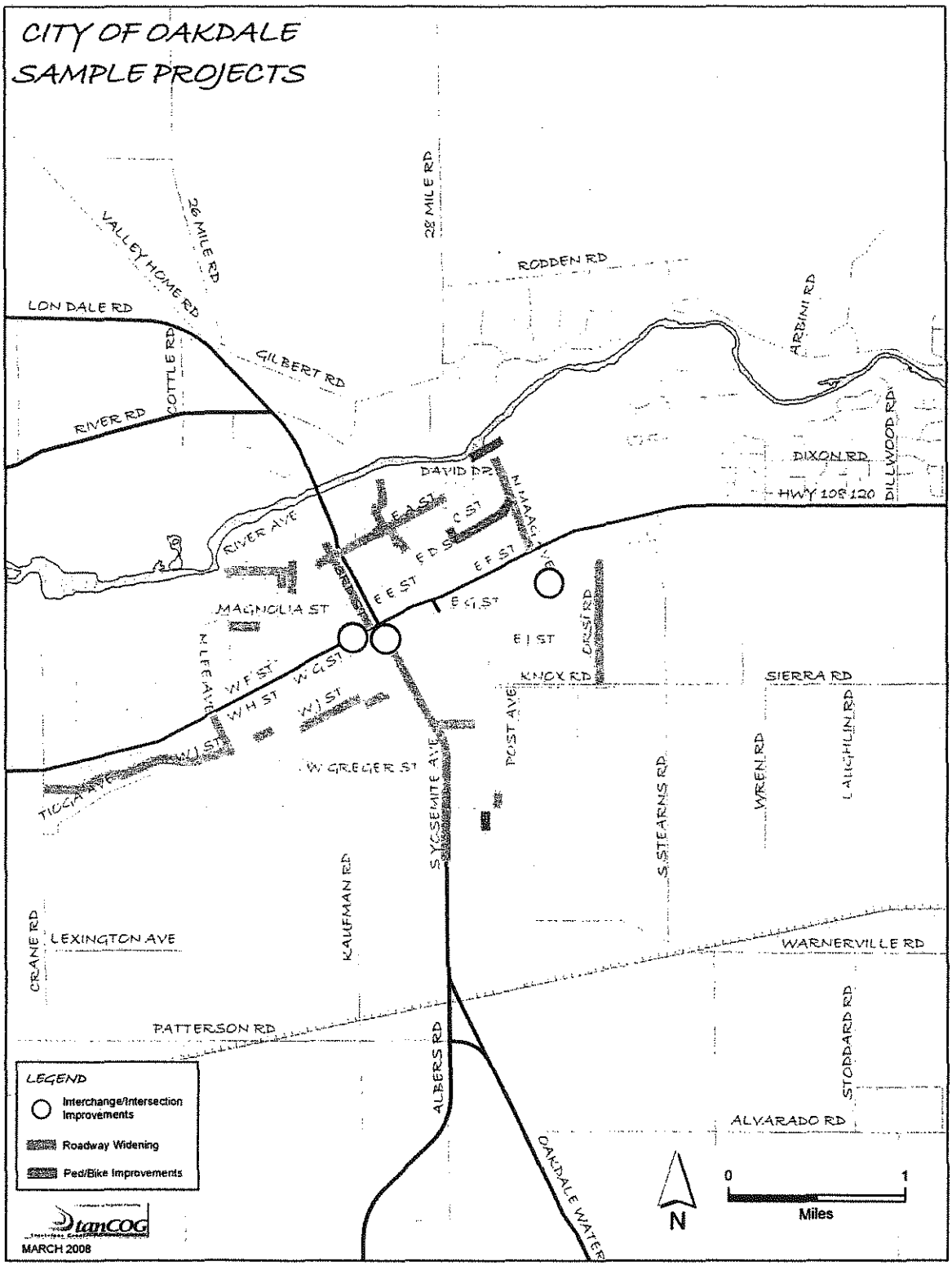
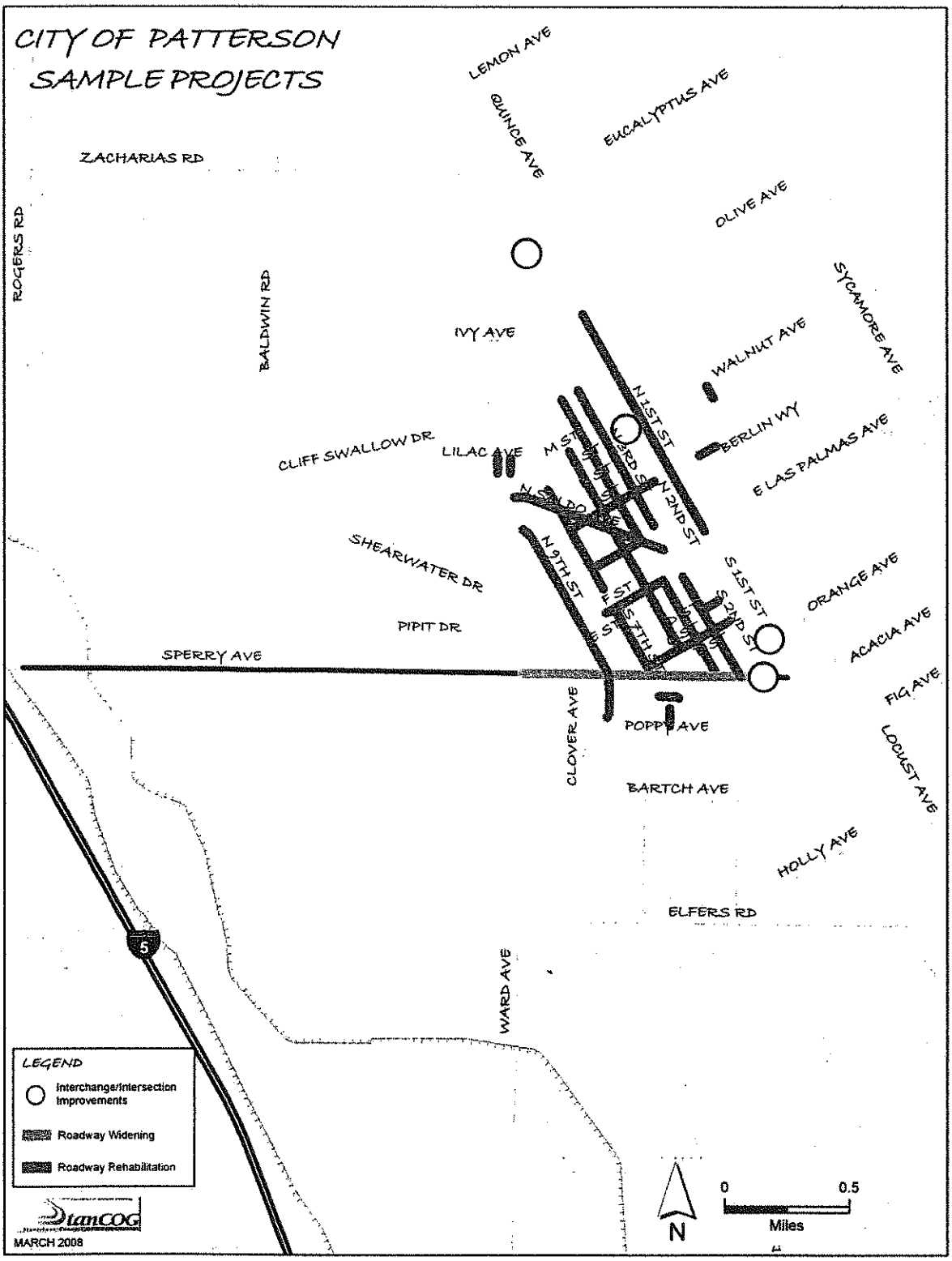


Figure 8 – Overview of Local Traffic Improvement & Road Maintenance Program for City of Patterson



Final Draft

Figure 9 – Overview of Local Traffic Improvement & Road Maintenance Program for City of Riverbank

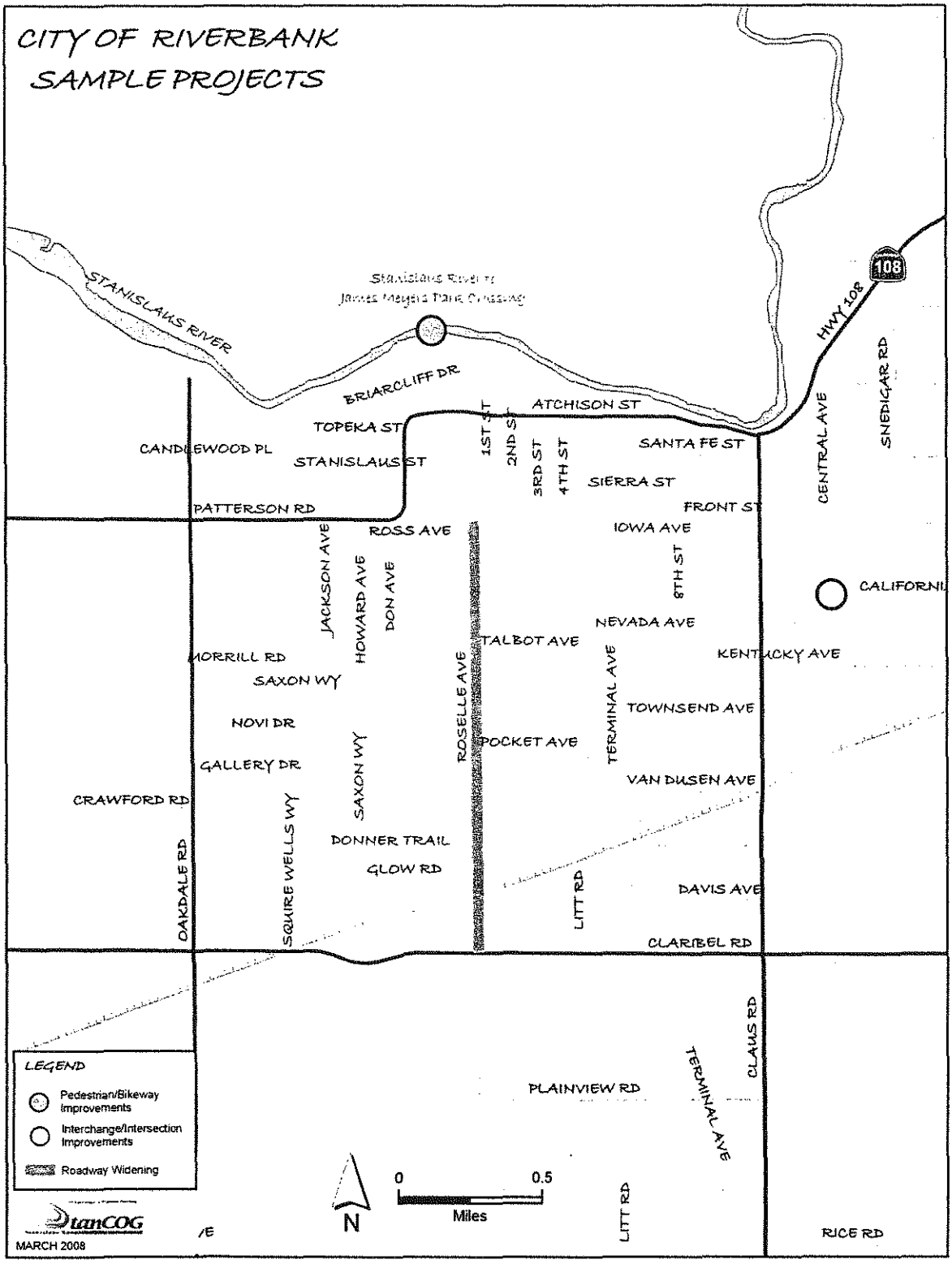


Figure 10 – Overview of Local Traffic Improvement & Road Maintenance Program for City of Turlock

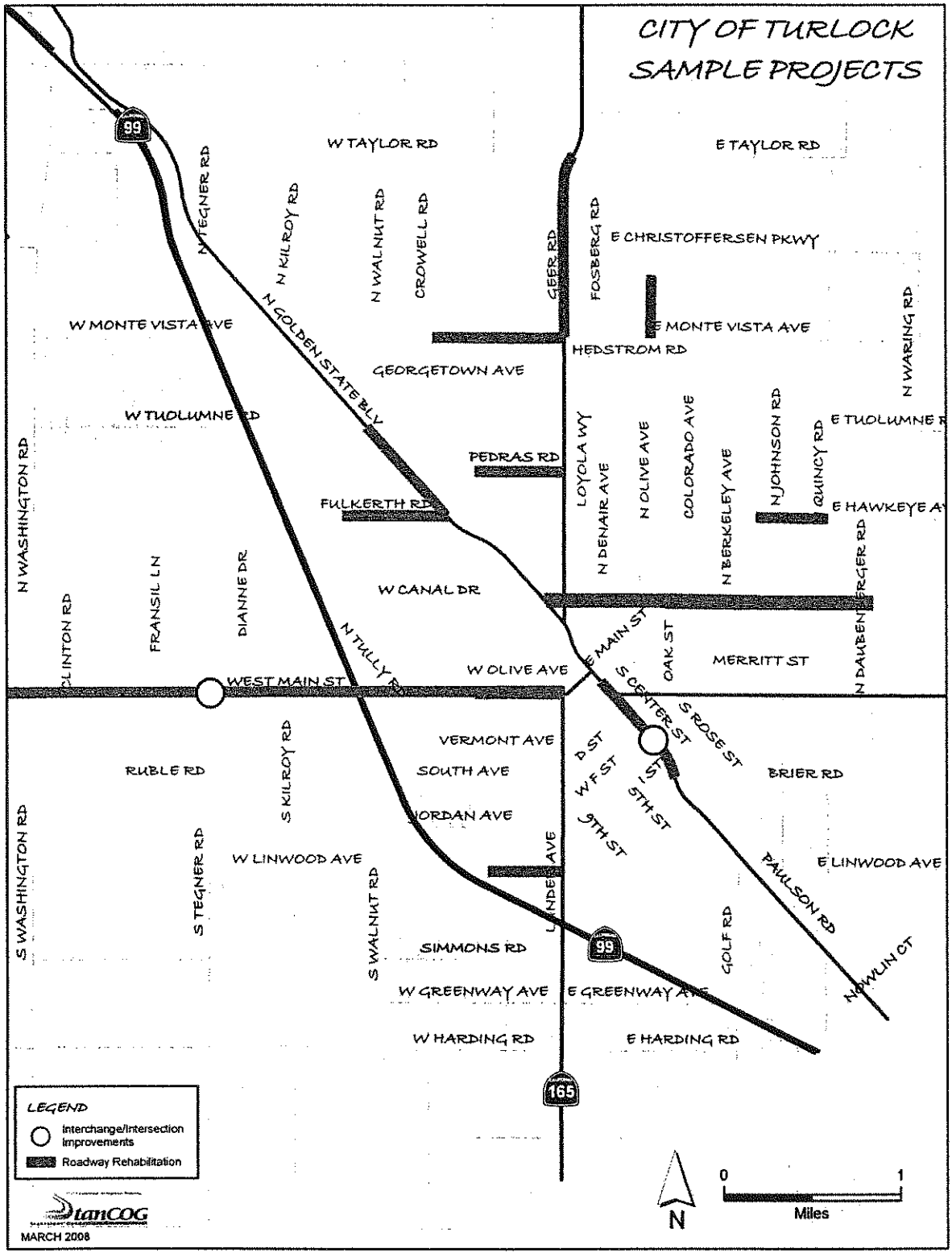


Figure 11 – Overview of Local Traffic Improvement & Road Maintenance Program for City of Waterford

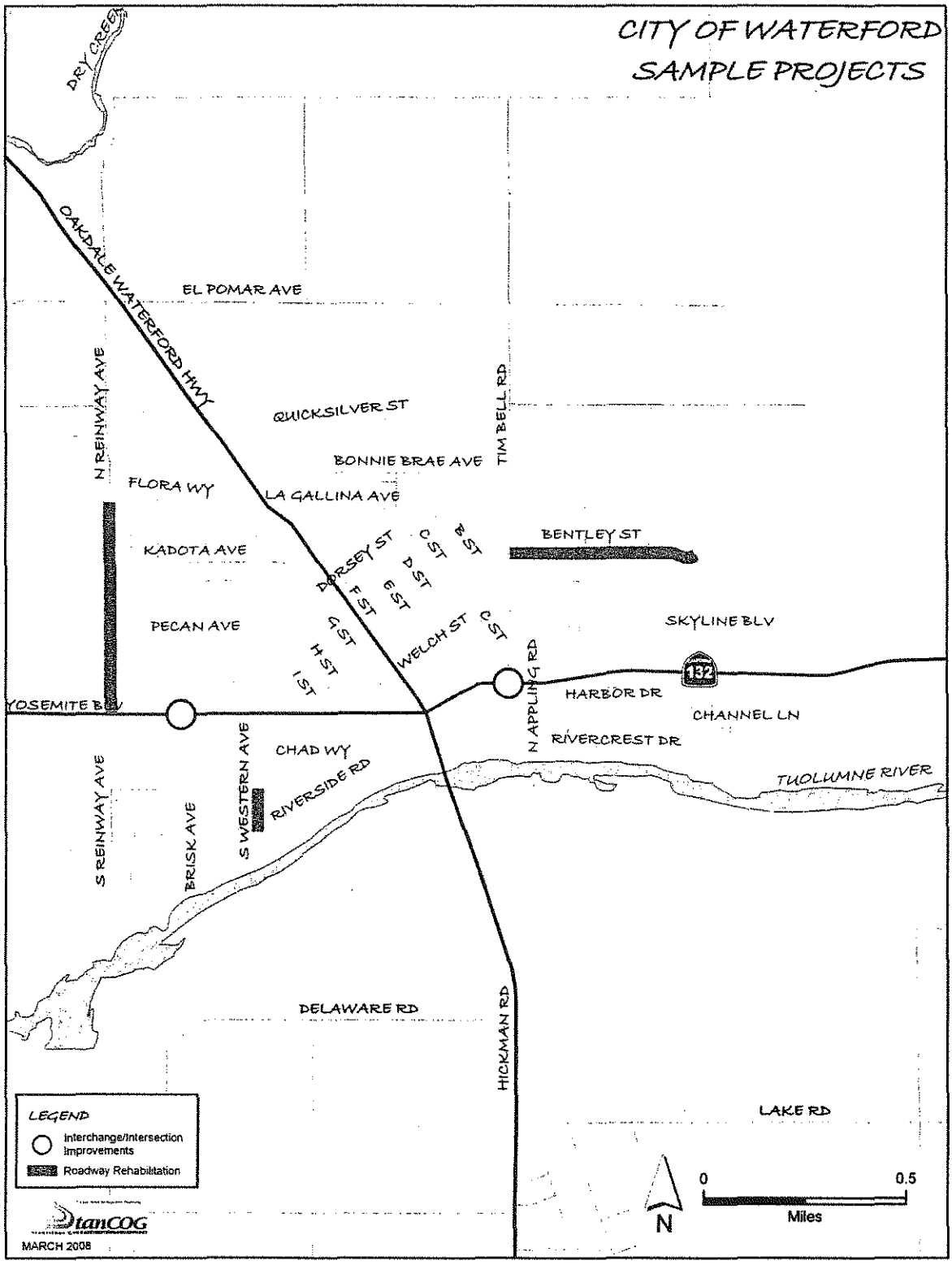
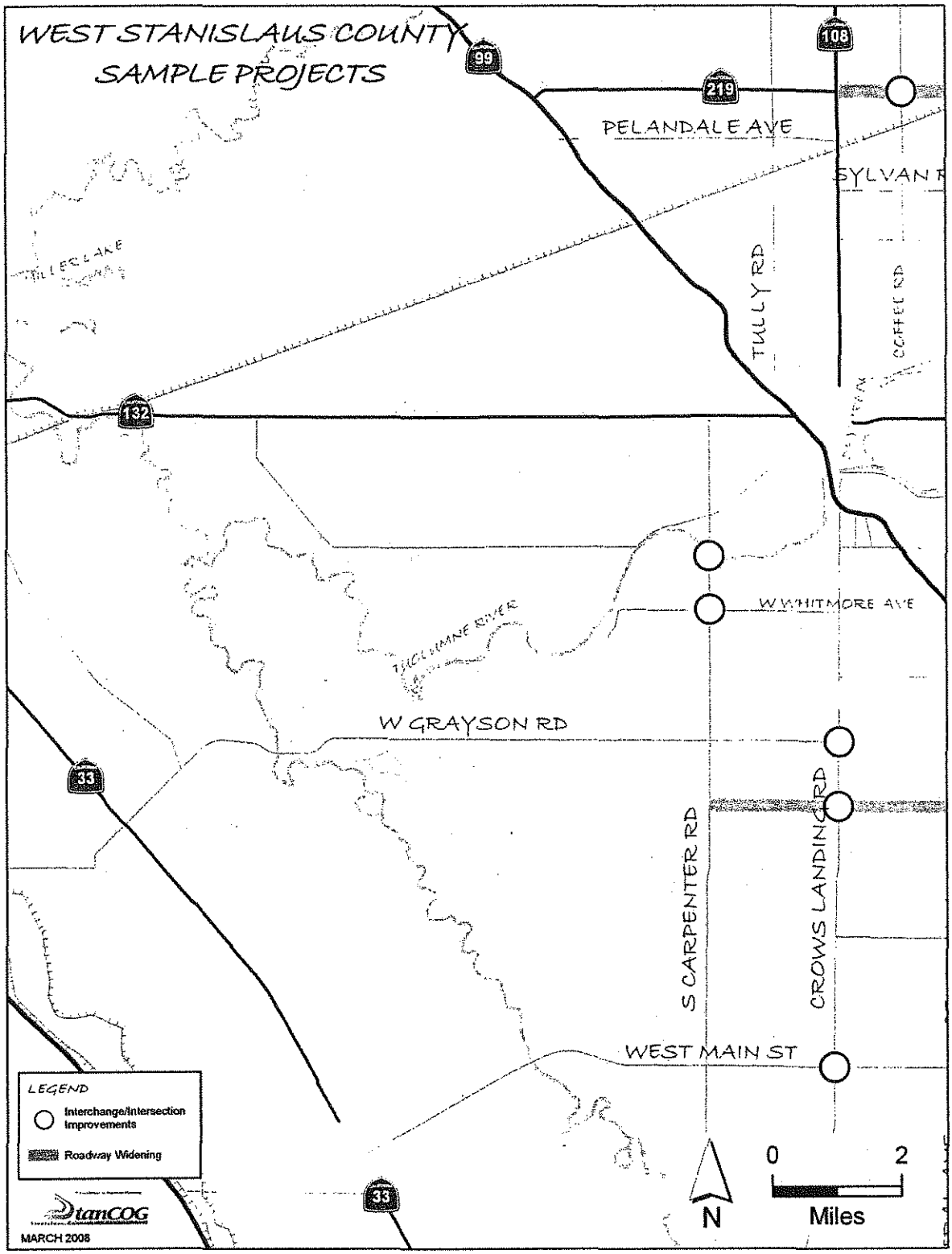
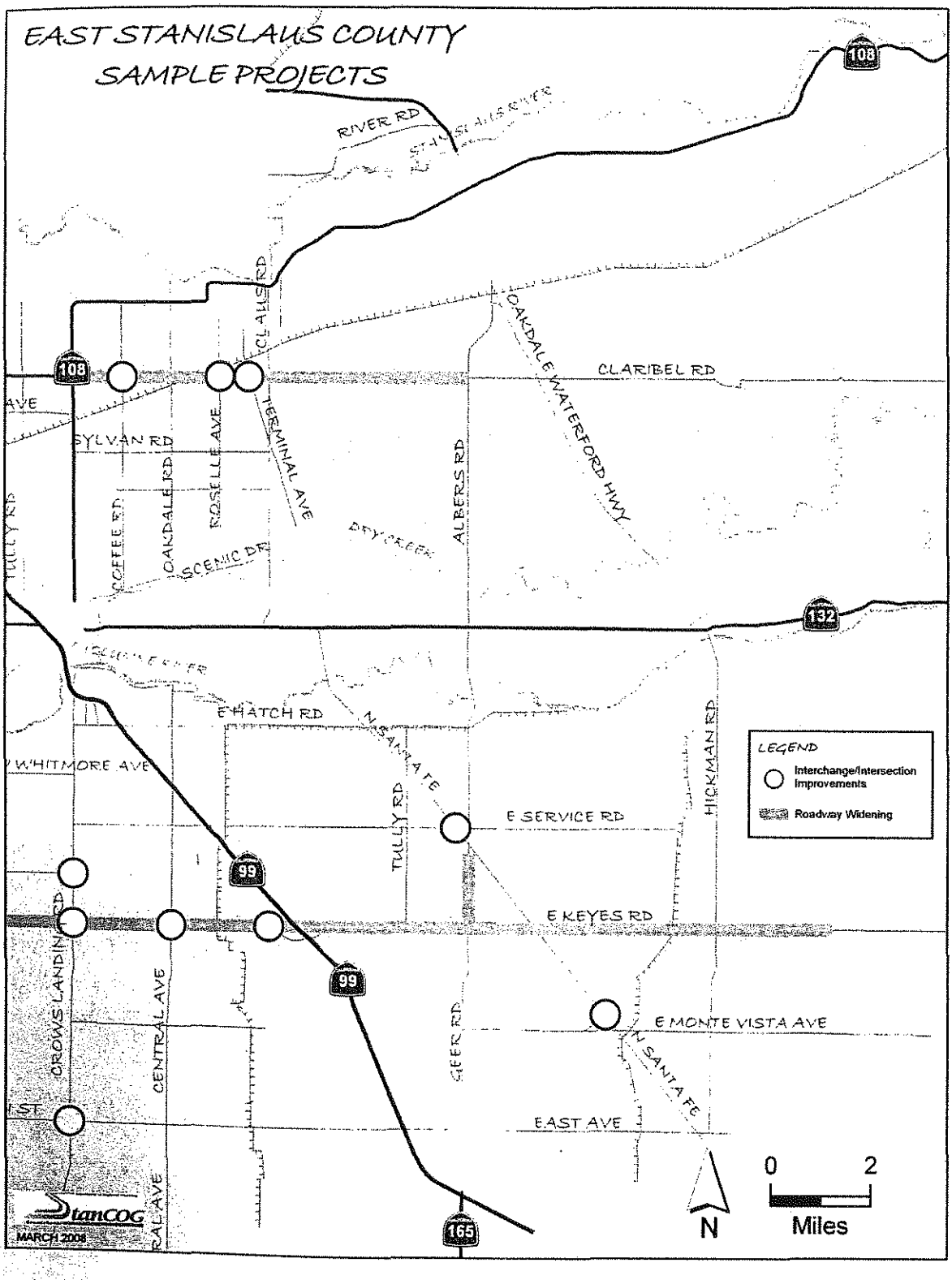


Figure 12 – Overview of Local Traffic Improvement & Road Maintenance Program for West Stanislaus County



Final

Figure 13 – Overview of Local Traffic Improvement & Road Maintenance Program for East Stanislaus County



APPENDICES

Appendix A - Plan Administration

I. Governing Board and Organizational Structure

A description of the Stanislaus Council of Governments and its organizational structure related to the sales tax follows. The structure is consistent with the enabling legislation.

A. ***Stanislaus County Local Transportation Authority Structure under the Transportation Measure Program***

The Stanislaus Council of Governments is designated by the Stanislaus County Board of Supervisors, as the Stanislaus County Local Transportation Authority (Authority). The Authority will administer the Transportation Measure Program in compliance with Public Utilities Code PUC 180000 et seq. If the Transportation Measure is approved by Stanislaus County voters in November 2008, the Authority will be responsible for administering the Transportation Measure Programs in accordance with plans and programs outlined in this and subsequent updates of this Plan. In addition, this Plan includes provision for a Citizens' Advisory Committee. Details regarding the Committee are contained in Appendix B. The Strategic/Work Plan will be prepared by the Authority and approved by its Policy Board.

The Authority is represented by sixteen (16) members including:

- Five (5) members of the Board of Supervisors
- Three (3) members representing the City of Modesto
- One (1) member representing each of the remaining eight cities in Stanislaus County: Ceres, Hughson, Newman, Oakdale, Patterson, Riverbank, Turlock and Waterford.

II. Plan Update, Approval Process, and Expenditure Plan Amendments

A. ***Plan Review and Approval Process***

There are three primary reports/plans that are referenced as follows:

1. *The Expenditure Plan* – The Expenditure Plan is approved by the voters and the Authority may annually review and propose amendments as outlined below.

2. *The Annual Report* – The Annual report is prepared each year by the Authority staff and the Citizen's Advisory Committee to review how sales tax receipts are being spent and publicize the results

3. *Bi-Annual Strategic/Work Plan* – Prepared every two years to outline project expenditures. The Strategic /Work Plan will be timed to coincide with the development of the Bi-annual State Transportation Improvement Program Development.

B. ***Amendments to the Expenditure Plan***

The Authority may annually review and propose amendments to the Expenditure Plan to provide for the use of additional federal, state and local funds to account for unexpected revenues, or to take into consideration unforeseen circumstances. The Authority shall act on only one package of amendments each fiscal year. The Authority shall establish a process for proposed Expenditure Plan amendments(s) which ensures that Authority Committee(s), participate in the development of the proposed amendment(s).

Final Draft

Upon completion of this process, amendments(s) to the Expenditure Plan must be passed by a two-thirds majority of the Authority by a roll call vote entered in the minutes of the Authority. Subsequently, the Authority shall notify the Board of Supervisors and the City Council of each city in the county and provide each entity with a copy of the proposed amendment(s). Pursuant to Public Utilities Code 180207, proposed amendment(s) shall become effective 45 days after notice is given, unless appealed under the process outlined in the following paragraph. Should an appeal be filed, the Authority shall hold a public hearing on the proposed amendment(s) within 45 days of the filing of the appeal.

In the event that a local jurisdiction does not agree with the Authority's amendment(s), the jurisdiction's policy decision-making body must, by a majority vote, determine to formally notify the Authority of its intent, in writing by registered mail, to obtain an override of the Authority's amendment(s). The appealing jurisdiction will have 45 days from the date the Authority adopts the proposed amendment(s) to obtain resolutions supporting an override of the amendment(s) from a majority of the cities representing a majority of the population residing within the incorporated areas of the county and from the Board of Supervisors. If a jurisdiction does not obtain the necessary resolutions supporting the override, the Authority's amendment(s) to the Expenditure Plan will stand. If the necessary resolutions supporting the override are obtained within 45 days from the date the Authority adopts the proposed amendment(s), then the amendment(s) shall not become effective.

A. ***Bi-Annual Strategic/Work Plan***

The following steps will be taken by the Authority to prepare and adopt this and future Bi-Annual updates of the Transportation Measure Strategic/Work Plan. This will include a financial plan that coincides with the development of the State Transportation Improvement Program (STIP).

- The Authority staff working with member agencies and affected stakeholders will develop the Draft Strategic/Work Plan, and will update it every two years
- The Authority Policy Board receives the Draft Strategic/Work Plan and its updates and schedules public hearings to review the document.
- The Authority Policy Board adopts the Strategic/Work Plan. The Strategic Plan will be the master document for delivery of the Expenditure Plan projects and programs. The purposes of the Strategic Work Plan are as follows:

    a) Defines the scope, cost, and schedule of each project and program
    b) Identifies accomplishments and critical issues
    c) Lists a set of amendments to these projects and programs
    d) Details the revenue projected and possible financing tools needed to deliver the Expenditure Plan
    e) Gathers into one document the policies and procedures of the Expenditure Plan
    f) Serves as annual budget

III. Implementing Guidelines

A. ***Administration Program: - 1% of the Transportation Measure***

The Authority will hire the staff and professional assistance required to administer the proceeds of the tax and carry out the mission outlined in this Expenditure Plan.

- The total administrative cost of salaries and benefits, of the staff, of the Authority shall not exceed one percent (1%) of the gross revenues generated by the transportation measure. These costs include salaries, wages, and benefits.
- An Annual Independent Financial Audit shall be conducted to assure that the revenues expended by the Authority under this section are necessary and reasonable in carrying out its responsibilities under the Expenditure Plan.
- The Authority will prepare an Annual Report, identifying the total expenditures for administration, as well as for other costs associated with delivering the program.

- An Annual Budget will be adopted by the Authority each year. The budget will project the expected sales tax receipts, other anticipated funds, and planned expenditures for administration, programs and projects. The Strategic Work Plan can serve as the budget.

B. Authority Committees:

The following committee structure will advise the Authority in the administration of the Expenditure Plan.

- ***The Technical Advisory Committee*** shall consist of the Chief Administrative Official, or his/her designee, of each member of the Authority as designated by the member. The Technical Advisory Committee shall advise the StanCOG Executive Committee and the Authority. The Technical Advisory Committee shall annually elect from its own members its Chairperson.
- ***The Independent Citizens Advisory Committee*** see Appendix B

C. Bonding and Financing

The Authority will have the authority to bond and use other financing mechanisms, including, when more advantageous economically, loans from banks and other financial lending institutions, for the purposes of expediting the delivery of transportation projects and programs and to provide economies of scale. Bonds or loans, if issued, will be paid with the proceeds of the transportation sales tax. The costs and risks associated with the bonding and loans will be presented in the Strategic/Work Plan, and will be subject to public comment before any bond sale or loan application is approved.

The Authority will also be able to use other means to accelerate the delivery of projects and programs, including partnering with other Councils of Governments, the State of California, the Federal Government, and other government agencies, federal authorization funds, federal earmarks, partnering with private entities, seeking outside grants and matching or leveraging tax receipts to the maximum extent possible.

Local agencies may choose to advance funds for a project, either a project specified in the plan, or a project for which they plan to use their local agency Local Program funds, and to receive reimbursement for that advancement in accordance with the plan. The fund advancement and reimbursement projections must be approved by the Authority in accordance with the voting requirements, prior to proceeding with the project.

D. Excess or Less than Projected Revenues

Excess revenue could result from higher than expected receipts, lower than expected project costs, or the addition of leveraged funds from other sources. All excess revenue will be programmed in the Agency's annual Strategic Work Plan and will be disbursed proportionately across local and regional projects. In the event that actual receipts are less than projected, funds would be programmed based on the Annual Strategic Work Plan.

E. Accountability

All business of the Authority will be conducted in an open and public meeting process in accordance with the California Brown Act. The Authority will approve all spending plans described in this document and will ensure that adequate public involvement has been included in the preparation of all spending plans. The Authority will be required to hire an independent auditor who will annually audit all sales tax expenditures, ensuring that expenditures are made in accordance with the plan, and with prudent, established accounting regulations and practices.

F. Other Guidelines

This plan is guided by principles that ensure that the revenue generated by the transportation sales tax is spent in the most efficient and effective manner possible, consistent with the desires of the voters of Stanislaus County. The principles outlined in this section provide flexibility needed to address issues that may arise during the life of the Expenditure Plan.

Final

1. The Authority will fund both local and regional projects.

2. The Authority is charged with a fiduciary duty in administering the transportation sales tax proceeds in accordance with the applicable laws and this Expenditure Plan. Receipt of these tax proceeds may be subject to appropriate terms and conditions as determined by the Authority in its reasonable discretion, including, but not limited to, the right to require recipients to execute funding agreements and the right to audit recipients' use of the tax proceeds.

3. The monies collected through the Authority shall be accounted for and invested separately, unless and until the funds are turned over to a local agency in accordance with the Expenditure Plan. At such time, the local agency shall keep a separate accounting of the monies and any and all expenditures to ensure that the monies are spent in accordance with the approved Expenditure Plan.

4. All meetings of the Authority will be conducted in public accordance to state law, through publicly noticed meetings. The annual budget of the Authority, annual work plan, biennial Strategic/Work Plan, and annual report will all be prepared for public scrutiny. The interests of the public will further be protected by the Citizens' Advisory Committee described in this Expenditure Plan.

5. Under no circumstances may the proceeds of this transportation sales tax be applied to any purpose other than for transportation improvements described in this Expenditure Plan benefiting Stanislaus County and its member agencies. The funds may not be used for any transportation projects or programs other than those specified in this Expenditure Plan without an amendment of this Expenditure Plan.

6. The actual requirements for funds in a specific program could be higher or lower than expected due to changes in funding outside of this transportation sales tax, or due to changes in project costs or feasibility. Should the need for funds for any program/project be less than the amount to be allocated by the sales tax, or should any project become infeasible for any reason, funds will first be considered for reprogramming to other programs or projects in the same regional area in accordance with voting described above at a noticed public hearing.

7. The Regional Capital Corridor projects shall be guided by the following conditions:

    a. Any revenue growth in the overall transportation sales tax program will be prorated across all three Capital Corridors.

    b. It is anticipated that these projects will leverage both State and Federal funds as has been historically experienced by other "Self Help Counties" who have transportation sales tax Programs.

    c. It is understood that projected transportation sales tax revenues associated with each of these Corridors will not change existing funding protocols to compete for other State or Federal transportation funds. Additionally, these existing transportation funding programs remain separate and distinct from the proposed transportation sales tax program.

    d. It is understood that the projects identified in each Corridor must remain through the duration of the proposed transportation sales tax program; and must be delivered in a timely manner by each project sponsor based on agreed-to milestone schedules.

8. All projects funded with these transportation sales tax funds will be required to complete appropriate California Environmental Quality Act (CEQA) and other environmental review as required.

9. Funds may be accumulated by the Authority or by recipient agencies over a period of time to pay for larger and long-term local projects. All interest income generated by these proceeds will accrue to the specific fund/local project intended. If accumulated for a general purpose, the proceeds will be used for the transportation purposes described in this Expenditure Plan.

10. The Authority will have the capability of loaning transportation sales tax receipts at prevailing interest rates to other member agencies for the implementation of needed transportation projects, provided

that a guaranteed revenue stream is devoted to repay such a loan over a maximum amount of time, and provided that the loan will not interfere with the implementation of programs or projects defined in the Expenditure Plan. Loaning of funds requires approval from the Authority.

11. Matching or leveraging of outside funding sources is strongly encouraged. Any additional transportation sales tax revenues made available through their replacement by matching funds will be spent based on the principles outlined previously in these guidelines.

12. For Regional Capital Corridor Projects obtaining third party grants by member agencies is encouraged so as to leverage sales tax revenue and expedite completion of projects. All funds generated by such third party grants solicited for specific regional projects shall be applied solely to those projects. The Authority will give preference to use the savings resulting from said grants toward other regional projects which primarily benefit the member agency responsible for obtaining said grants. Grants, as applied to the foregoing, do not include STIP funds.

13. New incorporated cities or new transit agencies or services that come into existence in Stanislaus County during the life of the Expenditure Plan could be considered as eligible recipients of funds through an Expenditure Plan Amendment, and an additional position created on the governing board.

Appendix B — Citizens Advisory Committee

I. Citizens Advisory Committee (CAC)

A. Citizens Advisory Committee (CAC) Goal and Function

The CAC shall review the fiscal and program performance of the Sales Tax Transportation Program through an annual audit to ensure that all Transportation Sales Tax funds are spent by the Authority in accordance with all provisions of the voter approved Expenditure Plan and Ordinance. The CAC's other mission is to provide positive, constructive advice to the Authority on how to improve implementation over the twenty year course of the program for the benefit of Stanislaus County residents and the community at large, and to study, and report, on other issues related to the current or future use of transportation sales tax funds that may be expressly authorized by the Authority Board.

B. Audit Requirement

The CAC shall supervise annual fiscal and performance audits, which shall be performed in accordance with generally accepted auditing standards and Government Auditing Standards issued by the Comptroller General of the United States and based on performance goals adopted by the Authority Board for each program or project funded in whole or in part with sales tax funds.

C. Role of Financial and Performance Audits

The Authority shall, under the competitive procurement rules of the Authority select, with the recommendation of the CAC, a professional auditor to conduct annual fiscal and performance audits of expenditure of all sales tax funds, report findings based on the audits to the Authority and to the public; and recommend any additional audits for consideration, which the CAC believes may impose the financial operation and integrity of program implementation, while meeting all voter mandates. No professional audit firm shall conduct more than three consecutive annual audits during the course of the 20 Year Sales Tax Program.

The Authority shall hold a publicly noticed meeting included on the agenda of a regularly scheduled Board meeting, with the recommendations of the CAC, to consider, the findings and recommendations of the audits. A report of the findings and recommendations of each audit by the CAC shall be made readily available to the public in print and on the Authority's electronic website.

Final Draft

D. Membership and Selection Process

Each City Council and the County Board of Supervisors shall appoint one member to the Citizens Advisory Committee. Each City and the County shall develop an open selection process that actively advertises for potential membership recruits and selects committee members that are all residents of each City and the County. The Chair and the Executive Director of the Authority and County Auditor shall serve as ex-officio nonvoting members of CAC.

E. Terms and Conditions for Committee

1. Committee members shall serve staggered four year terms. In no case shall voting committee members serve more than eight years on the CAC.

2. Committee members shall serve without compensation, except they shall be reimbursed for authorized travel and other expenses directly related to the work of the CAC.

3. Committee members cannot be a current local elected official in the County or a full time or part time staff member of any City, the County Government, Local Transit Operator, or State Transportation Agency.

4. Non-voting ex-officio committee members shall serve only as long as they remain incumbents in their respective positions and shall be automatically replaced by their successors in those positions.

5. If and when vacancies on the CAC occur on the part of voting committee members, either due to expiration of term, death, or resignation, the appropriate City or the County shall appoint an appropriate replacement within the 90 days of the vacancy to fill the remainder of the term.

F. Sales Tax CAC Operation Protocols

Given the twenty year duration of the sales tax, the CAC shall be appointed no later than July 1, 2009 and continue as long as sales tax funds from the current voter authorization are made available. The Authority Board and staff fully cooperate with and provide necessary financial and staff support to ensure the CAC effectively carries out its duties and obligations. The annual cost of the activities of the CAC shall be funded by the sales tax annually, adjusted for inflation.

G. Conflict of Interest

CAC voting members shall have no legal action pending against the Authority and are prohibited from acting in any commercial activity directly or indirectly involving the Authority, such as being a consultant or vendor to the Authority during their tenure on the CAC. CAC voting members shall not have direct commercial interest or employment with any public or private entity, which receives the transportation sales tax funds authorized by the voters in the sales tax Ordinance.

Final Draft

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-378

A RESOLUTION DENYING THE APPEAL OF KIMBERLY KUPPENS AND DAN NICKLES, OWNERS AND RESIDENTS OF ADJACENT PROPERTY, TO A PLANNING COMMISSION DECISION GRANTING A TWO-YEAR TIME EXTENSION TO FILE THE FINAL MAP OF THE HILLGLEN SUBDIVISION, PROPERTY LOCATED EAST OF ROSELLE AVENUE SOUTH OF THE FUTURE EXTENSION OF HILLGLEN AVENUE

WHEREAS, on February 27, 2006, by Resolution No. 2006-08, the Planning Commission approved the Vesting Tentative Subdivision Map (VTSM) for Hillglen Subdivision, and

WHEREAS, said approval would have expired on February 27, 2008, and

WHEREAS, on February 8, 2008, the subdivider submitted an application requesting a two-year extension of time for filing the final map of said Hillglen Subdivision, and

WHEREAS, Section 4-4.601(a) of the Modesto Municipal Code authorizes the Planning Commission to extend the time for filing a final map if it determines that conditions affecting the subdivision have not substantially changed, and

WHEREAS, the Planning Commission considered the application at a public hearing on April 21, 2008, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered, and

WHEREAS, the Planning Commission found and determined that conditions affecting the Hillglen Subdivision have not substantially changed since the VTSM was approved, and that approval of the time extension would not place the residents of the

subdivision or the immediate community, or both, in a condition dangerous to their health or safety, nor would such approval be out of compliance with state or federal law, and

WHEREAS, an appeal to the Planning Commission's approval of the final map of the Hillglen Subdivison was file with the City Clerk by Petrulakis Jensen & Friedrich, representing Kimberly Kuppens and Dan Nickles, owners and residents of adjacent property on May 5, 2008, and

WHEREAS, said appeal was set for a duly noticed public hearing before the City Council at its regular meeting place located in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at 5:30 p.m. on June 24, 2008, at which time said public hearing was held and evidence both oral and documentary was received and considered, and

WHEREAS, after said public hearing the Council found and determined that said appeal to the decision of the Planning Commission should be denied, and the decision of the Planning Commission should be affirmed, for the following reasons:

1. The findings required by the Subdivision Map Act to deny or condition a time extension to file a final map cannot be made;
2. The condition proposed by the appellant would require site improvements which would be inconsistent with the most recently approved amendment to the Precise Plan, and the Village One Specific Plan; and
3. The previously approved vesting tentative parcel map, and the time extension thereof, are consistent with the Precise Plan and Village One Specific Plan, and therefore consistent with the General Plan.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of Kimberly Kuppens and Dan Nickles, owners and residents of adjacent property, to the decision of the Planning Commission granting a two-year time extension to file a final map of the Hillglen Subdivision is denied, and the decision of the Planning Commission is hereby affirmed for the reasons set forth in the Planning Commission above.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Mayor Ridenour, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Hawn, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	Keating, Lopez
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. 2008-379

A RESOLUTION ACCEPTING THE REPORT OF THE PUBLIC WORKS DIRECTOR REGARDING THE DEMOLITION AND ABATEMENT OF THE DANGEROUS BUILDING OWNED BY ARLENE SMITH, AT 703 SOUTH CONEJO AVENUE, DECLARING THE DEMOLITION AND ABATEMENT COMPLETE, ACCEPTING THE EXPENSES INCURRED, AND AUTHORIZING THE ASSESSMENT OF CHARGES IN THE AMOUNT OF $7,089 TO ARLENE SMITH AS A PERSONAL OBLIGATION OR SPECIAL ASSESSMENT

WHEREAS, the single-family dwelling and detached carport at 703 South Conejo Avenue was determined to be dangerous following an inspection the week of September 24, 2007, and

WHEREAS, the property was abandoned following the death of Valgene Wells on August 9, 2006, and the moving of Arlene Smith to Ripon in January 2007, and

WHEREAS, the single-family dwelling was open and unsecured, and the Modesto Fire Department requested an inspection to secure the dwelling following a minor fire, and

WHEREAS, the dwelling was abandoned and open and unsecured for more than six months, which met the definition of an attractive nuisance and a harbor for vagrants, criminals, and immoral persons as defined by Modesto Municipal Code Section 9-8.04, and

WHEREAS, on November 6, 2007, a Notice and Order was issued declaring the building to be dangerous per Modesto Municipal Code Section 9-8.04, and

WHEREAS, a Notice and Order were sent to Valgene Wells, Arlene Smith, aka Susie Smith, Wells Fargo Bank, N.A., and Absolute Bonding Corporation, and

WHEREAS, in the Notice and Order, Valgene Wells and Arlene Smith, the owners, were required to obtain the appropriate permits for the demolition of the dwelling

within 30 days, and to physically commence work, with demolition to be completed by December 6, 2007, and

WHEREAS, a letter was received from Suzanne Franzia, daughter of Arlene Smith, which included a copy of the death certificate for Valgene Wells, and

WHEREAS, the letter stated that Valgene Wells had not left a will, no immediate family stepped forward following his death, and that her mother, Arlene Smith, was now in a long-term resident care facility, and

WHEREAS, Supervising Building Inspector Bert Lippert contacted Suzanne Franzia and notified her that since Arlene Smith was a joint tenant with Valgene Wells on a Grant Deed recorded on November 3, 1997, Arlene Smith became the sole owner of 703 S. Conejo Avenue following the death of Valgene Wells, and

WHEREAS, Suzanne Franzia advised that given Arlene Smith's mental and physical condition and her own financial state, she was unable to secure the property and proceed with the cost of demolition, and

WHEREAS, the City contacted Absolute Bonding and was informed that the bail bond deed of trust filed February 1, 2005, should have been removed and re-conveyed, and

WHEREAS, the City also contacted Linda Lamb at Wells Fargo Bank and was told that Wells Fargo would not contest the demolition, and

WHEREAS, the City obtained three (3) demolition bids and entered into a contract for services with the lowest bidder, Jim Thorpe, Inc., and

WHEREAS, on March 12, 2008, the City requested permission from Suzanne Franzia to enter the property to demolish the single-family dwelling at 703 S. Conejo Avenue, and

WHEREAS, Suzanne Franzia signed the Agreement to Authorize Abatement by Demolition and Removal and Destruction of Personal Property, which gave the City permission to enter the property and demolish the dwelling, and

WHEREAS, the demolition was performed by Jim Thorpe, Inc. during the first week of April 2008, and the property has now been abated of the nuisance, and

WHEREAS, the City has incurred $7,089 for the demolition and abatement of the 703 S. Conejo Avenue as follows:

Description	Amount
Demolition	$6,100
Notice & Order Fee	$ 989
TOTAL COSTS	$7,089

WHEREAS, all costs and expenses incurred by the City for the inspection, Notice and Order, demolition, and Confirmation of Cost Hearing before the City Council for the property at 703 S. Conejo Avenue, are allowed by Sections 901, 902, 903, and 904 of the Uniform Code for the Abatement of Dangerous Buildings, adopted by the City of Modesto, for reimbursement, and

WHEREAS, Sections 901, 902, 903, and 904 require a hearing for the confirmation of costs to be presented before the City Council for consideration, and

WHEREAS, a duly noticed public hearing was held by the Council on June 24, 2008, at 5:30 p.m. in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, at which hearing all interested persons were given the opportunity to be heard relative to the proposal of accepting the report of the Public Works Director regarding the demolition and abatement of the dangerous building owned by Arlene Smith, at 703 S. Conejo Avenue, declaring the demolition and abatement complete, accepting the expenses incurred, and authorizing the assessment of charges in the amount of $7,089 to Arlene Smith as a personal obligation or special assessment.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the report of the Public Works Director regarding the demolition and abatement of the dangerous building owned by Arlene Smith at 703 South Conejo Avenue.

BE IT FURTHER RESOLVED by the Council that it hereby declares the demolition and abatement to be complete.

BE IT FURTHER RESOLVED by the Council that it hereby accepts the expenses incurred.

BE IT FURTHER RESOLVED by Council that it hereby authorizes the assessment of charges in the amount of $7,089 to Arlene Smith as a personal obligation or special assessment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2008, 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. 2008–380

A RESOLUTION ACCEPTING THE REPORT OF THE PUBLIC WORKS DIRECTOR REGARDING THE DEMOLITION AND ABATEMENT OF THE DANGEROUS BUILDINGS OWNED BY GUADALUPE PEREZ, AT 611 KERR AVENUE, DECLARING THE DEMOLITION AND ABATEMENT COMPLETE, ACCEPTING THE EXPENSES INCURRED, AND AUTHORIZING THE ASSESSMENT OF CHARGES IN THE AMOUNT OF $3,787 TO GUADALUPE PEREZ AS A PERSONAL OBLIGATION OR SPECIAL ASSESSMENT

WHEREAS, there are two single-family dwellings located on the parcel know as 611 Kerr Avenue, and

WHEREAS, a Grant Deed filed on May 15, 2002, transferred full ownership of this parcel to Guadalupe Perez, and

WHEREAS, the original dwelling at the front of the property had several additions and updates throughout the years that were constructed without adhering to building codes, and

WHEREAS, the second dwelling at the rear of the property was previously a garage and was destroyed by fire in April 2005, remaining in that condition for over two years, and

WHEREAS, these two single-family dwellings were empty and unsecured, and

WHEREAS, these two structures were inspected and determined to be dangerous and a public nuisance as defined by City of Modesto Municipal Code Section 9-8.04, and

WHEREAS, on November 20, 2007, a Notice and Order was issued declaring the two dwellings to be dangerous per Modesto Municipal Code Section 9-8.04, and

WHEREAS, in the Notice and Order, Guadalupe Perez, the owner, was required to obtain the appropriate permits for the demolition or repair of the two dwellings;

provide a reasonable and feasible schedule for expeditious repairs within 30 days; and to physically commence work with the repairs to be completed by May 21, 2008, and

WHEREAS, the Notice of Order also allowed 60 days from the date of the Notice and Order to obtain a building permit for the demolition of these two dwellings and to have all demolition work completed within those 60 days, and

WHEREAS, Guadalupe Perez requested that the Notice and Order fee of $989 be waived, and

WHEREAS, Chief Building Official Will Crew agreed to waive the Notice and Order fee if Guadalupe Perez agreed to give the City access to her property to demolish the two dwellings, and

WHEREAS, Guadalupe Perez agreed to allow the City access to her property for demolition purposes and also agreed to accept the bill for the expenses; therefore, the Notice and Order fee was waived, and

WHEREAS, during the last week of January 2008, a notification of request for bid for the demolition and removal of all trash and fire debris for the two dwellings located at 611 Kerr Avenue was faxed to local demolition contractors, and

WHEREAS, three bids were received, and the low bidder was Jim Thorpe, Inc., and

WHEREAS, the San Joaquin Valley Air Pollution Control District (SJVAPCD) required an asbestos inspection on the property and three local asbestos inspection firms bid on the inspection, with Hazard Management Services, Inc. being the low bidder, and

WHEREAS, on March 6, 2008, the City requested permission from Guadalupe Perez to enter the property to demolish the two dwellings at 611 Kerr Avenue, and

WHEREAS, Guadalupe Perez signed the Agreement to Authorize Abatement by Demolition and Removal and Destruction of Personal Property contract (Agreement), which gave the City permission to enter the property and demolish the two dwellings, and

WHEREAS, this Agreement also included the estimated expenses the City would incur for the inspection and demolition of these two dwellings, and

WHEREAS, this information was explained to Guadalupe Perez through a translator, and Guadalupe Perez agreed to make monthly payments in the amount of $100 until all expenses had been reimbursed, and

WHEREAS, the demolition was completed by Jim Thorpe, Inc. during the first week of April 2008, and the property has now been abated of the nuisance by the demolition of the dangerous structures, and

WHEREAS, the City incurred $114 from SJVAPCD and $1,550 from Jim Thorpe, Inc. in additional expenses that were not part of the Agreement Guadalupe Perez signed on March 6, 2008, and

WHEREAS, the demolition of the two dwellings at 611 Kerr Avenue and the two dwellings at 615 Kerr Avenue was accomplished on the same day with the combined charges totaling $7,574 as listed below:

Demolition	$4,550
Asbestos Inspection	$1,360
SJVAPCD additional expenses	$ 114
Jim Thorpe, Inc. additional expenses	$1,550
	$7,574

The City has incurred $3,787 (1/2 the total cost) for the demolition and abatement of 611 Kerr Avenue, and

WHEREAS, all costs and expenses incurred by the City for the asbestos inspection, demolition, and Confirmation of Cost Hearing before the City Council for 611 Kerr Avenue, Modesto, California are allowed by Sections 901, 902, 903, and 904 of the Uniform Code of the Abatement of Dangerous Buildings, adopted by the City of Modesto, for reimbursement, and

WHEREAS, Sections 901, 902, 903, and 904 require a hearing for the confirmation of costs to be presented before the City Council for consideration, and

WHEREAS, a duly noticed public hearing was held by the Council on June 24, 2008, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing all interested persons were given the opportunity to be heard relative to the proposal of accepting the report of the Public Works Director regarding the demolition and abatement of the dangerous building owned by Guadalupe Perez at 611 Kerr Avenue, declaring the demolition and abatement complete, accepting the expenses incurred, authorizing the assessment of charges in the amount of $3,787 to Guadalupe Perez as a personal obligation or special assessment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the report of the Public Works Director regarding the demolition and abatement of the dangerous buildings owned by Guadalupe Perez, at 611 Kerr Avenue.

BE IT FURTHER RESOLVED by the Council that it hereby declares the demolition and abatement to be complete.

BE IT FURTHER RESOLVED by the Council that it hereby accepts the expenses incurred.

BE IT FURTHER RESOLVED by Council that it hereby authorizes the assessment of charges in the amount of $3,787 to Guadalupe Perez as a personal obligation or special assessment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2008, 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. 2008-381

A RESOLUTION ACCEPTING THE REPORT OF THE PUBLIC WORKS DIRECTOR REGARDING THE DEMOLITION AND ABATEMENT OF THE DANGEROUS BUILDINGS OWNED BY MARIA GUADALUPE PEREZ, AKA GUADALUPE PEREZ, AT 615 KERR AVENUE, DECLARING THE DEMOLITION AND ABATEMENT COMPLETE, ACCEPTING THE EXPENSES INCURRED, AND AUTHORIZING THE ASSESSMENT OF CHARGES IN THE AMOUNT OF $3,787 TO GUADALUPE PEREZ AS A PERSONAL OBLIGATION OR SPECIAL ASSESSMENT

WHEREAS, there is one large single-family dwelling and two small cottages located on the parcel know as 615 Kerr Avenue, and

WHEREAS, a Grant Deed filed on May 15, 2002 transferred full ownership of this parcel to Guadalupe Perez, and

WHEREAS, a Grant Deed filed on February 9, 2007, acknowledged that Maria Guadalupe Perez (who acquired title as Guadalupe Perez) transferred that portion of the parcel know as 615 Kerr Avenue to herself, and

WHEREAS, following this lot or parcel split, Guadalupe Perez borrowed money from Wilmington Finance, Inc. and that Deed of Trust was also filed on February 9, 2007, and

WHEREAS, the two dwellings located at the rear of the property were vacant and had fallen in disrepair, and

WHEREAS, Guadalupe Perez had previously applied for a demolition permit in 2005 to demolish these two dwellings, but did not follow through with obtaining the permits to perform the demolition, and

WHEREAS, due to the state of deterioration, the open and unsecured dwellings had become a harbor for vagrants, criminals, or immoral persons, and

WHEREAS, these two structures were inspected and determined to be dangerous and a public nuisance as defined by Modesto Municipal Code Section 9-8.04, and

WHEREAS, on November 20, 2007, a Notice and Order was issued declaring the two dwellings to be dangerous per Modesto Municipal Code Section 9-8.04, and

WHEREAS, the Notice and Order was sent to Maria Guadalupe Perez, aka Guadalupe Perez, the owner, and also Wilmington Finance, Inc., and

WHEREAS, in the Notice and Order, Guadalupe Perez was required to obtain the appropriate permits for the demolition of the two dwellings and to complete all demolition work within sixty (60) days of the date of the Notice and Order, and

WHEREAS, Guadalupe Perez requested that the Notice and Order fee of $989 be waived, and

WHEREAS, Chief Building Official Will Crew agreed to waive the Notice and Order fee if Guadalupe Perez agreed to give the City access to her property to demolish the two dwellings, and

WHEREAS, Guadalupe Perez agreed to allow the City access to her property for demolition purposes and also agreed to accept the bill for the expenses; therefore, the Notice and Order fee was waived, and

WHEREAS, during the last week of January 2008, a notification of request for bid for the demolition and removal of all trash and fire debris for the two dwellings located at 615 Kerr Avenue was faxed to local demolition contractors, and

WHEREAS, three bids were received and the low bidder was Jim Thorpe, Inc., and

WHEREAS, the San Joaquin Valley Air Pollution Control District (SJVAPCD) required an asbestos inspection on the property and three local asbestos inspection firms bid on the inspection, with Hazard Management Services, Inc. being the low bidder, and

WHEREAS, on March 6, 2008, the City requested permission from Guadalupe Perez to enter the property to demolish the two dwellings at 615 Kerr Avenue, and

WHEREAS, Guadalupe Perez signed the Agreement to Authorize Abatement by Demolition and Removal and Destruction of Personal Property contract (Agreement), which gave the City permission to enter the property and demolish the two dwellings, and

WHEREAS, this Agreement also included the estimated expenses the City would incur for the inspection and demolition of these two dwellings, and

WHEREAS, this information was explained to Guadalupe Perez through a translator, and Guadalupe Perez agreed to make monthly payments in the amount of $100 until all expenses had been reimbursed, and

WHEREAS, the demolition was completed by Jim Thorpe, Inc. during the first week of April 2008, and the property has now been abated of the nuisance by the demolition of the dangerous structures, and

WHEREAS, the City incurred $114 from SJVAPCD and $1,550 from Jim Thorpe, Inc., in additional expenses that were not part of the Agreement Guadalupe Perez signed on March 6, 2008, and

WHEREAS, the demolition of the two dwellings at 611 Kerr Avenue and the two dwellings at 615 Kerr Avenue was accomplished on the same day with the combined charges totaling $7,574 as listed below:

Demolition	$4,550
Asbestos Inspection	$1,360
SJVAPCD additional expenses	$ 114
Jim Thorpe, Inc. additional expenses	$1,550
	$7,574

The City has incurred $3,787 (1/2 the total cost) for the demolition and abatement at 615 Kerr Avenue, and

WHEREAS, all costs and expenses incurred by the City for the asbestos inspection, demolition, and Confirmation of Cost Hearing before the City Council for 615 Kerr Avenue, Modesto, California are allowed by Sections 901, 902, 903, and 904 of the Uniform Code for the Abatement of Dangerous Buildings, adopted by the City of Modesto, for reimbursement, and

WHEREAS, Sections 901, 902, 903, and 904 require a hearing for the confirmation of costs to be presented before the City Council for consideration, and

WHEREAS, a duly noticed public hearing was held by the Council on June 24, 2008 at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing all interested persons were given the opportunity to be heard relative to the proposal of accepting the report of the Public Works Director regarding the demolition and abatement of the dangerous buildings owned by Maria Guadalupe Perez, aka Guadalupe Perez, at 615 Kerr Avenue, declaring the demolition and abatement complete, accepting the expenses incurred, authorizing the assessment of

charges in the amount of $3,787 to Maria Guadalupe Perez, aka Guadalupe Perez, as a personal obligation or special assessment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the report of the Public Works Director regarding the demolition and abatement of the dangerous buildings owned by Maria Guadalupe Perez, aka Guadalupe Perez, at 615 Kerr Avenue.

BE IT FURTHER RESOLVED by the Council that it hereby declares the demolition and abatement to be complete.

BE IT FURTHER RESOLVED by the Council that it hereby accepts the expenses incurred.

BE IT FURTHER RESOLVED by Council that it hereby authorizes the assessment of charges in the amount of $3,787 to Maria Guadalupe Perez, aka Guadalupe Perez, as a personal obligation or special assessment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2008, 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. 2008-382

A RESOLUTION APPOINTING A LEASE REVENUE AND CAPITAL IMPROVEMENT BOND REFINANCING TEAM CONSISTING OF SIDLEY AUSTIN, BOND COUNSEL; STRADLING YOCCA CARLSON & RAUTH, DISCLOSURE COUNSEL; PUBLIC FINANCIAL MANAGEMENT INC., FINANCIAL ADVISOR; BANC OF AMERICA SECURITIES LLC, UNDERWRITER AND SWAP COUNTERPARTY AND CITY STAFF WITH RESPECT TO THE PROPOSED REFINANCING OF THE 2007 LEASE REVENUE AND CAPITAL IMPROVEMENT BONDS FOR FUTURE CONSIDERATION OF COUNCIL, AND AUTHORIZING SAID BOND REFINANCING TEAM TO PROCEED WITH ACTIONS NECESSARY FOR BOND DOCUMENT DEVELOPMENT

WHEREAS, the City approved the refinancing of 1997 and 1998 Lease Revenue Bonds with the issuance of the 2007 Lease Revenue and Capital Improvement Bonds on April 3, 2007, and

WHEREAS, current investment market conditions require the outstanding 2007 Lease Revenue and Capital Improvement Bonds to be refinanced in order for the City to maintain the cost savings associated with the original debt issue, and

WHEREAS, the City desires to appoint certain professionals to assist the City in connection with the proposed debt refinancing and to authorize such professionals and City staff to take all actions necessary, including the preparation of documents to effect such refinancing, for future consideration by this City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby appoints Sidley Austin, San Francisco, California, as Bond Counsel ("Bond Counsel"); Stradling Yocca Carlson & Rauth, A Professional Corporation of Newport Beach, California, as the Disclosure Counsel to the City, Public Financial Management

Inc., San Francisco, California, as Financial Advisor ("Financial Advisor") and Banc of America Securities LLC as the Underwriter and Swap Agreement Counterparty, in connection with the refinancing of the outstanding 2007 Lease Revenue and Capital Improvement Bonds,

BE IT FURTHER RESOLVED that City staff is hereby authorized and directed to proceed with any and all actions deemed necessary or advisable, including directing the finance professionals appointed pursuant to this Resolution, to begin preparation of documents in connection with the proposed refinancing of the City's outstanding 2007 Lease Revenue and Capital Improvement Bonds, for future consideration by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2008, 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:

SUSAN ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-383

A RESOLUTION APPROVING AN AGREEMENT FOR BOND COUNSEL SERVICES WITH SIDLEY AUSTIN FOR THE REFINANCING OF THE 2007 LEASE REVENUE AND CAPITAL IMPROVEMENT BONDS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City approved the refinancing of 1997 and 1998 Lease Revenue Bonds with the issuance of the 2007 Lease Revenue and Capital Improvement Bonds on April 3, 2007, and

WHEREAS, current investment market conditions require the outstanding 2007 Lease Revenue and Capital Improvement Bonds to be refinanced in order for the City to maintain the cost savings associated with the original debt issue, and

WHEREAS, the City desires to appoint certain professionals to assist the City in connection with the proposed debt refinancing and to authorize such professionals and City staff to take all actions necessary, including the preparation of documents to effect such refinancing, for future consideration by this City Council, and

WHEREAS, City staff desires the assistance of Sidley Austin to serve as Bond Counsel with regard to the refinancing of the outstanding 2007 Lease Revenue and Capital Improvement Bonds,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves an Agreement For Bond Counsel Services with Sidley Austin for the refinancing of the 2007 Lease Revenue and Capital Improvement Bonds.

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 of June, 2008, 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. 2008-384

A RESOLUTION APPROVING AN AGREEMENT FOR BOND DISCLOSURE COUNSEL SERVICES WITH STRADLING YOCCA CARLSON & RAUTH FOR THE REFINANCING OF THE 2007 LEASE REVENUE AND CAPITAL IMPROVEMENT BONDS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City approved the refinancing of 1997 and 1998 Lease Revenue Bonds with the issuance of the 2007 Lease Revenue and Capital Improvement Bonds on April 3, 2007, and

WHEREAS, current investment market conditions require the outstanding 2007 Lease Revenue and Capital Improvement Bonds to be refinanced in order for the City to maintain the cost savings associated with the original debt issue, and

WHEREAS, the City desires to appoint certain professionals to assist the City in connection with the proposed debt refinancing and to authorize such professionals and City staff to take all actions necessary, including the preparation of documents to effect such refinancing, for future consideration by this City Council, and

WHEREAS, City staff desires the assistance of Stradling Yocca Carlson & Rauth with regard to the refinancing of the outstanding 2007 Lease Revenue and Capital Improvement Bonds,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves an Agreement for Bond Disclosure Counsel Services with Stradling Yocca Carlson & Rauth Austin for the refinancing of the 2007 Lease Revenue and Capital Improvement Bonds.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of June, 2008, 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. 2008-385

A RESOLUTION APPROVING THE SELECTION OF ENVIRONMENTAL SERVICE PROVIDERS TO PREPARE ENVIRONMENTAL IMPACT REPORTS AND PERFORM OTHER RELATED ENVIROMENTAL SERVICES FOR A PERIOD OF FOUR YEARS

WHEREAS, from time to time, the City requires the services and expertise of Environmental Service Providers to assist the City in providing environmental documents, including but not limited to environmental impact reports, mitigated negative declarations, initial studies and special studies, as required by state and federal law (California Environmental Quality Act & National Environmental Protection Act), and

WHEREAS, the current short-list of Environmental Service Providers has been in effect since December 2002 and is now due for an update, and

WHEREAS, the purpose of the short list of environmental service providers is to assist the City with the successful preparation of environmental documents in compliance with the California Environmental Quality Act, and the National Environmental Protection Act, to streamline the development process, and to maintain a close working relationship with listed firms on an ongoing basis to standardize, and improve the City's format and analytical approach to Environmental Impact Reports, leading to further project streamlining, and

WHEREAS, the City issued a Request for Qualifications on March 18, 2008, and by April 11, 2008, had received fourteen submittals in response, and

WHEREAS, the staff Consultant Selection Committee determined that five firms on the current list: EDAW Inc., Impact Sciences Inc., ICF Jones & Stokes, Pacific Municipal Consultants and Turnstone Consulting, were qualified based on reviewing

their Statement of Qualifications and past work efforts for the City of Modesto, and that these five firms should be retained on the list, and

WHEREAS, based on consultant team interviews held on May 23, 2008, the staff Consultant Selection Committee recommends that an additional five firms: ESA, Horizon Water& Environment, Jerry Haag, PBS&J, and SWCA be included on the list.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the following ten firms: EDAW Inc., Impact Sciences Inc., ICF Jones & Stokes, Pacific Municipal Consultants, Turnstone Consulting, ESA, Horizon Water & Environment, Jerry Haag, PBS&J, and SWCA to provide on-call services to prepare environmental impact reports, mitigated negative declarations, initial studies and perform other related environmental tasks, for a period of four years.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of July, 2008, 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. 2008-386

A RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS FOR ROAD IMPROVEMENTS RELATED TO THE MODESTO ENDOSCOPY CENTER LOCATED IN THE VILLAGE ONE SPECIFIC PLAN AREA OF THE CITY OF MODESTO, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, Magdy S. and Sally A. Elsakr (collectively "DEVELOPERS"), are the developers of the Modesto Endoscopy Center ("DEVELOPMENT"), and

WHEREAS, as a condition of the DEVELOPMENT, the DEVELOPERS were to construct 210 feet of roadway improvements on the south side of Sylvan Avenue just east of Bob's Way and install 183 feet of storm drain line and 413 linear feet of water on the east side of Bob's Way ("PUBLIC IMPROVEMENTS"), located within the DEVELOPMENT, and

WHEREAS, said PUBLIC IMPROVEMENTS, included in the Acquisition and Shortfall Agreement ("AGREEMENT") between the City of Modesto Community Facilities District No. 2004-1 (Village One #2), a District created pursuant to the provision of the California Government Code Section 53311.5 et. seq. ("DISTRICT") and the DEVELOPERS, have been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Construction Administration Office of the Public Works Department have verified that all required PUBLIC IMPROVEMENTS for this commercial project have been satisfactorily completed and all inspection fees have been paid, and

WHEREAS, the Public Works Department will assume maintenance responsibilities upon acceptance of PUBLIC IMPROVEMENTS, and

WHEREAS, DEVELOPERS have filed irrevocable bonds to secure faithful performance and payment for labor and materials both in the amount of $128,701.00 for said PUBLIC IMPROVEMENTS, and

WHEREAS, DEVELOPERS have filed a warranty bond in the amount of $12,700.00 to guarantee the PUBLIC IMPROVEMENTS in the DEVELOPMENT, and

WHEREAS, the CFD Administrator has indicated that it would be in order for the City Council to accept said PUBLIC IMPROVEMENTS in said DEVELOPMENT as complete, and authorize the City Clerk to record a Notice of Completion,

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

1. The public improvements, which include the construction of 210 feet of roadway improvements on the south side of Sylvan Avenue at Bob's Way and the installation of 413 feet of storm drain line and 183 feet of water line on the east side of Bob's Way at Sylvan Avenue 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 bond for faithful performance in the amount of $128,701.00 immediately after recordation of the Notice of Completion, provided no claim is made thereon.

3. The City Clerk is hereby authorized to release the bond for labor and materials in the amount of $128,701.00 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the warranty bond to guarantee development improvements in the amount of $12,700.00 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of July, 2008, 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 2008-387

A RESOLUTION APPROVING A DEFERRED PAYMENT AGREEMENT AND NOTICE OF LIEN WITH ARMANDO GONZALEZ, LUIS JAVIER GONZALEZ AND REFUGIO GONZALEZ, AND JAIME GONZALEZ AND VERONICA GONZALEZ FOR THE PAYMENT OF $10,022.40 IN CAPITAL FACILITIES FEES DUE AT THE TIME OF BUILDING PERMIT ISSUANCE, AND $50,112.00 PLUS INTEREST IN NO MORE THAN FIVE (5) ANNUAL INSTALLMENTS AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AGREEMENT (FUNDING SOURCE: NOT APPLICABLE; CAPITAL FACILITIES FEES REVENUE)

WHEREAS, Armando Gonzalez, Luis Javier Gonzalez and Refugio Gonzalez, and Jaime Gonzalez and Veronica Gonzalez, (collectively "Owner") owns certain real property located within the City of Modesto's sphere of influence, County of Stanislaus, State of California, more particularly described on **Exhibit "A"**, **attached** hereto and incorporated herein by reference (Property), and

WHEREAS, Owner desires to obtain building permits from the County and City for the construction of a commercial development consisting of one building approximately 2,610 square feet, located at 804 Hatch Road (Project), and

WHEREAS, Owner desires to defer payment of Capital Facilities Fees (CFF), in the amount of $50,112.00 which are due and payable at the time of issuance of the building permits, and

WHEREAS, the City has determined that it is appropriate to defer payment of said fees pursuant to Modesto City Council Resolution No. 2008-070,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Deferred Payment Agreement and Notice of Lien ("Agreement") with Armando Gonzalez, Luis Javier Gonzalez and Refugio Gonzalez, and Jaime Gonzalez and Veronica Gonzalez, for the payment of $10,022.40 for capital facilities fees at the time of building

permit issuance and $50,112.00 plus interest in no more than five (5) annual installments is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or 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 1st day of July, 2008, 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

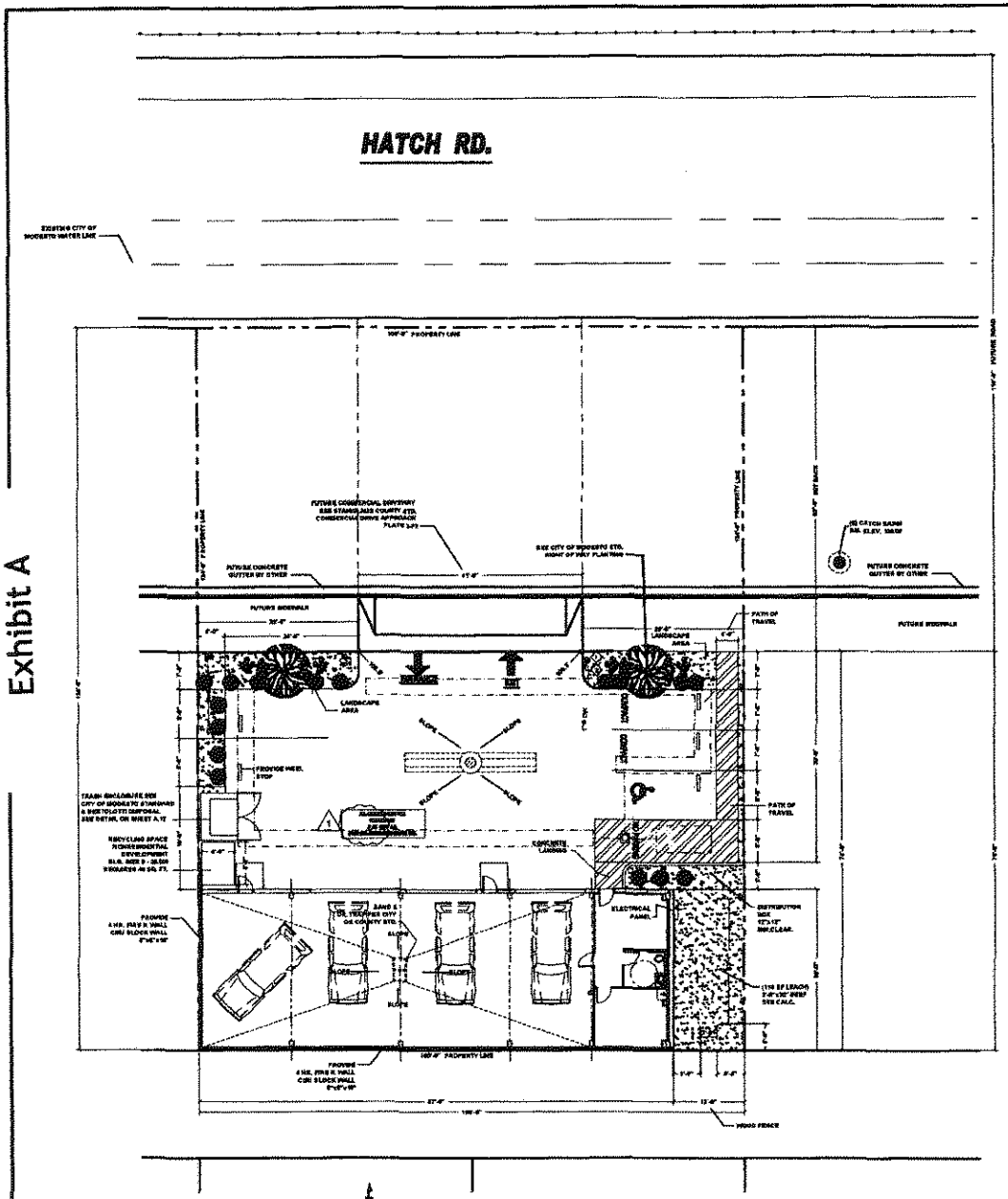
ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

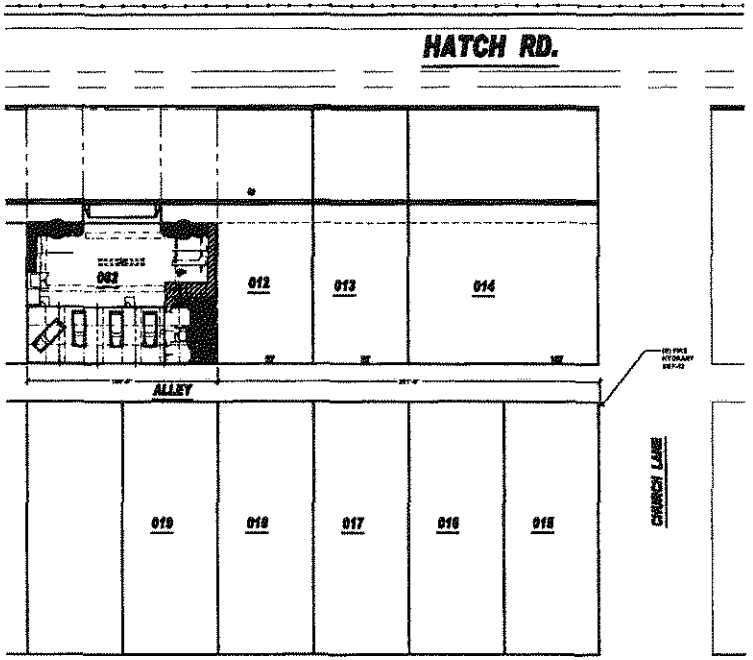
APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A



A. ENLARGED SITE PLAN



B. SITE PLAN

REV. DATE	By
11-26-2008	KSM
07-09-2007	KSM
03-29-2006	KSM

S&S Consulting
4839 Buckeye Creek Rd.
Mariposa, CA 95338

PLOT PLAN

CALIFORNIA RADIATOR

JOB SITE:
804 EAST HATCH RD.
808 EAST HATCH RD.
MODESTO, CA 95351
APN #
066-005-010
Merged
066-005-011
Merged
066-005-062

OWNER:
ARMANDO GONZALEZ
1909 VERANDA CT.
MODESTO, CA 95357
(209) 551-2926

DIGITAL DRAFTING TECHNOLOGY SERVICES, INC.
1450 VAQUEROS CIRCLE WAY
TURLOCK, CA 95382
(209) 626-2306

Date 06-11-06
Scale As Shown
Drawn E.E.MORAN
2006-575

Sheet #2 A.2
of 11 Sheets

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-388

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACTS FOR THE FURNISHING OF WATER WELL AND TANK SITE PAINTING SERVICES FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION TO D.C. VIENT, INC., MODESTO, CA, AS THE "PRIMARY" CONTRACTOR, AND PACIFIC MAINTENANCE CO., SANTA CLARA, CA, AS THE "SECONDARY" CONTRACTOR, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE ANNUAL PURCHASE AGREEMENTS 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 TOTAL COST OF $35,000

WHEREAS, the City of Modesto currently is operating 121 well sites and ten (10) storage tanks, and

WHEREAS, in an ongoing effort to maintain the integrity of these facilities, it is necessary to paint these sites periodically, and

WHEREAS, the painting of ten (10) to fifteen (15) sites per year will ensure all facilities and equipment are protected from the environment, and

WHEREAS, on November 7, 2007, Council approved Resolution No. 2007-655 authorizing the Purchasing Manager to formally issue Request for Bids (RFB) for the furnishing of water well and tank site painting services for the Public Works Department, Water Division, and

WHEREAS, on April 30, 2008, the Purchasing Division issued RFB No. 0708-12 for the furnishing of water well and tank site painting services to thirty-nine (39) prospective bidders, ten (10) 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 3, 2008, RFB's were formally opened in the City Clerk's office. Of the thirty-nine (39) prospective bidders, three (3) companies chose to respond. Of the three (3) bids received two (2) were considered responsive and responsible, and

WHEREAS, based on providing responsive and responsible bids, City staff recommends the award of bid and contracts for the furnishing of water well and tank site painting services for the Public Works Department, Water Division to D.C. Vient, Inc., Modesto, CA, as the "primary" contractor, and Pacific Maintenance Co., Santa Clara, CA, as the "secondary" contractor for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for an estimated annual total cost of $35,000, and

WHEREAS, Modesto Municipal Code Section 8-3.203, generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contracts for the furnishing of water well and tank site painting services for the Public Works Department, Water Division to D.C. Vient, Inc., Modesto, CA, as the "primary" contractor, and Pacific Maintenance Co., Santa Clara, CA, as the "secondary" contractor conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in Water Fund account 6100-480-5013-0360 for the furnishing of water well and tank site painting services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contracts for the furnishing of water well and tank site painting services for the Public Works Department, Water Division to D.C. Vient, Inc., Modesto, CA, as the "primary" contractor, and Pacific Maintenance Co., Santa Clara, CA, as the "secondary" contractor for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for an estimated annual total cost of $35,000.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue annual purchase agreements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of July, 2008, 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. 2008-389

A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008 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 2007-2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2007-2008 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 1st day of July, 2008, 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

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-390

A RESOLUTION APPROVING A REQUEST FROM STANISLAUS PRIDE CENTER FOR AMPLIFIED MUSIC AT MANCINI BOWL, GRACEADA PARK, FOR THEIR ANNUAL STANISLAUS PRIDE DAY FESTIVAL, TO BE HELD ON SEPTEMBER 27, 2008, FROM 10:00 A.M. TO 6:00 P.M.

WHEREAS, On June 5, 2008, the Parks, Recreation and Neighborhoods Department received a request from the Stanislaus Pride Center for amplified music at Mancini Bowl, Graceada Park, for their annual Stanislaus PRIDE Day festival, to be held on September 27, 2008, from 10:00 a.m. to 6:00 p.m., 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 the their 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 festival, to be held on September 27, 2008, from 10:00 a.m. to 6:00 p.m.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 1st day of July, 2008, 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. 2008-391

A 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 4, 2008, FROM 9:00 A.M. TO 6:00 P.M. (AMPLIFIED MUSIC FROM 10:00 AM - 3:00 P.M. ONLY)

WHEREAS, on May 23, 2008, 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 4, 2008, from 9:00 a.m. to 6:00 p.m. (amplified music from 10:00 a.m. to 3:00 p.m. 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 4, 2008, from 9:00 a.m. to 6:00 p.m. (amplified music from 10:00 am - 3:00 p.m. only).

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 1st day of July, 2008, 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. 2008-392

A RESOLUTION REVISING THE POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO TO AMEND THE JOB SPECIFICATION FOR THE CLASSIFICATION OF WATER CONSERVATION SPECIALIST

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

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

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

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

SECTION I. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the classification of Water Conservation 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 Conservation Specialist, as shown on the **attached Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION II. EFFECTIVE DATE. This resolution shall become effective on and after July 1, 2008.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 1st day of July, 2008, 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. 6161

July 2008

WATER CONSERVATION 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

Under direction, plans, coordinates and administers various day-to-day activities pertaining to the City's Water Conservation Program; promotes the efficient use of the City's water supply by residential, irrigation, industrial, commercial public agencies and other customers to ensure sufficient pressure throughout the system for fire protection and other essential City services; investigates and identifies compliance issues; communicates with regulatory agencies as required; and performs related duties as required.

SUPERVISION RECEIVED AND EXERCISED

The incumbent receives direction from higher-level supervisory staff. Although the incumbent does not fully supervise other full-time staff, duties may include training, assigning, directing and monitoring the work of subordinate employees on a project or assignment basis.

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

Essential Functions:

- Plan, coordinate and administer the City's Water Conservation Program; ~~enforce State requirements pertaining to water conservation within the City of Modesto's water distribution system.~~ with an emphasis on public education and outreach activities.

- Provide water conservation education opportunities to schoolchildren and the general public; develop and present information in a positive way that encourages interest and participation, provide water conservation information to residents, commercial businesses, and others.

- Participate in the enforcement of State requirements pertaining to water conservation within the City of Modesto's water distribution system.

- Identify and evaluate options for ensuring efficient use of the City's water supply; develop conservation methods; identify methods of monitoring and measuring use; determine potential penalties and motivation techniques.

Essential Functions: (Continued)

- Coordinate and propose the development of uniform conservation policies and enforcement methods; evaluate and provide input to management regarding internal water conservation efforts such as metering, meter testing, system leak detection and management; develop and implement incentives to alter water use practices.

- Develop, recommend and maintain various media sources for providing conservation information to both internal and external customers.

- Coordinate studies pertaining to water use; gather, analyze and interpret data; write and present technical reports and documents.

- Plan, develop and recommend customer incentives to alter water use; develop time schedules and implementation strategies.

- Assist in the development and administration of the program budget.

- Evaluate the efficiency of program activities; recommend changes and adjustments to better achieve goals and objectives.

- Prepare grant proposals and work with staff to ensure submission of grant applications and management of awarded grants.

- Assign, train, direct and monitor the activities of subordinate staff assigned to water conservation functions.

- Administer specialized computer software pertaining to irrigation control and other water conservation purposes.

- Maintain accurate records.

- If assigned, may assist in performing the duties of a Water Distribution Operator.

Marginal Functions:

- Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

- Water conservation methods and practices.

- Municipal water system and water service components.

Knowledge of: (Continued)

- Pertinent state, federal and local laws, codes and regulations.
- Principles of communication and public speaking.
- Basic writing skills including proper grammar, punctuation and spelling.
- Modern office procedures, methods and computer equipment.
- Basic mathematics, statistical methods and methods of graphic presentation.
- Computer applications including database, spreadsheet and word processing.

Ability to:

- Perform a variety of skilled and complex assignments in the water conservation area in accordance with state, county and city ordinances and regulations.
- Work independently.
- Maintain complex manual and computerized records and prepare reports.
- Communicate effectively, both orally and in writing.
- Understand and carry out oral and written instructions.
- Establish and maintain effective working relationships with others.
- Tactfully deal with the public.
- Enforce regulations relating to water conservation rules and practices.
- Perform medium manual labor, including lifting and carrying up to 50 pounds.
- Read and interpret blueprints.
- Use and operate a personal computer with a variety of software.
- Identify and respond to public issues and concerns.
- Establish and maintain cooperative working relationships with those contacted in the course of work, including a variety of City and other government officials, regional and community groups, business owners, and the general public.
- ~~Work in confined spaces.~~

Experience, Education 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:

- Two years of related experience involving water utility management, environmental management, conservation, public education, and or the application of municipal codes in an enforcement and/or inspection capacity. ~~Two (2) years of increasingly responsible experience in the water management field involving irrigation controls, water metering or other similar functions.~~ Experience with a municipal or private water utility is highly desirable.

Training:

- ~~Equivalent to a high school diploma or G.E.D. certificate~~. Equivalent to an Associate of Arts Degree from an accredited college in biological science, environmental studies, business administration, or a related field. Additional specialized training in the water management field is highly desirable.

Licenses or Certificates

- Must possess and maintain a valid California driver's license.

- ~~Must possess a Grade I Water Distribution Operator Certificate issued by the State of California, Department of Health Services.~~

- ~~Must obtain a Grade II Water Distribution Operator Certificate issued by the State of California, Department of Health Services within eighteen (18) months of appointment as a requirement of continued employment. Failure to obtain the required certificate may result in release from probation or termination.~~

- Possession of a certificate as a Water Conservation Practitioner I, issued by the American Water Works Association is required by the end of probationary period.

Other Requirements:

- During the course of employment, may be required to attend and successfully complete training courses as needed to perform assigned duties, including First Aid and CPR.

~~WORKING CONDITIONS:~~

~~Environmental Conditions:~~

- ~~Work is typically performed in both an office and a field environment that may require: travel from site to site; exposure to hot and cold temperatures, inclement weather, heavy traffic and other hazards; and working in confined spaces with potentially hazardous materials.~~

~~Physical Conditions:~~

- ~~Essential and marginal functions may require: lifting/carrying objects of up to 50 pounds of weight; maintaining physical condition necessary for walking or standing for prolonged periods of time; operating motorized equipment and vehicles; and using a personal computer.~~

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. Position may be required to work evenings, weekends and holidays; may be required to work overtime and irregular hours in emergency situations.

Class Spec History	
Adopted	7/07
Revised	7/08

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-393

A RESOLUTION ACCEPTING THE WORK BY CLYDE WHEELER PIPELINE, INC. FOR THE "MODESTO IRRIGATION DISTRICT – IRRIGATION LINE REPLACEMENT 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 $105,254.45

WHEREAS, a report has been filed by the Public Works Director that the "Modesto Irrigation District – Irrigation Line Replacement Project" has been completed by Clyde Wheeler Pipeline, Inc. in accordance with the contract agreement dated January 22, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the "Modesto Irrigation District – Irrigation Line Replacement Project" is hereby accepted as complete from said contractor Clyde Wheeler Pipeline, 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 $105,254.45 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 July, 2008, 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. 2008-394

A RESOLUTION APPROVING AN AGREEMENT WITH ASSOCIATED RIGHT OF WAY SERVICES, INC. (AR/WS) FOR ACQUISITION SERVICES FOR PORTIONS OF UP TO 7 PARCELS FOR THE EMERALD TRUNK REHABILITATION PROJECT, IN THE NOT-TO-EXCEED AMOUNT OF $68,500, FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $6,850 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A MAXIMUM TOTAL AMOUNT OF $75,350, 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 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, 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, the City Council, on June 12, 2007, by Resolution No. 2007-349, approved an Agreement with Brown and Caldwell to complete the 35% design effort and a Preliminary Design Report (PDR) for the Emerald Trunk Rehabilitation Project, and

WHEREAS, the PDR summarizes existing facilities, details proposed project elements and rehabilitation method descriptions, presents preliminary engineering drawings, and provides estimated cost and schedule projections for project implementation, and

WHEREAS, to limit project impacts to Emerald Avenue, the PDR considered rehabilitation methods that utilize trenchless technologies such as slip lining or cured-in-place pipe (CIPP), and

WHEREAS, the PDR has been completed and will serve as the basis for the final design of the Emerald Trunk Rehabilitation project, 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, although the PDR estimate included acquisition costs for temporary and permanent construction easements, it did not include the costs associated with property appraisals, acquisition documents, and negotiations, and

WHEREAS, the City will need to acquire 7 permanent and temporary construction easements along a 17,000 linear foot route for the construction of this project, and

WHEREAS, City staff recommends an Agreement with the consulting firm of Associated Right of Way Services, Inc. (AR/WS) be approved to perform property agent services for the following: obtaining title reports, property appraisal, negotiations, documentation, title review and final acquisition documents as the City does not have the staffing level or subject matter expertise to complete the acquisition services 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 Associated Right of Way Services, Inc.

(AR/WS) for acquisition services for the Emerald Trunk Rehabilitation project in an amount not to exceed $68,500, for the identified scope of services, plus $6,850 for additional services (if needed) for a maximum total amount not to exceed $75,350.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of July, 2008, 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. 2008-395

A RESOLUTION AMENDING THE FY08/09 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE AGREEMENT WITH ASSOCIATED RIGHT OF WAY SERVICES, INC. (AR/WS) FOR ACQUISITION SERVICES, BY TRANSFERRING $75,350 BY DECREASING OBJECT 6050 CONTINGENCY AND REAPPROPRIATING THE SAME AMOUNT TO OBJECT 6030 LAND/ROW ACQUISITION WITHIN THE SAME CIP ACCOUNT 6210-480-B808 (EMERALD TRUNK REHAB) TO PERFORM THE REQUIRED APPRAISAL SERVICES TO COMPLETE THE PROJECT

WHEREAS, certain budgetary transactions are necessary to fully fund the Agreement with Associated Right of Way Services, Inc. (AR/WS) for acquisition services in the amount of $75,350, to perform the required appraisal services to complete the project titled "Emerald Trunk Rehabilitation," and

WHEREAS, to fully fund the Agreement, the FY08/09 Capital Improvement Program budget must be amended by transferring $75,350 by decreasing Object 6050 Contingency and reappropriating the same amount to Object 6030 Land/ROW Acquisition within the same CIP Account 6210-480-B808-6030 (Emerald Trunk Rehab) to perform the required appraisal services to complete the project titled "Emerald Trunk Rehabilitation",

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds as set forth herein to fully fund the Agreement with Associated Right of Way Services, Inc. (AR/WS) for acquisition services in the amount of $75,350, to perform the required appraisal services to complete the project titled "Emerald Trunk Rehabilitation".

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of July, 2008, 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. 2008-396

A RESOLUTION APPROVING AN AGREEMENT WITH ASSOCIATED RIGHT OF WAY SERVICES, INC. (AR/WS) FOR ACQUISITION SERVICES FOR PORTIONS OF UP TO 29 PARCELS FOR THE PRIMARY OUTFALL REHABILITATION PROJECT, IN THE NOT-TO-EXCEED AMOUNT OF $226,000 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $22,600 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A MAXIMUM TOTAL AMOUNT OF $248,600, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto (City) owns and operates approximately 6.5 miles of 60-inch diameter pipeline that transports primary effluent from the Sutter Avenue Primary Water Quality Control (WQC) Plant (Primary Plant) to the Jennings Road Secondary WQC Plant (Secondary Plant), and

WHEREAS, the existing Primary Outfall pipeline was constructed in 1969, and

WHEREAS, the condition of the Primary Outfall pipe has deteriorated over its operational life due to internal hydrogen sulfide-induced corrosion that has resulted in pipe repairs, and

WHEREAS, although approximately 7,000 feet of the Primary Outfall has been rehabilitated in two locations along the alignment, subsequent spot inspections by the City have identified a continuing deterioration in the Primary Outfall and the need for corrective action, and

WHEREAS, the City Council, on March 13, 2007, by Resolution No. 2007-178, approved certifying the Final Master Environmental Impact Report for the City of Modesto Wastewater Master Plan Update, which identified that the Primary Outfall has insufficient capacity under its current operating condition for projected Peak Dry Weather Flow, and recommended changing the operating condition from a gravity system to a continuous force main, and

WHEREAS, this project will not only rehabilitate the Primary Outfall, but will also increase its hydraulic capacity, improve reliability, and reduce future maintenance, and

WHEREAS, the City Council, on June 12, 2007, by Resolution No. 2007-350, approved an Agreement with Brown and Caldwell to complete the 35% design effort and a Preliminary Design Report (PDR) for the Primary Outfall Rehabilitation Project, and

WHEREAS, the PDR summarizes existing facilities, details proposed project elements and rehabilitation method descriptions, presents preliminary engineering drawings, and provides estimated cost and schedule projections for project implementation, and

WHEREAS, the PDR has been completed and will serve as the basis of the final design for the Primary Outfall Rehabilitation project, and

WHEREAS, the City Council, on April 1, 2008, by Resolution No. 2008-188, approved an Agreement with Brown and Caldwell to prepare the final project design of this project, and

WHEREAS, although the PDR estimate included acquisition costs for temporary and permanent construction easements, it did not include the costs associated with property appraisals, acquisition documents, and negotiations, and

WHEREAS, the City will need to acquire 29 permanent and temporary construction easements along a 6.5 mile route for the construction of this project, and

WHEREAS, City staff recommends an Agreement with the consulting firm of Associated Right of Way Services, Inc. (AR/WS) be approved to perform property agent services for the following: obtaining title reports, property appraisal, negotiations,

documentation, title review and final acquisition documents as the City does not have the staffing level or subject matter expertise to complete the acquisition services for the Primary Outfall 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 Associated Right of Way Services, Inc. (AR/WS) for acquisition services for the Primary Outfall Rehabilitation project, in an amount not to exceed $226,000, for the identified scope of services, plus $22,600 for additional services (if needed) for a maximum total amount of $248,600.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of July, 2008, 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. 2008-397

A RESOLUTION AMENDING THE FY08/09 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE AGREEMENT WITH ASSOCIATED RIGHT OF WAY SERVICES, INC. (AR/WS) FOR ACQUISITION SERVICES, BY TRANSFERRING $248,600 BY DECREASING OBJECT 6050 CONTINGENCY AND REAPPROPRIATING THE SAME AMOUNT TO OBJECT 6030 LAND/ROW ACQUISITION WITHIN THE SAME CIP ACCOUNT 6210-480-B812 (PRIMARY OUTFALL REHAB) TO PERFORM THE REQUIRED APPRAISAL SERVICES TO COMPLETE THE PROJECT

WHEREAS, certain budgetary transactions are necessary to fully fund the Agreement with Associated Right of Way Services, Inc. (AR/WS) for acquisition services in the amount of $248,600, to perform the required appraisal services to complete the project titled "Primary Outfall Rehabilitation," and

WHEREAS, to fully fund the Agreement, the FY08/09 Capital Improvement Program budget must be amended by transferring $248,600 by decreasing Object 6050 Contingency and reappropriating the same amount to Object 6030 Land/ROW Acquisition within the same CIP Account 6210-480-B812 (Primary Outfall Rehab) to perform the required appraisal services to complete the project titled "Primary Outfall Rehabilitation,"

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds as set forth herein to fully fund the Agreement with Associated Right of Way Services, Inc. (AR/WS) for acquisition services in the amount of $248,600, to perform the required appraisal services to complete the project titled "Primary Outfall Rehabilitation."

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of July, 2008, 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. 2008-398

A RESOLUTION ACCEPTING THE WORK BY APPLEGATE JOHNSTON, INC. FOR THE PROJECT TITLED "INSTALLATION OF LIGHTED CROSSWALKS AT 4 LOCATIONS 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 $190,457.05

WHEREAS, a report has been filed by the Public Works Director that the project titled "Installation of Lighted Crosswalks at 4 Locations" has been completed by Applegate Johnston, Inc. in accordance with the contract agreement dated December 12, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Installation of Lighted Crosswalks at 4 Locations" is hereby accepted as complete from said contractor Applegate Johnston, 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 $190,457.05 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 July, 2008, 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. 2008-399

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO CONDUCT A SOLE SOURCE PROCUREMENT OF A SCADA SYSTEM UPGRADE FOR THE PUBLIC WORKS DEPARTMENT, WATER QUALITY CONTROL DIVISION, FROM HSQ TECHNOLOGY, HAYWARD CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF $73,000.

WHEREAS, the City of Modesto Water, Wastewater and Stormwater Divisions of the Public Works Department utilize a SCADA computer system to monitor and control over 200 sites (water wells, storage tanks and pump stations, sewer and storm lift stations, and the two wastewater treatment plants) located throughout the city and county, and

WHEREAS, the SCADA system, originally installed in 1993, consists of two redundant SCADA servers, nine workstations, networking and communication equipment, SCADA software and over 200 remote terminal units (RTUs). HSQ Technology (HSQ) currently is the sole source provider for the City of Modesto SCADA System, and

WHEREAS, the two main SCADA servers were last replaced in the fall of 2002, are approaching six years of continuous run time, and are on a hardware platform that is no longer in production, which adds to the likelihood of failure, and

WHEREAS, the SCADA System Upgrade project consists primarily of replacing the two SCADA servers with new hardware, as well as upgrading the existing SCADA workstations with larger hard drives and additional memory in order to support the latest version of the operating system and HSQ SCADA software required to be compatible with the two new servers, and

WHEREAS, this project will also involve upgrading the SCADA networking equipment to fully implement a redundant local area network for the main SCADA system components, and

WHEREAS, this project will help to ensure the continued high level of system reliability (>99.99% uptime) required for this critical application, and

WHEREAS, HSQ Technology is the developer and sole provider of the MISER SCADA software running on the City of Modesto SCADA System and, having provided all of the hardware and software comprising the City of Modesto SCADA System, they are uniquely able to design and implement this system upgrade project, and

WHEREAS, there are no other vendors with knowledge of the existing system to qualify them to perform this system upgrade, nor can any other vendors provide the upgraded MISER SCADA software, and

WHEREAS, HSQ Technology provides 24x7 support for this critical system under a maintenance service agreement, and it is in the best interest of the City to ensure that this critical system continues to be maintained and supported by a single vendor who has responsibility for the entire system, and

WHEREAS, in this way, the City can continue to benefit from the outstanding system reliability we have enjoyed since this system was installed in 1993 (Since the last system upgrade in 2002, SCADA system uptime has been greater than 99.99%), and.

WHEREAS, staff has requested a sole source procurement for HSQ to handle the upgrade of the SCADA System, and

WHEREAS, funds are budgeted as indicated below:

Account #	Amount
6100-480-5013-5400	$30,360
6210-480-5212-5400	$5,140
6210-480-5213-5400	$10,850
6210-480-5214-5400	$10,850
6210-480-5208-5400	$12,350
6280-480-5310-5400	$3,450
TOTAL	$73,000

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 a SCADA System Upgrade for the Public Works Department, Water Quality Control Division, from HSQ Technology, Hayward CA.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for a total estimated cost of $73,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of July, 2008, 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. 2008-400

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF WATER METERS FOR THE PUBLIC WORKS DEPARTMENT, WATER SERVICES DIVISION, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED TOTAL ANNUAL COST OF $1.6 MILLION

WHEREAS, the Public Works Department, Water Services Division, has requested the purchase of water meters in various sizes to service residential sites, commercial and industrial businesses within the City's water system, and

WHEREAS, the existing contract is set to expire, and in order to avoid a gap in service as well as meet mandated deadlines, it is necessary to begin a formal request for bids (RFB), 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 water meters 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 water meters for the Public Works Department, Water Services Division, 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 1st day of July, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmemeber 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. 2008-401

A RESOLUTION APPROVING THE 20-YEAR LICENSE AGREEMENT WITH PACIFIC GAS AND ELECTRIC (PG&E) FOR THE INSTALLATION OF PG&E SMARTMETER COMMUNICATION EQUIPMENT TECHNOLOGY ON ALL CITY-OWNED STREETLIGHTS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, PG&E is seeking authorization from the City of Modesto, as well as all other cities in Stanislaus County, to be able to install SmartMeter communication equipment as part of its new SmartMeter program, and

WHEREAS, the communication devices are data collector units that will be used to automatically read customer gas meters and transmit the data to the PG&E central office, and

WHEREAS, SmartMeters will be placed on 30 City-owned streetlights, and

WHEREAS, allowing PG&E to mount the data collectors on the streetlight will avoid having additional poles installed specifically for this purpose, and

WHEREAS, the 20-year License agreement with PG&E will provide the City with one-time revenue of $900 per SmartMeter, to be paid in a lump sum of $27,000 at the time of signing the Agreement, and

WHEREAS, recognized revenue of $27,000 will be received in Revenue Account No. 2370-160-E947-6203 – Miscellaneous Lease Revenue,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the 20-year License Agreement with Pacific Gas and Electric (PG&E) for the installation of PG&E SmartMeter Communication Equipment Technology on all City-owned Streetlights.

BE IT FURTHER RESOLVED that the Council authorizes the City Manager, or his designee, to execute the License Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of July, 2008, 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. 2008-402

A RESOLUTION AMENDING THE ADOPTED CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET FOR FISCAL YEAR 2008-09 TO RECOGNIZE $27,000 IN ONE-TIME REVENUE FROM PG&E SMART METER INSTALLATION AND APPROPRIATE $27,000 IN OFFSETTING EXPENSES TO CIP ACCOUNT NO. 2370-160-E947-6041 – HIGH VOLTAGE STREET LIGHT CIRCUIT REPAIR

WHEREAS, PG&E is seeking authorization from the City of Modesto, as well as all other cities in Stanislaus County, to be able to install SmartMeter communication equipment as part of its new SmartMeter program, and

WHEREAS, the communication devices are data collector units that will be used to automatically read customer gas meters and transmit the data to the PG&E central office, and

WHEREAS, SmartMeters will be placed on 30 City-owned streetlights, and

WHEREAS, allowing PG&E to mount the data collectors on the streetlights will avoid having additional poles installed specifically for this purpose, and

WHEREAS, the 20-year License agreement with PG&E will provide the City with one-time revenue of $900 per SmartMeter to be paid in a lump sum of $27,000 at the time of signing the Agreement, and

WHEREAS, recognized revenue of $27,000 will be received in the CIP Budget and appropriated in CIP Account No. 2370-160-E947-6041 – High Voltage Street Light Circuit Repair,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the adopted Capital Improvement Program (CIP) Budget for Fiscal Year 2008-09 to recognize $27,000 in one-time revenue from PG&E SmartMeter Installation and appropriate $27,000 in offsetting expenses to CIP Account No. 2370-160-E947-6041 – High Voltage Street Light Circuit Repair.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of July, 2008, 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. 2008-403

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. 2004-1 (VILLAGE ONE #2) SPECIAL TAXES TO THE QUALIFIED ELECTORS OF THE TERRITORY PROPOSED TO BE ANNEXED TO THE DISTRICT (ANNEXATION NO. 14)

WHEREAS, this Council did, on May 27, 2008, adopt its Resolution No. 2008-298 (the "Resolution of Intention to Annex") to indicate its intention to annex certain territory to the City's Community Facilities District No. 2004-1 (Village One #2) (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, pursuant to the Act, this Council did, by its Resolution No. 2004-681, adopted on December 14, 2004, clarify the Rate and Method of Apportionment with respect to the Maximum Special Taxes to be generated by a parcel that has been rezoned, and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 2004-683, adopted on December 14, 2004, create Tax Zone #2 within the District; and

WHEREAS, the One-Time Facilities Special Tax component of the special taxes is higher in Tax Zone #2 than in Tax Zone #1; and

WHEREAS, the Annexed Territory will be annexed to and subject to the special taxes in Tax Zone #2; and

WHEREAS, notice of the hearing was duly published as required by law, as evidenced by the proof of publication on file with the City Clerk; and

WHEREAS, a map of the Annexed Territory, entitled "Annexation Map No. 14 of Community Facilities District No. 2004-1 (Village One #2) of the City of Modesto, County of Stanislaus, State of California," was recorded on May 29, 2008, in the Office of the County Recorder of the County of Stanislaus, in Book 4 of Maps of Assessment and Community Facilities Districts, at page 98; and

WHEREAS, at the time and date set for the hearing (July 1, 2008) 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 for Tax Zone #2 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 for Tax Zone #2 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 for Tax Zone #2 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 for

Tax Zone #2 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 for Tax Zone #2 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 for Tax Zone #2 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 for Tax Zone #2 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 for Tax Zone #2 within the Annexed Territory. Upon such approval the Council will be authorized to levy the District special taxes for Tax Zone #2 within the Annexed Territory.

SECTION 5. A special election is hereby called at which the question of levying the District special taxes for Tax Zone #2 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.

SAMPLE

OFFICIAL BALLOT

BALLOT NO. _____

CITY OF MODESTO
COMMUNITIES FACILITIES DISTRICT NO. 2004-1
(VILLAGE ONE #2)

ANNEXATION NO. 14

SPECIAL TAX ELECTION

July 1, 2008

NUMBER OF VOTES ENTITLED TO BE CAST _____
(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 for Tax Zone #2, with maximum rates, method of apportionment, and manner of collection as provided in **Exhibit** A to the City's Resolution No. 2004-683, entitled "A Resolution of the City Council of the City of Modesto Creating Tax Zone #2 in Community Facilities District No. 2004-1 (Village One #2), Approving an Increase in the One-Time Facilities Special Tax Therein, and Approving Updates of the Rate and Method of apportionment of Special Taxes for the District", adopted by the City Council of the City of Modesto on December 14, 2004, which is incorporated herein by this reference, be levied within the territory proposed to be annexed to Tax Zone #2 of the City of Modesto Community Facilities District No. 2004-1 (Village One #2) pursuant to the City's Resolution No. 2008-298, entitled "A Resolution of the City Council of the City of Modesto of Intention to Annex Territory to Community Facilities District No. 2004-1 (Village One #2) and to Authorize the Levy of Special Taxes therein (Annexation No. 14)" adopted by the City Council of the City of Modesto on May 27, 2008, for the purposes set forth in Resolution No. 2004-199, entitled "A Resolution of the City Council of the City of Modesto of Formation, Establishing City of Modesto Community Facilities District No. 2004-1 (Village One #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 Taxes and the Establishment of the Appropriations Limit to the Qualified Electors of the District", adopted by the City Council of the City of Modesto on April 6, 2004, which is incorporated herein by this reference?

YES ☐

NO ☐

BALLOT NO. ___

THIS BALLOT HAS A VALUE OF ___ VOTES

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 1st day of July 2008. 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 6:00 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 for Tax Zone #2 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. 2004-199 adopted by this Council on April 6, 2004 (the "Resolution of Formation"). The Special Tax will be levied only at the rate and apportioned only in the manner specified in the Resolution of Formation, as clarified by the City Council on December 14, 2004 (Resolution No. 2004-681), and at the rates set forth in Tax Zone #2 created by the City Council on December 14, 2004 (Resolution No. 2004-683).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st of July, 2008, 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. 2008-404

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO CANVASSING THE RESULTS OF THE JULY 1, 2008, ELECTION HELD WITHIN THE TERRITORY PROPOSED TO BE ANNEXED TO CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2), AND ORDERING ANNEXATION OF THE TERRITORY TO THE DISTRICT (ANNEXATION NO. 14)

WHEREAS, this Council is conducting proceedings pertaining to the annexation of certain territory to the City's Community Facilities District No. 2004-1 (Village One #2) (the "District") and the levy of the District special taxes (the "District Special Taxes") within such territory, as described in its Resolution No. 2008-298, entitled "A Resolution of the City Council of the City of Modesto of Intention to Annex Territory to Community Facilities District No. 2004-1 (Village One #2) and to Authorize the Levy of Special Taxes therein (Annexation No. 14)" adopted on May 27, 2008, 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, pursuant to the Act, this Council did, by its Resolution No. 2004-681, adopted on December 14, 2004, clarify the Rate and Method of Apportionment with respect to the Maximum Special Taxes to be generated by a parcel that has been rezoned; and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 2004-683, adopted on December 14, 2004 ("Resolution of Creation of Tax Zone #2"), create Tax Zone #2 within the District; and

WHEREAS, the territory to be annexed will be subject to the tax rates in Tax Zone #2; 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. 2008-???, adopted on July 1, 2008, and, as a result, this Council called an election within the territory proposed to be annexed to the District (the "Election") for July 1, 2008, or as soon thereafter as practicable, relative to the foregoing; and

WHEREAS, on July 1, 2008, 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**.

CERTIFICATE OF CITY CLERK

I, STEPHANIE LOPEZ, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2008-404, 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. 2004-1 (Village One #2) Special Taxes to the Qualified Electors of the Territory Proposed to be Annexed to the District (Annexation No. 14) adopted on May 27, 2008, by the City Council of the City of Modesto, I did conduct the Special Tax Election on July 1, 2008, 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 for Tax Zone #2, with maximum rates, method of apportionment, and manner of collection as provided in **Exhibit** A to the City's Resolution No. 2004-683, entitled "A Resolution of the City Council of the City of Modesto Creating Tax Zone #2 in Community Facilities District No. 2004-1 (Village One #2), Approving an Increase in the One-Time Facilities Special Tax Therein, and Approving Updates of the Rate and Method of apportionment of Special Taxes for the District", adopted by the City Council of the City of Modesto on December 14, 2004, which is incorporated herein by this reference, be levied within the territory proposed to be annexed to Tax Zone #2 of the City of Modesto Community Facilities District No. 2004-1 (Village One #2) pursuant to the City's Resolution No. 2008-298, entitled "A Resolution of the City Council of the City of Modesto of Intention to Annex Territory to Community Facilities District No. 2004-1 (Village One #2) and to Authorize the Levy of Special Taxes therein (Annexation No. 14)" adopted by the City Council of the City of Modesto on May 27, 2008, for the purposes set forth in Resolution No. 2004-199, entitled "A Resolution of the City Council of the City of Modesto of Formation, Establishing City of Modesto Community Facilities District No. 2004-1 (Village One #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 Taxes and the Establishment of the Appropriations Limit to the Qualified Electors of the District", adopted by the City Council of the City of Modesto on April 6, 2004, which is incorporated herein by this reference?

TOTAL VOTES CAST: YES 2 NO 0

Stephanie Lopez
City Clerk of the City of Modesto

Dated: July 1, 2008

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. 2008-298 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 so annexed as set forth in the Resolution of Creation of Tax Zone #2.

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 1st day of July 2008, 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. 2008-405

A RESOLUTION APPROVING THE TIVOLI SPECIFIC PLAN FACILITIES MASTER PLAN (FMP) AND INFRASTRUCTURE FINANCE PLAN (IFP) FOR THE INFRASTRUCTURE NECESSARY TO SUPPORT THE DEVELOPMENT OF APPROXIMATELY 454 ACRES LOCATED NORTH OF SYLVAN AVENUE, SOUTH OF FUTURE CLARATINA AVENUE, EAST OF OAKDALE ROAD, WEST OF ROSELLE AVENUE (FUNDING SOURCE: N/A)

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 Tivoli Specific Plan is located in the southwest portion of the Roselle/Claribel Comprehensive Planning District that consists of a total of 1,700 acres; and

WHEREAS, the Tivoli Specific Plan ("Project") application was filed by David Romano ("Applicant") of Newman-Romano, LLC, to allow for the development of approximately 454 acres located north of Sylvan Avenue, south of future Claratina Avenue, East of Oakdale Road, west of Roselle Avenue ("Property"); and

WHEREAS, the proposed Tivoli Specific Plan includes approximately 286 acres of residential land use of varying density with a buildout potential of between 1,800 to 3,200 dwelling units, 14 acres of neighborhood-serving commercial, 6 acres of general commercial, 67 acres of regional-serving commercial, 2 acres of professional office space, a 14-acre elementary school site, 30 acres of parks and open space, 4 acres of public infrastructure, and 31 acres of interior collector roadways; and

WHEREAS, a Final Program Environmental Impact Report was prepared for the Tivoli Specific Plan (SCH No. 2005072125) which analyzed the potential environmental effects of the proposed Project; and

WHEREAS, on February 26, 2008, the City Council approved the Tivoli Specific Plan and certified the Tivoli Program EIR; and

WHEREAS, the FMP and IFP are planning documents that will guide future infrastructure development and are required by the Tivoli Specific Plan; and

WHEREAS, The FMP and IFP are explicitly contemplated in the Tivoli Specific Plan EIR; and

WHEREAS, on May 19, 2008, the Planning Commission held a duly noticed public hearing to consider the Tivoli Specific Plan FMP and IFP in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing the Planning Commission continued this item to the June 16, 2008, meeting to allow time to hold a workshop to review the FMP and IFP prepared for the Tivoli Specific Plan; and

WHEREAS, the Planning Commission held a workshop on June 2, 2008, to review proposed Tivoli Specific Plan FMP and IFP; and

WHEREAS, on June 16, 2008, the Planning Commission held a duly noticed continued 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 Tivoli Specific Plan FMP and IFP was considered; and

WHEREAS, on June 16, 2008, the Planning Commission recommended the Tivoli Specific Plan FMP and IFP for City Council approval; and

WHEREAS, on June 24, 2008, 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 Tivoli Specific Plan 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 Tivoli Specific Plan has been adopted by the Modesto City Council by Ordinance 3479-C.S.
2. The companion Environmental Impact Report was also adopted by the Modesto City Council by Resolution 2008-141.
3. The proposed FMP and IFP supply the necessary information for the development of the infrastructure necessary to develop the needed backbone facilities for Tivoli Specific Plan.
4. The proposed Tivoli Specific Plan FMP and IFP are consistent with the Final Program Environmental Impact Report for the Tivoli Specific Plan Project (SCH No. 2005072125) 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 Tivoli Specific Plan 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 Tivoli Specific Plan 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 Tivoli Specific Plan Program EIR, was adopted which shows any of the following:

   a. one or more significant effects which is not discussed in the Tivoli Specific 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 Tivoli Specific 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.

9. The Initial Study, Environmental Assessment No. EA/C&ED 2008-18, 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 it hereby finds as follows the following policies that will guide the timing of said facilities:

1. The timing of backbone infrastructure shall be consistent with the Tivoli Specific Plan and the Tivoli Environmental Impact Report.

2. Backbone infrastructure shall be installed to meet project development demands of each phase for both on-site and off-site to meet the City's infrastructure standards.

3. Implementation Plans, or IPs will implement the timing and phasing of the backbone infrastructure. City of Modesto staff shall conduct a neighborhood meeting with affected property within and adjacent to the Implementation Plans.

4. The central basin and park facility must be provided with the early phases of residential development. This facility must be installed with the first certificate of occupancy or acceptance of improvements, whichever occurs first, of the phase required to provide this facility as determined by the IP process.

5. All arterial and collector street system must be installed in logical and complete segments for each phase proposed for development based on an Area Plan and IP. Full width Collector street improvement must be provided for each phase. Full width includes improvements within the ROW as defined in the FMP. Landscape lots and walls, considered in-tract improvements, shall be installed by developers concurrent with adjacent development consistent with project phasing. The improvements on Arterial streets include full improvements within the ROW on the project side and travel lanes and storm drainage facilities on the other side of the road. The required street improvements must be provided or secured prior to first final map recordation or certificate of occupancy, whichever occurs first. The City reserves the right to consider less than full street improvement described above under unique circumstances that make the full street improvement impractical or cost prohibitive, or as demonstrated by a project specific site access study or traffic analysis.

6. All water, sewer, and storm drainage facilities shall be installed in logical and complete segments for each phase. Interim improvements of these facilities may be considered but shall also be approved by the Director of Public Works. The required facilities must be installed prior to issuance of the first certificate of occupancy.

7. Interim water, sewer, and storm drainage facilities may be considered for the development in the early phases at developer's cost. The required interim facilities must be installed prior to issuance of the first certificate of occupancy.

8. The timing of upgrading Lydia Lane, Jeffrey Drive, and Mable Avenue will be determined by the IP.

9. The construction of gateways must be included in each phase.

BE IT FURTHER RESOLVED, by the City Council of the City of Modesto that it hereby finds as follows the following policies that will guide the financing of said facilities:

1. An IP for each phase identifying the required infrastructure and the funding mechanism for each phase must be approved prior or concurrent to approval of any future entitlement which includes an Area Plan, Final Development Plan, and/or Final Map.
2. The funding mechanism to finance the backbone infrastructure and maintenance of appropriate infrastructure for each phase as identified in the IP shall be in place prior to recordation of any Final Map or issuance of a building permit, whichever occurs first. The funding mechanism includes the formation or annexation to a CFD and establishing and contributing to a Tivoli Fee Program.
3. The Volunteer Land Dedication Program, or VLDP, should be approved prior or concurrent to approval of an IP.
4. Prior to recordation of any Final Map or issuance of building permit, non-participating property owner of the VLDP shall deliver to the City executed dedication documents in a form approved by the City of required land dedication within the subject property.

BE IT FURTHER RESOLVED by the City Council of the City of Modesto that it hereby adopts the Tivoli Specific Plan 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 Tivoli Specific Plan 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 1st day of July, 2008, 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. 2008-406

A RESOLUTION ESTABLISHING FEES FOR TOW DRIVER PERMITS, AND INSPECTIONS AND REINSPECTIONS OF TOW TRUCKS

WHEREAS, on April 8, 2008, City Council adopted Resolution No. 2008-222 approving a Request for Application (RFA) authorizing the Purchasing Manager to issue the RFA for City of Modesto Non-Exclusive Non-Consensual Franchise Towing Services, and

WHEREAS, on April 23, 2008, the Purchasing Manager issued the RFA for Non-Exclusive Non-Consensual Franchise Towing Services, and

WHEREAS, in order to ensure safe and reliable towing services for the citizens of Modesto, the Non-Exclusive Non-Consensual Franchise Towing Agreement requires annual inspections of Franchise tow trucks utilized under the terms of the agreement, and

WHEREAS, all Franchisee employees/drivers providing City of Modesto Non-Exclusive Non-Consensual franchise towing services will be required to apply for and obtain a tow driver permit issued by the Modesto Police Department, and

WHEREAS, the proposed fee for the tow driver permit is $72.00. This amount represents a $30.00 permit fee for processing and background by the Modesto Police Department, $10.00 for a Live Scan fingerprint check, and $32.00 to the Department of Justice for Live Scan processing, and

WHEREAS, the Modesto Police Department will review the costs of the application process annually, and

WHEREAS, the Modesto Police Department commercial enforcement traffic officers will conduct tow truck inspections, and

WHEREAS, the proposed fee for inspection of a tow truck is $95.00 and is based on cost recovery at the hourly rate with benefits for a commercial enforcement officer at $63.40 per hour, and

WHEREAS, the estimated amount of time to complete an inspection is 1.5 hours, and

WHEREAS, a tow truck not passing initial inspection will be charged a re-inspection fee (within 30 days of initial inspection), and

WHEREAS, the proposed fee for re-inspection of a tow truck is $45.00 and is based on cost recovery at the hourly rate with benefits for a commercial enforcement officer at $63.40 per hour, and

WHEREAS, the estimated time to complete a reinspection is .75 hours, and

WHEREAS, on February 21, 2008, the Fees Task Force unanimously recommended approval of these fees, and

WHEREAS, on May 28, 2008, the Finance Committee recommended approval of these fees, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a fee in the amount of $72.00 for a tow truck driver permit, a fee in the amount of $95.00 for inspection of tow trucks, and a fee in the amount of $45.00 for reinspection of tow trucks.

BE IT FURTHER RESOLVED that this resolution shall go in to effect and be in full force and operation upon award of any Non-Exclusive Non-Consensual Towing Franchise.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 1st day of July, 2008, 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:	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. 2008-407

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

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 an 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

WEREAS, 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 CFDs 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 8th day of July, 2008, 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: Sheelu Haines, Deputy
for STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit "A"

Delinquent Parcels as of July 9, 2008
CFD 2003-1 (Fairview Village)

APN	CFD	Tax Year	Unpaid Taxes
056-094-004-000	2003-1 (Fairview Village)	2007	$907.08
056-094-009-000	2003-1 (Fairview Village)	2007	$453.54
056-094-014-000	2003-1 (Fairview Village)	2007	$907.08
056-094-017-000	2003-1 (Fairview Village)	2007	$907.08
056-094-023-000	2003-1 (Fairview Village)	2007	$453.54
056-094-045-000	2003-1 (Fairview Village)	2007	$907.08
056-094-055-000	2003-1 (Fairview Village)	2007	$453.54
056-094-056-000	2003-1 (Fairview Village)	2007	$453.54
056-094-057-000	2003-1 (Fairview Village)	2007	$453.54
056-094-060-000	2003-1 (Fairview Village)	2007	$453.54
056-094-066-000	2003-1 (Fairview Village)	2007	$907.08
056-094-068-000	2003-1 (Fairview Village)	2007	$453.54
056-094-072-000	2003-1 (Fairview Village)	2007	$907.08
056-094-078-000	2003-1 (Fairview Village)	2007	$907.08
056-094-080-000	2003-1 (Fairview Village)	2007	$453.54
056-094-081-000	2003-1 (Fairview Village)	2007	$907.08
056-094-082-000	2003-1 (Fairview Village)	2007	$907.08
056-094-083-000	2003-1 (Fairview Village)	2007	$907.08
056-094-084-000	2003-1 (Fairview Village)	2007	$907.08
056-094-089-000	2003-1 (Fairview Village)	2007	$907.08
056-094-092-000	2003-1 (Fairview Village)	2007	$907.08
056-094-108-000	2003-1 (Fairview Village)	2007	$907.08
056-095-001-000	2003-1 (Fairview Village)	2007	$453.54
056-095-002-000	2003-1 (Fairview Village)	2007	$453.54
056-095-015-000	2003-1 (Fairview Village)	2007	$907.08
056-095-016-000	2003-1 (Fairview Village)	2007	$907.08
056-095-027-000	2003-1 (Fairview Village)	2007	$907.08
056-095-033-000	2003-1 (Fairview Village)	2007	$907.08
056-095-034-000	2003-1 (Fairview Village)	2007	$907.08

Exhibit "A"

Delinquent Parcels as of July 9, 2008
CFD 2003-1 (Fairview Village)

APN	CFD	Tax Year	Unpaid Taxes
056-095-035-000	2003-1 (Fairview Village)	2007	$907.08
056-095-041-000	2003-1 (Fairview Village)	2007	$907.08
056-096-004-000	2003-1 (Fairview Village)	2007	$453.54
056-096-012-000	2003-1 (Fairview Village)	2007	$453.54
056-096-014-000	2003-1 (Fairview Village)	2007	$907.08
056-096-018-000	2003-1 (Fairview Village)	2007	$453.54
056-096-024-000	2003-1 (Fairview Village)	2007	$907.08
056-096-025-000	2003-1 (Fairview Village)	2007	$907.08
056-096-027-000	2003-1 (Fairview Village)	2007	$453.54
056-096-032-000	2003-1 (Fairview Village)	2007	$907.08
056-096-034-000	2003-1 (Fairview Village)	2007	$453.54
056-096-044-000	2003-1 (Fairview Village)	2007	$453.54
056-096-055-000	2003-1 (Fairview Village)	2007	$453.54
056-096-058-000	2003-1 (Fairview Village)	2007	$907.08
056-096-065-000	2003-1 (Fairview Village)	2007	$907.08
056-096-069-000	2003-1 (Fairview Village)	2007	$453.54
056-096-079-000	2003-1 (Fairview Village)	2007	$907.08
056-096-080-000	2003-1 (Fairview Village)	2007	$907.08
056-096-081-000	2003-1 (Fairview Village)	2007	$907.08
056-096-105-000	2003-1 (Fairview Village)	2007	$453.54
056-096-108-000	2003-1 (Fairview Village)	2007	$907.08
056-096-112-000	2003-1 (Fairview Village)	2007	$453.54
056-096-114-000	2003-1 (Fairview Village)	2007	$453.54
056-096-116-000	2003-1 (Fairview Village)	2007	$907.08
056-096-117-000	2003-1 (Fairview Village)	2007	$907.08
056-096-121-000	2003-1 (Fairview Village)	2007	$907.08
056-096-123-000	2003-1 (Fairview Village)	2007	$907.08
056-097-001-000	2003-1 (Fairview Village)	2007	$453.54
056-097-008-000	2003-1 (Fairview Village)	2007	$907.08

Exhibit "A"

Delinquent Parcels as of July 9, 2008
CFD 2003-1 (Fairview Village)

APN	CFD	Tax Year	Unpaid Taxes
056-097-016-000	2003-1 (Fairview Village)	2007	$907.08
056-097-018-000	2003-1 (Fairview Village)	2007	$907.08
056-097-025-000	2003-1 (Fairview Village)	2007	$907.08
056-097-032-000	2003-1 (Fairview Village)	2007	$907.08
056-097-041-000	2003-1 (Fairview Village)	2007	$907.08
056-097-053-000	2003-1 (Fairview Village)	2007	$907.08
056-097-058-000	2003-1 (Fairview Village)	2007	$907.08
056-097-060-000	2003-1 (Fairview Village)	2007	$453.54
056-097-062-000	2003-1 (Fairview Village)	2007	$453.54
056-097-070-000	2003-1 (Fairview Village)	2007	$453.54
056-097-075-000	2003-1 (Fairview Village)	2007	$453.54
056-097-082-000	2003-1 (Fairview Village)	2007	$453.54
056-097-087-000	2003-1 (Fairview Village)	2007	$907.08

Exhibit "A"

Delinquent Parcels as of July 9, 2008
CFD 2004-1 (Village One #2)

APN	CFD	Tax Year	Unpaid Taxes
077-055-002-000	2004-1 (Village One #2)	2007	$530.37
077-055-003-000	2004-1 (Village One #2)	2007	$530.37
077-055-006-000	2004-1 (Village One #2)	2007	$1,060.74
077-055-013-000	2004-1 (Village One #2)	2007	$1,060.74
077-055-017-000	2004-1 (Village One #2)	2007	$530.37
077-055-033-000	2004-1 (Village One #2)	2007	$1,060.74
077-055-040-000	2004-1 (Village One #2)	2007	$530.37
077-055-048-000	2004-1 (Village One #2)	2007	$530.37
077-055-051-000	2004-1 (Village One #2)	2007	$1,060.74
077-055-059-000	2004-1 (Village One #2)	2007	$530.37
077-055-069-000	2004-1 (Village One #2)	2007	$530.37
077-055-072-000	2004-1 (Village One #2)	2007	$530.37
077-055-076-000	2004-1 (Village One #2)	2007	$1,060.74
077-055-080-000	2004-1 (Village One #2)	2007	$1,060.74
077-055-083-000	2004-1 (Village One #2)	2007	$530.37
077-055-087-000	2004-1 (Village One #2)	2007	$530.37
077-055-090-000	2004-1 (Village One #2)	2007	$1,060.74
077-055-101-000	2004-1 (Village One #2)	2007	$530.37
077-055-102-000	2004-1 (Village One #2)	2007	$530.37
077-056-020-000	2004-1 (Village One #2)	2007	$1,317.82
077-056-024-000	2004-1 (Village One #2)	2007	$1,317.82
077-056-029-000	2004-1 (Village One #2)	2007	$1,317.82
077-056-055-000	2004-1 (Village One #2)	2007	$1,317.82
077-056-064-000	2004-1 (Village One #2)	2007	$1,317.82
077-056-066-000	2004-1 (Village One #2)	2007	$1,317.82
077-056-074-000	2004-1 (Village One #2)	2007	$1,317.82
077-056-077-000	2004-1 (Village One #2)	2007	$1,317.82
077-056-079-000	2004-1 (Village One #2)	2007	$1,317.82
077-057-007-000	2004-1 (Village One #2)	2007	$1,317.82

Exhibit "A"

Delinquent Parcels as of July 9, 2008
CFD 2004-1 (Village One #2)

APN	CFD	Tax Year	Unpaid Taxes
077-057-017-000	2004-1 (Village One #2)	2007	$658.91
077-057-021-000	2004-1 (Village One #2)	2007	$1,317.82
077-057-024-000	2004-1 (Village One #2)	2007	$658.91
077-057-030-000	2004-1 (Village One #2)	2007	$658.91
077-057-035-000	2004-1 (Village One #2)	2007	$658.91
077-057-039-000	2004-1 (Village One #2)	2007	$658.91
077-057-052-000	2004-1 (Village One #2)	2007	$658.91
077-058-004-000	2004-1 (Village One #2)	2007	$1,317.82
077-058-028-000	2004-1 (Village One #2)	2007	$1,317.82
077-060-001-000	2004-1 (Village One #2)	2007	$1,237.76
077-060-002-000	2004-1 (Village One #2)	2007	$618.88
077-060-008-000	2004-1 (Village One #2)	2007	$1,237.76
077-060-009-000	2004-1 (Village One #2)	2007	$1,237.76
077-060-010-000	2004-1 (Village One #2)	2007	$1,237.76
077-060-011-000	2004-1 (Village One #2)	2007	$618.88
077-060-027-000	2004-1 (Village One #2)	2007	$1,237.76
077-060-028-000	2004-1 (Village One #2)	2007	$1,237.76
077-060-032-000	2004-1 (Village One #2)	2007	$618.88
077-060-036-000	2004-1 (Village One #2)	2007	$1,237.76
077-060-037-000	2004-1 (Village One #2)	2007	$1,237.76
077-060-042-000	2004-1 (Village One #2)	2007	$618.88
077-060-046-000	2004-1 (Village One #2)	2007	$618.88
077-060-048-000	2004-1 (Village One #2)	2007	$1,237.76
077-060-049-000	2004-1 (Village One #2)	2007	$618.88
077-060-058-000	2004-1 (Village One #2)	2006	$606.74
077-060-064-000	2004-1 (Village One #2)	2007	$1,237.76
077-061-006-000	2004-1 (Village One #2)	2007	$1,711.08
077-061-011-000	2004-1 (Village One #2)	2007	$1,711.08
077-061-012-000	2004-1 (Village One #2)	2007	$855.54

Exhibit "A"

Delinquent Parcels as of July 9, 2008
CFD 2004-1 (Village One #2)

APN	CFD	Tax Year	Unpaid Taxes
077-061-015-000	2004-1 (Village One #2)	2007	$1,711.08
077-061-017-000	2004-1 (Village One #2)	2007	$1,711.08
077-061-018-000	2004-1 (Village One #2)	2007	$855.54
077-062-009-000	2004-1 (Village One #2)	2007	$699.53
077-062-020-000	2004-1 (Village One #2)	2007	$699.53
077-063-001-000	2004-1 (Village One #2)	2007	$699.53
077-063-003-000	2004-1 (Village One #2)	2007	$1,399.06
077-063-016-000	2004-1 (Village One #2)	2007	$721.93
077-063-018-000	2004-1 (Village One #2)	2007	$721.93
077-063-021-000	2004-1 (Village One #2)	2006	$1,415.54
077-063-023-000	2004-1 (Village One #2)	2006	$1,415.54
077-063-038-000	2004-1 (Village One #2)	2006	$1,415.54
077-063-039-000	2004-1 (Village One #2)	2007	$1,443.86
077-063-040-000	2004-1 (Village One #2)	2007	$721.93
077-063-044-000	2004-1 (Village One #2)	2007	$1,443.86
077-064-004-000	2004-1 (Village One #2)	2007	$1,443.86
077-064-007-000	2004-1 (Village One #2)	2007	$1,443.86
077-064-008-000	2004-1 (Village One #2)	2007	$721.93
077-064-012-000	2004-1 (Village One #2)	2007	$1,443.86
077-064-021-000	2004-1 (Village One #2)	2007	$1,443.86
077-064-049-000	2004-1 (Village One #2)	2007	$721.93
077-064-067-000	2004-1 (Village One #2)	2007	$1,443.86
077-064-068-000	2004-1 (Village One #2)	2007	$1,443.86
077-064-073-000	2004-1 (Village One #2)	2007	$1,399.06
077-064-074-000	2004-1 (Village One #2)	2007	$1,399.06
077-065-034-000	2004-1 (Village One #2)	2007	$1,301.32
077-065-076-000	2004-1 (Village One #2)	2007	$1,301.32
077-066-036-000	2004-1 (Village One #2)	2007	$1,301.32
077-066-037-000	2004-1 (Village One #2)	2007	$1,301.32

Exhibit "A"

Delinquent Parcels as of July 9, 2008
CFD 2004-1 (Village One #2)

APN	CFD	Tax Year	Unpaid Taxes
077-066-038-000	2004-1 (Village One #2)	2007	$1,301.32
077-066-042-000	2004-1 (Village One #2)	2007	$1,301.32
077-066-043-000	2004-1 (Village One #2)	2007	$650.66
077-066-051-000	2004-1 (Village One #2)	2007	$1,301.32
077-066-061-000	2004-1 (Village One #2)	2007	$1,301.32
077-066-087-000	2004-1 (Village One #2)	2007	$650.66
077-067-002-000	2004-1 (Village One #2)	2007	$618.88
077-067-014-000	2004-1 (Village One #2)	2007	$1,237.76
077-067-016-000	2004-1 (Village One #2)	2007	$1,237.76
077-067-027-000	2004-1 (Village One #2)	2007	$1,237.76
077-067-028-000	2004-1 (Village One #2)	2007	$1,237.76
077-067-029-000	2004-1 (Village One #2)	2007	$1,237.76
077-067-046-000	2004-1 (Village One #2)	2007	$618.88
077-067-048-000	2004-1 (Village One #2)	2007	$1,237.76
077-067-049-000	2004-1 (Village One #2)	2007	$618.88
077-067-050-000	2004-1 (Village One #2)	2007	$1,237.76
077-067-061-000	2004-1 (Village One #2)	2007	$1,237.76
077-067-063-000	2004-1 (Village One #2)	2007	$1,237.76
077-067-069-000	2004-1 (Village One #2)	2007	$1,237.76
085-034-081-000	2004-1 (Village One #2)	2007	$679.70
085-034-082-000	2004-1 (Village One #2)	2007	$679.70
085-051-009-000	2004-1 (Village One #2)	2007	$1,166.60
085-051-024-000	2004-1 (Village One #2)	2007	$1,166.60
085-051-035-000	2004-1 (Village One #2)	2007	$1,166.60
085-051-036-000	2004-1 (Village One #2)	2007	$583.30
085-052-013-000	2004-1 (Village One #2)	2007	$848.12
085-052-014-000	2004-1 (Village One #2)	2007	$848.12
085-052-018-000	2004-1 (Village One #2)	2007	$433.05
085-052-019-000	2004-1 (Village One #2)	2007	$848.12

Exhibit "A"

Delinquent Parcels as of July 9, 2008
CFD 2004-1 (Village One #2)

APN	CFD	Tax Year	Unpaid Taxes
085-052-022-000	2004-1 (Village One #2)	2007	$848.12
085-052-028-000	2004-1 (Village One #2)	2007	$848.12
085-054-011-000	2004-1 (Village One #2)	2007	$433.05
085-054-012-000	2004-1 (Village One #2)	2007	$848.12
085-054-013-000	2004-1 (Village One #2)	2007	$848.12
085-054-015-000	2004-1 (Village One #2)	2007	$848.12
085-054-027-000	2004-1 (Village One #2)	2007	$433.05
085-054-033-250	2004-1 (Village One #2)	2007	$17.98
085-063-006-000	2004-1 (Village One #2)	2007	$598.66

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-408

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF FLUORESCENT INDUCTION LIGHTING FIXTURES FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, BUILDING AND PARKING SERVICES DIVISION, TO PARAGON LIGHT FIXTURE, L.P., SANTA CLARA, CA, FOR AN ESTIMATED TOTAL COST OF $123,312, AND AUTHORIZE THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER

WHEREAS, the City of Modesto Parks, Recreation and Neighborhoods Department, Building and Parking Services Division, operates and services the City's three (3) parking garages and three (3) surface parking lots, and

WHEREAS, through hourly parking rates and monthly contractual charges to area businesses, the City's parking facilities are fully funded, and

WHEREAS, in 2005, the City hired Walker Parking Consultants (Walker) to complete an assessment of the City owned parking facilities, and

WHEREAS, Walker's assessment included the financial condition of the Parking Services Division, a review of the current parking agreements, rates, equipment, management, administration, operations, and the feasibility of privatization of the parking system, and

WHEREAS, on September 12, 2006, by Resolution No. 2006-588, the Council authorized the department to move forward with implementation and up-grade of the lighting fixtures in the Ninth and Eleventh Street garages in order to increase safety features within the garages, and

WHEREAS, on April 22, 2008, by Resolution No. 2008-233, the Council authorized the Purchasing Manager to formally issue Request for Bids (RFB) for the

purchase of fluorescent induction lighting fixtures for the Parks, Recreation and Neighborhoods Department, Building and Parking Services Division, and

WHEREAS, on May 7, 2008, the Purchasing Division issued Request for Bid No. 0708-25 for the purchase of fluorescent induction lighting fixtures to ten (10) prospective bidders, five (5) 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 3, 2008, RFB's were formally opened in the City Clerk's office. Of the ten (10) prospective bidders, three (3) companies chose to respond. Of the three (3) bids received two (2) were considered responsive and responsible, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of fluorescent induction lighting fixtures for the Parks, Recreation and Neighborhoods Department, Building and Parking Services Division, to Paragon Light Fixture, L.P., Santa Clara, CA, for an estimated total cost of $123,312, 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 fluorescent induction lighting fixtures for the Parks, Recreation and Neighborhoods Department, Building and Parking Services Division, to Paragon Light Fixture, L.P., Santa Clara, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in account 6000-350-P597-6040 for the purchase of fluorescent induction lighting fixtures,

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 fluorescent induction lighting fixtures for the Parks, Recreation and Neighborhoods Department, Building and Parking Services Division, to Paragon Light Fixture, L.P., Santa Clara, CA, for an estimated total cost of $123,312.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2008, 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: _____
for STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-409

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO AMENDING THE FISCAL 2008-2009 FISCAL YEAR BUDGETS OF VARIOUS FUNDS TO REFLECT THE ROLLOVER OF ENCUMBRANCES FROM THE 2007-2008 FISCAL YEAR

WHEREAS, staff has established justification for the encumbrance of appropriations from the 2007-2008 fiscal year related to on-going work effort in various departments within the city; and

WHEREAS, the City Manager and Finance Director have reviewed the proposed encumbrances and have made a recommendation to rollover certain encumbrances to the 2008-2009 fiscal year; and

WHEREAS, the encumbrances that have been recommended for rollover into the 2008-2009 fiscal year are shown in **Exhibit A**, which is incorporated by reference herein; and

WHEREAS, the City Council has considered the recommended encumbrances and determined which items shall be rolled over to the 2008-2009 fiscal year;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Finance Director to take all steps necessary to amend the various budgets by the amounts shown in **Exhibit A** to this resolution, including all related revenues, in order to properly reflect these amounts in the 2008-2009 fiscal year.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2008, 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

Fund	Agy	Org	Object	Vendor name	PO Number	P.O. Amount	Balance Remaining	Po date
0100	010	0101	0235	CPS-HUMAN RESOURCE SERVICES	PCSA07064	24,933	4,155	06/19/2007
	010 Total - City Council					**24,933**	**4,155**	
0100	020	0201	0235	GOODWIN CONSULTING GROUP	PCSA06069	62,263	9,179	06/30/2006
0100	020	0201	0235	PILLSBURY WINTHROP SHAW	PCSA06053	280,000	20,000	04/24/2006
0	020	0201	0235	AARON READ & ASSOCIATES LLC	PCSA07012	153,684	5,775	09/14/2006
	020 Total - City Manager					**495,947**	**34,954**	
0100	070	0219	0235	SIRE TECHNOLOGIES	PC07-05443-1	33,123	600	12/21/2007
	070 Total - IT					**33,123**	**600**	
0100	030	0301	0235	BEESON TAYER & BODINE	PCSA07009	71,000	35,381	08/21/2006
0100	030	0301	0235	BRYCE CONSULTING INC	PCSA07030	139,800	16,922	01/16/2007
0100	030	0301	0301	NETLOGIC	PC07-06021	670	295	06/25/2007
0100	030	0301	0301	VENDOR TO BE DETERMINED	PC07-05425	2,500	2,500	06/08/2007
0100	030	0301	0350	VENDOR TO BE DETERMINED	PC07-05425	3,000	3,000	06/08/2007
	030 Total - Personnel					**216,970**	**58,098**	
0100	040	0401	0235	NATIONAL DEMOGRAPHICS CORP	PCSA08054	18,000	18,000	06/30/2008
0100	040	0401	5000	FACILITIES MAINTENANCE	PC08-06801	12,555	12,555	06/18/2008
	040 Total - City Attorney					**30,555**	**30,555**	
0100	050	0503	0235	MAZE & ASSOCIATES	PCSA04039A-1	33,380	2,205	06/13/2006
	050 Total - City Clerk					**33,380**	**2,205**	
0100	120	1205	0235	MAXIMUS	PCSA07063	33,500	20,300	06/19/2007
0100	120	1205	0235	PUBLIC RESOURCE MANAGEMENT	PCSA08040	47,000	23,500	04/16/2008
0100	120	1205	0235	VENDOR TO BE DETERMINED	PC08-06810	64,088	64,088	06/20/2008
0100	120	1221	0235	KELLER GROUP OFFICE	PC08-06589	9,774	9,774	04/15/2008
0100	120	1221	0235	VENDOR TO BE DETERMINED	PC08-06838	16,000	16,000	06/27/2008
0100	120	1223	0223	SUNGARD HTE INC	PC08-06791	1,164	1,164	06/17/2008
0100	120	1223	5900	SELECTRON TECHNOLOGIES INC	PC03-99692	20,056	11,556	06/30/2003
0100	120	1224	0235	MEYERS NAVE RIBACK SILVER &	PCSA04051	40,000	13,550	06/28/2004
0100	120	1232	0235	PACIFIC STORAGE CO	PCSC08036	929	203	10/04/2007
0100	120	1234	5401	T2 SYSTEMS INC	PC06-04682-1	89,102	9,565	10/03/2007
	120 Total - Finance					**321,612**	**169,699**	
0	140	1400	0235	RIVERA MICAHLYNN	PCSA05014	151,116	37,932	09/17/2004
0100	140	1401	0235	BUREAU VERITAS NORTH AMERICA	PCSA08045	25,000	25,000	04/16/2008
0100	140	1401	0235	CSG CONSULTANTS INC	PCSA08046	25,000	25,000	05/05/2008
0100	140	1401	0235	DELL MARKETING L P	PC08-06768	796	796	06/13/2008
0100	140	1401	0235	DELL MARKETING L P	PC08-O6769	3,744	3,744	06/16/2008
0100	140	1401	0235	NAFFA INTERNATIONAL INC	PCSA08043	25,000	25,000	04/16/2008
0100	140	1401	0235	PRECISION INSPECTION CO INC	PCSA07029	200,000	77,767	01/04/2007
0100	140	1401	0235	SCOTT FAZEKAS & ASSOCIATES INC	PCSA08044	25,000	25,000	04/16/2008
0100	140	1401	0235	SOLID NETWORKS	PC08-06767	3,073	3,073	06/12/2008
0100	140	1401	0235	STOCKTON BLUEPRINT & SUPPLY	PCSA04044	94,276	30,306	05/14/2004
0100	140	1401	0353	NEXTEL COMMUNICATIONS	PC08-06079	111	111	07/17/2007
0100	140	1401	0354	TECH DEPOT INC	PC08-06840	858	858	06/27/2008
0100	140	1401	5020	IKON OFFICE SOLUTIONS INC	PC08-06781	21,527	21,527	06/16/2008
0100	140	1413	0235	STANTEC CONSULTING INC	PC01-93954-2	18,696	18,696	09/17/2007
0100	140	1421	0230	CHABIN CONCEPTS INC	PC08-06578	25,638	10,163	04/07/2008
0100	140	1430	0235	HAAG JERRY	PCSA05084	35,462	3,784	06/30/2005
0100	140	1430	0235	KELLER GROUP OFFICE	PC08-06696	1,313	1,313	05/28/2008
0100	140	1430	0235	KRAMER TELECOM LAW FIRM PC	PCSA08055	24,000	24,000	06/30/2008
0100	140	1430	0235	OSNER GEORGE	PCSA05083-1	143,315	86	11/15/2005
0100	140	1430	0235	PMC - PACIFIC MUNICIPAL	PCSA07031-1	25,000	8,874	11/21/2007
0100	140	1430	0235	PACIFIC MUNICIPAL CONSULTANTS	PCSA07031	56,881	6,176	01/22/2007
	140 Total - CEDD					**905,806**	**349,206**	
0100	180	1810	0235	TRI-SIGNAL INTEGRATION INC	PCSC08041	1,224	918	03/14/2008
0100	180	1810	0308	AMAZING BACK STORE	PC08-06498	3,651	3,651	02/15/2008
( )	180	1810	0308	EXTREME SAFETY	PC08-06214	7,932	4,237	09/24/2007
( )	180	1810	0308	MEDTRONIC PHYSIO CONTROL CORP	PC08-06567	15,373	15,373	04/01/2008
0100	180	1810	0308	MOORING TECH INC	PC08-06834	11,194	11,194	06/26/2008
0100	180	1810	0308	ZOLL DATA SYSTEMS INC	PC08-06617	5,000	5,000	04/28/2008
0100	180	1810	0308	ZOLL DATA SYSTEMS INC	PC08-06616	33,203	25,152	04/28/2008
0100	180	1815	0223	BURTON'S FIRE INC	PC08-06765	2,444	2,444	06/12/2008
	180 Total - Fire					**80,021**	**67,968**	

Fund	Agy	Org	Object	Vendor name	PO Number	P.O. Amount	Balance Remaining	Po date
0100	190	1921	0223	SYSTEM CONCEPTS INC	PC08-06831	11,439	11,439	06/25/2008
0100	190	1921	0235	ROLAND JOCELYN E PH D	PCSA08012	52,000	4,667	08/31/2007
0100	190	1921	0235	VENDOR TO BE DETERMINED	PC08-06808	12,500	12,500	06/19/2008
0100	190	1921	0308	SAN DIEGO POLICE EQUIP CO	PCA07522	75,902	17,861	01/12/2007
0100	190	1930	0235	ACTION TARGET	PC08-06287	2,508	2,508	10/26/200
0100	190	1961	0223	DELTA WIRELESS INC	PC08-06770	16,500	16,500	06/12/200
0100	190	1961	0308	GIBSON & BARNES	PC08-06606	3,663	3,591	04/21/200
0100	190	1961	0308	MARLOW WHITE UNIFORMS	PC08-06764	3,630	3,630	06/12/2008
0100	190	1961	0308	PROFORCE LAW ENFORCEMENT	PC08-06792	23,778	23,778	06/17/2008
0100	190	1961	0356	ALL STATE POLICE EQUIPMENT CO	PC08-06644	2,562	2,562	05/09/2008
0100	190	1961	5401	VENDOR TO BE DETERMINED	PC08-06706	400,000	400,000	05/30/2008
0100	190	1961	5500	OPTICAL SYSTEMS TECHNOLOGY INC	PC08-06708	18,095	18,095	06/02/2008
0100	190	1964	0260	CITYGATE ASSOCIATES, LLC	PCSA08053	25,000	25,000	06/20/2008
0100	190	1966	0356	VANSON LEATHER INC	PC08-06627	2,709	2,709	05/02/2008
	190 Total - Police					**650,287**	**544,840**	
0100	300	3001	0205	NEVER BORING DESIGN ASSOCIATES	PC08-06299	14,112	14,112	10/30/2007
0100	300	3001	0205	PARKS PRINTING	PC08-06771	3,249	3,249	06/12/2008
0100	300	3001	0205	WILLEY PRINTING CO., INC.	PC08-06752	1,490	1,490	06/11/2008
0100	300	3001	0205	WILLEY PRINTING CO., INC.	PC08-06751	1,490	1,490	06/11/2008
0100	300	3001	0205	WILLEY PRINTING CO., INC.	PC08-06753	1,490	1,490	06/11/2008
0100	300	3001	0235	GRAHAM ADRIENNE L AICP	PCSA06047-2	9,315	9,315	07/24/2007
0100	300	3020	0235	BURTON AND WILSON PIANO	PC08-06570	16,838	8,194	04/02/2008
0100	350	3522	0235	K & D ENTERPRISES INC.	PC08-06778	8,164	8,164	06/13/2008
0100	350	3522	0235	MODESTO SAND & GRAVEL, INC	PC08-06430-1	11,465	9,140	01/14/2008
0100	350	3522	0360	K & D ENTERPRISES INC.	PC08-06291	34,365	18,226	10/26/2007
0100	360	3612	0235	BURTON AND WILSON PIANO	PC08-06570	450	450	04/02/2008
0100	370	3712	0235	CRITERION PICTURES	PC08-06690	1,010	1,010	05/30/2008
0100	370	3712	0315	IMPACT! PROMOTIONS INC	PC08-06721	1,260	1,260	06/04/2008
0100	350	3801	0235	THE ACTIVE NETWORK LTD	PC07-06018	1,320	1,320	06/25/2007
	300 Total - PR&N					**106,019**	**78,910**	
0100	480	4712	0240	SHERIFF'S DEPARTMENT	PCSA08019	104,657	24,427	11/15/200
0100	480	4722	0360	STEAM CLEANERS STOCKTON INC	PC08-06739	7,696	7,696	06/09/200
	480 Total - Public Works					**112,353**	**32,123**	
0100 Total				***GENERAL FUND***		**3,011,005**	**1,373,313**	
0300	420	4212	5500	VENDOR TO BE DETERMINED	PC08-06766	38,118	38,118	06/12/2008
0300	420	4212	5600	CALIFORNIA SURVEY & DRAFTING	PC07-05452	40,835	126	06/15/2007
0300	420	4212	5600	DELL MARKETING L P	PC08-06757	2,239	2,239	06/11/2008
0300	420	4212	5700	DOWNTOWN FORD SALES	PC08-06712	18,731	18,731	06/02/2008
0300 Total				***CAPITAL IMPROVEMENT SUPPORT***		**99,923**	**59,213**	
0310	355	4402	0235	KELLER GROUP OFFICE	PC08-06744	16,494	16,494	06/11/2008
0310	355	4402	0237	RUBBERSIDEWALKS INC	PCA08517	25,500	8,839	02/28/2008
0310 Total				***SOLID WASTE SPECIAL REVENUE***		**41,994**	**25,333**	
0330	430	4305	0235	HARRIS AND ASSOCIATES	PCSA08007B-1	60,000	28,873	08/06/2007
0330 Total				***DEVELOPERS FUND***		**60,000**	**28,873**	
0360	355	4403	0235	SCS FIELD SERVICES	PCSA07067	22,157	20,177	06/26/2007
0360 Total				***CARPENTER ROAD LANDFILL***		**22,157**	**20,177**	
0400	190	2922	5401	PARTNERS DATA SYSTEMS INC	PC08-06741	1,229	1,229	06/09/2008
0400	190	2923	5000	SALIENT STILLS INC	PC08-06628	20,347	20,347	05/05/2008
0400	190	2923	5011	SYSTEM CONCEPTS INC	PC08-06831	80,000	80,000	06/25/2008
0400	190	2923	5012	DEHART SHEET METAL & PLUMBING	PC07-05448-2	53,500	53,500	04/16/2008
0400	190	2923	5013	XIOTECH	PC08-06756	67,567	67,567	06/11/2008
0400	190	2923	5016	DEHART SHEET METAL & PLUMBING	PC07-05448-2	19,631	19,631	04/16/2008
0400	190	2991	5435	SUNGARD HTE INC	PC05-02423	9,020	4,820	02/28/2005
0400	355	4434	0230	QUALITY VIDEO SERVICE	PC08-06506	10,000	8,000	02/25/200
0400 Total				***OPERATIONS BLOCK GRANTS***		**261,293**	**255,093**	
0410	190	2969	0308	CHANNING L BETE CO, INC.	PC08-06759	7,283	7,283	06/12/2008
0410	355	4431	0230	CLEAR CHANNEL COMMUNICATIONS	PC08-06677	2,000	2,000	05/21/2008
0410	355	4436	0237	RUBBERSIDEWALKS INC	PCA08517	51,300	34,639	02/28/2008
0410 Total				***OPERATIONS REIMBURSED GRANTS***		**60,583**	**43,922**	
0700	160	1612	0235	DEPT OF TRANSPORTATION	PCSA08051	10,500	10,500	05/27/2008

Fund	Agy	Org	Object	Vendor name	PO Number	P.O. Amount	Balance Remaining	Po date
0700	160	1630	0365	ADVANCED TRAFFIC PRODUCTS INC	PC08-06687	28,131	28,131	05/23/2008
0700	480	4612	5500	RH AIR CONDITIONING SERVICES	PC08-06825	4,936	4,936	06/25/2008
0700	480	4622	0308	PACIFIC PRODUCTS & SERVICES	PC08-06779	4,996	4,996	06/13/2008
0700	480	4622	0360	WESTERN HIGHWAY PRODUCTS	PC08-06579	617	617	04/09/2008
0	480	4622	0360	ZUMAR INDUSTRIES INC	PC08-06580	13,418	13,418	04/09/2008
0	480	4622	5600	VENDOR TO BE DETERMINED	PC08-06813	4,513	4,513	06/20/2008
0700	480	4724	0360	RUBBERSIDEWALKS INC	PCA08517	24,166	7,505	02/28/2008
0700	160	E453	6040	GOLDEN STATE UTILITY COMPANY	PC08-06793	15,865	15,865	06/18/2008
0700	160	E453	6040	SMARTSTUD SYSTEMS INC	PC08-06614	11,648	11,648	04/25/2008
0700	430	F265	6040	KLEINFELDER & ASSOC.	PCSA05063	14,072	11,518	04/15/2005
0700	430	H485	6010	IMS INFRASTRUCTURE MANAGEMENT	PCSA08003	378,000	117,571	08/07/2007
0700 Total				***SPECIAL GAS TAX FUND***		**510,862**	**231,217**	
0800	140	1422	0235	DOWLING ASSOCIATES	PCSA03064	35,434	25,186	03/25/2003
0800	140	1422	0235	DOWLING ASSOCIATES	PCSA02005	43,401	32,358	09/28/2001
0800	140	1422	0235	OVERLAND PACIFIC & CUTLER INC	PCSA03063-1	15,000	13,203	09/28/2004
0800	140	1422	0235	PBS&J	PCSA03065-1	24,889	9,425	01/15/2008
0800	140	1435	0235	VERONICA TAM & ASSOCIATES LLC	PCSA08006	49,820	17,240	08/06/2007
0800	140	1440	0235	JONES AND STOKES	PCSA07013-1	11,520	170	08/06/2007
0800	140	1440	0235	JONES AND STOKES	PCSA07013	937,280	364,230	09/29/2006
0800	140	1444	0235	TURNSTONE CONSULTING CORP	PCSA05044-4	202,497	33,045	03/20/2007
0800	140	1447	0235	HAAG JERRY	PCSA05084-1	11,327	10,927	11/20/2007
0800	140	1447	0235	HAAG JERRY	PCSA05084	39,170	2,030	06/30/2005
0800	140	1447	0235	IMPACT SCIENCES	PCSA06014-1	265,402	32,180	06/13/2006
0800	140	1451	0235	PACIFIC MUNICIPAL CONSULTANTS	PCSA07035A	56,958	11,998	02/14/2007
0800	140	1451	0235	TURNSTONE CONSULTING CORP	PCSA06060-1	119,000	119,000	06/30/2006
0800	140	1452	0235	HAAG JERRY	PCSA05084	23,000	9,600	06/30/2005
0800	140	1452	0235	PACIFIC MUNICIPAL CONSULTANTS	PCSA07022	230,300	116,604	12/14/2006
0800	140	1454	0235	TURNSTONE CONSULTING CORP	PCSA06060-1	483,202	164,116	06/30/2006
0800	140	1456	0235	PMC - PACIFIC MUNICIPAL	PCSA07031-1	1,000	225	11/21/2007
0 Total				***ECONOMIC DEVELOPMENT***		**2,549,200**	**961,537**	
1	430	K859	6030	OVERLAND PACIFIC & CUTLER INC	PC06-02866	7,995	4,130	07/25/2005
1300	310	M163	6040	BANK OF SACRAMENTO ESCROW DEPT	PCCC06022-1	18,528	1,359	06/13/2006
1300	310	M163	6040	MCFADDEN CONSTRUCTION	PCCC06022	4,288,803	164,367	05/24/2006
1300	310	M163	6060	HARRIS AND ASSOCIATES	PCSA08016-1	105,040	80	10/15/2007
1300	310	M163	6070	KELLER GROUP OFFICE	PC08-06388	42,351	42,351	12/19/2007
1300	310	M163	6070	PROMAXIMA MANUFACTURING	PC08-06439	19,000	9,000	01/16/2008
1300	310	M163	6070	TECH DEPOT BY OFFICE DEPOT	PC08-06608	1,339	1,339	04/23/2008
1300	190	M168	6040	ACTION TARGET	PC08-06287	11,751	11,751	10/26/2007
1300	190	M168	6040	BARHAM CONSTRUCTORS INC	PCCC06025	266,439	2,131	06/13/2006
1300	190	M168	6040	K C'S HEATING &	PC08-06508	10,400	2,080	02/26/2008
1300	190	M168	6040	MODESTO OVERHEAD DOOR	PC08-06619	2,938	2,938	04/30/2008
1300	190	M168	6040	PHILLIPS GENERAL CONSTRUCTION	PC07-05257	23,255	5,712	04/06/2007
1300	190	M168	6040	SOUZA PROPANE	PC07-05139	1,794	1,089	02/06/2007
1300	120	Q237	6010	PACIFIC DESIGN ASSOCIATES INC	PCSA05058	19,809	4,267	04/01/2005
1300 Total				***SPECIAL FUND FOR CAPITAL OUTLAY***		**4,819,441**	**252,594**	
1350	310	P380	6010	VERDE DESIGN INC	PCSA06049-1	10,798	6,060	08/31/2007
1350	310	P380	6040	TIM PAXIN'S	PCCC08011	190,368	22,941	03/05/2008
1350	310	P855	6040	GROVER LANDSCAPING SERVICES	PC08-06297	3,770	3,770	10/29/2007
1350	310	P855	6040	K & D ENTERPRISES INC.	PC08-06291	4,272	4,272	10/26/2007
1350	310	P856	6010	MOORE IACOFANO GOLTSMAN INC	PCSA08047	194,903	188,804	05/05/2008
1350 Total				***PARKS CAPITAL FACILITY FUND***		**404,112**	**225,848**	
1390	140	0260	0242	ECONOMIC & PLANNING SYSTEMS	PCSA07062-1	60,000	60,000	07/24/2007
1390	140	0266	0242	OMNI MEANS LTD INC	PCSA08025	98,720	57,419	12/20/2007
1390 Total				***ADMINISTRATIVE CAPITIAL FAC. FUND***		**158,720**	**117,419**	
0	310	M185	6040	IZONE	PC08-06350	572	572	11/27/2007
0	310	M185	6040	SUPERIOR SOIL SUPPLEMENTS	PC08-06382	43,630	1,010	12/14/2007
1400	310	P493	6040	GROVER LANDSCAPING SERVICES	PC08-06612	1,445	1,445	04/24/2008
1400	310	P854	6010	PACIFIC DESIGN ASSOCIATES INC	PCSA08023	157,500	49,725	01/11/2008
1400 Total				***PARKS CAPITAL PROJECT FUND***		**203,147**	**52,752**	
1410	160	E659	6041	ITERIS INC	PC08-06423	26,381	26,381	12/31/2007
1410	160	E740	6001	DOKKEN ENGINEERING	PCSA07028	650,000	272,794	12/20/2006

Fund	Agy	Org	Object	Vendor name	PO Number	P.O. Amount	Balance Remaining	Po date
1410	160	E740	6010	DOKKEN ENGINEERING	PCSA07028	223,752	223,752	12/20/2006
1410	430	H001	6010	STANTEC CONSULTING INC	PCSA08015-3	65,000	34,136	11/20/2007
1410	430	H422	6040	KAISER PERMANENTE	PCSA07073	180,880	180,880	06/30/2007
1410	430	H424	6010	HARRIS AND ASSOCIATES	PCSA08007A-1	49,600	17,258	08/06/2007
1410	430	H455	6010	ASSOCIATED ENGINEERING GROUP	PCSA07059	65,508	37,159	06/06/200
1410	430	H461	6010	HARRIS AND ASSOCIATES	PCSA08007A-1	65,000	14,980	08/06/200
1410	430	H461	6010	WOOD RODGERS INC	PCSA06007	940,788	89,894	08/15/200
1410	430	H461	6060	TRS CONSULTANTS INC	PCSA07071	1,408,633	1,408,633	06/29/2007
1410	430	H465	6010	DOKKEN ENGINEERING	PCSC01089-1	40,402	18,923	09/24/2007
1410	430	Q210	6030	ASSOCIATED RIGHT OF WAY	PCSA05067	11,500	1,659	05/02/2005
1410	430	Q210	6030	ASSOCIATED RIGHT OF WAY	PCSA07047	13,000	2,638	04/10/2007
1410 Total				***STREET CAPITAL FACILITY FUND***		**3,740,445**	**2,329,086**	
2300	310	A012	6010	PACIFIC DESIGN ASSOCIATES INC	PCSA07034	70,575	11,833	02/14/2007
2300	310	A080	6010	CALLANDER ASSOCIATES	PCSA05022	172,665	6,883	11/18/2004
2300	310	A080	6040	ELITE LANDSCAPING INC	PCCC08012	864,286	650,302	03/20/2008
2300	160	N060	6040	RODGERS CONSTRUCTION AND	PCCC05020	195,499	118,815	06/03/2005
2300	310	P365	6010	BIGGS CARDOSA ASSOCIATES INC	PCSA08035	540,475	421,510	03/20/2008
2300	310	P713	6010	CALLANDER ASSOCIATES	PCSA05046	31,385	6,008	02/04/2005
2300	310	P713	6040	GAMETIME C/O CSR	PC08-06816	48,654	48,654	06/20/2008
2300	310	P713	6040	IZONE	PC08-06709	1,915	1,915	06/03/2008
2300	310	P713	6040	ROSS RECREATION EQUIPMENT	PC08-06815	15,285	15,285	06/20/2008
2300	310	P713	6050	GEORGE REED INC	PCCC08002	123,802	54,370	10/02/2007
2300	310	P713	6060	ICM GROUP INC	PCSA07072	132,864	1,361	06/29/2007
2300 Total				***CAPITAL GRANTS***		**2,197,406**	**1,336,935**	
2330	310	P502	6010	O'DELL ENGINEERING	PC05-02661	8,850	1,578	05/20/2005
2330	310	P502	6040	SUNWORLD	PCCC08009	480,106	480,106	02/11/2008
2330 Total				***PARKS CAPITAL GRANTS***		**488,956**	**481,684**	
2370	160	E667	6040	JOHN D BAKER CONSTRUCTION CO	PCCC07012	235,600	1	03/15/2007
2370	160	E667	6050	JOHN D BAKER CONSTRUCTION CO	PCCC07012	8,419	1,723	03/15/2007
2370	160	E687	6010	MINAGAR AND ASSOCIATES	PCSA08052	53,235	37,492	05/27/200
2370	430	H404	6040	TOM MAYO CONSTRUCTION	PCCC08003	1,156,257	0	09/10/200
2370	430	H404	6050	TOM MAYO CONSTRUCTION	PCCC08003	70,789	56,725	09/10/200
2370	430	H580	6040	TOP GRADE CONSTRUCTION	PCCC08013	1,827,978	1,667,708	03/20/2008
2370	430	H769	6010	NICHOLS CONSULTING ENGINEERS	PCSA08048	33,848	33,848	05/05/2008
2370	430	H769	6010	STANTEC CONSULTING INC	PCSA07049-1	21,200	3,954	04/30/2007
2370	430	H930	6010	HARRIS AND ASSOCIATES	PCSA08007B-1	120,000	60,500	08/06/2007
2370	430	H930	6010	MARK THOMAS & CO INCORPORATED	PCSA08027	140,210	112,652	01/11/2008
2370	430	H930	6050	CLYDE WHEELER PIPELINE INC	PCCC08007	6,889	5,273	02/11/2008
2370	430	H930	6060	TRS CONSULTANTS INC	PCSA08049	594,834	594,834	05/05/2008
2370 Total				***GAS TAX CAPITAL GRANTS***		**4,269,261**	**2,574,710**	
2680	020	A102	6010	O'DELL ENGINEERING	PCSA06025	12,740	3,533	11/21/2005
2680	020	A102	6040	ROSS F. CARROL, INC	PCCC08015	590,692	590,692	05/30/2008
2680	020	Q318	6050	TNT INDUSTRIAL CONTRACTORS INC	PCCC06019-1	111,175	38,870	10/11/2007
2680 Total				***PELANDALE/SNYDER CFD***		**714,607**	**633,095**	
2690	020	X536	6010	BOYLE ENGINEERING CORPORATION	PCSA07043	252,129	252,129	03/16/2007
2690 Total				***VILLAGE 1 CFD***		**252,129**	**252,129**	
2691	020	Q310	6010	O'DELL ENGINEERING	PCSA07036	15,659	2,766	02/14/2007
2691	020	Q310	6040	ODYSSEY LANDSCAPE CO INC	PCCC08006	152,079	10,668	01/11/2008
2691	020	Q310	6050	ODYSSEY LANDSCAPE CO INC	PCCC08006	6,943	6,943	01/11/2008
2691	020	Q310	6060	HARRIS AND ASSOCIATES	PCSA07024	210,620	29,579	12/14/2006
2691	020	Q315	6010	ASSOCIATED ENGINEERING GROUP	PCSA07058	26,747	9,048	06/06/2007
2691	020	X512	6010	CAD MASTERS INC	PCSA07000-1	5,115	5,115	07/21/2006
2691	020	X512	6010	O'DELL ENGINEERING	PCSA07016	174,415	6,600	09/29/2006
2691	020	X512	6030	OVERLAND PACIFIC & CUTLER INC	PCSA07044	9,450	120	03/16/2007
2691	020	X512	6040	GEORGE REED INC	PCCC08016	2,072,324	2,072,324	06/13/20
2691	020	X532	6010	RBF CONSULTING	PCSA08013	285,469	130,622	09/10/20
2691	020	X532	6030	COGDILL AND GIOMI	PC08-06656	10,000	10,000	05/14/200
2691 Total				***VILLAGE 1 #2 CFD***		**2,968,821**	**2,283,785**	
2900	140	0250	0235	KELLER GROUP OFFICE	PC08-06696	6,752	6,752	05/28/2008
2900	020	0261	0235	HARRIS AND ASSOCIATES	PCSA07044-1	184,100	20,892	04/03/2007
2900	020	0262	0235	HARRIS AND ASSOCIATES	PCSA07044-2	200,000	48,812	04/03/2007

Fund	Agy	Org	Object	Vendor name	PO Number	P.O. Amount	Balance Remaining	Po date
2900	020	0263	0235	MUNI FINANCIAL INC	PCSA07045-1	136,471	25,938	04/03/2007
2900	020	0264	0235	MUNI FINANCIAL INC	PCSA07045-2	437,100	235,309	04/03/2007
2900 Total				***INFRASTRUCTURE FINANCING PRG ADM.***		**964,423**	**337,704**	
6000	350	3582	0216	CALE PARKING SYSTEMS USA INC	PC08-06102	17,487	14,640	07/27/2007
6[illegible]	350	3585	0360	COMPLERE ENGINEERING GROUP INC	PCSA07003-1	838	838	07/21/2006
6[illegible]	350	P597	6010	MILLER PEZZONI &ASSOCIATES INC	PCSA07021-7	17,400	17,400	06/29/2007
6000	350	P597	6040	KELLER GROUP OFFICE	PC08-06516	3,065	0	03/03/2008
6000	350	P597	6040	VENDOR TO BE DETERMINED	PC08-06704	801,250	801,250	05/30/2008
6000	350	P597	6040	VENDOR TO BE DETERMINED	PC08-06705	131,547	131,547	05/30/2008
6000 Total				***PARKING FUND***		**971,587**	**965,674**	
6100	480	5007	0223	HOWK SYSTEMS	PC08-06809	67,499	67,499	06/20/2008
6100	480	5007	0308	DITCH WITCH CENTRAL CALIFORNIA	PC08-06783	49,900	49,900	06/20/2008
6100	480	5007	0308	UNITED RENTALS	PC08-06784	3,670	3,670	06/20/2008
6100	480	5007	0360	BADGER METER	PC08-06631	44,884	13,087	05/06/2008
6100	480	5009	0306	SIRE TECHNOLOGIES	PC08-06634	1,469	1,469	05/07/2008
6100	480	5009	0360	AIRCALL WIRELESS	PC08-06671	955	955	05/20/2008
6100	480	5009	0360	KELLER GROUP OFFICE	PC08-06693	2,646	2,646	05/27/2008
6100	480	5009	0360	KELLER GROUP OFFICE	PC08-06669	2,152	2,152	05/16/2008
6100	480	5009	0360	KELLER GROUP OFFICE	PC08-06682	1,488	1,488	05/22/2008
6100	480	5012	0214	PARAMOUNT PEST CONTROL	PCSC08033	900	444	09/26/2007
6100	480	5012	0308	AT&T MOBILITY	PC08-06742	110	110	06/09/2008
6100	480	5012	0360	BADGER METER	PC08-06533	70,782	70,782	03/10/2008
6100	480	5013	0223	AMERINE SYSTEMS INC	PC08-06343	7,782	7,782	11/20/2007
6100	480	5013	0223	AMERINE SYSTEMS INC	PC08-06342	16,403	16,403	11/20/2007
6100	480	5013	0223	AMERINE SYSTEMS INC	PC08-06725	26,505	26,505	06/06/2008
6100	480	5013	0223	AMERINE SYSTEMS INC	PC08-06789	21,134	21,134	06/17/2008
6100	480	5013	0223	AMERINE SYSTEMS INC	PC08-06788	21,134	21,134	06/16/2008
6100	480	5013	0223	AMERINE SYSTEMS INC	PC08-06787	21,134	21,134	06/16/2008
6100	480	5013	0223	AMERINE SYSTEMS INC	PC08-06786	21,134	21,134	06/16/2008
6[illegible]	480	5013	0223	AMERINE SYSTEMS INC	PC08-06736	21,134	21,134	06/09/2008
6[illegible]	480	5013	0223	AMERINE SYSTEMS INC	PC08-06733	21,134	21,134	06/06/2008
6100	480	5013	0223	AMERINE SYSTEMS INC	PC08-06737	4,761	4,761	06/09/2008
6100	480	5013	0223	AMERINE SYSTEMS INC	PC08-06736	5,927	5,927	06/09/2008
6100	480	5013	0223	AMERINE SYSTEMS INC	PC08-06735	5,927	5,927	06/09/2008
6100	480	5013	0223	AMERINE SYSTEMS INC	PC08-06734	6,524	6,524	06/09/2008
6100	480	5013	0223	AMERINE SYSTEMS INC	PC08-06733	5,370	5,370	06/06/2008
6100	480	5013	0223	AMERINE SYSTEMS INC	PC08-06732	5,927	5,927	06/06/2008
6100	480	5013	0223	AMERINE SYSTEMS INC	PC08-06731	5,927	5,927	06/06/2008
6100	480	5013	0223	AMERINE SYSTEMS INC	PC08-06730	5,927	5,927	06/06/2008
6100	480	5013	0223	AMERINE SYSTEMS INC	PC08-06729	5,370	5,370	06/06/2008
6100	480	5013	0223	AMERINE SYSTEMS INC	PC08-06728	26,505	26,505	06/06/2008
6100	480	5013	0223	AMERINE SYSTEMS INC	PC08-06727	5,927	5,927	06/06/2008
6100	480	5013	0223	DON PEDRO PUMP INC	PC08-06462	21,720	21,720	01/25/2008
6100	480	5013	0230	CLEAR CHANNEL COMMUNICATIONS	PC08-06678	6,190	6,190	05/21/2008
6100	480	5013	0264	BASIN WATER TECHNOLOGY GROUP	PCSA06008-2	150,000	37,086	08/31/2007
6100	480	5013	0312	PREFERRED PUMP & EQUIPMENT LP	PC08-06630	18,844	18,844	05/05/2008
6100	480	5013	0360	CLARK SECURITY PRODUCTS	PC08-06710	8,910	8,910	06/02/2008
6100	480	5013	0360	FERGUSON ENTERPRISES INC	PC08-06680	34,030	34,030	05/21/2008
6100	480	5013	0360	HOWK SYSTEMS	PC08-06526	9,668	9,668	03/07/2008
6100	480	5013	0360	WILCO SUPPLY	PC08-06652	16,258	16,258	05/13/2008
6100	440	5015	0235	FCS GROUP	PCSA08030	152,284	94,517	02/28/2008
6100	440	5015	0235	WEST YOST & ASSOCIATES	PCSA04004	25,000	15,253	09/04/2003
6100	440	5015	0235	WEST YOST & ASSOCIATES	PCSA07001-3	21,000	2,962	10/26/2006
6100	480	5016	0235	HAROLD BARNETT	PC08-06345-1	9,000	5,214	11/21/2007
[illegible]0 Total				***WATER OPERATIONS***		**980,943**	**746,439**	
[illegible]0	430	A202	6010	WEST YOST & ASSOCIATES	PCSA06022	1,262,000	426,535	10/19/2005
[illegible]0	430	A202	6040	GEORGE REED INC	PCCC08002	151,620	13,017	10/02/2007
6180	430	W003	6010	HDR ENGINEERING	PCSA08042	244,600	224,890	04/16/2008
6180	430	W003	6010	OSNER, GEORGE	PCSA08036-5	7,000	3,906	05/27/2008
6180	430	W005	6010	HDR ENGINEERING	PCSA08042	150,000	130,290	04/16/2008
6180	430	W078	6040	MOZINGO CONSTRUCTION CO	PCCC08008	3,286,700	891,280	02/11/2008

Fund	Agy	Org	Object	Vendor name	PO Number	P.O. Amount	Balance Remaining	Po date
6180	430	W078	6050	MOZINGO CONSTRUCTION CO	PCCC08008	1,022	1,022	02/11/2008
6180	430	W133	6010	WEST YOST & ASSOCIATES	PCSA08041	619,004	539,581	04/16/2008
6180	430	W133	6010	WEST YOST & ASSOCIATES	PCSA08026	271,525	20,064	01/11/2008
6180	430	W361	6040	MOZINGO CONSTRUCTION CO	PCCC08017	2,685,000	2,685,000	06/27/2008
6180	480	W381	6070	BADGER METER	PC08-06777	65,000	65,000	06/13/200
6180	430	W410	6010	RMC WATER AND ENVIRONMETAL	PCSA06005-1	128,785	28,325	09/08/200
6180	430	W439	6010	JONES AND STOKES	PCSA08024	160,255	153,922	01/11/200
6180	430	W439	6010	OSNER GEORGE	PCSA08036-2	7,000	6,944	04/04/2008
6180	430	W439	6010	WEST YOST & ASSOCIATES	PCSA08021	381,938	146,681	11/20/2007
6180	430	W544	6041	GARY'S FENCING & WIRE SUPPLIES	PC08-06718	4,280	4,280	06/04/2008
6180	480	W572	6010	WOOD RODGERS INC	PCSA06007	26,180	26,180	08/15/2005
6180	430	W601	6010	DAMON S WILLIAMS ASSOCIATES	PCSA07020	57,396	13,849	11/15/2006
6180	480	W615	6040	GEOLOGICAL TECHNICS INC	PCSA04038-1	70,696	40,763	10/19/2004
6180	430	W629	6040	APPLIED PROCESS TECHNOLOGIES	PCSA06059	45,000	15,000	06/13/2006
6180	430	W714	6030	ASSOCIATED RIGHT OF WAY	PC07-05340	21,000	845	05/11/2007
6180	430	W717	6010	BROWN & CALDWELL	PCSA05070	49,500	20,500	05/20/2005
6180	430	W720	6010	MILLER PEZZONI &ASSOCIATES INC	PCSA05079-1	20,000	9,604	07/27/2005
6180	430	W730	6010	MILLER PEZZONI &ASSOCIATES INC	PCSA08005-8	3,750	1,310	09/10/2007
6180	430	W730	6041	FERGUSON ENTERPRISES INC	PC08-06493	60,977	27,920	02/14/2008
6180	430	W742	6010	MILLER PEZZONI &ASSOCIATES INC	PCSA08005-4	3,650	2,175	08/06/2007
6180	430	W742	6041	FERGUSON ENTERPRISES INC	PC08-06494	83,380	52,870	02/15/2008
6180	480	W943	6070	BADGER METER	PC08-06777	31,238	31,238	06/13/2008
6180	430	W976	6041	AMERINE SYSTEMS INC	PC07-05483	43,164	4,675	06/20/2007
6180	430	W976	6041	AMERINE SYSTEMS INC	PC07-05438	43,164	8,459	06/14/2007
6180	430	W976	6041	AMERINE SYSTEMS INC	PC07-05437	43,164	6,424	06/14/2007
6180	430	W976	6041	AMERINE SYSTEMS INC	PC07-05434	43,164	143	06/14/2007
6180 Total				***WATER CAPITAL PROJECTS***		**10,071,151**	**5,602,691**	
6210	440	5201	0235	CAROLLO ENGINEERS	PCSA08022-3	25,000	3,728	03/10/2008
6210	440	5201	0235	WILKOWSKY DANIEL I	PCSA08004	28,000	20,299	08/06/2007
6210	480	5208	0223	BRANOM INSTRUMENT COMPANY	PC08-06609	13,276	8,666	04/23/200
6210	480	5208	0223	FERGUSON ENTERPRISES	PC08-06740	1,602	1,602	06/09/200
6210	480	5209	0230	BOB MURRAY & ASSOCIATES	PCSA07066	35,000	11,736	06/19/200
6210	480	5209	0235	BROWN & CALDWELL	PCSA07075	34,868	25,381	06/30/2007
6210	480	5209	0235	KELLER GROUP OFFICE	PC08-06649	1,058	1,058	05/13/2008
6210	480	5210	0306	REXEL	PC08-06760	4,544	4,544	06/12/2008
6210	480	5210	5700	DOWNTOWN FORD SALES	PC08-06670	19,444	19,444	05/19/2008
6210	480	5210	5700	DOWNTOWN FORD SALES	PC08-06654	18,731	18,731	05/14/2008
6210	480	5211	0209	NETLOGIC	PC08-06613	5,000	5,000	04/25/2008
6210	480	5211	0223	BORGES AND MAHONEY	PC08-06763	4,454	4,454	06/12/2008
6210	480	5212	0235	ADVANCED INFRASTRUCTURE	PC08-06832	17,280	17,280	06/25/2008
6210	480	5212	0235	AVID TRAFFIC SUPPLIES	PC08-06818	15,569	15,569	06/23/2008
6210	480	5212	0235	AVID TRAFFIC SUPPLIES	PC08-06819	4,349	4,349	06/23/2008
6210	480	5212	0235	HDR ENGINEERING	PCSA05089	88,000	63,114	06/30/2005
6210	480	5212	0235	OSNER, GEORGE	PCSA08036-7	1,400	518	05/27/2008
6210	480	5212	0235	PEARPOINT INC	PC08-06754	4,832	4,832	06/11/2008
6210	480	5212	0235	PIPE LOGIX INC	PC08-06724	4,800	4,800	06/05/2008
6210	480	5212	0235	PIPELINE SERVICES INC	PC08-06672	6,400	6,400	05/20/2008
6210	480	5212	0235	RAIN FOR RENT	PC08-06674	125,000	125,000	05/20/2008
6210	480	5212	0235	RJN GROUP	PC08-06277	18,494	5,392	10/22/2007
6210	480	5212	0235	RJN GROUP	PC08-06707	26,700	26,700	05/30/2008
6210	480	5212	0235	UNITED RENTALS	PC08-06820	11,698	11,698	06/23/2008
6210	480	5212	0235	CLYDE WHEELER PIPELINE INC	PC08-06772	72,883	72,883	06/12/2008
6210	480	5212	0269	NEXUS IS INC	PC08-06613-1	1,814	1,814	04/25/2008
6210	480	5212	0269	NETLOGIC	PC08-06613	7,403	7,403	04/25/2008
6210	480	5213	0223	BOVEE ENVIROMENTAL MANAGENENT	PC08-06471	2,000	1,475	01/30/200
6210	480	5213	0223	WEST COAST SAND & GRAVEL INC	PC08-06266	6,891	6,891	10/16/200
6210	480	5213	0235	CAROLLO ENGINEERS	PCSA08022-1	25,000	27	11/20/200
6210	480	5213	0235	CAROLLO ENGINEERS	PCSA06035	215,000	87,821	01/13/2006
6210	480	5213	0235	CAROLLO ENGINEERS	PCSA06064	116,343	710	06/30/2006
6210	480	5213	0235	C & B CONSULTING ENGINEERS	PCSA07008	16,085	841	08/21/2006
6210	480	5213	0235	WILLIAM AVERY AND ASSOCIATES	PCSA06001-1	6,500	1,448	03/07/2008
6210	480	5214	0223	BENOIT SHEET METAL EQUIPMENT	PC08-06745	1,226	15	06/11/2008

Fund	Agy	Org	Object	Vendor name	PO Number	P.O. Amount	Balance Remaining	Po date
6210	480	5214	0223	DEHART SHEET METAL & PLUMBING	PC08-06824	1,761	1,761	06/24/2008
6210	480	5214	0223	FOXCROFT EQUIPMENT AND SERVICE	PCA07505	5,000	4,172	09/18/2006
6210	480	5214	0223	HAWORTH C/O	PC08-06837	2,048	2,048	06/26/2008
6210	480	5214	0223	INDUSTRIAL COMMUNICATION SALES	PC08-06822	1,694	1,694	06/23/2008
6[illegible]	480	5214	0223	INDUSTRIAL COMMUNICATION SALES	PC08-06817	752	752	06/23/2008
6[illegible]	480	5214	0223	INDUSTRIAL FENCE CO	PC08-06738	3,715	3,715	06/09/2008
6210	480	5214	0223	MODESTO STEEL	PC08-06648	1,740	119	05/13/2008
6210	480	5214	0223	REXEL NORCAL VALLEY	PC08-06452	2,993	541	01/18/2008
6210	480	5214	0223	TITAN FENCE	PC08-06703	1,091	1,091	05/30/2008
6210	480	5214	0235	BASE ASSOCIATES	PCSA08058	4,000	4,000	06/30/2008
6210	480	5214	0235	BARTKIEWICZ KRONICK & SHANAHAN	PC08-06750	3,000	3,000	06/11/2008
6210	480	5214	0235	CAROLLO ENGINEERS	PCSA06035	140,000	76,763	01/13/2006
6210	480	5214	0235	DANIEL J HINRICHS	PC04-99959	34,500	1,957	08/01/2003
6210	480	5214	0235	INDUSTRIAL COMMUNICATION SALES	PC08-06817	352	352	06/23/2008
6210	480	5214	0235	O'DELL ENGINEERING	PC08-06686	7,000	7,000	05/22/2008
6210	480	5214	0360	DEPARTMENT OF GENERAL SERVICES	PC06-04078-1	115	115	11/08/2005
6210	480	5214	0360	VENDOR TO BE DETERMINED	PC08-06773	86,007	86,007	06/12/2008
6210	480	5214	5020	BOSS BUSINESS SYSTEMS INC	PC08-06830	15,619	15,619	06/25/2008
6210	480	5215	0235	VENDOR TO BE DETERMINED	PC08-06782	39,441	39,441	06/13/2008
6210	480	5215	0312	FISHER SCIENTIFIC	PC08-06599	1,453	1,453	04/17/2008
6210	480	5215	0312	NETLOGIC	PC08-06613	5,000	5,000	04/25/2008
6210	480	5215	0312	VWR INTERNATIONAL	PC08-06761	15,476	15,476	06/12/2008
6210	480	5217	0235	ENFO TECH & CONSULTING INC	PC08-06722	6,666	6,666	06/04/2008
6210	480	5217	0235	LARRY WALKER ASSOCIATES	PCSA05081	478,226	94,918	06/20/2005
6210	480	5217	0235	SIRE TECHNOLOGIES	PC08-06634	1,469	1,469	05/07/2008
6210	480	5217	0235	VENDOR TO BE DETERMINED	PCSA08059	242,000	242,000	06/30/2008
6210	480	5217	5400	ENFO TECH & CONSULTING INC	PCA07540	96,000	37,478	05/10/2007
6210	430	A049	6010	BROWN & CALDWELL	PCSA05065	342,474	13,941	05/02/2005
6210	430	A049	6040	PACIFIC LINERS INC	PCCC06003	16,200	7,810	09/06/2005
6[illegible]	430	A049	6040	PRESTON PIPELINES INC	PCCC08019	24,000	24,000	06/27/2008
6[illegible]	430	A049	6050	CALIFORNIA TRENCHLESS INC	PCCC06017	150,680	150,680	03/27/2006
6[illegible]	430	A049	6060	COLE MANAGEMENT & ENGINEERING	PCSA06046	274,664	12,392	03/28/2006
6210	430	A208	6010	STANTEC CONSULTING INC	PCSA06010-2	5,810	4,985	07/24/2007
6210	430	A208	6010	TURNSTONE CONSULTING CORP	PCSA06011	456,396	8,494	09/22/2005
6210	430	A209	6080	CAROLLO ENGINEERS	PCSA08039	133,500	38,812	04/04/2008
6210	430	A209	6080	HDR ENGINEERING	PCSA07033	55,500	8,447	02/14/2007
6210	430	A215	6010	BROWN & CALDWELL	PCSA05037	741,719	6,988	01/27/2005
6210	430	A215	6040	KAWEAH CONSTRUCTION CO	PCCC07015	5,632,434	256,194	02/14/2007
6210	430	A215	6050	FRESNO FIRST BANK	PCCC07015-1	648,168	50,808	04/09/2007
6210	430	A215	6050	KAWEAH CONSTRUCTION CO	PCCC07015	201,075	201,075	02/14/2007
6210	430	A215	6060	CONSOLIDATED CM	PCSA07023	798,129	97,406	12/14/2006
6210	480	B001	6010	RJN GROUP	PC08-06277	36,000	7,500	10/22/2007
6210	480	B079	6040	VENDOR TO BE DETERMINED	PC08-06803	400,000	400,000	06/18/2008
6210	480	B079	6040	VENDOR TO BE DETERMINED	PC08-06804	42,000	42,000	06/18/2008
6210	480	B082	6040	VENDOR TO BE DETERMINED	PC08-06803	100,000	100,000	06/18/2008
6210	480	B082	6040	VENDOR TO BE DETERMINED	PC08-06804	42,000	42,000	06/18/2008
6210	480	B123	6081	STANTEC CONSULTING INC	PCSA08033	1,246,000	648,070	03/20/2008
6210	480	B177	6070	UNLIMITED ACTUATOR REPAIR	PC08-06337	3,042	3,042	11/20/2007
6210	480	B178	6070	UNLIMITED ACTUATOR REPAIR	PC08-06324	13,038	13,038	11/14/2007
6210	480	B183	6070	APPLIED INDUSTRIAL TECHNOLOGY	PC08-06664	2,774	2,774	05/15/2008
6210	480	B183	6070	WASTE TECH INC.	PC08-06698	3,636	3,636	05/28/2008
6210	430	B490	6010	STANTEC CONSULTING INC	PCSA04015-1	173,216	2,375	02/01/2005
6210	430	B490	6050	PRESTON PIPELINES INC	PCCC06020	148,077	113,433	04/27/2006
6210	430	B491	6010	OSNER GEORGE	PCSA08036-1	3,500	308	03/28/2008
6[illegible]0	430	B491	6010	STANTEC CONSULTING INC	PCSA08031	143,387	143,387	03/10/2008
6[illegible]0	430	B491	6010	STANTEC CONSULTING INC	PCSA04015-1	44,290	27,560	02/01/2005
6[illegible]0	480	B534	6040	ROLFE CONSTRUCTION	PCCC08018	55,840	55,840	06/27/2008
6210	480	B584	6010	PACIFIC DESIGN ASSOCIATES INC	PCSA08032	14,345	11,163	03/20/2008
6210	480	B584	6060	HARRIS AND ASSOCIATES	PCSA08016-3	40,120	31,060	10/15/2007
6210	480	B584	6070	ISEC INC	PC07-06048-1	66,124	66,124	10/05/2007
6210	430	B609	6010	HDR ENGINEERING	PCSA04010-1	114,552	41,442	11/24/2004
6210	430	B609	6010	MILLER PEZZONI &ASSOCIATES INC	PCSA02010-1	3,123	3,123	11/24/2004

Fund	Agy	Org	Object	Vendor name	PO Number	P.O. Amount	Balance Remaining	Po date
6210	430	B609	6040	PRESTON PIPELINES INC	PCCC07020	1,794,000	62,967	03/16/2007
6210	430	B609	6050	PRESTON PIPELINES INC	PCCC07020	29,140	29,140	03/16/2007
6210	430	B627	6040	D A WOOD CONSTRUCTION	PCCC07014	672,024	3,360	02/14/2007
6210	430	B627	6060	HARRIS AND ASSOCIATES	PCSA07042-1	19,970	13,000	10/15/2007
6210	480	B805	6010	CAROLLO ENGINEERS	PCSA08002	1,916,195	442,212	08/07/200
6210	480	B805	6010	RMC WATER AND ENVIRONMETAL	PCSA07052	85,000	11,494	05/09/200
6210	480	B805	6040	ZENON ENVIRONMENTAL CORP C/O	PCCC08014	4,532,484	4,532,484	03/28/200
6210	480	B805	6060	CONSOLIDATED CM	PCSA08050	1,123,346	1,123,346	05/27/2008
6210	480	B806	6010	RMC WATER AND ENVIRONMETAL	PCSA07052	362,250	198,656	05/09/2007
6210	480	B808	6010	BROWN & CALDWELL	PCSA08038	729,605	636,043	04/04/2008
6210	480	B808	6010	BROWN & CALDWELL	PCSA07069	374,931	30,789	06/29/2007
6210	480	B808	6010	CAROLLO ENGINEERS	PCSA08022-2	15,000	1,225	01/11/2008
6210	480	B808	6010	OSNER, GEORGE	PCSA08036-4	840	728	05/27/2008
6210	480	B808	6010	RMC WATER AND ENVIRONMETAL	PCSA07053	113,520	53,860	05/09/2007
6210	480	B812	6010	BROWN & CALDWELL	PCSA08037	866,141	838,670	04/04/2008
6210	480	B812	6010	BROWN & CALDWELL	PCSA07070	384,966	43,123	06/29/2007
6210	480	B812	6010	CHICAGO TITLE COMPANY	PC08-06145	5,000	1,500	08/23/2007
6210	480	B812	6010	OSNER, GEORGE	PCSA08036-3	3,360	3,136	05/27/2008
6210	480	B812	6010	RMC WATER AND ENVIRONMETAL	PCSA07054	124,380	48,249	05/09/2007
6210	480	B827	6010	CENTRAL VALLEY CONCRETE INC	PC08-06681	15,778	15,778	05/21/2008
6210	480	B986	6070	BORGES & MAHONEY INC	PC08-06651	8,813	8,813	05/13/2008
6210 Total				***SEWER OPERATIONS***		**27,536,316**	**11,984,706**	
6280	480	5310	0223	BRANOM INSTRUMENT COMPANY	PC08-06609	7,742	7,742	04/23/2008
6280	480	5310	0223	JM SQUARED	PC08-06711	22,061	22,061	06/02/2008
6280	480	5310	0223	PLAN IT BUILDING MAINTENANCE	PC08-06814	593	593	06/20/2008
6280	480	5310	0223	RODNEY HUNT COMPANY INC	PC08-06802	16,500	16,500	06/27/2008
6280	480	5310	0223	SHAPE INC	PC08-06715	6,732	6,732	06/03/2008
6280	480	5310	0223	SHAPE INC	PC08-06697	5,530	5,530	05/28/2008
6280	480	5310	0235	JM SQUARED	PC08-06802A	1,950	1,950	06/27/2008
6280	480	5310	0235	RODNEY HUNT COMPANY INC	PC08-06802	1,505	1,505	06/27/200
6280	480	5310	0360	RODNEY HUNT COMPANY INC	PC08-06802	9,000	9,000	06/27/200
6280	480	5312	0223	COMPLERE ENGINEERING GROUP INC	PCSA07003-3	11,480	2,875	04/30/200
6280	480	5312	0235	APPLEGATE TEEPLES DRILLING	PCSC08001	787,000	6,793	07/24/2007
6280	480	5312	0235	LARRY WALKER ASSOCIATES	PCSA05082	229,702	16,277	06/20/2005
6280	480	5314	0230	CLEAR CHANNEL COMMUNICATIONS	PC08-06573	20,000	17,500	04/03/2008
6280	480	5314	0235	APPLEGATE JOHNSTON INC	PC08-06597	1,732	1,732	04/17/2008
6280	480	5314	0235	LARRY WALKER ASSOCIATES	PC06-02910	19,190	1,092	08/16/2005
6280	480	5314	0235	LARRY WALKER ASSOCIATES	PCSA05082	295,586	232,716	06/20/2005
6280	480	5314	0235	PACIFIC ECO RISK	PC06-02947	18,755	4,810	09/01/2005
6280	440	5319	0235	STORM WATER CONSULTING INC	PCSA07039	107,600	98,165	02/20/2007
6280	430	A213	6010	STANTEC CONSULTING INC	PCSA05064	40,000	11,914	05/02/2005
6280	430	A213	6010	STANTEC CONSULTING INC	PCSA07050-1	24,850	1,982	04/30/2007
6280	430	A213	6010	STANTEC CONSULTING INC	PCSA05062	23,000	5,170	04/15/2005
6280	430	N686	6010	BOYLE ENGINEERING CORPORATION	PCSA03048	460,014	53,377	03/05/2003
6280	440	Q231	6010	JONES AND STOKES	PCSA07038	90,942	25,313	02/20/2007
6280	440	Q231	6010	OSNER, GEORGE	PCSA08036-6	7,000	6,930	05/27/2008
6280	440	Q231	6010	STANTEC CONSULTING INC	PCSA03018	497,170	41,745	10/30/2002
6280 Total				***SEWER CAPITAL PROJECTS***		**2,705,634**	**600,004**	
6290	355	5222	0223	PAPE MACHINERY	PC08-06833	17,363	17,363	06/26/2008
6290	355	5222	0235	PACIFIC MOBILE STRUCTURES INC	PC08-06590	795	795	04/15/2008
6290	355	P564	6040	PACIFIC MOBILE STRUCTURES INC	PC08-06590	137,852	137,852	04/15/2008
6290 Total				***COMPOST OPERATIONS***		**156,010**	**156,010**	
6310	440	5412	0235	GARY DUTTER DOOR AND HARDWARE	PC07-06028-1	2,352	2,352	12/31/2007
6310 Total				***AIRPORT OPERATIONS***		**2,352**	**2,352**	
6320	440	A784	6010	MILLER PEZZONI &ASSOCIATES INC	PCSA07021-5	2,900	435	04/10/200
6320	160	M254	6010	COFFMAN ASSOCIATES INC	PCSA02021	296,000	21,562	01/14/200
6320 Total				***SPECIAL AVIATION FUND***		**298,900**	**21,997**	
6510	165	1678	5003	SAN FRANCISCO FORD LINCOLN	PC08-06667	30,000	30,000	05/15/2008
6510	165	1678	5700	GEWEKE FORD MERCURY	PC08-06658	14,852	14,852	05/14/2008
6510	165	1678	5942	SAN FRANCISCO FORD LINCOLN	PC08-06667	12,757	12,757	05/15/2008
6510	165	1678	5945	SAN FRANCISCO FORD LINCOLN	PC08-06667	50,000	50,000	05/15/2008

Fund	Agy	Org	Object	Vendor name	PO Number	P.O. Amount	Balance Remaining	Po date
6510	165	A044	6070	AVAIL TECHNOLOGIES INC	PCCC08010	951,541	572,786	03/03/2008
6510	165	A044	6070	NETLOGIC	PC08-06743	1,562	1,562	06/10/2008
6510	165	A044	6070	URS CORPORATION	PC02-97048B	20,997	7,328	03/02/2006
6510	165	J792	6070	VENDOR TO BE DETERMINED	PC08-06799	250,000	250,000	06/18/2008
6 Total				***FIXED ROUTE BUS CAPITAL***		**1,331,710**	**939,285**	
6	165	1674	5900	VENDOR TO BE DETERMINED	PC07-06026	2,600	2,600	06/25/2007
6	165	1675	5939	GOLDEN CALIFORNIA PAINTING INC	PC07-06044-1	23,516	23,516	01/16/2008
6530 Total				***TRANSPORTATION CENTER***		**26,116**	**26,116**	
6540	165	1672	0205	PINNACLE SOLUTIONS	PC08-06823	5,211	5,211	06/25/2008
6540	480	5612	0265	COACH SPECIATIES	PC08-06532	31,900	31,900	03/10/2008
6540	480	5612	0308	SNAP ON TOOLS-SACRAMENTO	PC08-06642	7,114	7,114	05/08/2008
6540 Total				***FIXED ROUTE OPERATIONS***		**44,225**	**44,225**	
6700	340	3412	0223	PACIFIC MAINTENANCE	PCSC08009	73,750	39,268	08/29/2007
6700 Total				***COMMUNITY CENTER OPERATIONS***		**73,750**	**39,268**	
6710	340	3420	0223	AMERICAN CHILLER CO	PC08-06520	21,672	21,672	03/03/2008
6710	340	3420	0223	GARY DUTTER DOOR AND HARDWARE	PC08-06800	4,993	4,993	06/18/2008
6710	340	3420	0223	JORGENSEN AND COMPANY	PC08-06561	10,773	10,773	03/26/2008
6710	340	3420	0223	STAGE RIGHT CORPORATION	PC08-06695	3,734	3,734	05/27/2008
6710 Total				***CENTER PLAZA CAPITAL***		**41,172**	**41,172**	
7110	120	1272	0223	VENDOR TO BE DETERMINED	PC08-06842	850	850	06/30/2008
7110	120	1272	0354	VENDOR TO BE DETERMINED	PC08-06842	780	780	06/30/2008
7110	120	8311	0439	AIRGAS NCN	PC08007-0630	511	511	06/30/2008
7110	120	8311	0439	AIRGAS NCN	PC07008-1101	648	204	11/01/2006
7110	120	8311	0439	AIRGAS NCN	PC08007-0613	939	627	06/13/2008
7110	120	8311	0439	ALL VALLEY TRANSIT MIX INC	PC06053-0621	855	0	06/21/2007
7110	120	8311	0439	AMERICAN AVK COMPANY	PC07508-0626A	429	429	06/26/2008
7110	120	8311	0439	AZCO	PC08-05923	31,627	31,627	05/20/2008
7110	120	8311	0439	BADGER METER	PC04504-0407	94,432	0	04/07/2008
7110	120	8311	0439	BADGER METER	PC04504-0327	70,538	42,529	04/07/2008
7	120	8311	0439	BADGER METER	PC04504-0626	10,264	10,264	06/26/2008
7	120	8311	0439	BADGER METER	PC04504-0522	15,092	15,092	05/22/2008
7110	120	8311	0439	BADGER METER	PC04504-0514	4,173	4,173	05/14/2008
7110	120	8311	0439	CALTEX PLASTICS INC	PC08-05945	7,731	7,731	06/23/2008
7110	120	8311	0439	CANNON SPORTS	PC08-05954	460	460	06/30/2008
7110	120	8311	0439	CASCADE WATERWORK MFG. CO.	PC08-05943	5,612	5,612	06/19/2008
7110	120	8311	0439	CENTRAL SANITARY SUPPLY	PC08058-0626	595	22	06/26/2008
7110	120	8311	0439	CENTRAL SANITARY SUPPLY	PC08-05764	1,074	61	10/24/2007
7110	120	8311	0439	CENTER STATE PIPE & SUPPLY CO	PC08043-0720	18	0	07/20/2007
7110	120	8311	0439	CENTRAL VALLEY CONCRETE INC	PC08505-0630	345	345	06/30/2008
7110	120	8311	0439	CENTRAL VALLEY CONCRETE INC	PC08505-06272	389	389	06/27/2008
7110	120	8311	0439	CENTRAL VALLEY CONCRETE INC	PC08505-06271	336	336	06/27/2008
7110	120	8311	0439	CENTRAL WHOLESALE ELECTRICAL	PC08-05951	1,305	1,305	06/25/2008
7110	120	8311	0439	CENTRAL WHOLESALE ELECTRICAL	PC08-05942	1,907	57	06/19/2008
7110	120	8311	0439	CENTRAL WHOLESALE ELECTRICAL	PC08062-0620	461	166	06/20/2008
7110	120	8311	0439	CLARCOR AIR FILTRATION	PC08068-0225	722	386	02/25/2008
7110	120	8311	0439	CONTROLCO	PC08075-0602	82	82	06/02/2008
7110	120	8311	0439	CONTROLCO	PC08075-0626	280	280	06/26/2008
7110	120	8311	0439	DJ ROCHA TRUCKING ING	PC08506-0611	1,646	1,646	06/11/2008
7110	120	8311	0439	DJ ROCHA TRUCKING ING	PC08506-0610	3,015	3,015	06/10/2008
7110	120	8311	0439	DJ ROCHA TRUCKING ING	PC08506-0609	1,670	1,670	06/09/2008
7110	120	8311	0439	DJ ROCHA TRUCKING ING	PC08506-0615	1,532	1,532	06/15/2008
7110	120	8311	0439	DELUX PAINT CENTERS	PC08152-0522	131	2	05/22/2008
7110	120	8311	0439	FASTENAL COMPANY	PC08104-0630	44	44	06/30/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC08106-0618A	58	23	06/18/2008
0	120	8311	0439	FERGUSON ENTERPRISES INC	PC08106-0521B	305	0	05/21/2008
0	120	8311	0439	FERGUSON ENTERPRISES INC	PC08106-0623A	57	57	06/23/2008
0	120	8311	0439	FERGUSON ENTERPRISES INC	PC08106-0619A	678	678	06/19/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC08106-0506	345	0	05/06/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC08106-0626B	280	280	06/26/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC08106-0508A	19	1	05/08/2008
7110	120	8311	0439	FERGUSON ENTERPRISES	PC08106-0430	942	485	04/30/2008

Fund	Agy	Org	Object	Vendor name	PO Number	P.O. Amount	Balance Remaining	Po date
7110	120	8311	0439	FERGUSON ENTERPRISES	PC07523-0430	3,529	64	04/30/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC08106-0626	550	550	06/26/2008
7110	120	8311	0439	FERGUSON ENTERPRISES	PC06108-0621	18	18	06/21/2006
7110	120	8311	0439	FERGUSON ENTERPRISES	PC07109-0108	70	70	01/08/2007
7110	120	8311	0439	FERGUSON ENTERPRISES	PC07523-1219	3,706	329	12/19/200
7110	120	8311	0439	FERGUSON ENTERPRISES	PC07513-0827	290	0	08/27/200
7110	120	8311	0439	FERGUSON ENTERPRISES	PC07513-0505	4,450	734	05/05/200
7110	120	8311	0439	FERGUSON ENTERPRISES	PC07523-0507	4,911	2,994	05/07/2008
7110	120	8311	0439	FERGUSON ENTERPRISES	PC08106-0307	901	91	03/07/2008
7110	120	8311	0439	FERGUSON ENTERPRISES	PC07537-0509	1,006	1,006	05/09/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC07513-0513A	2,066	736	05/13/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC08-05870	2,361	75	03/17/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC08106-0514	893	893	05/14/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC08106-0514A	176	176	05/14/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC07523-0521	356	182	05/21/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC08106-0521	544	272	05/21/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC08106-0521C	899	899	05/21/2008
7110	120	8311	0439	FERGUSON ENTERPRISES	PC07537-0326	12,704	527	03/26/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC07523-0530	5,373	5,373	05/30/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC08106-0530	217	217	05/30/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC08106-0602	523	281	06/10/2008
7110	120	8311	0439	FERGUSON ENTERPRISES	PC08-05931	6,808	6,808	06/10/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC07507-0610	2,342	2,342	06/10/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC07513-0610	3,334	3,334	06/10/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC07523-0611	2,617	2,617	06/11/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC08-05935	2,101	2,101	06/11/2008
7110	120	8311	0439	FERGUSON ENTERPRISES	PC07513-0611	2,159	2,159	06/11/2008
7110	120	8311	0439	FERGUSON ENTERPRISES	PC07507-0611	2,632	2,632	06/11/2008
7110	120	8311	0439	FERGUSON ENTERPRISES	PC08-05897	2,392	0	04/14/2008
7110	120	8311	0439	FERGUSON ENTERPRISES	PC08106-0414	67	67	04/14/200
7110	120	8311	0439	FERGUSON ENTERPRISES	PC07513-0415	7,385	1,548	04/15/200
7110	120	8311	0439	FERGUSON ENTERPRISES	PC07537-0415	3,047	1	04/16/200
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC08106-0617	242	242	06/17/2008
7110	120	8311	0439	FERGUSON ENTERPRISES	PC08-05841	2,266	77	02/14/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC08106-0618	447	447	06/18/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC07523-0618	510	510	06/18/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC07523-0618A	2,078	2,078	06/18/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC07513-0618A	1,580	1,580	06/18/2008
7110	120	8311	0439	FERGUSON ENTERPRISES	PC08106-0611	691	691	06/18/2008
7110	120	8311	0439	FERGUSON ENTERPRISES	PC08-05837	1,802	53	02/12/2008
7110	120	8311	0439	FERGUSON ENTERPRISES	PC07523-0423	3,067	13	04/23/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC08-05939	2,291	2,291	06/20/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC08-05940	6,659	6,659	06/20/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC07513-0623	3,328	3,328	06/23/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC07537-0623	715	715	06/23/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC07507-0623	644	644	06/23/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC08-05948	16,529	16,529	06/24/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC08106-0626A	899	899	06/26/2008
7110	120	8311	0439	FERGUSON ENTERPRISES INC	PC07523-0625	6,626	6,626	06/26/2008
7110	120	8311	0439	GENERAL PLUMBING SUPPLY	PC08120-0623	897	0	06/23/2008
7110	120	8311	0439	GENERAL PLUMBING SUPPLY	PC07524-0821	271	0	08/21/2007
7110	120	8311	0439	GRAPPLERS INC	PC08-05947	551	551	06/23/2008
7110	120	8311	0439	GROENIGER & CO.	PC07525-0507	678	218	05/07/2008
7110	120	8311	0439	GROENIGER & CO.	PC08133-0321	102	102	03/21/2008
7110	120	8311	0439	GROENIGER & CO.	PC08-05928	22,631	8,716	05/28/20(
7110	120	8311	0439	GROENIGER & CO.	PC08131-0529	108	108	05/29/20(
7110	120	8311	0439	GROENIGER & CO.	PC08131-0611	294	294	06/11/20(
7110	120	8311	0439	GROENIGER & CO.	PC07525-0611	604	604	06/11/2008
7110	120	8311	0439	GROENIGER & CO.	PC08131-0616	170	170	06/16/2008
7110	120	8311	0439	GROENIGER & CO.	PC08131-0618	288	288	06/18/2008
7110	120	8311	0439	GROENIGER & CO.	PC08131-0623	60	60	06/23/2008
7110	120	8311	0439	HACH COMPANY	PC08-05933	1,781	1,781	06/10/2008

Fund	Agy	Org	Object	Vendor name	PO Number	P.O. Amount	Balance Remaining	Po date
7110	120	8311	0439	HERNING UNDERGROUND SUPPLY	PC08-05950	2,276	2,276	06/25/2008
7110	120	8311	0439	HORIZON	PC08147-0508	23	0	05/08/2008
7110	120	8311	0439	HORIZON	PC08147-0417	7	2	04/17/2008
7110	120	8311	0439	IKON OFFICE SOLUTIONS INC	PC08153-1220	254	254	12/20/2007
7[illegible]	120	8311	0439	SAN FRANCISCO ENVELOPE	PC08-05934	1,043	1,043	06/26/2008
7[illegible]	120	8311	0439	JORGENSEN AND COMPANY	PC08173-0616	515	515	06/16/2008
7[illegible]	120	8311	0439	KENKO UTILITY SUPPLY, INC.	PC07538-0623	727	727	06/23/2008
7110	120	8311	0439	KENKO UTILITY SUPPLY, INC.	PC07538-0528	3,639	3,639	05/28/2008
7110	120	8311	0439	LESLIE'S POOLMART INC.	PC08184-0417	119	119	04/17/2008
7110	120	8311	0439	LOWE'S HOME IMPROVEMENT WHS	PC08356-0630	95	95	06/30/2008
7110	120	8311	0439	MODESTO TRUE VALUE	PC08321-0618	180	180	06/18/2008
7110	120	8311	0439	MODESTO WELDING PRODUCTS	PC08217-0620	101	101	06/20/2008
7110	120	8311	0439	MODESTO WINDUSTRIAL CO	PC08218-0205	569	20	02/05/2008
7110	120	8311	0439	MODESTO WINDUSTRIAL COMPANY	PC08-05944	1,695	1,043	06/19/2008
7110	120	8311	0439	MODESTO WINDUSTRIAL COMPANY	PC08218-0626	229	229	06/26/2008
7110	120	8311	0439	MODESTO WINDUSTRIAL COMPANY	PC08218-0623	207	8	06/23/2008
7110	120	8311	0439	OFFICE DEPOT BSD - 1161	PC08238-0616	347	347	06/16/2008
7110	120	8311	0439	ORCHARD SUPPLY HARDWARE	PC08357-0618	90	0	06/18/2008
7110	120	8311	0439	ORCHARD SUPPLY HARDWARE	PC08357-0320	75	9	03/20/2008
7110	120	8311	0439	ORCHARD SUPPLY HARDWARE	PC08357-0326	56	3	03/26/2008
7110	120	8311	0439	PACIFIC BOLT COMPANY, INC.	PC08241-0528A	712	65	05/28/2008
7110	120	8311	0439	RAYVERN LIGHTING SUPPLY CO.	PC08263-0617	950	950	06/17/2008
7110	120	8311	0439	RANDIK PAPER	PC08260-0612A	160	160	06/12/2008
7110	120	8311	0439	RANDIK PAPER	PC08260-0514	20	3	05/14/2008
7110	120	8311	0439	RANDIK PAPER	PC08260-0617	219	92	06/17/2008
7110	120	8311	0439	SAFE-T-LITE OF MODESTO, INC.	PC08273-0617	756	0	06/17/2008
7110	120	8311	0439	SNAP ON TOOLS	PC08-05949	493	493	06/24/2008
7110	120	8311	0439	TANKO STREETLIGHTING SERVICES	PC08302-0625	450	450	06/25/2008
7110	120	8311	0439	TANKO STREETLIGHTING SERVICES	PC08302-0619	888	888	06/19/2008
7[illegible]	120	8311	0439	TANKO STREETLIGHT SERVICES	PC08-05929	1,988	925	05/29/2008
7[illegible]	120	8311	0439	TOTAL AIR FILTRATION	PC08320-0624	396	396	06/24/2008
7[illegible]	120	8311	0439	TRUE VALUE HARDWARE-MODESTO	PC08321-0403	438	258	04/03/2008
7110	120	8311	0439	UNITED RENTALS	PC08322-0620	50	50	06/20/2008
7110	120	8311	0439	UNITED RENTALS	PC08322-0617	30	30	06/17/2008
7110	120	8311	0439	UNITED RENTALS	PC08322-0612	288	288	06/12/2008
7110	120	8311	0439	UNITED RENTALS	PC08322-0515	256	237	05/15/2008
7110	120	8311	0439	UNITED RENTALS	PC08322-0618	234	234	06/18/2008
7110	120	8311	0439	VANTAGE LIGHTING, INC.	PC08-05941	1,074	1,074	06/19/2008
7110	120	8311	0439	VALLEY PIPE & SUPPLY	PC08-05946	4,418	4,418	06/24/2008
7110	120	8311	0439	VALLEY PIPE & SUPPLY	PC08-05937	1,222	1,222	06/19/2008
7110	120	8311	0439	VALLEY RUBBER & GASKET CO INC	PC08331-0618	48	48	06/18/2008
7110	120	8311	0439	EDWARD S. WALSH COMPANY	PC08099-0618	148	148	06/18/2008
7110	120	8311	0439	EDWARD S. WALSH COMPANY	PC08099-0612	148	148	06/18/2008
7110	120	8311	0439	EDWARD S. WALSH COMPANY	PC08099-0617	286	286	06/19/2008
7110	120	8311	0439	WESTERN CONSTRUCTION SUPPLY	PC08-05952	7,426	7,426	06/26/2008
7110	120	8311	0439	WITMER ASSOCIATES INC	PC05513-0725	553	553	07/25/2007
7110	120	8311	0439	WILLE ELECTRIC SUPPLY CO.,INC.	PC08347-0618	81	81	06/18/2008
7110	120	8311	0439	WILLE ELECTRIC SUPPLY CO.,INC.	PC08347-0425	815	0	04/29/2008
7110 Total				***WAREHOUSE INVENTORY PURCHASES***		**459,202**	**260,648**	
7130	070	0740	0235	CDW GOVERNMENT INC	PC08-06621	49,644	1,249	04/30/2008
7130	070	0742	0223	IBM CORPORATION	PC08-06668	3,798	3,798	05/16/2008
7130	070	0742	0223	SIRE TECHNOLOGIES	PC08-06634	4,895	4,895	05/07/2008
7130	070	0742	0235	COMCATE	PC08-06437	8,000	4,000	01/11/2008
7130	070	0742	0235	GARTNER INC	PCSA08028	316,000	316,000	02/04/2008
7[illegible]	070	0742	0301	CHOUINARO AND MYHRE INC	PC08-06812	260	260	06/20/2008
7[illegible]	070	0742	0301	COMPUTERLAND OF SILICON VALLEY	PC08-06699	1,880	1,880	05/28/2008
7[illegible]	070	0742	0301	SUNGARD HTE INC	PC08-06791	564	564	06/17/2008
7130	070	0744	0223	COMPUCOM	PC08-06826	4,930	4,930	06/25/2008
7130	070	0744	0223	LIEBERT GLOBAL SERVICES C/O	PC07-05345	11,795	1,727	05/17/2007
7130	070	0744	0223	ORACLE CORPORATION	PC08-06602	87,584	87,584	04/18/2008
7130	070	0744	0223	VENDOR TO BE DETERMINED	PC08-06821	215,394	215,394	06/23/2008
7130	070	0744	5451	DELL GOVERNMENT LEASING AND	PC08-06604-1	4,770	2,837	04/21/2008

Fund	Agy	Org	Object	Vendor name	PO Number	P.O. Amount	Balance Remaining	Po date
7130	070	0744	5452	LIEBERT GLOBAL SERVICES C/O	PC08-06828	11,894	11,894	06/25/2008
7130	070	0744	5452	VENDOR TO BE DETERMINED	PC08-06821	17,744	17,744	06/23/2008
7130	070	0745	0223	CALIFORNIA CAD SOLUTIONS	PC08-06835	1,546	1,546	06/26/2008
7130	070	0745	0235	PARTNERS DATA SYSTEMS INC	PC08-06741	646	646	06/09/2008
7130 Total				***INFORMATION TECHNOLOGY***		**741,343**	**676,947**	
7200	480	5812	0235	CPS-HUMAN RESOURCE SERVICES	PC06-04680	3,594	449	06/20/200
7200	480	5812	0308	SNAP ON TOOLS-SACRAMENTO	PC08-06642	2,822	2,822	05/08/200
7200 Total				***FLEET MANAGEMENT***		**6,416**	**3,272**	
7210	480	5814	5708	BROADWAY FORD	PC07-06043-1	68,391	68,391	11/09/2007
7210	480	5814	5713	DELTA TRUCK CENTER	PC07-06054-1	110,611	7,597	09/26/2007
7210	480	5814	5750	VENDOR TO BE DETERMINED	PC08-06798	155,000	155,000	06/18/2008
7210	480	5814	5753	AMERICAN CHEVROLET	PC08-06479	27,327	27,327	02/05/2008
7210	480	5814	5756	STANISLAUS IMPLEMENT &HARDWARE	PC08-06785	11,219	11,219	06/17/2008
7210	480	5814	5757	DOWNTOWN FORD SALES	PC08-06514	460,913	352,107	02/29/2008
7210	480	5814	5764	GEWEKE FORD MERCURY	PC08-06659	21,095	21,095	05/14/2008
7210	480	5814	5765	GEWEKE FORD MERCURY	PC08-06665	21,503	21,503	05/15/2008
7210	480	5814	5766	GEWEKE FORD MERCURY	PC08-06665	21,503	21,503	05/15/2008
7210	480	5814	5767	GOOD CHEVROLET	PC08-06548	24,454	24,454	03/17/2008
7210	480	5814	5769	GEWEKE FORD MERCURY	PC08-06665	21,503	21,503	05/15/2008
7210	480	5814	5770	INTERSTATE TRUCK CENTER	PC08-06638	106,818	106,818	05/08/2008
7210	480	5814	5771	COUNTRY FORD TRUCKS DBA	PC08-06636	83,451	83,451	05/08/2008
7210	480	5814	5772	INTERSTATE TRUCK CENTER	PC08-06638	106,818	106,818	05/08/2008
7210	480	5814	5776	GOOD CHEVROLET	PC08-06547	24,454	24,454	03/18/2008
7210	480	5814	5777	DOWNTOWN FORD SALES	PC08-06663	119,883	119,883	05/15/2008
7210	480	5814	5779	TEREX UTILITIES WEST	PC08-06641	137,233	137,233	05/08/2008
7210	480	5814	5780	TEREX UTILITIES WEST	PC08-06641	137,233	137,233	05/08/2008
7210	480	5814	5784	PAPE TRUCKS INC	PC08-06639	95,075	95,075	05/08/2008
7210	480	5814	5787	VENDOR TO BE DETERMINED	PC08-06807	85,000	85,000	06/19/2008
7210	480	5814	5788	AUTOWEST DODGE	PC08-06480	41,018	41,018	02/05/2008
7210	480	5814	5789	SAN FRANCISCO FORD LINCOLN	PC08-06666	30,306	30,306	05/15/200
7210	480	5814	5790	GEWEKE FORD MERCURY	PC08-06655	25,368	25,368	05/14/200
7210	480	5814	5791	SAN FRANCISCO FORD LINCOLN	PC08-06666	30,306	30,306	05/15/200
7210	480	5814	5792	SAN FRANCISCO FORD LINCOLN	PC08-06666	30,306	30,306	05/15/2008
7210	480	5814	5793	DOWNTOWN FORD SALES	PC08-06662	29,515	29,515	05/15/2008
7210	480	5814	5794	HANSEL FORD LINCOLN MERCURY	PC08-06635	45,559	45,559	05/07/2008
7210	480	5814	5798	COUNTRY FORD TRUCKS DBA	PC08-06637	83,451	83,451	05/08/2008
7210	480	5814	5800	FEDERAL SIGNAL CORPORATION	PC08-06719	28,788	28,788	06/04/2008
7210	480	5814	5801	HANSEL FORD LINCOLN MERCURY	PC08-06661	54,993	54,993	05/14/2008
7210	480	5814	5802	GEWEKE FORD MERCURY	PC08-06657	15,282	15,282	05/14/2008
7210	480	5814	5804	BONANDER TRUCK	PC08-06640	67,454	67,454	05/08/2008
7210	480	5814	5805	BONANDER TRUCK	PC08-06640	67,454	67,454	05/08/2008
7210	480	5814	5807	VALLEY PETERBILT	PC08-06522	175,653	175,653	03/04/2008
7210	480	5814	5808	VALLEY PETERBILT	PC08-06522	175,653	175,653	03/04/2008
7210	480	5814	5811	DOWNTOWN FORD SALES	PC08-06514	55,913	55,913	02/29/2008
7210	480	5814	5812	DOWNTOWN FORD SALES	PC08-06654	56,192	56,192	05/14/2008
7210	480	5814	5813	AMERICAN CHEVROLET	PC08-06660	44,469	44,469	05/14/2008
7210 Total				***FLEET REPLACEMENT***		**2,897,165**	**2,685,346**	
7310	030	0372	0209	SAN JOAQUIN ENVIRONMENTAL INC	PC08-06377	5,000	5,000	12/07/2007
7310 Total				***INSURANCE ADMIN***		**5,000**	**5,000**	
7330	030	6611	0411	VALLEY OAK SYSTEMS	PCMC07082	9,500	9,500	04/30/2007
7330 Total				***INSURANCE LIABILITY***		**9,500**	**9,500**	
7520	030	0351	0235	BRYCE CONSULTING INC	PCSA08029	53,000	4,635	02/12/2008
7520	030	0351	0235	ARTHUR J GALLAGHER & CO	PCSA06030	121,667	12,000	12/20/2005
7520	030	0351	0235	MERCER HEALTH AND BENEFITS LLC	PCSA07051	75,000	18,573	05/09/2007
7520 Total				***EMPLOYEE BENEFITS ADMIN***		**249,667**	**35,208**	
7800	350	3513	0223	VENDOR TO BE DETERMINED	PC08-06839	5,256	5,256	06/27/200
7800	350	3513	0235	ADT SECURITY SYSTEMS	PC08-06726	2,996	2,996	06/05/2008
7800	350	3513	0235	DEHART SHEET METAL & PLUMBING	PC08-06829	322	322	06/25/2008
7800	350	3513	0235	E T ABATEMENT	PC08-06775	2,600	2,600	06/13/2008
7800	350	3513	0235	MODESTO OVERHEAD DOOR	PC08-06720	1,803	1,803	06/04/2008
7800	350	3513	0235	THYSSEN ELEVATOR CORPORATION	PC08-06558	1,039	1,039	03/25/2008

Fund	Agy	Org	Object	Vendor name	PO Number	P.O. Amount	Balance Remaining	Po date
7800	350	3513	0235	VENDOR TO BE DETERMINED	PC08-06794	1,000	1,000	06/17/2008
7800	350	3513	0235	VENDOR TO BE DETERMINED	PC08-06795	9,074	9,074	06/18/2008
7800	350	3513	0308	VENDOR TO BE DETERMINED	PC08-06796	9,074	9,074	06/18/2008
7800	350	3513	0360	WILLE ELECTRIC SUPPLY CO.,INC.	PC08-06694	1,656	1,656	05/27/2008
7) Total				***BUILDING SERVICES***		**34,820**	**34,820**	
8)	350	3524	0235	GARRATT CALLAHAN COMPANY	PCSC07030	3,888	324	08/28/2006
8500	350	3524	0360	AMERICAN CHILLER SERVICES INC	PC08-06841	4,462	4,462	06/27/2008
8500	350	3524	0360	MCQUAY AIR CONDITIONING	PC08-06844	1,133	1,133	06/30/2008
8500	350	3524	0360	TOTAL AIR FILTRATION	PC08-06598	5,255	5,255	04/17/2008
8500 Total				***JPA -TENTH STREET PLACE***		**14,737**	**11,173**	
8850	190	1975	0223	CHAMPION INDUSTRIAL	PC08-06748	6,103	6,103	06/11/2008
8850	190	2970	0235	LUCAS BUSINESS SYSTEMS	PC08-06445	1,960	1,557	01/17/2008
8850	190	2970	0306	IT SOLUTIONS	PC08-06790	2,908	2,908	06/17/2008
8850	190	2970	0356	FOCUS CAMERA INC	PC08-06553	810	1	03/18/2008
8850	190	2970	0356	FOCUS CAMERA INC	PC08-06553	1,191	3	03/18/2008
8850	190	2970	5024	OFFICE DEPOT BSD - 1161	PC08-06762	4,133	4,133	06/12/2008
8850	190	2970	5025	HEWLETT PACKARD COMPANY C/O	PC08-06805-1	4,546	4,546	06/19/2008
8850	190	2970	5025	IT SOLUTIONS	PC08-06805	11,552	11,552	06/19/2008
8850 Total				***SDEA***		**33,204**	**30,804**	
8910	310	N441	6040	HEDGEROW FARMS	PCCC07024	3,548	865	04/10/2007
8910	310	P844	6010	EDAW INC	PCSA07045	380,841	96,023	03/16/2007
8910	310	P844	6040	TEICHERT CONSTRUCTION	PCCC08005	2,554,819	442,824	10/16/2007
8910	310	P844	6050	TEICHERT CONSTRUCTION	PCCC08005	60,000	60,000	10/16/2007
8910 Total				***TRRP***		**2,999,208**	**599,712**	
9050	140	1490	0235	CITYGATE ASSOCIATES, LLC	PCSA07006-1	2,691	2,691	07/24/2007
9050 Total				***RDA ADMINISTRATION***		**2,691**	**2,691**	
9060	140	Q244	6010	GRAHAM ADRIENNE L AICP	PCSA06047-2	437	437	07/24/2007
9060 Total				***RDA LOW/MOD HOUSING***		**437**	**437**	
9080	140	1493	0235	PBS&J	PCSA03065-1	48,120	48,120	01/15/2008
9)	140	1493	0235	STANTEC CONSULTING INC	PCSA05047	14,000	1,231	02/03/2005
9)	140	1493	0489	ARCHITECTURE PLUS, INC.	PCSA06058	41,500	18,668	06/13/2006
9080	140	1493	0489	SIGN DESIGN INC	PC05-02767	48,144	48,144	06/20/2005
9080	140	Q246	6010	GRAHAM ADRIENNE L AICP	PCSA07032	29,680	23,212	01/22/2007
9080	140	Q246	6010	IRIS ENVIRONMENTAL	PC08-06622	10,000	8,824	05/01/2008
9080 Total				***RDA PROJECTS***		**191,444**	**148,199**	
Sum						**79,683,183**	**39,550,114**	

Fund	Agy	Organization	Object	Vendor number	Vendor name	PO Number	Balance Enc
0100	030	0301	0301	VET45000	VENDOR TO BE DETERMINED	PC07-05425	2,500
0100	030	0301	0350	VET45000	VENDOR TO BE DETERMINED	PC07-05425	3,000
0100	120	1205	0235	VET45003	VENDOR TO BE DETERMINED	PC08-06810	64,088
0100	120	1221	0235	VET45000	VENDOR TO BE DETERMINED	PC08-06838	16,000
0100	190	1921	0235	VET45001	VENDOR TO BE DETERMINED	PC08-06808	12,500
0100	190	1961	5401	VET45001	VENDOR TO BE DETERMINED	PC08-06706	400,000
0100 Total							498,088
0300	420	4212	5500	VET45000	VENDOR TO BE DETERMINED	PC08-06766	38,118
0300 Total							38,118
0700	480	4622	5600	VET45003	VENDOR TO BE DETERMINED	PC08-06813	4,513
0700 Total							4,513
6000	350	P597	6040	VET45001	VENDOR TO BE DETERMINED	PC08-06704	801,250
6000	350	P597	6040	VET45001	VENDOR TO BE DETERMINED	PC08-06705	131,547
6000 Total							932,797
6210	480	5214	0360	VET45001	VENDOR TO BE DETERMINED	PC08-06773	86,007
6210	480	5215	0235	VET45001	VENDOR TO BE DETERMINED	PC08-06782	39,441
6210	480	5217	0235	VET45000	VENDOR TO BE DETERMINED	PCSA08059	242,000
6210	480	B079	6040	VET45003	VENDOR TO BE DETERMINED	PC08-06803	400,000
6210	480	B079	6040	VET45003	VENDOR TO BE DETERMINED	PC08-06804	42,000
6210	480	B082	6040	VET45003	VENDOR TO BE DETERMINED	PC08-06803	100,000
6210	480	B082	6040	VET45003	VENDOR TO BE DETERMINED	PC08-06804	42,000
6210 Total							951,448
6510	165	J792	6070	VET45003	VENDOR TO BE DETERMINED	PC08-06799	250,000
6510 Total							250,000
6530	165	1674	5900	VET45000	VENDOR TO BE DETERMINED	PC07-06026	2,600
6530 Total							2,600
7110	120	1272	0223	VET45000	VENDOR TO BE DETERMINED	PC08-06842	850
7110	120	1272	0354	VET45000	VENDOR TO BE DETERMINED	PC08-06842	780
7110 Total							1,630
7130	070	0744	0223	VET45003	VENDOR TO BE DETERMINED	PC08-06821	215,394
7130	070	0744	5452	VET45003	VENDOR TO BE DETERMINED	PC08-06821	17,744
7130 Total							233,138
7210	480	5814	5750	VET45003	VENDOR TO BE DETERMINED	PC08-06798	155,000
7210	480	5814	5787	VET45003	VENDOR TO BE DETERMINED	PC08-06807	85,000
7210 Total							240,000
7800	350	3513	0223	VET45000	VENDOR TO BE DETERMINED	PC08-06839	5,256
7800	350	3513	0235	VET45000	VENDOR TO BE DETERMINED	PC08-06794	1,000
7800	350	3513	0235	VET45000	VENDOR TO BE DETERMINED	PC08-06795	9,074
7800	350	3513	0308	VET45000	VENDOR TO BE DETERMINED	PC08-06796	9,074

7800 Total 24403.84

Grand Total 3176735.89

Where the vendor has not been identified, the justification for the encumbrance request is shown on the following page.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-410

A RESOLUTION APPROVING RECOMMENDED ENHANCEMENTS IN THE CUSTOMER SERVICES DIVISION OF THE FINANCE DEPARTMENT AND APROVE ADDITION OF $41,100.00 TO FUND THIS PROGRAM

WHEREAS, since October of 2004, a detective from the City of Modesto Police Department has assisted with the collection of delinquent mill tax accounts and notification to businesses that do not possess a valid City of Modesto business license, and

WHEREAS, budgetary constraints will not allow the Modesto Police Department to assist with business license enforcement in the future, and

WHEREAS, Code Enforcement Officers in the Neighborhood Preservation Unit are unable to assist with business license enforcement issues on a regular basis, and

WHEREAS, it is prudent to proceed with the addition of a Code Enforcement Officer in the Customer Services Division of the Finance Department for business license enforcement, and

WHEREAS, without regulatory efforts from the Modesto Police Department, or the proposed Business License Code Enforcement Officer, uncollected revenues estimated to be $75,000.00 per year, will not be realized, and

WHEREAS, at the March 24, 2008 Finance Committee meeting, staff was directed to return to the Committee with further information and analysis of fee impact for business license enforcement, and

WHEREAS, on June 23, 2008, staff returned to the Finance Committee with the information requested and the Finance Committee approved sending this pilot program to Full Council for approval.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby approves the addition of a part-time Code Enforcement Officer to the Customer Services Division of the Finance Department and increase the budget in the amount of $41,100.00 to initiate fund this program initially.

BE IT FURTHER RESOLVED that this resolution shall become effective on and after August 1, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2008, 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, Lopez, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	Keating, O'Bryant
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-411

A RESOLUTION APPROVING THE ADDITION OF A PART-TIME CODE ENFORCEMENT OFFICER TO THE CUSTOMER SERVICES DIVISION OF THE FINANCE DEPARTMENT AND THE AMENDMENT OF THE GENERAL FUND BUDGET TO REFLECT THE REVENUES AND EXPENSES ASSOCIATED WITH ENHANCED BUSINESS LICENSE ENFORCEMENT

WHEREAS, since October of 2004, a detective from the City of Modesto Police Department has assisted with the collection of delinquent mill tax accounts and notification to businesses that do not possess a valid City of Modesto business license, and

WHEREAS, budgetary constraints will not allow the Modesto Police Department to assist with business license enforcement in the future, and

WHEREAS, Code Enforcement Officers in the Neighborhood Preservation Unit are unable to assist with business license enforcement issues on a regular basis, and

WHEREAS, the City Council has considered staff's request to add a part-time Code Enforcement Officer in the Customer Services Division of the Finance Department for business license enforcement under a pilot program with a one-year duration, and

WHEREAS, without consistent enforcement efforts uncollected revenues estimated at $75,000.00 per year, will not be realized and unlicensed businesses will remain undetected, and

WHEREAS, the costs associated with the enhanced enforcement efforts have been identified and are shown in **Exhibit A**, which is incorporated by reference herein.

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

1. The addition of a part-time Code Enforcement Officer to the Customer Services Division of the Finance Department for a one-year pilot program is hereby approved.

2. The General Fund budget shall be amended as shown in **Exhibit A**.

3. This resolution shall become effective on and after August 1, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2008, 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, Lopez, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	Keating, O'Bryant
ABSENT:	Councilmembers:	None

ATTEST: Shelley Jain, Deputy
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-412

A RESOLUTION AUTHORIZING THE FIRE DEPARTMENT TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR APPARATUS REPAIR SERVICES FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $100,000

WHEREAS, 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, and

WHEREAS, 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, 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 Request for Bids for apparatus repair services conforms to the Modesto Municipal Code.

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

SECTION 1. The Fire Department is hereby authorized to call for public formal bids for apparatus repair 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 Fire Department and a report submitted to Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2008, 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: Shellie Grain, Deputy
for STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Annual Expense:		
0100-120-1224-0100	Salary and Benefits-20 hours per week (salary based on part-time retired Police Officer at $29.55 per hour plus 9% benefits)	$33,500.00
0100-120-1224-0218	Vehicle Expense	$ 1,200.00
0100-120-1224-0210	Cell Phone Expense	$ 600.00
0100-120-1224-0415	Liability/Worker's Comp	$ 1,200.00
0100-120-1224-0252-0256	IT Charges	$ 2,733.00
0100-120-1224-0301	Office Supplies	$ 500.00
One-time Expense:		
0100-120-1224-0301	Computer	$ 1,367.00

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-413

A RESOLUTION APPROVING A GRANT APPLICATION FOR $540,000 FROM THE SAFE ROUTES TO SCHOOL GRANT PROGRAM TO FUND THE CONSTRUCTION AND INSTALLTION OF 2,850 LINEAL FEET OF CURB, GUTTER, CURB RAMPS, SIDEWALK AND FENCING BETWEEN CALIFORNIA AVENUE AND MAZE BOULEVARD, ALONG THE MODESTO IRRIGATION DISTRICT'S BRIGGS DITCH, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE APPROPRIATE GRANT DOCUMENTS

WHEREAS, The Safe Routes to School Program ("Program") came into effect in 1999 with the passage of Assembly Bill 1475 (AB1475), 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, an unpaved route exists from Maze Boulevard to California Avenue that is used by students going to and from Franklin Elementary School and Mark Twain Junior High School, and

WHEREAS, staff and community members believe that improving this path with 2,850 lineal feet of curb, gutter, curb ramps, sidewalk and fencing is an excellent match for the Program, and

WHEREAS, the State of California has called for project proposals to be sent to the California Department of Transportation by July 17, 2008,

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

1. The filing of a grant application for $540,000 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 8th day of July, 2008, 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: Shelley Nain, Deputy
/s/STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-414

A RESOLUTION APPROVING A FIVE-YEAR LEASE AGREEMENT WITH STANISLAUS COUNTY AFFORDABLE HOUSING CORPORATION (STANCO) FOR THE USE OF A CITY OWNED PROPERTY AT 308 LOCUST STREET BY STANCO'S TRANSITIONAL HOUSING PROGRAM FOR $1.00 PER YEAR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LEASE AGREEMENT

WHEREAS, in 1988, the City received the property at 308 Locust Street during the foreclosure process on a housing rehabilitation loan, and

WHEREAS, this property was then used for temporary relocations for households being required to move while their units were being rehabilitated under the Housing Maintenance Program, and

WHEREAS, in 1997, the City began leasing the property to Stanislaus County Affordable Housing Corporation (STANCO) at a cost of $1.00 per year, and

WHEREAS, STANCO has expressed an interest in renewing the lease which expires on July 13, 2008, and

WHEREAS, current and anticipated target areas are not in the area of this property and City staff does not anticipate needing the property for temporary relocations in the future, and

WHEREAS, at its June 18, 2008, meeting, the Citizens Housing and Community Development Committee (CH&CDC) recommended support of this item,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a five-year Lease Agreement with Stanislaus County Affordable Housing Corporation (STANCO) for the use of a city-owned property at 308 Locust Street by STANCO's transitional housing program for $1.00 per year.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2008, 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: Sheila Harn Deputy
for STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-415

A RESOLUTION ACCEPTING THE 35 PERCENT PRELIMINARY DESIGN REPORT FOR THE YOSEMITE BOULEVARD/STATE ROUTE 132 WATERLINE REPLACEMENT, DATED JUNE 6, 2008, AS COMPLETE

WHEREAS, the rehabilitation of a 12-inch waterline on Yosemite Boulevard/State Route 132 is included in the 2008 Capital Improvement Budget approved by City Council on January 8, 2008, and

WHEREAS, the State of California Department of Transportation (Caltrans) is scheduled to repave State Route 132 from L Street to San Juan Avenue in 2009, and

WHEREAS, a portion of a 16-inch water Downstream Improvements Tier 2 Yosemite Transmission Pipeline is also within the Caltrans repaving project, and

WHEREAS, both pipelines need to be installed prior to the Caltrans repaving project, and

WHEREAS, the 35 Percent Preliminary Design Report (PDR) summarizes existing facilities, proposed project elements and method of rehabilitation, and provides an estimated project cost of $2.0M for both pipelines, and

WHEREAS, the PDR has been successfully completed and will serve as the basis for the final design for the Yosemite Boulevard/State Route 132 Waterline Replacement project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the 35 Percent Preliminary Design Report for the Yosemite Boulevard/State Route 132 Waterline Replacement, dated June 6, 2008, as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2008, 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: Shelley Hain, Deputy
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-416

A RESOLUTION APPROVING AN AGREEMENT WITH CAMP DRESSER MCKEE INC. FOR PEER REVIEW SERVICES RELATED TO WORK CURRENTLY UNDER WAY IN THE UPDATING OF THE WATER SYSTEM ENGINEER'S REPORT AND THE ASSOCIATED RATE/CAPACITY CHARGE STUDY, IN THE NOT-TO-EXCEED AMOUNT OF $45,800 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $4,580 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $50,380, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City Council, on 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 re-evaluate the utility rates every two years, and

WHEREAS, the City Council, on 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 re-evaluate the capacity charges every three years, and

WHEREAS, due to anticipated new water supply related projects, increased costs for MID's Modesto Regional Water Treatment Plant (MRWTP) Phase Two Expansion project, and changes since the last rate study, the current rate structure does not adequately fund operating expenditures, capital improvement and maintenance needs, or issuance of bonds and debt service needs, and

WHEREAS, as a result, the City Council has since taken the following actions to update the existing water rate and capacity charges: 1) The City Council, on 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, 2) The City Council, on 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, and 3) The City Council, on 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, and

WHEREAS, now is the time to consider approving an Agreement to perform a peer review of the work by WYA on the Water System Engineer's Report and the work by the FCS Group on the associated Rate and Capacity Charge Study, and

WHEREAS, Camp Dresser & McKee Inc. (CDM) is recommended for the peer review work since they demonstrated a thorough understanding of the issues associated with this process by submitting a highly competitive proposal for the Water Rate and Capacity Charge update (but they were edged out by the FCS Group in the final selection for that work), and

WHEREAS, when the peer review is complete, it will then be necessary to retain a consulting firm to provide professional services that will assure the letter and spirit of Proposition 218's complex procedures are met, and

WHEREAS, since 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, City staff plans to bring an agreement for these services to Council for their consideration in the near future, and

WHEREAS, a key item in the development of an updated Water System Engineer's Report and the Water Rate/Capacity Charge Study is the evaluation of the feasibility of the City's continued participation (through construction) in the Turlock Irrigation District's (TID) Regional Surface Water Supply Project (RSWSP), and

WHEREAS, the updated Engineer's Report will present the proposed improvements needed to provide and maintain reliable water service to existing and future customers (over both a 5-year and build-out horizon), their associated cost estimates, and their allocations (existing rate payers vs. future users) under two separate, but parallel analyses; the first will be with full participation by the City in TID's RSWSP, and the second without participation by the City, and

WHEREAS, the Water Rate and Capacity Charge Study will provide a similar analysis for both with and without the City's continued participation in TID's RSWSP, and

WHEREAS, the recently completed Wastewater Rate/Capacity Charge Study included a peer review (as requested by certain stakeholders through the public workshop process) by an independent "third party" consulting firm, and

WHEREAS, the intent here is to follow that process such that using professional consulting services will enable this portion of the work to be expedited and allow the required Proposition 218 process to be completed prior to the March 15, 2009, decision deadline requested by TID, to determine if the City will continue participation with the RSWSP, and

WHEREAS, City staff recommends an Agreement with the consulting firm of Camp Dresser & McKee Inc. as the City does not have the staffing level or subject matter

expertise to complete the peer review services for the work by WYA on the Water System Engineer's Report and the work by the FCS Group on the associated Rate and Capacity Charge Study 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 Camp Dresser & McKee Inc. for peer review services related to work currently under way in the updating of the Water System Engineer's Report and the associated Rate/Capacity Charge Study, in an amount not to exceed $45,800, for the identified scope of services, plus $4,580 for additional services (if needed) for a maximum total amount of $50,380.

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 July, 2008, 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: Shelley Jain, Deputy
for STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-417

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE "ATMS (ADVANCED TRAFFIC MANAGEMENT SYSTEM) EXPANSION-PELANDALE AVENUE," PROJECT; ACCEPTING THE BID; APPROVING A CONSTRUCTION CONTRACT WITH SIERRA NATIONAL CONSTRUCTION, INC., FOR $255,105, FOR THE PROJECT TITLED, "ATMS (ADVANCED TRAFFIC MANAGEMENT SYSTEM) EXPANSION-PELANDALE AVENUE;" AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, in 2003, Congestion Mitigation Air Quality (CMAQ) grants became available to reduce pollution and improve air quality, and

WHEREAS, the ATMS (Advanced Traffic Management System) Expansion-Pelandale Avenue project along with other projects, were eligible for the CMAQ grant, and

WHEREAS, staff applied for, and was successful in capturing, CMAQ funds for this project, and

WHEREAS, the CMAQ funds generally cover approximately 88.53% of the project cost, and

WHEREAS, in addition, staff applied for, and received CMAQ match funds for another 10% of the project's cost, and

WHEREAS, these cameras will be installed at five intersections along Pelandale Avenue in the City and will be connected to the existing and/or new fiber optic network at different locations in the City, and

WHEREAS, bids for this project were opened on May 20, 2008, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, Sierra National Construction, Inc., was determined to be the low bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the "ATMS (Advanced Traffic Management System) Expansion-Pelandale Avenue;" project; accepts the bid; and approves a construction contract with Sierra National Construction, Inc., for $255,105, for the project titled, "ATMS (Advanced Traffic Management System) Expansion-Pelandale Avenue,"

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2008, 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: Shelly Nain, Deputy
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-418

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO AUTHORIZING THE ISSUANCE OF MULTIFAMILY HOUSING REVENUE REFUNDING BONDS AND THE LOAN OF THE PROCEEDS THEREOF FOR THE REFINANCING OF THE VALLEY OAK APARTMENTS PROJECT AND APPROVING OTHER RELATED DOCUMENTS AND ACTIONS

WHEREAS, the City Charter of the City of Modesto (the "City") provides that the City is authorized to issue revenue bonds pursuant to California law;

WHEREAS, Article 11 of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California, as amended (the "Refunding Act"), authorizes local agencies (including cities) to incur indebtedness for the purpose of refunding any revenue bonds of the local agency;

WHEREAS, the City Council hereby finds and declares that it is necessary, essential and a public purpose for the City to engage in a program (the "Program") to refund multifamily housing revenue bonds of the City issued and delivered to finance the development of multifamily rental housing for persons of low and moderate income, and has determined to issue refunding revenue bonds for such purpose as authorized by the Refunding Act;

WHEREAS, the City Council hereby finds and declares that this resolution is being adopted pursuant to the powers granted by the Refunding Act;

WHEREAS, V O Associates, A California Limited Partnership (the "Borrower"), has requested that the City issue and sell the Bonds (hereinafter defined) for the purpose of refinancing the Valley Oak Apartments Project (the "Project");

WHEREAS, the Bonds will be sold by negotiated sale, and the proposed form of the bond purchase agreement relating to the purchase by Banc of America Securities LLC (the "Underwriter") of the Bonds has been made available to the City together with the proposed form of official statement for the Bonds containing information to be used in connection with the marketing of the Bonds by the Underwriter;

WHEREAS, the City Clerk has caused a notice of a public hearing with respect to the plan of refinancing the costs of the Project through the issuance of the Bonds to be published pursuant to Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), on June 23, 2008, and hearing officers of the City have conducted said public hearing on July 8, 2008;

WHEREAS, all conditions, things and acts required to exist, to have happened and to have been performed precedent to and in the issuance of the Bonds and the implementation of the Program as contemplated by this resolution and the documents referred to herein exist, have happened and have been performed in due time, form and manner as required by the laws of the State of California, including the Refunding Act.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MODESTO THAT:

1. The City Council hereby finds and declares that the above recitals are true and correct.

2. Pursuant to the Refunding Act and the Indenture (hereinafter defined), refunding revenue bonds of the City, designated as "City of Modesto Multifamily Housing Revenue Refunding Bonds, 2008 Series A (Valley Oak Project)" in an aggregate principal amount not to exceed $4,425,000 (the "Bonds") are hereby authorized to be

issued. The Bonds shall be executed by the manual or facsimile signature of the Mayor, the Vice Mayor, the City Manager or the Director of Finance (or any such officer's designee), and attested by the manual or facsimile signature of the City Clerk, or such officer's designee, in the form set forth in and otherwise in accordance with the Indenture (as hereinafter defined).

3. The trust indenture (the "Indenture") between the City and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), in the form on file with the City Clerk, is hereby approved. The Mayor, the Vice Mayor, the City Manager or the Director of Finance (or any such officer's designee), is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Indenture, and the City Clerk, or such officer's designee, is hereby authorized and directed to attest such officer's signature (or the signature of such officer's designee) on the Indenture, in said form, with such additions thereto or changes therein as are recommended or approved by the Mayor, the Vice Mayor, the City Manager or the Director of Finance upon consultation with bond counsel and the City Attorney, including such additions or changes as are necessary or advisable in accordance with Section 11 hereof, the approval of such additions or changes to be conclusively evidenced by the execution and delivery by the City of the Indenture.

The date, maturity dates, interest rate or rates and method of calculation thereof, interest payment dates, denominations, form, registration privileges, manner of execution, place of payment, terms of redemption, remarketing, tender and other terms of the Bonds, shall be as provided in the Indenture as finally executed.

4. The financing agreement between the City and the Borrower (the "Financing Agreement"), in the form on file with the City Clerk, is hereby approved. The Mayor, the Vice Mayor, the City Manager or the Director of Finance (or any such officer's designee), is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Financing Agreement in said form, with such additions thereto or changes therein as are recommended or approved by the Mayor, the Vice Mayor, the City Manager or the Director of Finance upon consultation with bond counsel and the City Attorney, including such additions or changes as are necessary or advisable in accordance with Section 11 hereof, the approval of such additions or changes to be conclusively evidenced by the execution and delivery by the City of the Financing Agreement.

5. The amended and restated tax and regulatory agreement (the "Regulatory Agreement") among the City, the Trustee and the Borrower, in the form on file with the City Clerk, is hereby approved. The Mayor, the Vice Mayor, the City Manager or the Director of Finance (or any such officer's designee), is hereby authorized and directed for and in the name of and on behalf of the City, to execute and deliver the Regulatory Agreement in said form, with such additions thereto or changes therein as are recommended or approved by the Mayor, the Vice Mayor, the City Manager or the Director of Finance upon consultation with bond counsel and the City Attorney, including such additions or changes as are necessary or advisable in accordance with Section 11 hereof, the approval of such changes to be conclusively evidenced by the execution and delivery by the City of such agreement.

6. The City hereby approves the sale of the Bonds by the City to the Underwriter pursuant to a Bond Purchase Agreement relating to the Bonds (the "Bond Purchase Agreement") in the form on file with the City Clerk, together with such additions thereto and changes therein as the Mayor, the Vice Mayor, the City Manager or the Director of Finance (or any such officer's designee) shall deem necessary, desirable or appropriate upon consultation with bond counsel and the City Attorney, the execution of which by the City shall be conclusive evidence of the approval of any such additions and changes. The Mayor, the Vice Mayor, the City Manager or the Director of Finance (or any such officer's designee), each acting alone, are hereby authorized and directed to execute the final form of the Bond Purchase Agreement for and in the name of and on behalf of the City upon the submission of offers by the Underwriter to purchase the Bonds, which offers are acceptable to the Mayor, the Vice Mayor, the City Manager or the Director of Finance (or any such officer's designee) and consistent with the requirements of this Resolution (provided however that the aggregate principal amount of the Bonds shall not exceed $4,425,000, the initial true interest cost with respect to the Bonds shall not exceed 12%, and the Underwriter's Discount or fee in connection with the initial purchase of the Bonds shall not exceed 1.5% of the aggregate principal amount of the Bonds, plus expenses).

7. The City hereby approves the form of the intercreditor agreement, by and among the City, the Federal Home Loan Mortgage Corporation ("Freddie Mac"), and the Trustee (the "Intercreditor Agreement") on file with the City Clerk of the City, together with such additions thereto and changes therein as the Mayor, the Vice Mayor, the City Manager or the Director of Finance (or any such officer's designee) shall deem

necessary, desirable or appropriate upon consultation with bond counsel and the City Attorney, the execution of which by the City shall be conclusive evidence of the approval of any such additions and changes. The Mayor, the Vice Mayor, the City Manager or the Director of Finance (or any such officer's designee) each acting alone, are hereby authorized and directed to execute, and the City Clerk, or such officer's designee, is hereby authorized and directed to attest, the final form of the Intercreditor Agreement for and in the name of and on behalf of the City.

8. The City hereby approves the form of the Bond Mortgage Note by the Borrower to the City (the "Note") on file with the City Clerk of the City, together with such additions thereto and changes therein as the Mayor, the Vice Mayor, the City Manager or the Director of Finance (or any such officer's designee) shall deem necessary, desirable or appropriate upon consultation with bond counsel and the City Attorney, the endorsement of which by the City for the benefit of the Trustee shall be conclusive evidence of the approval of any such additions and changes. The Mayor, the Vice Mayor, the City Manager or the Director of Finance (or any such officer's designee), each acting alone, are hereby authorized and directed to endorse, and the City Clerk or such officer's designee, is hereby authorized and directed to attest, the final form of the Note for and in the name of and on behalf of the City.

9. The official statement relating to the Bonds (the "Official Statement") in the form on file with the City Clerk, is hereby approved. The Mayor, the Vice Mayor, the City Manager or the Finance Director (or any such officer's designee), is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Official Statement in said form, with such additions thereto or changes therein

as are recommended or approved by the Mayor, the Vice Mayor, the City Manager or the Director of Finance (or any such officer's designee) upon consultation with bond counsel and the City Attorney, including such additions or changes as are necessary or advisable in accordance with Section 11 hereof, the approval of such additions or changes to be conclusively evidenced by the execution and delivery by the City of the Official Statement.

10. The Bonds, when executed, shall be delivered to the Trustee for authentication. The Trustee is hereby requested and directed to authenticate the Bonds by executing the Trustee's certificate of authentication and registration appearing thereon, and to deliver the Bonds, when duly executed and authenticated, upon payment of the applicable purchase price therefor, to or at the order of the Underwriter or its designee in accordance with written instructions executed on behalf of the City by the Mayor, the Vice Mayor, the City Manager or the Director of Finance (or any such officer's designee), which instructions such officer (or such officer's designee) is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver to the Trustee.

11. All actions heretofore taken by the officers and agents of the City with respect to the establishment of the Program and the sale and issuance of the Bonds are hereby approved, confirmed and ratified, and the proper officers of the City, including the Mayor, the Vice Mayor, the City Manager or the Director of Finance, or their designees, are hereby authorized and directed, for and in the name and on behalf of the City, to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents which they, or any of them, may deem

necessary or advisable in order to consummate the lawful issuance and delivery of the Bonds in accordance with this Resolution and resolutions heretofore adopted by the City in order to carry out the Program including, but not limited to, those certificates, agreements and other documents described in the Indenture, the Financing Agreement and the Regulatory Agreement and any certificates, agreements or documents as may be necessary to further the purpose hereof, but which shall not create any obligation or liability of the City other than with respect to the revenues and assets derived from the proceeds of the Bonds.

12. The City hereby approves the plan of refinancing the Project through the issuance of the Bonds, as described in the aforesaid notice of public hearing which is hereby incorporated by reference.

13. This Resolution shall take effect immediately upon its adoption.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of July, 2008, 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. 2008-419

A RESOLUTION APPROVING AN AGREEMENT FOR THE PURCHASE OF RETIRED CITY OF MODESTO POLICE CANINE BY ITS HANDLER, OFFICER GONZALES, FOR ONE DOLLAR ($1.00), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Police Chief for the City of Modesto, from time to time, officially retires police canines from departmental service, and

WHEREAS, City of Modesto police canine handler, Officer Gonzalez, wishes to purchase and assume possession of his assigned canine, Dino, upon the dog's official retirement, and

WHEREAS, the Safety and Communities Committee reviewed this item at its July 7, 2008 meeting, and

WHEREAS, it is necessary to adopt a resolution authorizing the purchase of City of Modesto police canines by their 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 canine, Dino, by its handler, Officer Gonzalez, for One Dollar ($1.00) 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 6th day of August, 2008, 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, 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

MODESTO POLICE DEPARTMENT CANINE TRANSFER CONTRACT

This AGREEMENT made and entered into in the City of Modesto, State of California, this 22 day of June, **2008**, by and between the City of Modesto, a municipal corporation of the State of California, hereinafter referred to as "CITY", and Daniel Gonzalez, canine handler for the Modesto Police Department, hereinafter referred to as "HANDLER".

Facts:

Canine "Dino" has been with the Modesto Police Department since 2001. "Dino" has served the city for seven years. "Dino's" exact birth date is unknown due to missing paperwork, but he was 2 years old when he was purchased in 2001. Dino is currently nine years old. "Dino" has had a long and distinguished career as a police service dog. "Dino" has reached an age where his health has begun to decline and he is slowing down. Dino no longer has the ability to continue to do police work at an acceptable. Therefore it is my recommendation he 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 "Dino". *HANDLER* was previously the assigned canine handler for "Dino".

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 "Dino", 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 _____, **200__**.

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 "Dino" for at least eighteen (18) months prior to any sale of the aforementioned retired police canine.

4. The retired police canine "Dino" 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. 08-_____ adopted by the City Council of the City of Modesto on the ____ day of 2008.

NEW OWNER

_____
Daniel Gonzalez, 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. 2008-420

A RESOLUTION OPPOSING FISCALLY IRRESPONSIBLE STATE BUDGET DECISIONS THAT WOULD "BORROW" LOCAL GOVERNMENT AND TRANSPORTATION FUNDS

WHEREAS, on July 1, 2008 the State Legislature missed its Constitutional budget deadline; and

WHEREAS, both the Governor and the Legislative Budget Conference Committee have recommended balanced budgets without resorting to "loans" of local government property tax and transportation sales tax funds; and

WHEREAS, the City Council recognized that the State of California is in a severe fiscal crisis and fully supports the State's efforts to adopt a balanced budget; and

WHEREAS, in 2004 by an 84% margin of approval the voters of California approved Proposition 1A and sent a loud and unambiguous message to state leaders that they should stop the destructive and irresponsible practice of taking local government funds to finance the state budget and paper over the state deficit; and

WHEREAS, in 2006 by a 77% margin of approval the voters of California also approved Proposition 1A, providing similar protections to transportation funding for state and local transportation projects, including important street maintenance and public transit programs; and

WHEREAS, both ballot measures allow the Governor to declare a "severe state of fiscal hardship" and "borrow" these funds if they are repaid in three years with interest, but the Governor believes it would be irresponsible to "borrow" such funds because it would deepen the state's structural deficit and cripple local government and transportation services; and

WHEREAS, refusal by the Legislature to carryout its constitutional obligation to compromise on a balanced budget is not a "severe state of fiscal hardship" and would not justify reductions in critical local services and infrastructure at a time when cities are struggling to balance their own budgets during this economic down turn; and

WHEREAS, the Legislature should balance the state budget with state revenues and respect the overwhelming support of voters for not using local property taxes and transportation sales tax funds to fund the day-to-day operating cost of state programs; and

WHEREAS, it would be the height of fiscal irresponsibility to paper over the state structural deficit with more borrowing, and Californians deserve state leaders who will tell them honestly what needs to be done to produce a balanced budget; and

WHEREAS, it is time for the state of California to cut up its local government credit cards and deal with the budget deficit in a straightforward way. Balance the state budget with state funds.

NOW, THEREFORE, BE IT RESOLVED, that the City of Modesto hereby opposes any and all efforts by state government to "borrow" of local tax funds and transportation sales tax funds by the state government to finance state operations. Such a move would be fiscally irresponsible for the state and hamper effective local services and infrastructure investments.

RESOLVED FURTHER, that the Mayor/City Manager is hereby directed to send this resolution and communicate this Council's strong and unswerving opposition on this matter to our Legislators and the Governor along with an expression of our continued appreciation for the Governor's steadfast opposition to further legislative borrowing and raids on local government and transportation funding.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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. 2008-421

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE SCENIC BEND ESTATES SUBDIVISION, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, James E. Coleman and Susann G. Coleman, husband and wife as community property, are the Subdivider of SCENIC BEND ESTATES ("SUBDIVISION"), and

WHEREAS, Subdivider has filed irrevocable stand by letters of credit to secure faithful performance and payment for labor and materials in the amounts of $376,200.00, and $125,395.00, and

WHEREAS, Subdivider has filed an irrevocable stand by letter of credit in the amount of $25,100.00 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 to 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 Irrevocable Standby Letter of Credit in the amount of $376,200.00 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the Irrevocable Standby Letter of Credit to secure payment for labor and materials in the amount of $125,395.00 sixty (60) days after recordation of the notice of completion provided no claim is made thereon.

4. The City Clerk is hereby authorized to release the Irrevocable Standby Letter of Credit to guarantee SUBDIVISION improvements in the amount of $25,100.00 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-422

A RESOLUTION AUTHORIZING THE CITY CLERK TO RELEASE THE SUBDIVISION WARRANTY BOND TO WILLIAM LYON HOMES, INC. FOR THE FALLING LEAF SUBDIVISION, CONDITIONED UPON RECEIPT OF ACCEPTABLE WARRANTY SECURITIES FROM BONAVENTURE FUND I LLC AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIOD

WHEREAS, William Lyon Homes, Inc., a California Corporation is the subdivider of the Falling Leaf Subdivision ("SUBDIVISION"), and

WHEREAS, the City Council on March 13, 2007, by Resolution No. 2007-177, accepted the Floyd Avenue improvements between Fine Avenue and Claus Road for which a Subdivision Warranty Bond was accepted and then released upon the expiration of the one year statutory period, and

WHEREAS, the City Council , on January 2, 2008, by Resolution No. 2008-007, accepted all other public improvements related to the SUBDIVISION, and

WHEREAS, William Lyon Homes, Inc., has submitted a Subdivision Warranty Bond in the amount of $662,202.93 to guarantee the public improvements in the SUBDIVISION, and

WHEREAS, Bonaventure Fund I LLC is currently in the process of purchasing the SUBDIVISION, and

WHEREAS, as a successor-in-interest, Bonaventure Fund I LLC shall become responsible to maintain a warranty security through the expiration of the one-year statutory period, and

WHEREAS, the warranty security would replace the Subdivision Warranty Bond from William Lyon Homes, Inc.

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

1. The City Clerk is hereby authorized to release the Subdivision Warranty Bond to William Lyon Homes, Inc., conditioned upon receipt of an approved warranty security from Bonaventure Fund I LLC.

2. The City Clerk is hereby authorized to release the warranty security from Bonaventure I Fund LLC upon expiration of the one-year statutory period.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2008, 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, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

AMENDED FOR CLERICAL ERROR

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-405

A RESOLUTION APPROVING THE TIVOLI SPECIFIC PLAN FACILITIES MASTER PLAN (FMP) AND INFRASTRUCTURE FINANCE PLAN (IFP) FOR THE INFRASTRUCTURE NECESSARY TO SUPPORT THE DEVELOPMENT OF APPROXIMATELY 454 ACRES LOCATED NORTH OF SYLVAN AVENUE, SOUTH OF FUTURE CLARATINA AVENUE, EAST OF OAKDALE ROAD, WEST OF ROSELLE AVENUE (FUNDING SOURCE: N/A)

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 Tivoli Specific Plan is located in the southwest portion of the Roselle/Claribel Comprehensive Planning District that consists of a total of 1,700 acres; and

WHEREAS, the Tivoli Specific Plan ("Project") application was filed by David Romano ("Applicant") of Newman-Romano, LLC, to allow for the development of approximately 454 acres located north of Sylvan Avenue, south of future Claratina Avenue, East of Oakdale Road, west of Roselle Avenue ("Property"); and

WHEREAS, the proposed Tivoli Specific Plan includes approximately 286 acres of residential land use of varying density with a buildout potential of between 1,800 to 3,200 dwelling units, 14 acres of neighborhood-serving commercial, 6 acres of general commercial, 67 acres of regional-serving commercial, 2 acres of professional office space, a 14-acre elementary school site, 30 acres of parks and open space, 4 acres of public infrastructure, and 31 acres of interior collector roadways; and

WHEREAS, a Final Program Environmental Impact Report was prepared for the Tivoli Specific Plan (SCH No. 2005072125) which analyzed the potential environmental effects of the proposed Project; and

WHEREAS, on February 26, 2008, the City Council approved the Tivoli Specific Plan and certified the Tivoli Program EIR; and

WHEREAS, the FMP and IFP are planning documents that will guide future infrastructure development and are required by the Tivoli Specific Plan; and

WHEREAS, The FMP and IFP are explicitly contemplated in the Tivoli Specific Plan EIR; and

WHEREAS, on May 19, 2008, the Planning Commission held a duly noticed public hearing to consider the Tivoli Specific Plan FMP and IFP in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing the Planning Commission continued this item to the June 16, 2008, meeting to allow time to hold a workshop to review the FMP and IFP prepared for the Tivoli Specific Plan; and

WHEREAS, the Planning Commission held a workshop on June 2, 2008, to review proposed Tivoli Specific Plan FMP and IFP; and

WHEREAS, on June 16, 2008, the Planning Commission held a duly noticed continued 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 Tivoli Specific Plan FMP and IFP was considered; and

WHEREAS, on June 16, 2008, the Planning Commission recommended the Tivoli Specific Plan FMP and IFP for City Council approval; and

WHEREAS, on June 24, 2008, 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 Tivoli Specific Plan 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 Tivoli Specific Plan has been adopted by the Modesto City Council by Ordinance 3479-C.S.
2. The companion Environmental Impact Report was also adopted by the Modesto City Council by Resolution 2008-141.
3. The proposed FMP and IFP supply the necessary information for the development of the infrastructure necessary to develop the needed backbone facilities for Tivoli Specific Plan.
4. The proposed Tivoli Specific Plan FMP and IFP are consistent with the Final Program Environmental Impact Report for the Tivoli Specific Plan Project (SCH No. 2005072125) 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 Tivoli Specific Plan 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 Tivoli Specific Plan 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 Tivoli Specific Plan Program EIR, was adopted which shows any of the following:

   a. one or more significant effects which is not discussed in the Tivoli Specific 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 Tivoli Specific 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.

9. The Initial Study, Environmental Assessment No. EA/C&ED 2008-18, 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 it hereby finds as follows the following policies that will guide the timing of said facilities:

1. The timing of backbone infrastructure shall be consistent with the Tivoli Specific Plan and the Tivoli Environmental Impact Report.

2. Backbone infrastructure shall be installed to meet project development demands of each phase for both on-site and off-site to meet the City's infrastructure standards.

3. Implementation Plans, or IPs will implement the timing and phasing of the backbone infrastructure. City of Modesto staff shall conduct a neighborhood meeting with affected property within and adjacent to the Implementation Plans.

4. The central basin and park facility must be provided with the early phases of residential development. This facility must be installed with the first certificate of occupancy or acceptance of improvements, whichever occurs first, of the phase required to provide this facility as determined by the IP process.

5. All arterial and collector street system must be installed in logical and complete segments for each phase proposed for development based on an Area Plan and IP. Full width Collector street improvement must be provided for each phase. Full width includes improvements within the ROW as defined in the FMP. Landscape lots and walls, considered in-tract improvements, shall be installed by developers concurrent with adjacent development consistent with project phasing. The improvements on Arterial streets include full improvements within the ROW on the project side and travel lanes and storm drainage facilities on the other side of the road. The required street improvements must be provided or secured prior to first final map recordation or certificate of occupancy, whichever occurs first. The City reserves the right to consider less than full street improvement described above under unique circumstances that make the full street improvement impractical or cost prohibitive, or as demonstrated by a project specific site access study or traffic analysis.

6. All water, sewer, and storm drainage facilities shall be installed in logical and complete segments for each phase. Interim improvements of these facilities may be considered but shall also be approved by the Director of Public Works. The required facilities must be installed prior to issuance of the first certificate of occupancy.

7. Interim water, sewer, and storm drainage facilities may be considered for the development in the early phases at developer's cost. The required interim facilities must be installed prior to issuance of the first certificate of occupancy.

8. The timing of upgrading Lydia Lane, Jeffrey Drive, and Mable Avenue will be determined by the IP.

9. The construction of gateways must be included in each phase.

BE IT FURTHER RESOLVED, by the City Council of the City of Modesto that it hereby finds as follows the following policies that will guide the financing of said facilities:

1. An IP for each phase identifying the required infrastructure and the funding mechanism for each phase must be approved prior or concurrent to approval of any future entitlement which includes an Area Plan, Final Development Plan, and/or Final Map.
2. The funding mechanism to finance the backbone infrastructure and maintenance of appropriate infrastructure for each phase as identified in the IP shall be in place prior to recordation of any Final Map or issuance of a building permit, whichever occurs first. The funding mechanism includes the formation or annexation to a CFD and establishing and contributing to a Tivoli Fee Program.
3. The Volunteer Land Dedication Program, or VLDP, should be approved prior or concurrent to approval of an IP.
4. Prior to recordation of any Final Map or issuance of building permit, non-participating property owner of the VLDP shall deliver to the City executed dedication documents in a form approved by the City of required land dedication within the subject property.

BE IT FURTHER RESOLVED by the City Council of the City of Modesto that it hereby adopts the Tivoli Specific Plan Facilities Master Plan and Infrastructure Finance Plan on file in the office of the Community and Economic Development Department and incorporated herein by reference including the changes recommended by Dave Romano in his July 1, 2008 letter.

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 Tivoli Specific

Plan 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 1st day of July, 2008, 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. 2008-423

A RESOLUTION TO SUMMARILY VACATE (OR ABANDON) THE ALLEY RIGHT-OF-WAY BETWEEN KANSAS AVENUE AND NEEDHAM, FROM FRANKLIN STREET TO MADISON STREET IN THE CITY OF MODESTO

WHEREAS, California Streets and Highways Code Section 8334 states that the legislative body of a local agency may summarily vacate "excess right-of-way of a street or highway not required for street or highway purposes," and

WHEREAS, the City of Modesto signed an agreement dated August 1, 2000, to sell excess property to Ray Christiansen, after the alley was abandoned, when property for the Kansas-Needham Overcrossing was being obtained, and

WHEREAS, Ray Christiansen has requested that the alley be abandoned, and

WHEREAS, the alley to be abandoned is more particularly described in **Exhibit** "A" **attached** hereto and incorporated herein by this reference, and

WHEREAS, the Public Works Department contacted all affected City departments and public utility companies, and no objections to the proposed alley abandonment have been received, and

WHEREAS, Ray Christiansen has submitted documentation to comply with easements required by the public utility companies, and

WHEREAS, the Council of the City of Modesto finds and declares that:

1. The abandonment of this alley right-of-way between Kansas Avenue and Needham, from Franklin Street to Madison Street is made under California Streets and Highways Code Section 8334.

2. Streets and Highways Code Section 8334 allows for the summary vacation of "excess right-of-way of a street or highway not required for street or highway purposes,"

3. The proposed abandonment does not conflict with the City's adopted General Plan.

4. This is a project, but is exempt from environmental review. CEQA Guidelines Public Resources Section 15312, exempts surplus property to be sold if: (a) The property does not have significant value for wildlife habitat or other environmental purposes, and (b) The property is of such size and shape or inaccessibility that it is incapable of independent development or use. The proposed abandonment is a condition of approval for excess property sale agreement.

5. That from and after the date this resolution is recorded, the alley right-of-way, which is proposed to be summarily vacated, will no longer constitute a public street right-of-way,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the alley right-of-way between Kansas Avenue and Needham, from Franklin Street to Madison Street in the City of Modesto, which is more particularly described in **Exhibit** "A", **attached** hereto and incorporated herein by reference, is hereby summarily vacated.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to sign the document to give MID an easement for their utilities.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to sign the document to abandon the alley.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to record a certified copy of this resolution in the Stanislaus County Recorder's Office. From and after the date this resolution is recorded, said street right-of-way shall no longer constitute a public street right-of-way.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating, Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

655-07
ELECTRICAL

EXHIBIT "A"
LEGAL DESCRIPTION
FOR MODESTO IRRIGATION DISTRICT ELECTRICAL EASEMENT
ALLEYWAY

All that portion of that certain piece or parcel of land situate in the City of Modesto, County of Stanislaus, State of California, lying within the Southwest quarter of Section 29, Township 3 South, Range 9 East, Mount Diablo Meridian, being all that portion of that Alleyway lying within Block 439 of the "CITY OF MODESTO BLOCK 439 MAP", as shown on that map filed in Volume 15 of Maps, Page 439, Stanislaus County Records, being more particularly described as follows:

Commencing at the Southwest corner of lot 1 of said Block 439, said point lying on the North line of a 20 foot wide Alley; thence South 88°58'38" East along the South line of said lots 1 and 2, a distance of 36.44 feet to the TRUE POINT OF BEGINNING also being a point on the East line of a Road Right of Way dedication to the City of Modesto, recorded in the Office of the Stanislaus County Recorder as Instrument Number 2000-0073268, recorded on September 6, 2000; thence continuing along the South line of lots 2 thru 12 South 88°58'38" East, a distance of 261.68; thence South 01°01'22" West, a distance of 7.00 feet; thence North 88°58'38" West, a distance of 94.23 feet; thence South 01°01'22" West, a distance of 9.00 feet; thence North 88°58'38" West, a distance of 166.71 feet to the East line of said Road Right of way dedication; thence North 01°36'23" West along last said East line, a distance of 16.02 fee to the TRUE POINT OF BEGINNING.

CONTAINING 3,333 square feet more or less.

SUBJECT TO all easements and/or rights-of-way of record.

ALSO SUBJECT TO all existing Buildings and Structures.



Dave L. Skidmore, L.S. 7126
License Expires 12/31/08
04/10/08

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-424

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PRINTING OF MONTHLY UTILITY BILL INSERTS FOR THE PUBLIC WORKS DEPARTMENT, TO SIERRA PACIFIC LITHOGRAPHICS, WEST SACRAMENTO, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE ANNUAL PURCHASE AGREEMENTS 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 $25,981

WHEREAS, the utility bill insert has been included with the monthly billing statement since 1987, and

WHEREAS, the utility bill insert provides the City an economical means of reaching all households and businesses in the City with important information related to City services, and

WHEREAS, on May 27, 2008, by Resolution No. 2008-307, the Council authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the printing of monthly utility bill inserts for the Public Works Department, and

WHEREAS, on June 4, 2008, the Purchasing Division issued Request for Bid No. 0708-31 for the printing of monthly utility bill inserts to eighteen (18) prospective bidders, fifteen (15) of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on July 1, 2008, RFB's were formally opened in the City Clerk's office. Of the eighteen (18) prospective bidders, sixteen (16) companies chose to respond. Of the sixteen (16) bids received four (4) were considered responsive and responsible, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the printing of monthly utility bill

inserts for the Public Works Department, to Sierra Pacific Lithographics, West Sacramento, CA, and authorizes the Purchasing Manager 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 annual cost of $25,981, 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 printing of monthly utility bill inserts for the Public Works Department, to Sierra Pacific Lithographics, West Sacramento, CA, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in accounts 6100-480-5009-0230, 6210-480-5209-0230, 6280-480-5314-0230 and 0100-020-0201-0205 for the printing of monthly utility bill inserts,

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 printing of monthly utility bill inserts for the Public Works Department to Sierra Pacific Lithographics, West Sacramento, CA

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 annual cost of $25,981.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-425

RESOLUTION AUTHORIZING ISSUANCE OF FORMAL REQUEST FOR BIDS (RFB) FOR GYM SERVICES FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $12,000

WHEREAS, in the 1992 the Fire Department and Risk Management researched ways to improve the results of City physicals for firefighters, and

WHEREAS, then Risk Manager, Don Norris, found a program being provided by Aether, and used by many Bay Area fire departments, and

WHEREAS, the Aether program provided for one-on-one fitness evaluations and tailored fitness programs, and

WHEREAS, the fitness program resulted in a reduction of work related injuries and a substantial savings to the City in Workers' Compensation claims, and

WHEREAS, the increasing costs of the Aether program became cost prohibitive, and

WHEREAS, not wanting to give up the inroads made in the fitness of the department, Risk Management began interviewing local fitness centers to continue quarterly classes and evaluations, and

WHEREAS, one of the benefits of working with a local fitness center was that they were also willing to provide fitness center memberships for each member of the department, and

WHEREAS, all this was provided at a savings of approximately sixty percent, and

WHEREAS, while researching options to further reduce the long term costs of the fitness program, it was determined that the International Association of Fire Fighters and the International Association of Fire Chiefs had developed a Wellness Program which

included a Peer Fitness component which has been very successful and appears to meet the needs of the Fire Department, and

WHEREAS, as this program is a train-the-trainer type approach, Fire Department personnel will attend an extensive training program, and

WHEREAS, this will provide the skills necessary for the trainers to develop individual fitness programs for Department personnel, and

WHEREAS, the added benefit is that at least one of these "trainers" will be on duty each shift to answer fitness questions and provide guidance, and

WHEREAS, the department will continue to offer gym services to facilitate ongoing fitness training outside of the work environment, and

WHEREAS, a formal Request for Bids will be issued for gym services for a two year agreement with three one-year extension options, for an estimated annual cost of $12,000.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the issuance of a formal Request for Bids for gym services for a two year agreement with three one-year extension options, for an estimated annual cost of $12,000, is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2007-426

RESOLUTION AUTHORIZING THE MODESTO FIRE DEPARTMENT TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR APPARATUS BAY DOOR REPAIR AND MAINTENANCE SERVICES FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $25,000 AND A ONE TIME COST OF UP TO $150,000 IN THE FIRST YEAR

WHEREAS, each Fire Station has at least one and up to eight bay doors, and

WHEREAS, the bay doors are the large roll up doors that are used to secure the fire apparatus, and

WHEREAS, some of the bay doors and remote opening systems are thirty 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, many of the doors do not have the electronic eyes required by Cal OSHA for safety, and

WHEREAS, it is time to have the bay door system evaluated at each Fire Station and to implement a plan for bringing the doors up to the minimum standards required by state and local codes, and

WHEREAS, by soliciting bids, the City will meet the Modesto Municipal Code requirements for formal bid procedures and will obtain the best value.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Modesto Fire Department to issue the formal Request for Bids (RFB) for apparatus bay door repair and maintenance services for a two (2) year

agreement with three (3) one-year extension options at the sole discretion of the City, for an estimated annual cost of $25,000, and a one time cost of up to $150,000 in the first year.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-427

RESOLUTION AUTHORIZING THE DONATION OF SURPLUS PERSONAL PROTECTIVE EQUIPMENT FROM THE MODESTO FIRE DEPARTMENT TO VARIOUS ORGANIZATIONS IN NEED

WHEREAS, personal protective equipment is provided to our firefighters to protect them when fighting fires, and

WHEREAS, the California Occupational Safety and Health Administration and the National Fire Protection Association have establish guidelines for the quality of personal protective equipment, and

WHEREAS, personal protective equipment that is removed from service because it no longer meets the California Occupational Safety and Health Administration and the National Fire Protection Association guidelines does not serve a purpose at the Fire Department, and

WHEREAS, when personal protective equipment can no longer be utilized for active firefighting, it can be used for demonstration and training purposes, and

WHEREAS, personal protective equipment can be used in Explorer programs or in Fire Service outside the country, and

WHEREAS, it is requested that certain items of personal protective equipment be donated to various organizations in need.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the donation of surplus personal protective equipment from the Modesto Fire Department to various organizations in need.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-428

RESOLUTION AUTHORIZING THE SALE OF SURPLUS PERSONAL PROTECTION EQUIPMENT FROM THE MODESTO FIRE DEPARTMENT TO THE YOSEMITE COMMUNITY COLLEGE DISTRICT, REGIONAL FIRE TRAINING CENTER

WHEREAS, personal protective equipment is provided to firefighters to protect them when fighting fires, and

WHEREAS, the California Occupational Safety and Health Administration and the National Fire Protection Association have establish guidelines for the quality of personal protective equipment, and

WHEREAS, personal protective equipment that is removed from service because it no longer meets the California Occupational Safety and Health Administration and the National Fire Protection Association guidelines does not serve a purpose at the Fire Department, and

WHEREAS, when this equipment can no longer be utilized for active firefighting, it can be used for demonstration and training purposes, and

WHEREAS, the Regional Fire Training Center (RFTC) has made a request to purchase the personal protective equipment which has been removed from service, and

WHEREAS, these items will be used by instructors at the RFTC, and

WHEREAS, we are requesting permission to sell the personal protective equipment for $100.00 per set to the RFTC.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the sale of surplus personal protective equipment from the

Modesto Fire Department to the Yosemite Community College District, Regional Fire Training Center.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-429

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO CONDUCT A SOLE SOURCE ACQUISITION WITH HTEVAR TO PURCHASE AN IBM POWER6 MODEL M25 SERVER AND PROVIDE MIGRATION AND TRAINING SERVICES/SUPPLIES FOR THE EXISTING SUNGARD HTE UTILITY BILLING MISCELLANEOUS RECEIVABLES SYSTEM, FOR AN ESTIMATED TOTAL COST OF $112,010.00

WHEREAS, the existing Sungard HTE public administration software suite, which operates the City of Modesto Utility Billing System, has been hosted on the current IBM AS/400 Model 820 computer since September 2001, and

WHEREAS, the capacity of the current server has been stretched beyond the expected five-year lifecycle and is at or above recommended maximum levels for processor, memory and storage utilization, and

WHEREAS, Information Technology staff advises this upgrade is necessary to ensure ongoing service is provided to the City's utility customers and that this upgrade will provide needed capacity for the existing applications as well as the capability for future upgrades, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases which meet or exceed $50,000 for material, equipment or contractual services to be formally bid; however, there are exceptions to this rule. Modesto Municipal Code Section 8-3.204(b), states, "Where the Purchasing Agency's requirements can be met solely by a single article or process," and

WHEREAS, due to the technical specifications required by the Information Technology Department, including complete compatibility with previously authorized and procured Sungard HTE public sector application systems and the fact that HTEVAR

is the sole authorized vendor for Sungard HTE hardware and systems migration support, the procurement will be conducted as a sole source, and

WHEREAS, the hardware is used primarily for utility billing purposes, it is appropriate to allocate $112,010.00 for this purchase equally to the Water and Sewer Enterprise Funds.

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 acquisition with HTEVAR to purchase an IBM Model Power6 M25 server and provide migration and training services/supplies for the existing Sungard HTE Utility Billing Miscellaneous Receivables System, for and estimated total cost of $112,010.00.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-430

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO CONDUCT A SOLE SOURCE ACQUISITION WITH SUNGARD HTE TO PURCHASE THE NAVILINE WEB UPGRADE, MIGRATION AND TRAINING SERVICES FOR SUNGARD HTE UTILITY BILLING AND MISCELLANEOUS RECEIVABLES SYSTEM FOR AN ESTIMATED TOTAL COST OF $85,000.00

WHEREAS, the existing Sungard HTE public administration software suite, which operates the City of Modesto Utility Billing System, has been operational since September 1999, and

WHEREAS, the vendor recently released information that upgrades are no longer available for the version of the software currently used by the City, and

WHEREAS, enhancements and improved performance components will not be developed for our current version of the Utility Billing System, and

WHEREAS, all HTE systems will require the Naviline web upgrade to receive system enhancements and improvements, and

WHEREAS, the Naviline upgrade will provide end-users with a Windows based environment, ease of administration and will facilitate simplified training methods while decreasing training time, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases which meet or exceed $50,000 for material, equipment or contractual services to be formally bid; however, there are exceptions to this rule. Modesto Municipal Code Section 8-3.204(b), states, "Where the Purchasing Agency's requirements can be met solely by a single article or process," and

WHEREAS, due to the technical specifications required by the Information Technology Department, including complete compatibility with previously authorized

and procured Sungard HTE public sector application systems and the fact that Sungard HTE is the sole authorized vendor for Sungard HTE systems and support, the procurement will be conducted as a sole-source, and

WHEREAS, the software is used primarily for utility billing purposes, it is appropriate to allocate $85,000.00 for this purchase equally to the Water and Sewer Enterprise Funds.

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 acquisition with Sungard HTE to purchase the Naviline web upgrade, migration and training services for Sungard HTE Utility Billing and Miscellaneous Receivables System for an estimated total cost of $85,000.00.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-431

A RESOLUTION AMENDING THE FISCAL YEAR 08-09 OPERATING BUDGET TO TRANSFER $98,505 FROM 6100-800-8000-8003, WATER FUND RESERVES AND TRANSFER $98,505 FROM 6210-800-8000-8003, WASTEWATER FUND RESERVES TO THE INFORMATION TECHNOLOGY FUND RESERVES WHERE THESE FUNDS WILL BE APPROPRIATED TO 7130-070-0744-5452 FOR HARDWARE, MIGRATION AND TRAINING SERVICES FOR THE HTE SYSTEM UPGRADE

WHEREAS, the software and related hardware are used primarily for utility billing purposes it is appropriate to allocate the costs of this purchase to the Water and Sewer Enterprise Funds, and

WHEREAS, the total cost of approximately $197,010.00 will be shared equally between these funds, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 08-09 operating budget to transfer $98,505 from 6100-800-8000-8003, Water Fund Reserves and transfer $98,505 from 6210-800-8000-8003, Wastewater Fund Reserves to the Information Technology Fund Reserves where these funds will be appropriated to (account number here) for migration and training services for the existing HTE software upgrade.

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 August, 2008, 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, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-432

A RESOLUTION AMENDING RESOLUTION NO. 2006-145 TO INCLUDE TAXES IN AMOUNT NOT TO EXCEED $12,000 PER YEAR TO THE RECURRING ANNUAL COSTS OF $160,000, FOR A TOTAL ANNUAL COST NOT TO EXCEED $172,000 TERM OF FIVE YEARS

WHEREAS, the City has an ongoing need to purchase Microsoft software utilized by the City of Modesto and managed by the Information Technology Department, and

WHEREAS, the City has an ongoing need to pay taxes on the Microsoft software which is utilized by the City of Modesto and managed by the Information Technology Department, and

WHEREAS, the expenditures for this agreement were approved by Council through Resolution No. 2006-145 in an amount not to exceed $160,000, and

WHEREAS, staff is requesting the Purchasing Manager to be authorized to add taxes to Resolution 2006-145 in an amount not to exceed $12,000 per year,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Resolution No. 2006-145 is amended to include taxes in an amount not to exceed $12,000 per year to the Recurring annual costs of $160,000, for a total annual cost not to exceed $172,000 for a term of five years.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: _____
STEPANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-433

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER TO DELL CORPORATION UNDER THE STATE OF CALIFORNIA, DEPARTMENT OF GENERAL SERVICES AND THE WESTERN STATES CONTRACTING ALLIANCE (WSCA) FOR A MICROSOFT ENTERPRISE AGEEMENT (EA) TRUE UP IN THE AMOUNT NOT TO EXCEED $62,000

WHEREAS, the City has an ongoing need to purchase Microsoft software utilized by the City of Modesto and managed by the Information Technology Department, and

WHEREAS, the City has an ongoing need to True Up Microsoft software annually which is utilized by the City of Modesto and managed by the Information Technology Department, and

WHEREAS, the expenditures for this agreement were approved by Council through Resolution No.2006-145, and

WHEREAS, staff is requesting the Purchasing Manager be authorized to purchase the True Up from Dell Corporation in an amount not to exceed $62,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Manager is hereby authorized to issue a purchase order to Dell Corporation under the State of California, Department of General Services and the Western States Contracting Alliance for a Microsoft Enterprise Agreement True Up in an amount not to exceed $62,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: _____
STEPANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-434

A RESOLUTION APPROVING AN ADDITIONAL SIXTY (60) DAY EXTENSION TO A SIX-MONTH PROVISIONAL APPOINTMENT FOR JEANETTE MAURER AS ADMINISTRATIVE ANALYST/TECHNOLOGY SOLUTIONS ANALYST

WHEREAS, the Information Technology Department has a vacant Administrative Analyst/Technology Solutions Analyst position, and

WHEREAS, Jeanette Maurer was provisionally appointed as Administrative Analyst/Technology Solutions Analyst on July 24, 2007, and

WHEREAS, unforeseen delays in the adoption of the Bryce wall-to-wall study have caused a delay in filling the vacant Technology Solutions Analyst position, and

WHEREAS, the City Council on January 8, 2008, by Resolution No 2008-028, approved a sixty (60) day extension to the six-month provisional appointment for Jeanette Maurer as Administrative Analyst/Technology Solutions Analyst, and

WHEREAS, the City Council on April 1, 2008, by Resolution No 2008-177, approved an additional sixty (60) day extension to the six-month provisional appointment for Jeanette Maurer as Administrative Analyst/Technology Solutions Analyst, and

WHEREAS, the City Council on May 27, 2008, by Resolution No 2008-302, approved an additional sixty (60) day extension to the six-month provisional appointment for Jeanette Maurer as Administrative Analyst/Technology Solutions Analyst, and

WHEREAS, this current extension is expires on August 1, 2008, and

WHEREAS, the Information Technology Department desires an additional extension to the provisional appointment of Jeanette Maurer for another sixty (60) days

until a successful candidate can be hired in the capacity of Technology Solutions Analyst, and

WHEREAS, Modesto Personnel Rule 7.5 (c) requires Council approval if a provisional appointment is to exceed the six-month period authorized by said rule, and

WHEREAS, staff is requesting that the City Council approve an additional sixty (60) day extension to this provisional appointment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an additional sixty (60) day extension to the six-month provisional appointment of Jeanette Maurer to the position of Administrative Analyst/Technology Solutions Analyst.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating, Mayor Ridenour

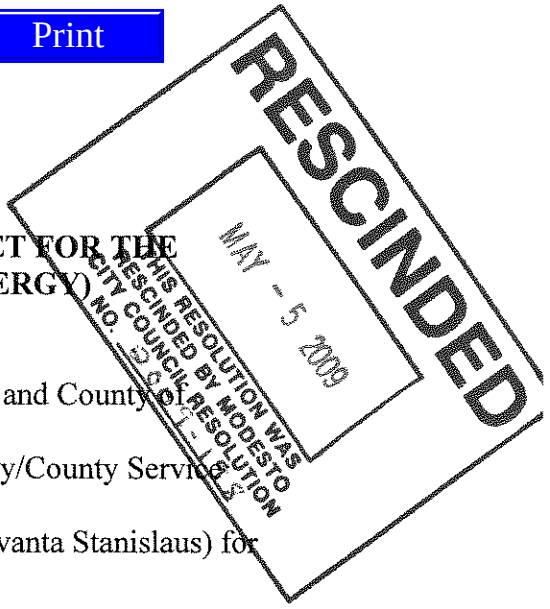
ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print



MODESTO CITY COUNCIL
RESOLUTION NO. 2008-435

A RESOLUTION APPROVING THE FY 2008-2009 BUDGET FOR THE STANISLAUS RESOURCE RECOVERY (WASTE-TO-ENERGY) FACILITY, AS AMENDED

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, the City has been a partner 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, the Committee initially approved the 2008-09 budget for the facility in March, 2008, and

WHEREAS, the recent turmoil in the bond markets required that the City/County Financing Agency convene a special meeting to consider paying off the project debt in advance of the original December 31, 2009, term, and

WHEREAS, this action, in turn, required a significant adjustment to the project budget, which was approved by the Committee for submittal to the Council and Board on July 10, 2008, and

WHEREAS, the Fiscal Year 2008-09 WTE budget was based on the Assumptions, Revenues, Expenditures and Tip Fee Calculation shown on **Exhibits** "1" and "2", copies of which are **attached** hereto and incorporated herein by reference, and

WHEREAS, at its July 10, 2008, meeting, the Executive Committee also considered the proposed FY 2008-09 Budget, as amended, as shown on **Exhibit** "2", a copy of which is **attached** hereto and incorporated herein by reference, and the Executive Committee unanimously approved forwarding this proposed FY 2008-09 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 it hereby approves the FY 2008-09 Waste-to-Energy Project Budget, a copy of which is **attached** hereto as **Exhibits** "1" and "2" and incorporated herein by reference, as recommended by the Executive Committee.

EXHIBIT 1
Stanislaus Waste to Energy Project
Proposed Budget FY 2008-2009

Expenditures			Revenues		
Operatings & Maintainence Expense		**$ 11,995,529**	**Electric Credit**		
			Revenue from Electricity Sales	8,463,068	
Pass-Through Costs			Fixed Capacity Charge	3,179,500	
Ash Disposal	1,215,200		Gross Electric Revenues	11,642,568	
Process Rejects	4,043		90% of Gross Electric Revenues	10,478,312	
Recovered Materials (Credit)	-59,018		**Total Electric Credit**		**$ 10,478,312**
Insurance	367,179				
Ferrous Metals	26,250		**RRA Interest Earnings**		**$ 951,743**
Property Tax	504,068				
Sales Tax	264,029		**Disposal Fees**		**$ 6,860,000**
Trustee Fees	10,672				
Site Lease	198,000		**Supplemental Waste Disposal**		**$ 425,000**
Air Permit Fees	59,400				
County Fees/Other Fees	9,700		**Use of RRA Fund Balance**		**$ 6,641,978**
Franchise Fees	9,632				
Carbon Expense	150,496				
Dolomitic Lime Expense	204,084				
Total Pass-Through Costs		**$ 2,963,734**			
Debt Service Expense					
Bond Principal Payment Due January 1st	7,370,000				
Bond Interest Expense	798,794				
Liquidity Fee	34,262				
Remarketing Fee	10,542				
DSRF Interest Earnings	308,595				
Principal Account Interest Earnings	217,950				
Net Debt Service Expense		**$ 7,687,052**			
Annual Administrative Expenses					
60400-Communications	0				
61600-Maintenance	0				
62200-Memberships (IEPA)	21,961				
62410-Rebates & Refunds (Arbitrage Liability)	107,123				
62600-Office Supplies	536				
62780-Books/Periodicals	536				
63000-Professional & Special Services	214,245				
(Leg. Lobbyist, Audits, F/A's, Energy Consultant)					
63280-Contracts	0				
63400-Engineering Services (Consulting Eng.)	100,000				
63410-City of Modesto Admin.	236,187				
63640-Legal Services (outside Counsel)	200,000				
65000-Public/Legal Notices	500				
65100-Rent/Equipment	0				
65300-Rent/Structure	0				
65780-Education/Training	3,214				
67040-Travel Expenses (Wte conf.)	8,035				
74080-Central Services Printing	0				
74250-County Counsel	21,425				
74301-County Auditor	114				
74302-County Purchasing	476				
74370-County Stores	0				
74520-County Admin. (incl. project position)	325,974				
74881-A-87 Charges	393				
82130-Office Equipment	0				
84420-Personal Computer Equipment	0				
73010-Contributions to other agencies:	1,470,000				
(HHW and AB939 surcharges)					
Total Administrative Expenses		**$ 2,710,718**			
Total Expenditure		**$ 25,357,033**	**Total Revenue**		**$ 25,357,033**

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2008-436

A RESOLUTION APPROVING AN AGREEMENT WITH THE STANISLAUS COUNTY PROBATION DEPARTMENT IN THE AMOUNT OF $91,670 FOR ONE POLICE OFFICER TO PROVIDE HIGH RISK OFFENDER/JUVENILE WARRANT ENFORCEMENT PROGRAM FOR FISCAL YEAR 2008/09, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, since July 1, 2001, the City of Modesto has continued to renew its Agreement with Stanislaus County Probation Department to provide the services of one police officer, with direct compensation being made to the City on an annual basis, and

WHEREAS, the program provides for intensive supervision of, and intervention with, high risk probationers, and

WHEREAS, the program also promotes accountability by aggressively targeting outstanding juvenile court warrants, allowing juvenile wards to increase their chances of successfully completing probation, and

WHEREAS, the 2009 budgeted salary and benefits for a full-time officer is $108,264.00 with revenue to remain at $91,670, or 85 percent reimbursement of salary and benefits, and

WHEREAS, the term of this Agreement is July 1, 2008 through June 30, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with the Stanislaus County Probation Department in the amount of $91,670 for one Police Officer to provide High Risk Offender/Juvenile Warrant Enforcement Program for fiscal year 2008/09.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2008-437

A RESOLUTION AMENDING THE FISCAL YEAR 2008/09 OPERATING BUDGET BY APPROPRIATING $16,594 FROM THE GENERAL FUND RESERVE TO FULLY COVER THE COST OF THIS PROGRAM

WHEREAS, the Police Department would like to continue the Agreement with the Stanislaus County Probation Department for one police officer position allocated to execute the High Risk Offender/Juvenile Warrant Enforcement Program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the FY 2008/09 Operating Budget is hereby amended as indicated below to initiate said program:

APPROPRIATIONS:

FROM:			
09-0100-190-1941-0184	0100R	($16,594)	GF Reserves
TO:			
09-0420-190-2983-0181	0420R	$16,594	Police Outside Agreements

TRANSFERS BETWEEN FUNDS:

FROM:			
09-0100-700-2983-7042	0100G	$16,594	Gen'l Fund Transfer to Police Outside Agreements
TO:			
09-0420-700-2983-9010		$16,594	Police Outside Agreements Transfer from Gen. Fund

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-438

A RESOLUTION APPROVING A STANISLAUS DRUG ENFORCEMENT AGENCY JOINT POWERS AGREEMENT IN THE AMOUNT OF $786,690 TO PROVIDE A COORDINATED MULTI-AGENCY SPECIALLY TRAINED POLICE UNIT TO ASSIST EACH OF THE PARTICIPATING PARTIES TO ENFORCE DRUG LAWS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, on September 15, 1999, the County of Stanialaus and the cities of Modesto, Oakdale, Ceres, Turlock, Hughson, Patterson, Waterford and Newman entered into an Agreement entitled, "Stanislaus Drug Enforcement Agency Joint Powers Agreement" (Agreement), and

WHEREAS, the purpose of the Agreement is to provide a coordinated multi-agency specially trained police unit to assist each of the participating agencies to enforce drug laws and narcotics enforcement, and

WHEREAS, the governing body for the Stanislaus Drug Enforcement Agency consists of a committee comprised of the Sheriff of Stanislaus County, the District Attorney of Stanislaus County, the Chief Probation Officer of Stanislaus County, and the Chief of Police of each participating agency, and

WHEREAS, the parties now desire to replace the Stanislaus Drug Enforcement Agency Joint Powers Agreement with a new Agreement to become effective July 1, 2008, and

WHEREAS, under the new Agreement the Fiscal Year 2008/2009 City contribution will be $786,690, and will be made up of cash and in-kind personnel services, and

WHEREAS, funds have been budgeted in the City's General Fund Operating Budget for the Police Department, and

WHEREAS, the term of the Agreement will be July 1, 2008 to June 30, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Stanislaus Drug Enforcement Agency Joint Powers Agreement in the amount of $786,690 to provide a coordinated multi-agency specially trained police unit to assist each of the participating agencies to enforce drug laws..

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-439

A RESOLUTION APPROVING AN AGREEMENT WITH SYLVAN UNION SCHOOL DISTRICT IN THE AMOUNT OF $54,374 FOR THE PROVISION OF ONE HALF OF A MODESTO POLICE OFFICER'S/SCHOOL RESOURCE OFFICER'S (SRO) SALARY AND BENEFITS TO PROVIDE DIRECT LAW ENFORCEMENT SERVICES, EXPERTISE AND TRAINING AT THE SCHOOLS WITHIN THE DISTRICT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Sylvan Union School District (District) requires one Modesto Police Officer/School Resource Officer (SRO) to provide direct law enforcement services, Campus Supervisor training, in services, and consultations with site staff and District administrators, and liaison between Modesto Police Department and Sylvan Union Schools, and

WHEREAS, the Modesto Police Department can provide a specially trained, uniformed police officer and 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 term of this agreement is August 25, 2008 to June 5, 2009, and

WHEREAS, District and Modesto Police Department would like to continue the 50/50 partnership to share the cost to fund a Modesto Police Officer/SRO at the schools in the Sylvan Union School District, and

WHEREAS, District will reimburse the City of Modesto $54,374 for the services of one-half a Modesto Police Officer's/School Resource Officer's salary and benefits,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement between the City of Modesto and the Sylvan Union

School District in the amount of $54,374 for the provision of one-half of a Modesto Police Officer/School Resource Officer's salary and benefits to provide direct law enforcement service, expertise and training at the schools within the District through the services of a School Resource Officer.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2008-440

A RESOLUTION APPROVING AN AMENDMENT TO THE CITY/COUNTY PARTY PATROL AGREEMENT TO EXTEND THE TERMINATION DATE BY NINETY (90) DAYS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT

WHEREAS, on December 4, 2007, the City Council, by Resolution No. 2007-720, approved an agreement with Stanislaus County Behavioral Health and Recovery Services, to provide Party Patrol Police Officers and conduct juvenile alcohol education, prevention and intervention programs for the City of Modesto and Stanislaus County, and

WHEREAS, the term of the Agreement was October 1, 2007 through June 30, 2008, and

WHEREAS, the parties wish to amend the agreement to extend the termination date by ninety (90) days, and

WHEREAS, this extension will allow for the completion of services/activities for Party Patrol Police Officers, juvenile alcohol education and intervention programs, and

WHEREAS, there will be no fiscal impact to the City of Modesto, and

WHEREAS, the Amendment extends the termination date of the Agreement to September 30, 2008, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the City/County Party Patrol Agreement to extend the termination date by ninety (90) days.

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 6th day of August, 2008, 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, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-441

A RESOLUTION APPROVING A LONGITUDINAL PIPELINE ENCROACHMENT AGREEMENT WITH THE UNION PACIFIC RAILROAD COMPANY TO ALLOW THE CONSTRUCTION, OPERATION, AND MAINTENANCE OF A WATER TRANSMISSION PIPELINE ALONG THE UNION PACIFIC RAILROAD'S RIGHT-OF-WAY BETWEEN PELANDALE AVENUE AND BANGS AVENUE IN THE AMOUNT OF $15,320, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto desires to construct, operate, and maintain a water transmission line along the Virginia Avenue Corridor, and

WHEREAS, the portion of the Virginia Avenue Corridor between Pelandale Avenue and Bangs Avenue is still within the active Union Pacific Railroad Company right-of-way, and

WHEREAS, the Union Pacific Railroad Company requires a Longitudinal Pipeline Encroachment Agreement prior to the construction of the pipeline within their right-of-way, and

WHEREAS, the Union Pacific Railroad Company also requires a one-time License Fee payment of $15,320 to grant the City of Modesto the right to construct, operate, and maintain the underground water transmission line, and

WHEREAS, staff at the City of Modesto has reviewed the Agreement and recommends City Council approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Longitudinal Pipeline Encroachment Agreement with the Union Pacific Railroad Company to allow the construction, operation, and maintenance of a water transmission pipeline along the Union Pacific Railroad's right-of-way between Pelandale Avenue and Bangs Avenue in the amount of $15,320.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, Lopez, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-442

A RESOLUTION AUTHORIZING EXPENDITURE OF THE CURRENTLY BUDGETED STANISLAUS & TUOLUMNE RIVERS' GROUNDWATER BASIN ASSOCIATION (STRGBA) - GROUNDWATER MANAGEMENT PLAN (GWMP) - SECONDARY FUNDS (APPROXIMATELY $49,950) TO CONTINUE PARTICIPATION IN ONGOING GROUNDWATER MANAGEMENT RELATED ACTIVITIES

WHEREAS, the City Council, on January 27, 2004, by Resolution No. 2004-061, authorized staff to participate in the development of Groundwater Management Plans and authorized the initial expenditure of budgeted funds for the development of Groundwater Management Plans for both of the two groundwater sub-basins underlying the City of Modesto, and

WHEREAS, the City of Modesto is currently participating in two groundwater associations, the Stanislaus and Tuolumne Rivers' Groundwater Basin Association (STRGBA) and the Turlock Groundwater Basin Association (TGBA), to discuss groundwater issues within these respective basins, and

WHEREAS, the City has experienced a decline in groundwater quality at a number of well sites, which has resulted in those wells being taken out of service, and

WHEREAS, on June 28, 2005, the City Council, by Resolution No. 2005-340, adopted an Integrated Regional Groundwater Management Plan (IRGMP) with the STRGBA that provides a framework for overseeing and coordinating both groundwater and surface water management activities within the Modesto Groundwater Sub-basin, and

WHEREAS, on April 1, 2008, the City Council, by Resolution No. 2008-206, adopted a Groundwater Management Plan (GMP) with the TGBA that provides a

framework for overseeing and coordinating both groundwater and surface water management activities within the Modesto Groundwater Sub-basin, and

WHEREAS, additional expenditures by the City are required to continue participating in ongoing groundwater management related activities in order to: 1) make payment to the Modesto Irrigation District (MID) for the City's fair share ($21,000) of the $195,000 ongoing United States Geological Survey (USGS) – Phase V, Groundwater Flow Modeling project ("Modeling project"); 2) make payment to MID for the City's fair share ($21,000) of the $195,000 USGS – Phase VI, Modeling project; and 3) expend the balance of the budgeted funds (approximately $7,950) for other groundwater management related work in both the Modesto Groundwater Sub-basin and the Turlock Groundwater Sub-basin, including City staff charges, and

WHEREAS, City desires to pay the amount for the total additional expenditures, which is approximately $49,950, and

WHEREAS, sufficient funds have been budgeted in CIP account – 6180-430-W620-6010 "STRGBA-GWMP-Secondary" to support said ongoing activities, and

WHEREAS, the Public Works Director recommends approving the expenditures to continue participation in ongoing groundwater management related activities,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes expenditures of currently budgeted funds, in the estimated amount of $49,950 as requested above to continue participating in ongoing groundwater management related activities.

BE IT FURTHER RESOLVED that the Council hereby authorizes the expenditure of said currently budgeted funds for ongoing groundwater management

related activities for the Modesto Groundwater Sub-basins underlying the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-443

A RESOLUTION ACCEPTING THE WORK BY PRESTON PIPELINES, INC. FOR THE LA LOMA AVENUE SANITARY SEWER LIFT STATION REPLACEMENT 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 $1,823,139.62

WHEREAS, a report has been filed by the Public Works Director that the project titled "La Loma Avenue Sanitary Sewer Lift Station Replacement" has been completed by Preston Pipelines, Inc. in accordance with the contract agreement dated January 23, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "La Loma Avenue Sanitary Sewer Lift Station Replacement" 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 $1,823,139.62 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 6th day of August, 2008, 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, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-444

A RESOLUTION APPROVING AN AGREEMENT WITH HDR ENGINEERING, INC. TO PREPARE A FINAL PROJECT DESIGN FOR THE EL RIO SEWER REPLACEMENT PROJECT, IN AN AMOUNT NOT TO EXCEED $139,363 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $13,937 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A MAXIMUM TOTAL AMOUNT OF $153,300, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City Council, on December 7, 2004, by Resolution No. 2004-644, 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, the City Council, on September 26, 2006, by Resolution No. 2006-624, changed 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 serves 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, the next step is to complete the final design for the El Rio Sewer Replacement Project, and

WHEREAS, this Agreement will allow for the final design, development of biddable documents, and assistance during the bid period for the Project, and

WHEREAS, HDR has completed the preliminary design satisfactorily, and within the approved budget, and

WHEREAS, the budgeted preliminary design fee is $41,358, or less than 2.5% of the construction cost, which is within the expected range of 2% to 3%. The preliminary design did meet the expectations of the City, and

WHEREAS, in addition, less effort regarding survey and geotechnical investigations is required for a sewer replacement project. Therefore, the level of effort on the preliminary design fee is thought to be within a reasonable range, and

WHEREAS, the estimated construction cost included in the PDR ranges from $1.5 million to $2.1 million (in July 2007 costs), depending on the replacement method chosen, and

WHEREAS, the design fee proposed for identified scope of services by HDR is $139,363 or 10% of the estimated construction costs, and

WHEREAS, this design fee is within the expected range of 9% to 11% of construction costs, and

WHEREAS, selecting HDR to complete the final design will maximize benefits to the City related to utilizing knowledge gained through the preliminary design effort, 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 the consulting firm of HDR Engineering, Inc. as the City does not have the staffing level or subject matter

expertise to complete the final project design services for El Rio Sewer Replacement 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, Inc. for final project design services for El Rio Sewer Replacement, in an amount not to exceed $139,363, for the identified scope of services, plus $13,937 for additional services (if needed) for a maximum total amount of $153,300.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-445

A RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS, P.C. TO PREPARE A FINAL PROJECT DESIGN OF THE DIGESTER GAS TREATMENT SYSTEM PROJECT, IN AN AMOUNT NOT TO EXCEED $44,247 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $4,425 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A MAXIMUM TOTAL AMOUNT OF $48,672, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City Council, on September 26, 2006, by Resolution No. 2006-622, approved an agreement with California Energy Commission (CEC) to perform energy audits of the Sutter Avenue and Jennings Road Treatment Plant Facilities, and

WHEREAS, CEC contracted with Digital Energy to perform these energy audits and Digital Energy found that by installing a digester gas treatment system to feed an existing low emissions boiler burner the City would see a reduction in natural gas usage, and

WHEREAS, the Digester Gas Treatment project will replace the use of natural gas in the boiler operation with digester gas that is already produced at the Treatment Plant, and

WHEREAS, this project will require the installation of a system that will remove hydrogen sulfide and moisture from the digester gas, and require a new permit for boiler operation from the San Joaquin Valley Air Pollution Control District (SJVAPCD), and

WHEREAS, it is estimated that the utility bill savings from this project will be approximately $147,000 annually, and

WHEREAS, the City Council, on November 7, 2007, by Resolution No. 2007-650, approved the solicitation of proposals for the design of the Digester Gas Treatment System, and

WHEREAS, Public Works Department – Capital Improvement Services Division, Engineering Design Unit received three quotes for this work, and

WHEREAS, Carollo Engineers proposed doing the work at a base cost of $44,247 for the identified scope of services which was the low bid for this work, 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 the consulting firm of Carollo Engineers, P.C. as the City does not have the staffing level or subject matter expertise to complete the final project design services of the Digester Gas Treatment System 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 project design services of the Digester Gas Treatment System, in an amount not to exceed $44,247 for the identified scope of services, plus $4,425 for additional services (if needed) for a maximum total amount of $48,672.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-446

A RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS, P.C. FOR PREPARING THE ANAEROBIC DIGESTER NO. 1 EVALUATION, IN AN AMOUNT NOT TO EXCEED $49,664 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $4,966 FOR ADDITIONAL SERVICES (IF NEEDED) FOR A MAXIMUM TOTAL AMOUNT OF $54,630, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the existing Anaerobic Digester No. 1 is located at the Primary Water Quality Control (WQC) Plant on Sutter Road, and

WHEREAS, the steel-tank digester is over forty years old, and has suffered severe deterioration both structurally and operationally, and

WHEREAS, the digester is currently out-of-service due to corrosion on its walls, and needs to be relined, and

WHEREAS, this necessary rehabilitation gave the City of Modesto a great opportunity to investigate the digester's deficiencies, and

WHEREAS, the objective of the evaluation is to 1) Evaluate the anticipated performance of Digester No. 1 during a code prescribed earthquake and recommend improvements to comply with current code requirements; 2) Evaluate the existing digester process and support systems including the mixing, heating, and gas collection systems; and 3) Evaluate the current capacity. The reduction in capacity due to flat bottoms in the digester, allow grit to accumulate and take up digester volume. The capacity to process fats, oils and grease (FOG) will also be assessed, and

WHEREAS, deficiencies will be identified, and costs will be estimated from the recommended improvements, and

WHEREAS, costs for improvements for seismic upgrades and mechanical/process upgrades will be compared to the cost of constructing a new digester, and

WHEREAS, the evaluation will take into account the potential to construct the new digester at a higher elevation to preclude the need to construct a flood protection berm, as recommended in the 2007 Wastewater Master Plan, and

WHEREAS, Carollo Engineers, P.C. was chosen to perform the evaluation based on their experience with the City of Modesto's digesters and they were deemed most qualified, 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 the consulting firm of Carollo Engineers, P.C. as the City does not have the staffing level or subject matter expertise for preparing the Anaerobic Digester No. 1 Evaluation 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 preparing the Anaerobic Digester No. 1 Evaluation, in an amount not to exceed $49,664 for the identified scope of services, plus $4,966 for additional services (if needed) for a maximum total amount of $54,630.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-447

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF CONCRETE FOR THE PUBLIC WORKS DEPARTMENT, TRANSPORTATION SERVICES - FORESTRY FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED TOTAL ANNUAL COST OF $170,000

WHEREAS, The Public Works Department, Transportation Services - Forestry Division manages the Curb, Gutter and Sidewalk Repair Program, and

WHEREAS, the repairs are for damage to curbs, gutters and sidewalks by public trees, and

WHEREAS, concrete is presently the most cost effective material designated by the City of Modesto's Standard Specifications, 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 concrete conforms to the Modesto Municipal Code,

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 concrete for the Public Works Department, Transportation Services – Forestry Division, 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 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 August, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmemeber Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-448

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE FURNISHING OF STREET SWEEPING MATERIALS RECEIVING SERVICES FOR PUBLIC WORKS DEPARTMENT, TRANSPORTATION SERVICES - FORESTRY, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED TOTAL ANNUAL COST OF $ 60,000

WHEREAS, the City of Modesto operates a city-wide Street Sweeping Program, and

WHEREAS, the Program removes an average of 2,555 tons of debris from public streets and facilities, and

WHEREAS, City needs to dispose of these materials, 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 furnishing of inert materials hauling 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 furnishing of street sweeping materials receiving services for Public Works Department, Transportation Services - Forestry, 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 City Council.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 6th day of August, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmemeber Lopez, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-449

A RESOLUTION AUTHORIZING AN AWARD OF CONTRACT TO CLYDE WHEELER PIPELINE IN AN AMOUNT NOT TO EXCEED $42,500 FOR EMERGENCY REPAIRS TO THE EMERALD SEWER TRUNK LINE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, on Saturday, June 29, 2008, the top section of the Emerald Sewer Trunk Line near the intersection of Crippen Avenue and Red Pine Drive gave way, resulting in a large sink hole on private property at 1841 Red Pine Drive, and

WHEREAS, the 36-inch diameter reinforced concrete pipeline is approximately 12-feet deep and located in the Public Utility Easement (PUE) in the resident's front yard, and

WHEREAS, the area has been secured with barricades and trench plates, and

WHEREAS, the collapse has not restricted sewage flow; however, the potential for further cave-ins could result in a blockage, causing a sanitary sewer overflow (SSO), and

WHEREAS, the location of the sink hole on private property also creates serious liability issues for the City, and

WHEREAS, staff recommends an emergency repair of the collapsed pipe with work to be completed within ten days, and

WHEREAS, Modesto Municipal Code Section 8-3.102 (e), Contracting Authority, authorizes the City Manager to approve and authorize all contracts for emergency public works projects in the amount of $200,000 or less, and

WHEREAS, cost estimates for the emergency repairs will not exceed $200,000, and may total $50,500, including City staff time, to complete the pipeline repairs in the time frame required, and

WHEREAS, staff has received quotes from two local contractors who have previously performed this type of work for the City, and

WHEREAS, staff requests waiving normal bidding requirements and award a contract to Clyde Wheeler Pipeline in an amount not to exceed $42,500 to perform the emergency repairs , and

WHEREAS, funds are budgeted in CIP Account No. 6210-480-B019 Emerald Emergency Repairs (B574) to cover the cost of the emergency repairs to the Emerald Sewer Trunk Line,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of contract to Clyde Wheeler Pipeline in an amount not to exceed $42,500 for emergency repairs to the Emerald Sewer Trunk Line.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-450

A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM (CIP) AS ADOPTED BY COUNCIL FOR FY 2008-09 TO ESTABLISH A NEW PROJECT TITLED "BUS FARE DEPOSITORY" ACCOUNT NO. 6510-165-J001 TO DESIGN AND CONSTRUCT A BUS FARE DEPOSITORY IN AN AMOUNT NOT TO EXCEED $86,600

WHEREAS, currently, Modesto Area Express (MAX) fare deposits are removed from buses on City property and deposited at a local bank, and

WHEREAS, the servicing bank has requested significant changes in procedures utilized to prepare the fare revenue for deposit, and

WHEREAS, staff has determined that the construction of a special MAX fare depository to hold the fare deposit until it can be transferred to a specialized secure transfer vehicle is necessary for security reasons, and

WHEREAS, the cost of said depository and supporting equipment is estimated at $86,600, and

WHEREAS, funds are available in the Transit Operations Account No. 6540-165-1672,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Capital Improvement Program (CIP) as adopted by Council for FY 2008-09 to establish a new project titled "Bus Fare Depository" Account No. 6510-165-J001 to design and construct a Bus Fare Depository in an amount not to exceed $86,600.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT	Councilmembers:	Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-451

A RESOLUTION AUTHORIZING STAFF TO SOLICIT PROPOSALS FROM QUALIFIED FIRMS TO DESIGN THE BUS FARE DEPOSITORY AND AUTHORIZING STAFF TO AWARD A CONTRACT TO THE SELECTED FIRM IN AN AMOUNT NOT TO EXCEED $10,000

WHEREAS, currently Modesto Area Express (MAX) fare deposits are removed from buses on City property and deposited at a local bank, and

WHEREAS, the servicing bank has requested significant changes in procedures utilized to prepare the fare revenue for deposit, and

WHEREAS, staff has determined that the construction of a special MAX fare depository to hold the fare deposit until it can be transferred to a specialized secure transfer vehicle is necessary for security reasons, and

WHEREAS, the design cost of said depository is estimated in an amount not to exceed $10,000, and

WHEREAS, funds are available in CIP Account No. 6510-165-J001 for the design costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to solicit proposals from qualified firms to design the Bus Fare Depository.

BE IT FURTHER RESOLVED that the Council hereby authorizes staff to award a contract to the selected firm in an amount not to exceed $10,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT	Councilmembers:	Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-452

A RESOLUTION APPROVING A FIVE-YEAR LEASE AGREEMENT WITH CIVIC PARTNERS MODESTO, INC. FOR THE PUBLIC WORKS DEPARTMENT - TRANSPORTATION SERVICES DIVISION/TRANSIT SECTION TO OCCUPY APPROXIMATELY 2,300 SQUARE FEET OF OFFICE SPACE ON THE FIRST FLOOR OF TENTH STREET PLACE (TSP) AT A COST OF APPROXIMATELY $64,500 ANNUALLY, A ONE-TIME TENANT IMPROVEMENT COST OF APPROXIMATELY $105,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LEASE AGREEMENT

WHEREAS, over the past several months, the City Council has authorized an increase of six non-General Fund staff positions in the Public Works Department in various divisions, and

WHEREAS, on September 11, 2007, the City Council, by Resolution No. 2007-542, approved the addition of a Deputy Public Works Director in the newly formed Public Works Department – Transportation Services Division/Transit Section, and

WHEREAS, on February 5, 2008, the City Council, by Resolution Nos. 2008-090 and 2008-091, approved the addition of one Property Agent, two Associate Civil Engineers, one Construction Inspector, and one Senior Administrative Office Assistant, all in the Public Works Department, and

WHEREAS, during the development of the Public Works Capital Improvement Program (CIP), the Capital Improvement Services Division of the Pubic Works Department identified the need to hire up to six part-time employees to help manage some of the projects to ensure their timely completion and to provide effective oversight, and

WHEREAS, the space needs for the part-time employees managing CIP projects are expected to continue into the future as current staffing levels are not expected to be adequate for the increased workload, and

WHEREAS, these positions are most appropriately located on the fourth floor of Tenth Street Place (TSP) because of their need to interact with other staff in similar and related positions, and

WHEREAS, City occupants on the fourth floor currently include various divisions of the Public Works, Parks, Recreation and Neighborhoods, and Community and Economic Development Departments, and

WHEREAS, staff has exhausted all opportunities to find space for these new employees on the fourth floor and has been looking at opportunities to relocate entire work groups, and

WHEREAS, the potential to move various units of the Public Works Department was examined and it appears that it would be most cost-effective to move the six-member Public Works Department – Transportation Services Division/Transit Section, and

WHEREAS, Transit has access to Federal Transit Administration (FTA) funds that will cover 80% of the cost of tenant improvements and the ongoing lease, with the other 20% being covered by Local Transportation Funds (LTF) allocated for Transit-related activities, and

WHEREAS, it is important for Transit to remain in the TSP building because it requires access to the fourth floor for logistical reasons, and to the second floor for interaction with Finance staff, and

WHEREAS, no space appears to be available in the government-occupied portion of TSP; however, space is available for lease on the first floor, which is comprised of 2,236 square feet, and

WHEREAS, the one-time cost for needed improvements to the first floor space would be approximately $105,00 and includes paint, carpet, cabinet repair, combining two separate leased spaces into one, improved fire rating on two storage rooms, workstations, voice and date communications connections, and contingency, and

WHEREAS, ongoing expenses would be approximately $64,500 annually and would include base rent, additional rent (tenant share of property taxes, insurance, common area expenses and property management fees), utilities, and janitorial service, and

WHEREAS, funds are budgeted in the Public Works Department – Transportation Services Division/Transit Section Operating budget for the one-time and ongoing expenses for the lease of office space on the first floor of TSP, and

WHEREAS, the Finance Committee, at its June 23, 2008 meeting, recommended approval of the lease with Civic Partners Modesto, Inc. for office space on the first floor of TSP,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a five-year lease agreement with Civic Partners Modesto, Inc. for the Public Works Department – Transportation Services Division/Transit Section to occupy approximately 2,300 square feet of office space on the first floor of Tenth Street Place (TSP) at a cost of approximately $64,500 annually, and a one-time tenant improvement cost of approximately $105,000.

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 August, 2008, 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
NOES:	Councilmembers:	O'Bryant
ABSENT:	Councilmembers:	Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

CITY OF MODESTO
RESOLUTION NO. 2008-453

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO APPROVING AND AUTHORIZING THE ISSUANCE AND SALE BY THE MODESTO PUBLIC FINANCING AUTHORITY OF LEASE REVENUE REFUNDING BONDS, SERIES 2008 IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED $75,000,000; DIRECTING EXECUTION OF CERTAIN LEASE FINANCING DOCUMENTS AND CERTAIN RELATED DOCUMENTS; APPROVING THE FORMS OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A LETTER OF CREDIT AND REIMBURSEMENT AGREEMENT, AND A BOND PURCHASE CONTRACT, AND A SWAP AGREEMENT; APPROVING THE FORM OF AND AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL STATEMENT; AND APPROVING CERTAIN OTHER RELATED ACTIONS

WHEREAS, the City of Modesto (the "City") is a charter city and a municipal corporation duly organized and existing under and by virtue of the laws of the State of California; and

WHEREAS, the Modesto Public Financing Authority (the "Authority") is authorized under the Marks-Roos Local Bond Pooling Act of 1985, constituting Article 4, Chapter 5, Division 7, Title 1 (commencing with Section 6584) of the California Government Code, as amended (the "Act"), to lease and/or purchase real property and to issue bonds for the financing and refinancing of public capital improvements whenever there are significant public benefits; and

WHEREAS, the City is a Local Agency under the Act and, working together with the Authority, previously leased and financed the costs associated with a mixed-use development, including, among other uses, retail and office uses, public parking garage (the "10th Street Garage"), and a City-County building, each of such improvements more commonly referred to as the 10th Street Place Project (the "10th Street Place Project") and other public capital

improvements, including the Communications Dispatch Center, the John Thurman Field and a Police Headquarters Building (together with the 10th Street Place Project, the "Project"); and

WHEREAS, the Authority previously issued (a) its Lease Revenue Bonds, Series 1998 (Capital Improvements and Refinancing Project) (the "1998 Bonds") for the purpose of (i) providing funds for the 1998 Project, (ii) providing funds to refund its outstanding 1986 Certificates of Participation (Capital Improvements Project), (iii) paying capitalized interest on the 1998 Bonds, (iv) providing a debt service reserve fund for the 1998 Bonds and (v) paying the costs of issuance therefor, and (b) its Lease Revenue Refunding and Capital Improvement Bonds, Series 2007 (the "2007 Bonds") for the purposes of (i) providing funds to finance certain additional improvements to the 1998 Project, (ii) providing funds to refund all of its Lease Revenue Bonds, Series 1997 (John Thurman Field Renovation Project) (the "1997 Bonds") and (iii) providing funds to refund a portion of its 1998 Bonds, (iv) providing a debt service reserve fund for the 1998 Bonds and (v) paying the costs of issuance therefor; and

WHEREAS, in furtherance of the Project, the Redevelopment Agency of the City of Modesto (the "Redevelopment Agency"), the City-County Capital Improvements and Financing Agency (the "County Financing Agency") and the City, each leased certain real property (the "Project Properties") to the Authority pursuant to certain facility/site leases, each between the Authority and the City, the Redevelopment Agency or the County Financing Agency, as the applicable owner of such property (collectively, the "1998 Facility/Site Leases"); and

WHEREAS, the Authority leased the Project Properties to the City pursuant to certain a Lease/Purchase Agreement, dated as of March 1, 1998, as amended (the "1998 Lease") under

which the City is obligated to make lease payments for the lease of the Project Properties thereunder; and

WHEREAS, in furtherance of the Project, the City and the Redevelopment Agency and the City entered into a Reimbursement Agreement, dated as of March 1, 1998 (the "Redevelopment Agency Reimbursement Agreement"), pursuant to which the Redevelopment Agency is obligated to make certain semi-annual payments to the City; and

WHEREAS, in connection with issuance the of the 2007 Bonds, the City subleased the Project Property to the Authority pursuant to a sublease, as provided in the 1998 Lease and the Authority leased back the Project Property to the City pursuant to the terms of a facility lease (collectively, the "2007 Leases"); and

WHEREAS, the City has been advised that it will experience unusually high interest rates on the 2007 Bonds at the time the initial interest rate (which was fixed from the date of issuance through September 1, 2008) is subject to change through the auction rate procedures; and

WHEREAS, the City has determined that by refinancing the Project by refunding all of the outstanding 1998 Bonds and 2007 Bonds (collectively, the "Prior Bonds") the City can achieve interest cost savings and/or desirable restructuring of debt obligations so as to minimize the impact of current and potential future market instability; and

WHEREAS, upon refunding of the Prior Bonds, the 1998 Facility/Site Leases, the 1998 Lease and the 2007 Leases will be terminated; and

WHEREAS, in furtherance of the refinancing of the Project, the City will lease certain real property and facilities to the Authority pursuant to the terms of a Facilities Lease, dated as of

August 1, 2008, by and between the City and the Authority (the "Police Facilities and Miscellaneous Facilities Lease"), which properties are described in **Exhibit** A to the Police Facilities and Miscellaneous Facilities Lease, and generally consist of the Police Headquarters Building; Police Operations Building; Fire Stations #3, #5, #6, #7, #9 and #11; the Senior Citizen Center; Parking Lot No. 25 and the Corporation Yard; and

WHEREAS, in furtherance of the refinancing of the Project, the Redevelopment Agency will lease the site of the 10th Street Garage to the Authority pursuant to the terms of a Facilities Lease, dated as of August 1, 2008, between the Redevelopment Agency and the Authority (the "RA Facilities Lease"); and

WHEREAS, in furtherance of the refinancing of the Project, the County Financing Agency will lease to the Authority the City's interest in the City-County building and the site upon which such facility is located, together with the City's interest in common areas to be used by the City pursuant to the terms of a Facilities Lease (City-County Building), dated as of August 1, 2008, between County Financing Agency and the Authority (the "FA Facilities Lease"); and

WHEREAS, in furtherance of the refinancing of the Project, the City will lease its undivided one-half interest in and to the Communications Dispatch Center, together with common areas to be used by the City to the Authority pursuant to the terms of a Facilities Lease (Communications Dispatch Center), dated as of August 1, 2008, between the City and the Authority (the "City CDC Facilities Lease"); and

WHEREAS, pursuant to the Lease Agreement (the "Lease Agreement"), dated as of August 1, 2008, the City, will lease certain components of the Project and the Sites (as defined

in the Lease Agreement) together with the Leased Units of the Project (collectively, the "Leased Property") from the Authority and pay Lease Payments therefor, all under and in accordance with the Constitution and laws of the State of California, including the Act; and

WHEREAS, the City has determined, based upon the maximum annual fair market rental value, the maximum annual base rental payments payable by the City (exclusive of additional payments) in any fiscal year shall not exceed $6,500,000, plus any deferred rental as provided in Section 3.04 of the Lease Agreement; and

WHEREAS, in order to evidence the Redevelopment Agency's continuing obligation under the Redevelopment Agency Reimbursement Agreement to contribute to the payment of lease payments payable by the City under the Lease Agreement with respect to the 10th Street Garage, the City and the Redevelopment Agency will amend the Redevelopment Agency Reimbursement Agreement, pursuant to the First Amendment to Reimbursement Agreement (the "First Amendment to Reimbursement Agreement") dated as of August 1, 2008, by and between the City and the Redevelopment Agency; and

WHEREAS, no portion of the Leased Property will be used for a purpose other than a governmental function authorized under the provisions of the Constitution and laws of the State of California; and

WHEREAS, the City desires to approve the sale and issuance by the Authority of its Lease Revenue Refunding Bonds, Series 2008, in one or more series of bonds and in an amount not to exceed $75,000,000 (the "2008 Bonds"), pursuant to an indenture (the "Indenture") by and between the Authority and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), for the purposes of (i) providing funds to refund all of the Prior Bonds on a current

basis, (ii) funding a reserve fund for the 2008 Bonds and (iii) paying the costs of issuance therefor; and

WHEREAS, the City has determined that the Authority should execute and deliver the 2008 Bonds initially as variable rate demand bonds;

WHEREAS, in order to secure credit and liquidity support for the 2008 Bonds, the City intends to enter into a Reimbursement Agreement (the "Reimbursement Agreement") between the City and Bank of America, N.A. (the "Credit Facility Provider") to obtain a letter of credit (the "Letter of Credit") to further secure the Series 2008 Bonds; and

WHEREAS, the City proposes to execute and enter into a bond purchase contract (the "Purchase Contract") with Banc of America Securities LLC (the "Underwriter") and the Authority, pursuant to which the Underwriter will purchase the 2008 Bonds for reoffering to the public; and

WHEREAS, the City proposes to approve of the Preliminary Official Statement relating to the 2008 Bonds (the "Preliminary Official Statement"), and to execute and deliver an Official Statement (the "Official Statement") relating to the 2008 Bonds and to authorize the distribution of the Preliminary Official Statement to prospective purchasers and the Official Statement to actual purchasers of the 2008 Bonds; and

WHEREAS, Section 5922 of the California Government Code provides that in connection with, or incidental to, the issuance or carrying of bonds, any public entity may enter into any contracts which the public entity determines to be appropriate to place the obligations represented by such bonds, in whole or in part, on the interest rate, cash flow or other basis

desired by the public entity, including without limitation contracts commonly known as interest rate swap agreements, to hedge payment, rate, spread or similar exposure; and

WHEREAS, the Authority and Bank of America, N.A., as a qualified counterparty (the "Swap Provider"), previously entered into an ISDA Master Agreement (Local Currency–Single Jurisdiction 1992), the U.S. Municipal Counterparty Schedule thereto, a Credit Support Annex and a Confirmation, relating to the 2007 Bonds (collectively, the "2007 Interest Rate Swap Agreement"); and

WHEREAS, the Authority is expected to execute an interest rate swap agreement providing for a fixed swap rate on the Series 2008 Bonds (the "Swap Agreement") and the Authority will execute the Swap Agreement using the new ISDA Master Agreement and related Schedule, Credit Support Annex and Confirmation (collectively, the "2008 Interest Rate Swap Agreement") by and between the Authority and the Swap Provider. (the "Swap Provider"); and

WHEREAS, pursuant to Section 5922 of the Government Code of the State of California, the City hereby finds and determines that the Swap Agreement to be entered into by the Authority in connection with, or incidental to, the issuance of the Series 2008 Bonds, will reduce the amount and duration of interest rate risk with respect to the Series 2008 Bonds and will result in a lower cost of borrowing by the Authority when used in combination with the Series 2008 Bonds; and

WHEREAS, in order to provide flexibility to the City to achieve the best financing structure, the City desires to authorize staff to substitute a liquidity facility or bond insurance in lieu of the Letter of Credit and/or to issue the 2008 Bonds in a fixed rate mode with or without any credit support, if the City Finance Director, upon the advice of the City's financial advisor,

determines that a liquidity facility, bond insurance and/or different interest rate mode for the 2008 Bonds would be more cost effective and/or in the best interest of the City; and

WHEREAS, all acts, conditions and things required by the Constitution and laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the consummation of the transactions authorized hereby do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the City is now duly authorized and empowered, pursuant to each and every requirement of law, to consummate such transactions for the purpose, in the manner and upon the terms herein provided;

NOW, THEREFORE, it is hereby resolved by the City Council of the City of Modesto, as follows:

Section 1. Findings. The City Council hereby finds and determines that the foregoing recitals are true and correct and that the actions authorized hereby constitute and are with respect to the public affairs of the City and that the consummation of the transactions contemplated shall result in significant public benefits to the City.

Section 2. Approval of Issuance of 2008 Bonds. The City Council hereby approves the issuance of the 2008 Bonds by the Authority in the aggregate principal amount not to exceed $75,000,000.

Section 3. Lease Financing Documents. The Police Facilities and Miscellaneous Facilities Lease, the City CDC Facilities Lease and the Lease Agreement (collectively, the "Lease Financing Documents") in the forms presented at this meeting and on file with the City

Clerk are hereby approved, and each of the City Manager and Finance Director and each of their designees (each, an "Authorized Officer"), acting singly, is each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver each of the Lease Financing Documents in substantially said forms, with such changes therein as such Authorized Officer may require or approve, including such changes as may be required by Section 9 hereof, such approval to be conclusively evidenced by the execution and delivery thereof. The maximum annual base rental payments payable by the City (exclusive of additional payments) in any fiscal year shall not exceed $6,500,000, plus any deferred rental as provided in Section 3.04 of the Lease Agreement.

Section 4. Reimbursement Agreement. The Reimbursement Agreement, proposed to be executed and entered into by and among the City and the Credit Facility Provider, in the form presented at this meeting and on file with the City Clerk, is hereby approved, and each of the City Manager and the Finance Director, acting singly, is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Reimbursement Agreement in substantially said form, with such changes therein as such officer executing the Reimbursement Agreement may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 5. Purchase Contract. The proposed form of the Purchase Contract presented to this meeting and on file with the City Clerk is hereby approved. The Authorized Officers are each hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver the Purchase Contract in substantially said form, with such changes therein as such Authorized Officer may require or approve, including such changes as may be required in Section 9 hereof, such approval to be conclusively evidenced by the execution and delivery

thereof; provided that the aggregate principal amount of the 2008 Bonds shall not exceed $75,000,000, the interest rate on the 2008 Bonds shall not exceed 12% per annum if the 2008 Bonds bear interest at a variable rate or 6% per annum if the 2008 Bonds bear interest at a fixed rate, and the underwriting discount (excluding any original issue discount) shall not exceed 0.5% of the principal amount of the 2008 Bonds if the 2008 Bonds are sold as variable rate instruments and 0.75% if the 2008 Bonds are sold at a fixed rate (as provided in Section 9 hereof).

Section 6. Official Statement. The form of Preliminary Official Statement of the Authority relating to the 2008 Bonds presented to this meeting and on file with the City Clerk is hereby approved. Any of the Authorized Officers is hereby authorized and directed, for and in the name and on behalf of the City, to "deem final" such Preliminary Official Statement, if applicable, and to execute and deliver a final Official Statement, in substantially the form of the Preliminary Official Statement, with such changes therein and additions thereto to reflect the terms of the sale of the 2008 Bonds (including such changes as may be required by Section 9 hereof), as such Authorized Officer shall approve after consultation with Bond Counsel, such approval to be evidenced by the execution and delivery thereof. The Underwriter is hereby authorized to distribute copies of said Preliminary Official Statement to persons who may be interested in the purchase of the 2008 Bonds and are directed to deliver copies of the final Official Statement to all actual purchasers of the 2008 Bonds.

Section 7. 2008 Interest Rate Swap Agreement. The 2008 Interest Rate Swap Agreement, in such form, as recommended by Sidley Austin LLP, and approved by the City Manager or the Finance Director, necessary to relate the 2007 Interest Rate Swap Agreement to the 2008 Bonds, is hereby approved, such approval to be conclusively evidenced by the execution and delivery thereof by the Authority.

Section 8. First Amendment to Redevelopment Agency Reimbursement Agreement. The execution and delivery of the First Amendment to the Redevelopment Agency Reimbursement Agreement, in such form, as recommended by Sidley Austin LLP, and approved by the City Manager or the Finance Director, is hereby approved and each of the City Manager and the Finance Director, acting singly, is hereby authorized and directed for and in the name and on behalf of the City to execute and deliver to the Redevelopment Agency, the First Amendment to the Redevelopment Agency Reimbursement Agreement, with such changes therein as such Authorized Officer executing the First Amendment to the Redevelopment Agency Reimbursement Agreement may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 9. Liquidity Facility Changes or Issuance in a Fixed Rate Mode. If, based upon the advice of the City's financial advisor, Public Financial Management, the City Manager or Finance Director determine that it would be more cost effective and/or in the best interest of the City for the City to secure a liquidity facility or bond insurance in lieu of the Letter of Credit and/or issue the 2008 Bonds in a fixed rate mode with or without credit support, then, each of the Authorized Officers, acting singly, and, with the advice of the City's bond counsel, Sidley Austin LLP, the City's financial advisor, and the City Attorney, is hereby authorized and directed for and in the name and on behalf of the City to execute and deliver the documents hereto authorized or as authorization under Section 10 above, with such changes as such officer upon the advice of the City's bond counsel, the City's financial advisor, and the City Attorney, shall require and approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 10. Attestations. The City Clerk is hereby authorized and directed to attest the signatures of the City Manager and the Finance Director and each of their designees and to affix

and attest the seal of the City, as may be required or appropriate in connection with the execution and delivery of the 2008 Bonds and the documents approved by this Resolution.

Section 11. Other Actions. Each Authorized Officer is hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents which they may deem necessary or advisable in order to consummate, carry out, give effect to and comply with the terms and intent of this Resolution, the Lease Financing Documents, Purchase Agreement, the Letter of Credit and Reimbursement Agreement, the Bond Purchase Contract, the Official Statement, the 2008 Interest Rate Swap Agreement, the First Amendment to Redevelopment Agency Reimbursement Agreement and the 2008 Bonds, to obtain municipal bond insurance policies and reserve fund insurance policies, if upon the advice of the City's financial advisor such policies and reserve fund insurance policies are projected to result in a savings to the City; to effect the redemption of the Prior Bonds and the consummation of the transactions contemplated hereby and to consummate the issuance, sale and delivery of the 2008 Bonds. The Authorized Officers are hereby further authorized and directed, individually or jointly, to execute and deliver, on behalf of the City, any other agreements, certificate, consent, request, approval, notice, amendment, confirmation, supplement or revision permitted or required to be delivered pursuant to the documents authorized hereby or otherwise as may be necessary or desirable in connection with the refinancing of the Project without further authorization by this City Council including, without limitation, a tax certificate, agreements relating to the engagement of verification agents, printers, bond insurers or other credit providers, a continuing disclosure agreement, one or more investment agreements (or amendments thereto), guaranteed investment contracts, forward delivery agreements or other investment vehicles for moneys in any of the funds or accounts held by the Trustee. Any actions

heretofore taken by such officers in furtherance of any of the transactions authorized herein are hereby ratified, confirmed and approved.

Section 12. Effective Date. This Resolution shall take effect immediately upon its adoption by this 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 August, 2008, 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, Lopez, Marsh, Olsen
NOES:	Councilmembers:	O'Bryant
ABSENT:	Councilmembers:	Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-454

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. 2008-166, adopted on June 10, 2008, declared its intent to levy charges or assessments for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6 under the provisions of the "Landscaping and Lighting Act of 1972", and

WHEREAS, the cost for Fiscal Year 2008-09 is $26.00 annual assessment per lot, and

WHEREAS, the charges against the real property are not levied with regard to property values but rather by allocated cost reports prepared by City Engineering, and

WHEREAS, the City of Modesto has determined and certifies that the charges are either exempt from or in compliance with all the provisions of Proposition 218, which was passed by the voters in November 1996, and

WHEREAS, the City of Modesto has further determined the charges are in compliance with all laws pertaining to the levy of such charges,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby orders the levy and collection of $26.00 annual assessment per lot within Landscape Maintenance Assessment District No. 1 for Dry Creek Meadows Subdivisions Nos. 1-6 for the 2008-09 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 2008-09 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 6th day of August, 2008, 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, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-455

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. 2008-334, adopted on June 10, 2008, 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 2008-09 is $124.15 per acre for commercial property and $24.44 for each residential property, and

WHEREAS, the charges against the real property are not levied with regard to property values but rather by allocated cost reports prepared by City Engineering, and

WHEREAS, the City of Modesto has determined and certifies that the charges are either exempt from or in compliance with all the provisions of Proposition 218, which was passed by the voters in November 1996, and

WHEREAS the City of Modesto has further determined that the charges are in compliance with all laws pertaining to the levy of such charges.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby orders the levy and collection of $124.15 per acre for commercial property and $24.44 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 2008-09 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 2008-09 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 6th day of August, 2008, 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, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-456

A RESOLUTION APPROVING AN AMENDMENT TO THE CITY OF MODESTO 2008-2009 HUD ANNUAL ACTION PLAN 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, on May 6, 2008, by Resolution No. 2008-267, the Modesto City Council approved the 2008-2009 HUD Annual Action Plan, and

WHEREAS, staff has proposed amendments 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 proposed amendments to the Annual Action Plan, and to provide a 30-day comment period, which began July 6, 2008, and ended on August 6, 2008, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the HUD Annual Action Plan at its June 18, 2008, meeting, and the Committee recommended that the City Council approve amendments to the HUD Annual Action Plan as proposed by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on August 6, 2008, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of the proposed amendments to the 2008-2009 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an 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 by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to execute related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, by Councilmember Olsen, 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, Lopez, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit "1"

Fiscal Year 2008-09 Annual Action Plan
Amendment 1

Fund 1130 – CDBG Fund

Description	Carryover-prior year entitlement	Re-programmed capital improvement funds	Re-allocated/ unbudgeted FY 08-09 Entitlement	Total
Fair Housing Services	$42,661			$42,661
Neighborhood Clean-up	$25,000			$25,000
Down Payment Assistance	$6,996	$23,004	$50,000	$80,000
Undesignated non-CIP			-$50,000	-$50,000
Housing Rehabilitation Accessibility	$82,949		$27,051	$110,000
Accessibility Features at Public Facilities	$50,000			$50,000
Property Acquisition	$5,699	$101,996		$107,695
Salvation Army Transitional Housing		50,000		$50,000
TOTAL	$213,305	$175,000	$27,051	$415,356

Fund 1150 – Revolving Loan Fund

Description	Carryover-prior year entitlement	Total
Housing Rehabilitation Activities	$455,500	$455,000
Economic Development- Airport Neighborhood	$50,000	$50,000
TOTAL	$505,500	$505,500

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-457

A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 OPERATING AND CAPITAL IMPROVEMENT BUDGETS TO REFLECT APPROVED CHANGES TO THE HUD ANNUAL ACTION PLAN AND AUTHORIZING THE FINANCE DIRECTOR 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, the City receives revenue into the Revolving Loan Fund (RLF) from loan repayments received through the various programs offered to individuals and agencies, and

WHEREAS, on May 6, 2008, by Resolution No. 2008-267, the City Council approved the 2008-2009 HUD Annual Action Plan, and

WHEREAS, since adoption of the Annual Action Plan, staff has determined that changes should be made to programs and services provided to better meet the needs of the citizens of Modesto, and

WHEREAS, staff is recommending reallocation of Fiscal Year 08-09 operating expenditures and funding to capital improvement projects, and

WHEREAS, staff is recommending re-programming carryover from prior year CDBG entitlement funds and Revolving Loan funds that were not spent, and

WHEREAS, reallocation and re-programming of these funds is more fully described on **Exhibit** "1", **attached** hereto and incorporated by reference, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the HUD Annual Action Plan at its June 18, 2008, meeting, and the Committee recommended that the City Council approve amendments to the HUD

Annual Action Plan as proposed by staff as well as to approve the budgetary adjustments as recommended by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on August 6, 2008, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider approval of the proposed amendments to the 2008-2009 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 2008-2009 Annual Operating Budget to reflect approved changed to the HUD Annual Action Plan as indicated in **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 6th day of August, 2008, by Councilmember Olsen, 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, Lopez, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating, Mayor Ridenour

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Carolyn Eubank
Telephone No.: 577-5349
Department: Parks, Recreation and Neighborhoods
Council Action Date: August 6, 2008
Resolution Number:
Adjustment to FY: 08-09
Fund Title: CDBG Fund 1130

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO					
APPROPRIATIONS					
FROM 1130-320-3231-0506		$175,000	($175,000)		King-Kennedy Collaborative
TO					
1130-800-8000-8003			$175,000		CDBG Reserve

COMMENTS/JUSTIFICATION (USE ADDITIONAL PAGES AS NECESSARY)

This adjustment will close project 3231, King-Kennedy Collaborative and will return the funding to the CBDG Reserve to be allocated to other projects.

AUTHORIZATION (Authority levels reflected on back)	SIGNATURE	DATE
DEPARTMENT DIRECTOR or AUTHORIZED DESIGNEE (Attach Delegation Authorization)		
FINANCE DIRECTOR		
CITY MANAGER		

TRANSFER NUMBER_____ **BY**_____ **DATE**_____

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-458

A RESOLUTION APPROVING SUBMITTAL OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING $4,185,489 IN SECTION 5307 FORMULA FUNDS FOR PUBLIC TRANSIT OPERATING AND CAPITAL PURPOSES AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT APPLICATION AND GRANT AGREEMENT DOCUMENTS

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

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

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

WHEREAS, the City of Modesto has received authority from the Designated Recipient, StanCOG, to apply for Section 5307 Urban Area Formula Program Assistance for $4,185,489 for FY 2008-2009, and

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

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

WHEREAS, by a report to the Council dated July 1, 2008, from the Public Works Department, City staff recommended submitting a grant application for $4,185,489 in

FTA Section 5307 formula funds to partially offset the operational and capital costs of the City's public transit program, and

WHEREAS, a public hearing was held on August 5, 2008, 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 $4,185,489 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 regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, by Councilmember O'Bryant, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-459

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO SOLICT BIDS FOR MAINTENANCE CONTRACTS/SUPPORT AGREEMENTS THROUGHOUT FISCAL YEAR 2008 - 2009 THROUGH "SOLE SOURCE" PURCHASES AND INFORMAL BID PROCESSES FOR THE CUMULATIVE BUDGETED AMOUNT OF $1,015,707.06

WHEREAS, the City has an ongoing need to 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 2008 – 2009 for an estimated budgeted amount of $1,105,707.06,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Manager is hereby authorized to solicit bids through "sole-source" purchases and informal bid processes for the purchase of maintenance contracts/support agreements throughout the Fiscal Year 2008 – 2009 for an estimated budgeted amount of $1,015,707.06.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-460

A RESOLUTION APPROVING A THREE PERCENT (3%) ACROSS THE BOARD SALARY INCREASE FOR EMPLOYEES REPRESENTED BY THE MODESTO CITY EMPLOYEES ASSOCIATION (MCEA) AND AMENDING RESOLUTION NO. 2006-318, SECTION 1, EFFECTIVE AUGUST 5, 2008

WHEREAS, on May 23, 2006, the City Council adopted Resolution No. 2006-318, approved a Memorandum of Understanding (MOU) between the City of Modesto and the Modesto City Employees Association (MCEA), setting forth salary schedules for General Non-Sworn classes, and

WHEREAS, Council desires to provide for a salary increase of 3%, for all classes represented by MCEA,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a three percent (3%) across-the-board salary increase for employees represented by the Modesto City Employees Association (MCEA).

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby approves the salary schedule for General Non-Sworn Classes, entitled "City of Modesto Schedule of Salary Ranges in City Service for FY 08-09, Effective August 5, 2008", which is **attached** hereto as **Exhibit** "A" and made a part hereof as though set forth in full herein.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that Resolution No. 2006-318, Section 1, is hereby amended effective August 5, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, Lopez, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 08-09
EFFECTIVE August 5, 2008

SCHEDULE - A
GENERAL NON-SWORN CLASSES

RANGE	3.00%		HOURLY			BY-WEEKLY					MONTHLY				
	A	B	C	D	E	A	B	C	D	E	A	B	C	D	E
0101	12.5545	13.1822	13.8413	14.5334	15.2601	1,004.36	1,054.58	1,107.30	1,162.67	1,220.81	2,184.48	2,293.71	2,408.38	2,528.81	2,655.26
0102	12.8684	13.5118	14.1874	14.8968	15.6416	1,029.47	1,080.94	1,134.99	1,191.74	1,251.33	2,239.10	2,351.04	2,468.60	2,592.03	2,721.64
0103	13.1901	13.8496	14.5421	15.2692	16.0327	1,055.21	1,107.97	1,163.37	1,221.54	1,282.62	2,295.08	2,409.83	2,530.33	2,656.85	2,789.70
0104	13.5199	14.1959	14.9057	15.6510	16.4336	1,081.59	1,135.67	1,192.46	1,252.08	1,314.69	2,352.46	2,470.08	2,593.60	2,723.27	2,859.45
0105	13.8579	14.5508	15.2783	16.0422	16.8443	1,108.63	1,164.06	1,222.26	1,283.38	1,347.54	2,411.27	2,531.83	2,658.42	2,791.35	2,930.90
0106	14.2043	14.9145	15.6602	16.4432	17.2654	1,136.34	1,193.16	1,252.82	1,315.46	1,381.23	2,471.54	2,595.12	2,724.88	2,861.13	3,004.18
0107	14.5594	15.2874	16.0518	16.8544	17.6971	1,164.75	1,222.99	1,284.14	1,348.35	1,415.77	2,533.33	2,660.00	2,793.00	2,932.66	3,079.30
0108	14.9234	15.6696	16.4531	17.2758	18.1396	1,193.87	1,253.57	1,316.25	1,382.06	1,451.17	2,596.67	2,726.51	2,862.84	3,005.98	3,156.29
0109	15.2965	16.0613	16.8644	17.7076	18.5930	1,223.72	1,284.90	1,349.15	1,416.61	1,487.44	2,661.59	2,794.66	2,934.40	3,081.13	3,235.18
0110	15.6789	16.4628	17.2859	18.1502	19.0577	1,254.31	1,317.02	1,382.87	1,452.02	1,524.62	2,728.12	2,864.52	3,007.74	3,158.14	3,316.05
0111	16.0709	16.8744	17.7181	18.6040	19.5342	1,285.67	1,349.95	1,417.45	1,488.32	1,562.74	2,796.33	2,936.14	3,082.95	3,237.10	3,398.96
0112	16.4727	17.2963	18.1611	19.0692	20.0227	1,317.82	1,383.70	1,452.89	1,525.54	1,601.82	2,866.26	3,009.55	3,160.04	3,318.05	3,483.96
0113	16.8845	17.7287	18.6151	19.5459	20.5232	1,350.76	1,418.30	1,489.21	1,563.67	1,641.86	2,937.90	3,084.80	3,239.03	3,400.98	3,571.05
0114	17.3066	18.1719	19.0805	20.0345	21.0362	1,384.53	1,453.75	1,526.44	1,602.76	1,682.90	3,011.35	3,161.91	3,320.01	3,486.00	3,660.31
0115	17.7393	18.6263	19.5576	20.5355	21.5623	1,419.14	1,490.10	1,564.61	1,642.84	1,724.98	3,086.63	3,240.97	3,403.03	3,573.18	3,751.83
0116	18.1828	19.0919	20.0465	21.0488	22.1012	1,454.62	1,527.35	1,603.72	1,683.90	1,768.10	3,163.80	3,321.99	3,488.09	3,662.48	3,845.62
0117	18.6374	19.5693	20.5478	21.5752	22.6540	1,490.99	1,565.54	1,643.82	1,726.02	1,812.32	3,242.90	3,405.05	3,575.31	3,754.09	3,941.80
0118	19.1033	20.0585	21.0614	22.1145	23.2202	1,528.26	1,604.68	1,684.91	1,769.16	1,857.62	3,323.97	3,490.18	3,664.68	3,847.92	4,040.32
0119	19.5809	20.5599	21.5879	22.6673	23.8007	1,566.47	1,644.79	1,727.03	1,813.38	1,904.06	3,407.07	3,577.42	3,756.29	3,944.10	4,141.33
0120	20.0704	21.0739	22.1276	23.2340	24.3957	1,605.63	1,685.91	1,770.21	1,858.72	1,951.66	3,492.25	3,666.85	3,850.21	4,042.72	4,244.86
0121	20.5722	21.6008	22.6808	23.8148	25.0055	1,645.78	1,728.06	1,814.46	1,905.18	2,000.44	3,579.57	3,758.53	3,946.45	4,143.77	4,350.96
0122	21.0865	22.1408	23.2478	24.4102	25.6307	1,686.92	1,771.26	1,859.82	1,952.82	2,050.46	3,669.05	3,852.49	4,045.11	4,247.38	4,459.75
0123	21.6137	22.6944	23.8291	25.0206	26.2716	1,729.10	1,815.55	1,906.33	2,001.65	2,101.73	3,760.79	3,948.82	4,146.27	4,353.59	4,571.26
0124	22.1540	23.2617	24.4248	25.6460	26.9283	1,772.32	1,860.94	1,953.98	2,051.68	2,154.26	3,854.80	4,047.54	4,249.91	4,462.40	4,685.52
0125	22.7079	23.8433	25.0355	26.2873	27.6017	1,816.63	1,907.46	2,002.84	2,102.98	2,208.14	3,951.17	4,148.73	4,356.18	4,573.98	4,802.70
0126	23.2756	24.4394	25.6614	26.9445	28.2917	1,862.05	1,955.15	2,052.91	2,155.56	2,263.34	4,049.96	4,252.45	4,465.08	4,688.34	4,922.76
0127	23.8575	25.0504	26.3029	27.6180	28.9989	1,908.60	2,004.03	2,104.23	2,209.44	2,319.91	4,151.21	4,358.77	4,576.70	4,805.53	5,045.80
0128	24.4539	25.6766	26.9604	28.3084	29.7238	1,956.31	2,054.13	2,156.83	2,264.67	2,377.90	4,254.97	4,467.73	4,691.11	4,925.66	5,171.93
0129	25.0652	26.3185	27.6344	29.0161	30.4669	2,005.22	2,105.48	2,210.75	2,321.29	2,437.35	4,361.35	4,579.42	4,808.38	5,048.81	5,301.24
0130	25.6918	26.9764	28.3252	29.7415	31.2286	2,055.34	2,158.11	2,266.02	2,379.32	2,498.29	4,470.36	4,693.89	4,928.59	5,175.02	5,433.78
0131	26.3341	27.6508	29.0333	30.4850	32.0093	2,106.73	2,212.06	2,322.66	2,438.80	2,560.74	4,582.14	4,811.23	5,051.79	5,304.39	5,569.61
0132	26.9925	28.3421	29.7592	31.2472	32.8096	2,159.40	2,267.37	2,380.74	2,499.78	2,624.77	4,696.70	4,931.53	5,178.11	5,437.02	5,708.87
0133	27.6673	29.0507	30.5032	32.0284	33.6298	2,213.38	2,324.06	2,440.26	2,562.27	2,690.38	4,814.10	5,054.83	5,307.57	5,572.94	5,851.58

CITY OF MODESTO
SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 08-09
EFFECTIVE August 5, 2008

SCHEDULE - A
GENERAL NON-SWORN CLASSES

RANGE	3.00%		HOURLY			BY-WEEKLY					MONTHLY				
	A	B	C	D	E	A	B	C	D	E	A	B	C	D	E
0134	28.3590	29.7770	31.2659	32.8292	34.4707	2,268.72	2,382.16	2,501.27	2,626.34	2,757.66	4,934.47	5,181.20	5,440.26	5,712.29	5,997.91
0135	29.0680	30.5214	32.0475	33.6499	35.3324	2,325.44	2,441.71	2,563.80	2,691.99	2,826.59	5,057.83	5,310.72	5,576.27	5,855.08	6,147.83
0136	29.7947	31.2844	32.8486	34.4910	36.2156	2,383.58	2,502.75	2,627.89	2,759.28	2,897.25	5,184.29	5,443.48	5,715.66	6,001.43	6,301.52
0137	30.5396	32.0666	33.6699	35.3534	37.1211	2,443.17	2,565.33	2,693.59	2,828.27	2,969.69	5,313.89	5,579.59	5,858.56	6,151.49	6,459.08
0138	31.3031	32.8683	34.5117	36.2373	38.0492	2,504.25	2,629.46	2,760.94	2,898.98	3,043.94	5,446.74	5,719.08	6,005.04	6,305.28	6,620.57
0139	32.0857	33.6900	35.3745	37.1432	39.0004	2,566.86	2,695.20	2,829.96	2,971.46	3,120.03	5,582.92	5,862.06	6,155.16	6,462.93	6,786.07
0140	32.8878	34.5322	36.2588	38.0717	39.9753	2,631.02	2,762.58	2,900.70	3,045.74	3,198.02	5,722.47	6,008.61	6,309.02	6,624.48	6,955.69
0141	33.7100	35.3955	37.1653	39.0236	40.9748	2,696.80	2,831.64	2,973.22	3,121.89	3,277.98	5,865.54	6,158.82	6,466.75	6,790.11	7,129.61
0142	34.5528	36.2804	38.0944	39.9991	41.9991	2,764.22	2,902.43	3,047.55	3,199.93	3,359.93	6,012.18	6,312.79	6,628.42	6,959.85	7,307.85
0143	35.4166	37.1874	39.0468	40.9991	43.0491	2,833.33	2,974.99	3,123.74	3,279.93	3,443.93	6,162.49	6,470.60	6,794.13	7,133.85	7,490.55
0144	36.3020	38.1171	40.0230	42.0242	44.1254	2,904.16	3,049.37	3,201.84	3,361.94	3,530.03	6,316.55	6,632.38	6,964.00	7,312.22	7,677.82
0145	37.2096	39.0701	41.0236	43.0748	45.2285	2,976.77	3,125.61	3,281.89	3,445.98	3,618.28	6,474.47	6,798.20	7,138.11	7,495.01	7,869.76
0146	38.1398	40.0468	42.0491	44.1516	46.3592	3,051.18	3,203.74	3,363.93	3,532.13	3,708.74	6,636.32	6,968.13	7,316.55	7,682.38	8,066.51
0147	39.0933	41.0480	43.1004	45.2554	47.5182	3,127.46	3,283.84	3,448.03	3,620.43	3,801.46	6,802.23	7,142.35	7,499.47	7,874.44	8,268.18
0148	40.0706	42.0741	44.1778	46.3867	48.7060	3,205.65	3,365.93	3,534.22	3,710.94	3,896.48	6,972.29	7,320.90	7,686.93	8,071.29	8,474.84
0149	41.0724	43.1260	45.2823	47.5464	49.9237	3,285.79	3,450.08	3,622.58	3,803.71	3,993.90	7,146.59	7,503.92	7,879.11	8,273.07	8,686.73
0150	42.0992	44.2042	46.4144	48.7351	51.1719	3,367.94	3,536.34	3,713.15	3,898.81	4,093.75	7,325.27	7,691.54	8,076.10	8,479.91	8,903.91

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-461

A RESOLUTION GRANTING HEALTH BENEFIT INCREASES FOR EMPLOYEES REPRESENTED BY THE MODESTO CITY EMPLOYEES ASSOCIATION (MCEA) AND AMENDING RESOLUTION NO. 2006-318, SECTION 2, EFFECTIVE JULY 22, 2008

WHEREAS, the Council of the City of Modesto desires to grant increases in the City's contribution to health, dental, and vision benefits for employees represented by Modesto City Employees Association (MCEA), effective July 22, 2008, as follows: an increase of $78/mo. for those with Family coverage, an increase of $50/mo. for those with Employee Only coverage, and an increase of $25/mo. for those who Opt Out of health coverage.

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 employees represented by MCEA are hereby increased, to the following amounts:

City Contribution - General Non-Sworn

	Effective July 22, 2008
Family	$890/month
Employee Only	$495/month
Opt Out	$400/month

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, Lopez, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-462

A RESOLUTION APPROVING THE CLASS RANGE TABLE FOR GENERAL NON-SWORN EMPLOYEES REPRESENTED BY THE MODESTO CITY EMPLOYEES ASSOCIATION (MCEA) AND AMENDING RESOLUTION NO. 2006-319, EFFECTIVE AUGUST 5, 2008

WHEREAS, on May 23, 2006, the City Council, by Resolution No. 2006-319, approved the Class Range Tables for General Non-Sworn Classes, and

WHEREAS, the Council desires to amend the Class Range Table for said classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Class Range Table for General Non-Sworn Classes entitled "City of Modesto Class Range Table General Non-Sworn Class, Effective August 5, 2008", which is **attached** hereto as **Exhibit** "A" and made a part hereof as though set forth in full herein.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that Resolution No. 2006-319 is hereby amended effective August 5, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of August, 2008, 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, Lopez, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO
CLASS RANGE TABLE
GENERAL NON-SWORN CLASSES
Effective **August 5, 2008**

RANGE	TITLE
101	Custodian I
103	Administrative Office Assistant I
104	
105	
106	
107	Administrative Office Assistant II Custodian II Exhibits Coordinator
108	
109	Customer Services Account Clerk I
110	Security Officer Maintenance Worker I
111	Account Clerk Administrative Office Assistant III Customer Services Account Clerk II
112	
113	Administrative Technician Computer Operator Drafting and Graphics Technician
114	Electrical Technician I Equipment Service Technician Maintenance Worker II Production Technician Storeskeeper

RANGE	TITLE
115	Accounting Technician Administrative Services Technician I Customer Services Account Clerk III Senior Administrative Office Assistant
116	Equipment Operator Motor Sweeper Operator Traffic Operations Technician Used Oil Coordinator Wastewater Collection System Operator Water Distribution Operator I
117	Electrical Technician II
118	Customer Services Accounting Technician Fleet Procurement Specialist Parking Lot Maintenance Crewleader Parks Crewleader Recreation Coordinator Senior Storeskeeper Tree Trimmer Water Distribution Operator II
119	Administrative Services Technician II Assistant Buyer Building Maintenance Mechanic Civil Engineering Technician I Code Enforcement Officer-Neighborhood Preservation I Maintenance Mechanic – Parks Maintenance Mechanic – Pumps Public Information Technician
120	Accountant I Assistant Electrician Laboratory Analyst I Senior Equipment Operator Traffic Painter Crewleader Wastewater Treatment Plant Operator I Water Resource Specialist I Welder/Fabricator

RANGE	TITLE
121	Solid Waste Enforcement Officer
122	Equipment Mechanic Fire Equipment Mechanic Tree Trimmer Crewleader
123	Airport Maintenance Crewleader Civil Engineering Technician II Code Enforcement Officer-Neighborhood Preservation II Maintenance Mechanic Crewleader – Parks
124	Community Development Program Specialist I Cross Connection Specialist Environmental Compliance Inspector I Heavy Equipment Mechanic Laboratory Analyst II Operation and Maintenance Crewleader Planning Assistant Plant Mechanic Wastewater Treatment Plant Operator II Water Conservation Specialist Water Distribution Operator III Water Production Operator I Water Resource Specialist II Water Services Equipment Operator I
126	Equipment Mechanic Crewleader Housing Financial Specialist Housing Rehabilitation Specialist I Wastewater Treatment Plant Operator III
127	Civil Engineering Assistant Senior Fire Equipment Mechanic
128	Building Inspector I Community Development Program Specialist II Electrician Environmental Compliance Inspector II Heavy Equipment Mechanic Crewleader Instrument Repair Technician Water Production Operator II Water Services Equipment Operator II

RANGE	TITLE
129	
130	Construction Inspector Housing Rehabilitation Specialist II Laboratory Analyst III Senior Wastewater Treatment Plant Operator
131	Senior Civil Engineering Assistant
132	Building Inspector II Environmental Review Specialist Senior Environmental Compliance Inspector Water Division Crewleader
133	
134	Plan Review Engineer Senior Construction Inspector
136	Senior Building Inspector

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-463

A RESOLUTION AMENDING THE FISCAL YEAR 08-09 OPERATING BUDGET TO APPROPRIATE $332,000 FROM 0100-800-8000-8003 GENERAL FUND RESERVES AND $778,000 FROM OTHER FUND RESERVES TO VARIOUS SALARY AND BENEFIT ACCOUNTS TO FUND SALARY AND HEALTH BENEFIT CHANGES FOR MODESTO CITY EMPLOYEES ASSOCIATION (MCEA)

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto City Employees Association (MCEA) expired on July 23, 2007, and

WHEREAS, representatives of the CITY and MCEA have met and conferred in good faith concerning wages, benefits, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, the City Council agrees to a three percent (3%) across the board salary increase for employees represented by MCEA, and

WHEREAS, the City Council agrees to increase the CITY's contribution to Health, Dental and Vision benefits for employees represented by MCEA, and

WHEREAS, the FY 08-09 net increased costs associated with these salary and benefit changes are estimated at $1,110,000 for active employees, with health benefit increases becoming effective July 22, 2008, and across-the-board salaries increases becoming effective on August 5, 2008, and

WHEREAS, 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 2008-09 Operating Budget is hereby amended to appropriate $332,000 from 0100-800-8000-8003 General Fund Reserves and $778,000 from various

fund reserves to various salary and benefit accounts in various operating budgets for implementation of the salary and benefit agreement between the CITY and MCEA.

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 August, 2008, 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, Lopez, Marsh, O'Bryant, Olsen
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-464

A RESOLUTION APPOINTING JUNE SHEEHAN 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, WHEREAS, the Modesto Golf Club recommends JUNE SHEEHAN, 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. JUNE SHEEHAN 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 12th day of August, 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:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-465

A RESOLUTION APPROVING AN AGREEMENT REGARDING PAYMENT IN LIEU OF ONE-TIME SPECIAL TAX WITH THE HOUSING AUTHORITY OF STANISLAUS COUNTY, A HOUSING AUTHORITY ORGANIZED AND EXISTING UNDER THE CONSTITUTION AND LAWS OF THE STATE OF CALIFORNIA, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Housing Authority of Stanislaus County, a housing authority organized and existing under the Constitution and laws of the State of California (the "Housing Authority") is the owner of approximately five (5) acres of land (the "Housing Authority Parcel") located within the City and within City of Modesto Community Facilities District No. 2004-1 (Village One #2) (the "CFD"), and

WHEREAS, the Housing Authority intends to cause a portion of the Housing Authority Parcel to be developed as residences for sale to individual buyers and to retain the remainder of the Housing Authority Parcel and to cause it to be developed as a multi-family residential rental project, and

WHEREAS, the City of Modesto formed the CFD to provide a method by which properties whose development will contribute to a need for new and improved public infrastructure can be required to pay their fair shares of the cost of such infrastructure, and

WHEREAS, the CFD imposes two types of special taxes on the taxable property within its boundaries in order to pay the cost of acquiring and constructing infrastructure; an annual facilities special tax and a one-time facilities special tax, and

WHEREAS, under the provisions of Article XIII, Section 3(b) of the California Constitution, the Housing Authority Parcel is exempt from those special taxes as long as it is owned by the Housing Authority, and

WHEREAS, the CFD's one-time facilities special tax is levied in place of, and for the same general purposes as, and in the same approximate amounts, as development impact fees or assessments would have been imposed to provide for the same public infrastructure; and the City contends that development impact fees are recognized as special assessments under California law (San Marcos Water District v. San Marcos Unified School District (1986), 42 Cal.3d 154 at 161-162), and

WHEREAS, pursuant to the provisions of Section 4(a) of Article XIIID of the California Constitution, the City contends that public agencies are not exempt from special assessments, and

WHEREAS, the City contends that it could establish a development impact fee program or special assessment program in order to finance the infrastructure in question and, in connection therewith, could grant a credit against the applicable fees and/or special assessments to properties that pay the CFD's special taxes; and the Housing Authority Parcel would not be exempt therefrom, and

WHEREAS, notwithstanding the City's contentions, the Housing Authority agrees to pay to the City the sum of $878,561.25, which amount the City represents is the amount of the CFD's one-time facilities special tax that would have been applicable to the Housing Authority Parcel if the Housing Authority Parcel were subject to said tax,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Agreement Regarding Payment In Lieu Of One-Time Special Tax the City of

Modesto and the Housing Authority of Stanislaus County, a housing authority organized and existing under the Constitution and laws of the State of California is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement Regarding Payment In Lieu Of One-Time Special Tax.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2008, 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.2008-466

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF PRUNED REFUSE RECEIVING AND TRANSFER SERVICES, TO GILTON RESOURCE RECOVERY / TRANSFER FACILITY INC., MODESTO, CA, FOR TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, FOR AN ESTIMATED ANNUAL COST OF $103,000

WHEREAS, the Public Works Department, Forestry Services Division, has requested pruned refuse receiving and transfer services for the City, and

WHEREAS, on December 12, 2007 Council approved Resolution No. 2007-748, authorizing the Purchasing Manager to formally solicit bids for the furnishing of pruned refuse receiving and transfer services, for a two (2) year agreement, with three (3) one-year extension options, and

WHEREAS, the Purchasing Manager solicited Request for Bid No. 0708-20, for the furnishing of pruned refuse receiving and transfer services to four (4) companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, of the four (4) companies solicited, only (1) company chose to respond, and

WHEREAS, based on providing a responsive and responsible bid of $16.00 per ton, City staff recommends the award of Bid No. 0008-20 and contract for the furnishing of pruned refuse receiving and transfer services, to Gilton Resource Recovery / Transfer Facility, Inc., Modesto, CA, for a two (2) year agreement, with three (3) one-year extension options, for an estimated annual cost of $103,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards Bid No. 0708-20 and the contract for the furnishing of pruned

refuse receiving and transfer services, to Gilton Resource Recovery / Transfer Facility, Inc., Modesto, CA,, for a two (2) year agreement, with three (3) one-year extension options, for an estimated annual cost of $103,000

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2008, 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. 2008-467

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACTS FOR THE FURNISHING OF WATER QUALITY TESTING SERVICES FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, TO MWH LABORATORIES, MONROVIA, CA, AS THE "PRIMARY" CONTRACTOR, MOORE TWINING ASSOCIATES, INC., FRESNO, CA, AS THE "SECONDARY" CONTRACTOR, AND BSK ANALYTICAL LABORATORIES, FRESNO, CA, AS THE "THIRD" CONTRACTOR, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE ANNUAL PURCHASE AGREEMENTS 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 TOTAL COST OF $170,410

WHEREAS, the City's drinking water system is the largest domestic water system in the area, with over 70,000 active water services, and

WHEREAS, during a calendar year, the Water Division performs over 7,000 bacteriological and 2,500 Title 22 Compliance samplings to ensure safe drinking water for the City's 216,000 customers, and

WHEREAS, the size and complexity of the City's water system places the City under the strictest Federal and State regulations for water quality testing, and

WHEREAS, the Federal Environmental Protection Agency (EPA) requires a different set of unregulated chemical monitoring, which fall under strict protocols for testing methods, including special laboratory certification and reporting requirements, and

WHEREAS, some of the general testing requirements are assigned to the City's Water Quality Control Laboratory, and

WHEREAS, all other testing is assigned to various commercial laboratories depending on their certifications and areas of expertise, and

WHEREAS, on June 12, 2007, Council approved Resolution No. 2007-335 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of water quality testing services for the Public Works Department, Water Division, and

WHEREAS, on April 21, 2008, the Purchasing Division issued Request for Bid No. 0708-28 for the furnishing of water quality testing services to thirty-one (31) prospective bidders, four (4) of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on April 29, 2008, a bidder conference was held, three (3) companies were in attendance, and

WHEREAS, on May 20, 2008, RFB's were formally opened in the City Clerk's office, and

WHEREAS, of the thirty-one (31) prospective bidders, eight (8) companies chose to respond, and

WHEREAS, all eight (8) bids received were considered responsive and responsible, and

WHEREAS, in order to ensure continued services to the City, it is recommended that contracts be awarded to more than one (1) contractor to provide for backup in case the primary contractor is unable to meet the City's needs. A secondary or third position contractor may be awarded a specific job only if the primary contractor is unable to perform the service, or if the primary contractor is unable to complete the specific job within the time frame required by the City, and finally, if the primary contractor is unable to maintain acceptable quality standards required by the City, and

WHEREAS, based on providing responsive and responsible bids, City staff recommends the award of bid and contracts for the furnishing of water quality testing services for the Public Works Department, Water Division, to MWH Laboratories, Monrovia, CA, as the "primary" contractor, Moore Twining Associates, Inc., Fresno, CA, as the "secondary" contractor, and BSK Analytical Laboratories, Fresno, CA, as the "third" contractor, and authorizing the Purchasing Manager to issue annual purchase agreements 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 total cost of $170,410, and

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

WHEREAS, funds are budgeted and available in Water Fund account 6100-480-5013-0249 for the furnishing of water quality testing services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contracts for the furnishing of water quality testing services for the Public Works Department, Water Division, to MWH Laboratories, Monrovia, CA, as the "primary" contractor, Moore Twining Associates, Inc., Fresno, CA, as the "secondary" contractor, and BSK Analytical Laboratories, Fresno, CA, as the "third" contractor 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 total cost of $170,410.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue annual purchase agreements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2008, 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. 2008-468

A RESOLUTION APPROVING A CAPITAL FACILITIES FEES EXEMPTION AGREEMENT BETWEEN THE CITY OF MODESTO AND THE HOUSING AUTHORITY OF STANISLAUS COUNTY FOR 20 MULTI-FAMILY AFFORDABLE HOUSING UNITS, COMMONLY KNOWN AS VILLAGE ONE TOWN CENTER, LOCATED AT 3001 BELHARBOUR DRIVE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE AGREEMENT

WHEREAS, on April 27, 2004, by Resolution No. 2004-233, the City Council approved an amendment to the Modesto Urban Area General Plan to update the Housing Element, which established a multi-family developer incentive program as one of the goals to reduce government constraints to housing development and exempts the Housing Authority of Stanislaus County ("Housing Authority") and non-profit sponsors of housing for very low-income from the City's Capital Facility Fees, and

WHEREAS, in 2005, 2006, and 2007, the City Council allocated a total of $2,749,698 in HOME funds to the Housing Authority for the development and construction of the Village One Town Center housing project ("Project") which consists of 20 multi-family affordable housing units, and

WHEREAS, in August 2007, the Housing Authority pulled the required building permits and paid a total of $280,100 in Capital Facilities Fees for the project, and

WHEREAS, in October 2007, William A. Fagan, Executive Director of the Housing Authority, submitted an application requesting exemption from and reimbursement of Capital Facilities Fees ("CFF") for the Project, and

WHEREAS, on April 5, 2008, by Resolution No. 2009-070, the City Council amended the City's "Capital Facilities Fees Policies and Procedures", and

WHEREAS, staff has reviewed the Housing Authority's exemption application and established that it complies with the City's CFF Policies and Procedures which provide for the exemption of CFF for any low income or very low income housing units constructed or expanded by the Housing Authority, and

WHEREAS, in June, 2008, the City of Modesto reimbursed the Housing Authority the amount of $280,100 for Capital Facility Fees paid in August 2007, and

WHEREAS, the Housing Authority is obtaining the permanent financing for this project from Farmers and Merchant Bank and a CFF Exemption Agreement with the City of Modesto is required by the bank prior to providing the permanent financing for this project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Capital Facilities Fees Exemption Agreement between the City of Modesto and the Housing Authority of Stanislaus County for 20 multi-family affordable housing units, commonly known as Village One Town Center, located at 3001 Belharbour Drive.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2008, 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. 2008-469

A RESOLUTION ACCEPTING THE DESIGNATION OF MODESTO AS THE STAGE FOUR FINISH HOST CITY FOR THE 2009 AMGEN TOUR OF CALIFORNIA ON FEBRUARY 17, 2009, AUTHORIZING STAFF TO NEGOTIATE AN AGREEMENT WITH ANSCHUTZ ENTERTAINMENT GROUP (AEG), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE AN AGREEMENT WITH AEG REGARDING THE ACTIVITIES AND RESPONSIBILITIES FOR THE CITY OF MODESTO TO BE A 2009 AMGEN TOUR OF CALIFORNIA HOST CITY

WHEREAS, for the past three February's, the Amgen Tour of California has swept down the California Coast for eight days generating over $100 million of economic impact to the 12 host cities and the state with over one billion marketing impressions created worldwide, and

WHEREAS, on May 8, 2008, by Resolution No. 2008-255, the City Council approved three (3) Request for Proposal (RFP) applications for the City of Modesto to apply to become a "Host City" (start city, finish city or finish/start city) for the fourth annual Amgen Tour of California, and

WHEREAS, the Host City submission requirements were: a Statement of Interest; race operation commitment; hotel, parking and meal options; route and festival options; marketing and public relations commitment; and development of a local organizing committee, and

WHEREAS, by letter dated July 3, 2008, the City of Modesto and the Convention and Visitors Bureau were notified of Modesto's selection as an official Stage Finish host venue for the fourth annual running of the AMGEN Tour of California February 14-22, 2009, and

WHEREAS, an agreement between the City of Modesto and Anschutz Entertainment Group (AEG) is required, and

WHEREAS, as a partner of the Amgen Tour of California, a Stage Finish Host City is required to provide support and assume all related costs in the areas of race operations; hotels, parking and meals; a local organizing committee; and a volunteer program,

NOW, THEREFORE, BE IT RESOLVED by the City Council that it hereby accepts the designation of Modesto as the Stage Four Finish Host City for the 2009 AMGEN Tour of California on February 17, 2009.

BE IT FURTHER RESOLVED that staff is hereby authorized to negotiate an agreement with AEG as the Stage Four Finish Host City for the 2009 AMGEN Tour of California on February 17, 2009.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute an agreement regarding the activities and responsibilities for the City of Modesto to be a 2009 AMGEN Tour of California Host City on February 17, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2008, 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. 2008-470

A RESOLUTION AMENDING THE PREVIOUS COUNCIL FIREARMS POLICY TO ALLOW FOR THE SALE OF FIREARMS ONLY AFTER CITY COUNCIL APPROVAL. THE TRANSACTION TO SELL THE FIREARMS WOULD INCLUDE A CONDITION THAT ALL FIREARMS ARE SOLD IN A SINGLE TRANSACTION AS A COMPONENT OF A NEW FIREARM PURCHASE/TRADE-IN TRANSACTION

WHEREAS, on July 25, 2000, Council accepted a staff report regarding the prohibition of future gun sales and remedial actions taken to reform Police Department property and evidence handling and management structure, and

WHEREAS, on July 7, 2007, staff recommended to the Safety and Communities Committee that the firearms policy be amended to allow for the sale of firearms after City Council approved, and

WHEREAS, the transaction to sell the firearms would include a condition that all firearms are sold in a single transaction as a component of a new firearm purchase/trade-in transaction, and

WHEREAS, all firearms re-sold to a firearms manufacturer will be conducted solely through the manufacturer and in compliance with all state and federal laws, and

WHEREAS, the Police Department has applied for a $47,000 grant to start re-arming our officers, and

WHEREAS, the trade-in value of the firearms is dependant upon the resale restrictions placed upon the manufacturer, and

WHEREAS, depending upon the trade-in agreement, the purchase price for a new firearm will be reduced between 70% and 92%,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the previous Council firearms policy to allow for the sale of firearms only after City Council approval, and

BE IT FURTHER RESOLVED that the transaction to sell the firearms would include a condition that all firearms are sold in a single transaction as a component of a new firearm purchase/trade-in transaction.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2008, 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. 2008-471

A RESOLUTION APPROVING A SECOND AMENDMENT TO AGREEMENT WITH AVAIL TECHNOLOGIES, INC., IN THE AMOUNT OF $21,550 TO SUPPORT INCREASES TO THE MODESTO AREA EXPRESS (MAX) COMPUTER AIDED DISPATCH/AUTOMATIC VEHICLE LOCATION (CAD/AVL) SYSTEM CAPABILITY AND AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO AGREEMENT

WHEREAS, the City Council, on March 6, 2007, by Resolution 2007-161, awarded a development and installation contract in the approximate amount of $951,541.00 to Avail Technologies, Inc. to install a Computer Aided Dispatch/Automatic Vehicle Location (CAD/AVL) system on the Modesto Area Express (MAX) bus fleet, and

WHEREAS, on December 11, 2007, the City entered into an Agreement with Avail Technologies, Inc. for the development of a CAD/AVL system for the MAX bus fleet, and

WHEREAS, on June 3, 2008, the City Council by Resolution 2008-327, approved an Amendment to Agreement with Avail Technologies increasing the original agreement by $175,600 to incorporate system upgrades, and

WHEREAS, during further CAD/AVL development it has been determined that additional system enhancements at a cost of $21,550 are both feasible and cost effective,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Second Amendment to Agreement with Avail Technologies, Inc. in the amount of $21,550 to support increases to the Modesto Area Express (MAX) Computer Aided Dispatch/Automatic Vehicle Location (CAD/AVL) system capability.

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 12th day of August, 2008, 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: _____
SUSANNA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-472

A RESOLUTION ACCEPTING THE WORK BY D.A. WOOD CONSTRUCTION, INC. FOR THE PROJECT TITLED "COLLECTION SYSTEM REHABILITATION 2006" 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 $733,074.73

WHEREAS, a report has been filed by the Public Works Director that the project titled "Collection System Rehabilitation 2006" has been completed by D.A. Wood Construction, Inc. in accordance with the contract agreement dated January 9, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Collection System Rehabilitation 2006" is hereby accepted as complete from said contractor D.A. Wood 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 $733,074.73 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 12th day of August, 2008, 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, 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. 2008-473

A RESOLUTION APPROVING A CONSULTANT AGREEMENT WITH PACIFIC DESIGN ASSOCIATES, INC., IN THE NOT-TO-EXCEED AMOUNT OF $41,488.91, FOR THE PROJECT TITLED, "ELM STREET BUILDING IMPROVEMENTS;" AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Capital Improvement Program (CIP) item established for the completion of this facility was approved by Council with the current CIP budget, and

WHEREAS, the selection for Architectural and Engineering Design services followed the City's Selection procedures for Professional Consultants as outlined in Administrative Directive 3.1, and

WHEREAS, Pacific Design Associates, Inc., was considered to be the most qualified for design services for the "Elm Street Building Improvements" project, and

WHEREAS, full funding for the proposed design services is budgeted in Account No. 0510-160-E691, "Traffic Ops Facility,"

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Pacific Design Associates, Inc., in the not-to-exceed amount of $41,488.91, for the project titled, "Elm Street Building Improvements,"

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 12th day of August, 2008, 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. 2008-474

A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH LARRY WALKER ASSOCIATES TO COMPLETE SPECIAL STUDIES AS REQUIRED IN THE CITY'S NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT FOR DISCHARGE TO THE SAN JOAQUIN RIVER IN AN AMOUNT NOT TO EXCEED $242,000 FOR THE FIRST YEAR, WITH TWO (2) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY IN AN AMOUNT NOT TO EXCEED $100,000 EACH YEAR, AND AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE PROFESSIONAL SERVICES AGREEMENT

WHEREAS, the treated effluent from the City's wastewater treatment facilities is discharged to the San Joaquin River, and

WHEREAS, this discharge is regulated by the California Central Valley Regional Water Quality Control Board (Board) through an NPDES permit, and

WHEREAS, on April 25, 2008, the City received Waste Discharge Requirements Order No. R5-2008-0059 (Permit) issued by the Board, and

WHEREAS, the Permit became effective June 14, 2008, and

WHEREAS, NPDES permits are becoming increasingly more stringent with respect to what can be discharged to the river, and

WHEREAS, the Permit requires that the City demonstrate scientifically-based and appropriate discharge levels for the City's wastewater effluent through special studies that will need to be developed, reviewed, and reported within the next 12-24 months, and

WHEREAS, on June 24, 2008 City Council, by Resolution 2008-376, authorized staff to solicit consultants who an perform these studies to meet the Board' requirements within its timelines, and

WHEREAS, on July 7, 2008 staff sent 14 Request for Proposals and received two responses, and

WHEREAS, after evaluation it was determined that Larry Walker Associates is the most qualified consultant, and

WHEREAS, funds are budgeted in Account No. 6210-480-5217-0235 in the amount of $242,000 to fund this Professional Services Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Professional Services Agreement with Larry Walker Associates to complete special studies as required in the City's NPDES permit for discharge to the San Joaquin River in an amount not to exceed $242,000 for the first year, with two (2) one-year extension options at the sole discretion of the City in an amount not to exceed $100,000 each year.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the Professional Services Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2008, 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. 2008-475

A RESOLUTION APPROVING SUBMITTAL OF A GRANT APPLICATION TO THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING $206,464 IN FEDERAL TRANSIT ADMINISTRATION JOB ACCESS AND REVERSE COMMUTE (JARC) FUNDS AND $85,165 IN FEDERAL TRANSIT ADMINISTRATION NEW FREEDOM FUNDS 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, City has provided all annual certifications and assurances to the FTA required for the projects, and

WHEREAS, in the February 3, 2006 Federal Register the Modesto Urbanized Area was apportioned $206,464 in Job Access and Reverse Commute funds for FY 2005-2006, and

WHEREAS, in the February 3, 2006 Federal Register the Modesto Urbanized Area was apportioned $85,165 New Freedom funds for FY 2005-2006, and

WHEREAS, the City has been requested by StanCOG to apply for $206,464 in Job Access and Reverse Commute funds apportioned for FY 2005-2006, and

WHEREAS, City has been requested by StanCOG, to apply for $85,165 in New Freedom funds apportioned for FY 2005-2006, and

WHEREAS, the projects in the Job Access and Reverse Commute and New Freedom programs are included in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG, and

WHEREAS, by a report to the Council dated August 4, 2008, from the Public Works Department, City staff recommended submitting a grant application for $206,464 in FTA Job Access and Reverse Commute and $85,165 in New Freedom funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the submittal of an application for the Modesto Urbanized Area with the Federal Transit Administration (FTA) for $206,464 in FTA Job Access and Reverse Commute assistance and $85,165 in FTA New Freedom assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the Federal Transit Administration.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute and file the annual certifications and assurances and other documents the 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 special meeting of the Council of the City of Modesto held on the 12th day of August, 2008, 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. 2008-476

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PELANDALE AVENUE WIDENING PROJECT, ACCEPTING THE BID AND APPROVING A $9,458,292.06 CONTRACT WITH GEORGE REED, INC. FOR THE PELANDALE AVENUE WIDENING PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Pelandale Avenue Widening project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Pelandale Avenue Widening project were opened at 11:00 a.m. on July 22, 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 $9,458,292.06 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 Pelandale Avenue Widening project, accepts the bid of George Reed, Inc. in the amount of $9,458,292.06, and awards George Reed, Inc. the contract for the Pelandale Avenue Widening 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 $9,458,292.06, 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 12th day of August, 2008, 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. 2008-477

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(586). (IOAN & VICTORIA MURESAN)

WHEREAS, a verified application for an amendment to Section 30-3-9 of the Zoning Map was filed by Ioan and Victoria Muresan on April 9, 2008, to reclassify from Light Industrial Zone, M-1, to Planned Development Zone, P-D (586), to allow the conversion of existing industrial buildings to industrial condominiums and creating seven air space condominium units, property located on the north side of Kansas Avenue east of Reno Avenue, described as follows:

M-1 to P-D(586)

The land referred to is situated in the County of Stanislaus, City of Modesto, State of California, and is described as follows:

All that portion of Lot 9 of the Maze Colony, according to the Map thereof, filed in the Office of the County Recorder of Stanislaus County, California, on March 24, 1904 in Volume 1 of Maps at Page 83, lying East of the irrigating pipe line running through said Lot described as follows:

Beginning at the Interior quarter section corner of Section 30, Township 3 South, Range 9 East, Mount Diablo Base and Meridian; thence North 89° 45' West along the East and West quarter section line 1492.68 feet; thence North 0° 03' West 20 Feet to the center line of Kansas Avenue and the true point of beginning of this description; thence North 0° 3' West 155.13 Feet; thence North 89° 23' 30" West 347.81 Feet; thence along the approximate center line of the irrigating pipe line following three courses and distances; South 26° 19' West 38.59 Feet; South 1° 48' 30" West 103.12 Feet; South 2° 21' East 19.95 Feet; thence South 89° 45' East along the center line of Kansas Avenue 367.59 Feet to the true point of beginning of this description:

EXCEPTING FROM the above the South 20 Feet for road purposes and that portion of a 40 Foot County Road known as Reno Avenue lying within the boundaries of the hereinabove described Parcel.

ALSO EXCEPTING THEREFROM that portion thereof conveyed to Fred R. Maddox, et ux; S.L. Asbill, et ux; John P. Wagoner, et ux; Domenico Franzi, et ux; by Deeds recorded 04/14/47 in Book 877, Page 442 and 04/24/47 in Book 877, Page 540, and 03/23/49 in Book 961, Page 447 and 03/16/49 in Book 965, Page 84, Official Records, respectively.

PARCEL TWO:

All that real property on the State of California, County of Stanislaus, City of Modesto, being a portion of the Northwest quarter of Section 30, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, also being a portion of Lot 9 of the Maze Colony, as per Map filed March 24, 1904 in Volume 1 of Maps, Page 83, Stanislaus County Records, described as follows:

Beginning at the Northwestern corner of the property conveyed to Clifford A. Wagoner, et ux, by Deed recorded February 1, 1946, as Instrument No. 3051, Stanislaus County Records, said corner being on a former Eastern line of former 40.00 Foot Reno Avenue; thence along the Westerly extension of the Northern line of said Wagoner land, North 89° 23' 30" West, 22.08 Feet; to a point of the former centerline of Reno Avenue; thence along said former centerline of Reno Avenue the following courses; South 25° 39' 35" West, 28.28 Feet; South 9° 14' 08" West, 66.00 Feet; and South 5° 20' 45" East, 31.47 Feet, to a point on a line which is parallel with and 35.00 Feet, measured at right angles, Northerly from the centerline of Kansas Avenue; thence along said parallel line, South 89° 45' 00" East, 20.10 Feet, to a point of the Western boundary of said Wagoner land; thence along said Western boundary of the Wagoner land, said boundary also being the Eastern boundary of former 40.00 Foot Reno Avenue, the following courses; North 5° 20' 45" West, 30.88 Feet; North 9° 14' 08" East, 60.55 Feet; and North 25° 39' 35" East, 34.75 Feet, to the point of beginning.

Also including the northerly one half of Kansas Avenue all immediately adjacent to the above described property.

APN 029-047-014

WHEREAS, a public hearing held by the Planning Commission on July 7, 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. 2008-28, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed rezoning will not result in any additional development beyond what has previously been approved for the site.

2. The proposed project is compatible with existing and potential surrounding development, because it consists of single-story industrial offices and warehouse buildings that orient to Kansas Avenue, a Minor Collector street.

3. The proposed rezoning is consistent with the Modesto Urban Area General Plan, as the site is designated Redevelopment Planned District, which permits industrial offices and warehouse buildings.

WHEREAS, said matter was set for a public hearing of the City Council to be held on August 12, 2008, 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 Ioan and Victorian Muresan 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. 2008-28 and quoted above, and

WHEREAS, the Council has introduced Ordinance No.3492-C.S. on the 12th day of August, 2008, reclassifying the above-described property from Light Industrial Zone, M-1, to Planned Development Zone, P-D(586).

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

1. All development shall conform to the plot plan titled "Site Plan Muresan/Kansas Avenue A.P.N. 29-47-14" as amended in red, stamped approved by the City Council.
2. No operations conducted on the premises shall cause an unreasonable amount of noise, odor, dust, mud, smoke, vibration, or electrical interference detectable off the premises. All machinery or equipment shall be soundproofed as required by the Chief Building Official.
3. All outdoor lighting shall be shielded from adjacent residential properties as required by the City Engineer or designee.
4. Prior to sale of the condominium units, a final parcel map shall be recorded.

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 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.

6. All signs shall comply with the sign requirements of the C-3 Zone.

In addition, the following recommended conditions of approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report, Mitigated Negative Declaration that should be applied to the project:

7. When materials are transported off-site, all materials 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.

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

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

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

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

   c. A hand-powered saw.

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

   e. Any electrically powered (whether by alternating current electricity or by direct current electricity) tool or piece of equipment used for cutting, drilling, or shaping wood, plastic,

metal, or other materials or objects, such as, but not limited to, a saw, drill, lathe, or router.

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

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

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

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

10. 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.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(586):

The entire construction program to be accomplished in one phase, construction to begin on or before August 12, 2010, and completion to be not later than August 12, 2011.

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(586), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2008, 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

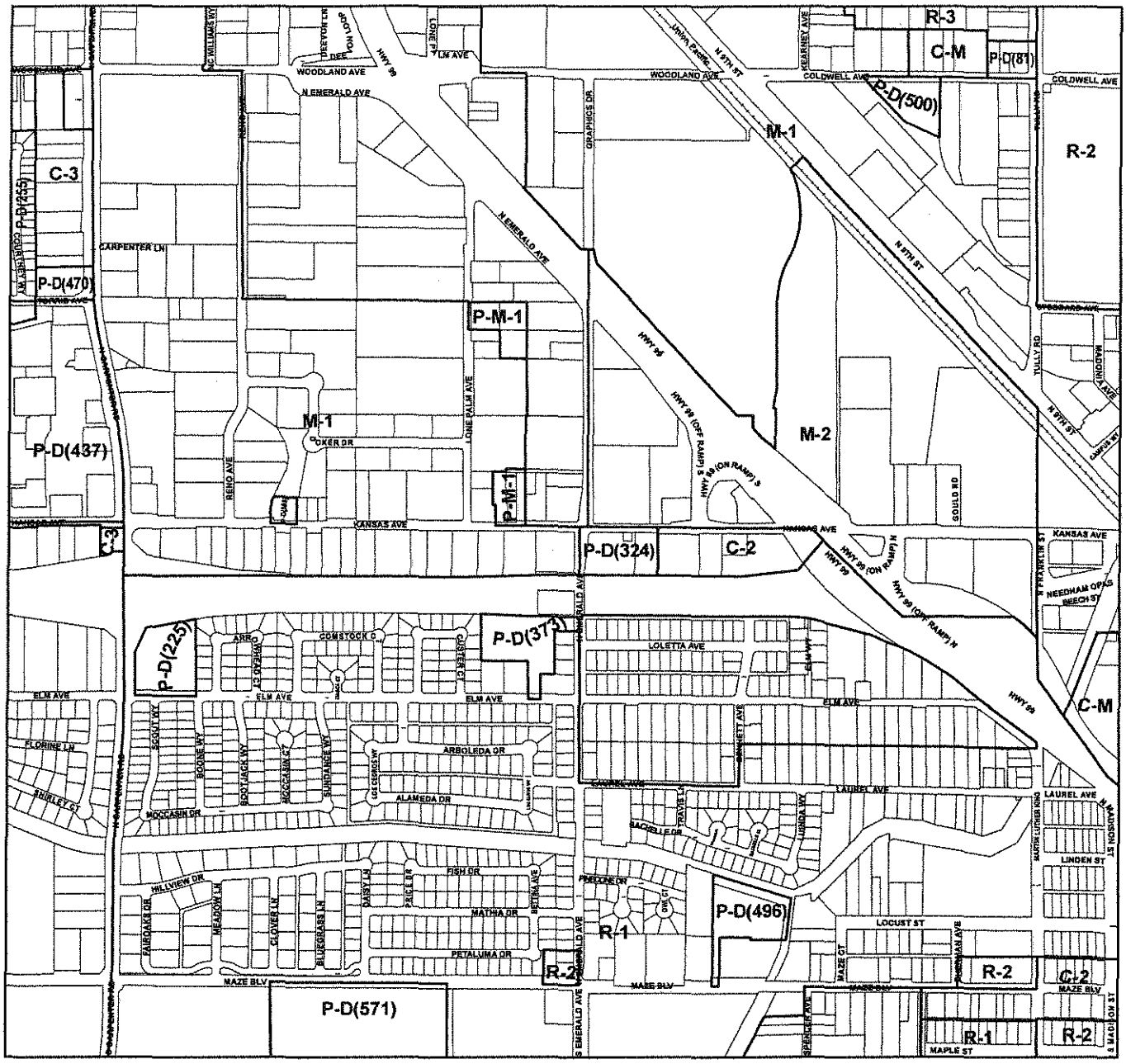
(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By _____
Community & Economic Development Department
Planning Division



City of Modesto Zoning Map

30-3-9

Ordinance No. 3493-C.S.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-478

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDING SECTION 30-3-9 OF THE ZONING MAP TO REZONE FROM LIGHT INDUSTRIAL ZONE, M-1, TO PLANNED DEVELOPMENT ZONE, P-D(586), PROPERTY LOCATED AT 1233 KANSAS AVENUE. (IOAN & VICTORIA MURESAN)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, Ioan and Victoria Muresan has proposed that the zoning designation for the property located on the north side of Kansas Avenue east of the Reno Avenue, be amended to rezone from Light Industrial Zone, (M-1), to Planned Development Zone, P-D(586), to allow for the two existing industrial buildings to be converted to industrial condominiums, subsequently creating seven air-space industrial condominium units for individual purchase, and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent project 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. 2008-23 ("Initial Study") reviewed the proposed amendment to the Zoning Map and Planned Development project

to determine whether the project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR ("Master EIR"), and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the Master EIR, and further, that no or 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 on July 20, 2008, 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, the Planning Commission, by Resolution No. 2008-28 recommended to the City Council approval of the application of Ioan and Victoria Muresan to amend section 30-3-9 of the Zoning Map to rezone from Light Industrial Zone, (M-1), to Planned Development Zone, P-D(586), for the property located on the north side of Kansas Avenue east of Reno Avenue, to allow the future development of two existing industrial buildings to be converted to industrial condominiums subsequently creating seven air-space condominium units for individual purchase, and associated parking and common area as set forth in said Resolution No. 2008-28, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing, which was held on August 12, 2008, 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 rezone to Planned Development Zone P-D(586) for industrial condominiums, a copy of

which is **attached** hereto as **Exhibit** "A", and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. The type of project is described in Chapter II of the Master EIR (SCH No. 1999082041).

2. 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.

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 and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.

4. 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.

    c. The project is within the scope of the MEIR.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2008, 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/C&ED No. 2008-23

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. 2008-23

For the proposed:

PDZ – Planned Development Zone
1233 KANSAS AVENUE
MURESAN KANSAS AVENUE CONDOMINIUMS

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

JUNE 3, 2008

City of Modesto

Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the Planned Development Project is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

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

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

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

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

II. PROJECT DESCRIPTION

A. Title: P-PDZ-08-002 – Muresan Kansas Avenue Condominiums

B. Address or Location: 1233 Kansas Avenue

C. Applicant: Ioan & Victorian Muresan, 2409 Woodland Avenue, Modesto, CA 95358

D. City Contact Person: Rita S. Doscher

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

E. Current General Plan Designation(s): "RPD" for Redevelopment Planned District

F. Current Zoning Classification(s): "M-1" Light-Industrial Zone

G. Surrounding Land Uses:

North:	(M-1) Light-Industrial
South:	(M-1) Light-Industrial
East:	(R-1) Single-Family Residential
West:	(M-1) Light-Industrial

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

This is an application to rezone the above reference property from M-1 (Light-Industrial Zone) to P-D (Planned Development Zone) to allow the approved industrial office and warehouse buildings to be converted to two industrial office and warehouse condominium buildings subsequently, creating seven air space condominium units. The proposed development will consist of Building #1 with a total of 4,990 square feet with five separate units; and Building #2 with a total of 1,780 square feet with two separate units each having 880 square feet. The overall square footage for both buildings is 6,750 square feet. In addition, the approved development is providing on site parking, landscaping, and street improvements. The current development fronts onto Kansas Avenue and access into the site is provided by way of a private reciprocal access driveway. The parking areas are mainly centrally located between the two buildings and to the north of Building #2, and the development will provide a total of 17 required parking spaces.

I. Other Public Agencies Whose Approval is Required:

None.

IIII. 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.

_____	Assistant Planner	June 3, 2008
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, basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

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

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "No" response must be discussed.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	X	☐
(2)	This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	X	☐
(3)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	X	☐

(4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available. X ☐

(5) Policies remain in place, that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development. X ☐

IV. ENVIRONMENTAL ANALYSIS

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

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

All environmental effects cited reflect year 2025 build-out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts within certain areas of the "Baseline Developed Area":

Effect: Increased traffic will result in certain roadway segments operating at LOS "D" or worse.

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of a LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

This is an application to rezone the project site from M-1 (Light-Industrial Zone) to P-D (Planned Development Zone) in order to allow the approved industrial office & warehouse buildings to be converted to two industrial office and warehouse condominiums subsequently, creating seven air space condominium units. The rezoning of the industrial complex is compatible with the existing surrounding uses of industrial development and industrial zoning located along this area of Kansas Avenue. Because the project is consistent with the surrounding uses of industrial offices and retail developments, the use and activities will not change to a level that will cause a change to the existing road capacities or levels of service.

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

Traffic and Circulation mitigation measures that may be pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, *Mitigation Measures Applied to Project.*

c. Project-Specific Effects

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

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

	YES	NO
(1) The project would contribute one hundred (100) or more peak hour trips to or from the site during the adjacent roadway's peak hour or the development's peak hour, to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR.	☐	X

Note:

If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.

		YES	NO
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	X
(3)	Result in inadequate emergency access.	☐	X
(4)	Result in inadequate parking capacity.	☐	X

DISCUSSION:

(1) Engineering and Transportation Staff reviewed the proposed project and have the following comment:

- This property shall provide a reciprocal access agreement for the shared driveway along Kansas Avenue. It should also seek reciprocal access for the other portion of the driveway to the west.

(2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). The City Engineering and Traffic Department has evaluated the project and has determined that the existing design layout of the project is in accordance to City standards. The previously approved site plan was designed to accommodate commercial uses and emergency access.

(3) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(4) The project has been evaluated for compliance to the City of Modesto Parking regulations. The parking area will be located the two buildings of the project site and will provide a total of 17 required parking spaces. The design and layout of the proposed parking area will comply with both City standards and ADA (Americans with Disability Act) standards.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected City traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. *This is a significant and unavoidable impact.*

Effect: Projected City traffic levels will result in increased ROG and NOX levels in the project area. *This is a significant and unavoidable impact.*

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

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: AQ-17

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-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.	☐	X
(2)	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	☐	X
(3)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	X
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	X
(5)	The project would create objectionable odors affecting a substantial number of people.	☐	X

DISCUSSION:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.

(2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).

(3) Applicable General Plan Policies have been applied to the previously approved project site. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).

(4) The project is not a significant contributor to pollution levels in that it involves only a rezone to P-D to allow the conversion of existing industrial offices and warehouses to condominiums. PM10 emissions created through the construction phase will be mitigated as called for by the MEIR by the measures listed above.

(5) The proposed project will not produce objectionable odors.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in an excess of the City's Noise Significance Standards.

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

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

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-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.	☐	X
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	X

(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	X
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	X

DISCUSSION:

(1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.

(2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the Baseline Developed Area, are incorporated into the conditions of approval for the project.

(3) The only permanent noise levels produced by the project would be associated with traffic. The increased traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

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 site and the surrounding property are located within a fully developed urbanized area.

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

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	☐	X
(3)	The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	X
(4)	The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural and will be converted.

(2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.

(3) The project site is not zoned for agriculture nor is it under Williamson Act contract.

(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanization.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. *This is a less-than-significant impact.*

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. *Consequently, the potential environmental impacts of the Urban Area General Plan are considered less-than-significant.*

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. *This is a significant and unavoidable cumulative impact.*

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

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

(2) Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed. ☐ X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. *As a result, this impact would be less-than-significant.*

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. *This is a less-than-significant impact.*

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

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

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-4 through V-6-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and had the following comment: The Modesto City Council adopted a Wastewater Capacity Charge, effective August 1, 2007. The Wastewater Capacity Charge may apply to this project a the time of occupancy.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less-than-significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

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

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	X
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District both in land use and intensity.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) There is no conflict with any local policies or ordinances protecting biological resources.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

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

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR. The project does not involve physical development and as a result no measures will be incorporated into or made conditions of approval of this project.

DISCUSSION:

Mitigation Measures applicable to this project include: AH-8, Master EIR.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District in both land use and intensity.

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

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered *less-than-significant.*

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

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

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. The site is fully developed and this new proposal will only involve an amendment to the Planned development zone with no physical canges to the property. No measures will be incorporated into or made conditions of approval of this project.

DISCUSSION:

Mitigation measures appropriate to this project include: SD-7, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	☐	X
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District designation in both land use and intensity.

(2) The project will meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City as required by the above-listed mitigation measures.

(3) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less-than-significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less-than-significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems

designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

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

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 MEIR. All feasible measures appropriate to the project have been incorporated into or made conditions of approval of the previously approved development. This project will not involve any modification to the existing site that would require additional measures applied to the new proposal.

DISCUSSION:

Mitigation measures appropriate to this project include: FWQ-14, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

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

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	X
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	X
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District designation in both land use and intensity.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) Mitigation Measures as called for by FWQ-14 will be applied to the project so that the project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. *Impacts on parks and open space will be less-than-significant.*

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. *This impact is less-than-significant.*

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

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measure applicable to this project. It is not on or adjacent to any park sites, nor is it 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-than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District designation in both land use and intensity. There are no mitigation measures applicable to this project.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan.). As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan RPD for Redevelopment Planned District in both land use and intensity.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. *The impact is less-than-significant.*

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. *These policies reduce the impact to a less-than-significant level.*

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

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District designation in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. *Impacts on fire services of development in these areas will be less-than-significant.*

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. *This impact would be less-than-significant.*

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District designation in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access. The area can be served by Fire Station No. 4 at 1505 Blue Gum Avenue, approximately 1.25 miles distant.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: New development projects would exceed available landfill capacity; it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. New projects will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. *The impact would be less-than-significant at such time as the Fink Road Landfill expansion is approved.*

Effect: New development projects can make a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. *This impact is significant and unavoidable.*

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

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-15-5 and V-15-6 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District designation in both land use and intensity.

(2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less-than-significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	☐	X
(3)	The project contains a contaminated site not identified as of March 2003.	☐	X
(4)	The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	X
(5)	The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District designation in both land use and intensity.

(2) The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. (No hazardous materials will be involved with this project).

(3) The project site is not known to contain any contaminants, however the applicant shall determine, to the satisfaction of the Department of Environmental Resources (DER) that a site containing (or Formerly containing) residences or farm buildings, or structures, has been fully investigated (via Phase I study, and Phase II study if necessary) prior to the issuance of a grading permit. Any discovery of underground storage tanks, former underground storage tank locations, buried chemicals, buried refuse, or contaminated soil shall be brought to the immediate attention of DER.

The applicant should contact the Department of Environmental Resources regarding appropriate permitting requirements for hazardous materials and/or wastes. Applicant and/or occupants handling hazardous materials or generating hazardous wastes must notify the Department of Environmental Resources relative to the following: (Calif. H&S, Division 20)

A. Permits for the underground storage of hazardous substances at new or the modification of an existing tank facilities.
B. Requirements for registering as a handler of hazardous materials in the County.
C. Submittal of hazardous materials Business Plans by handlers of materials in excess of 55 gallons or 500 pounds of a hazardous material or of 200 cubic feet of compressed gas.
D. The handling of acutely hazardous materials may require the preparation of a Risk Management Prevention Program which must be implemented prior to operation of the facility. The list of acutely hazardous materials can be found in SARA, Title III, Section § 302.
E. Generators of hazardous waste must notify the Department relative to the: (1) quantities of waste generated; (2) plans for reducing wastes generated; and (3) proposed waste disposal practices.
F. Permits for the treatment of hazardous waste on-site will be required from the hazardous materials division.
G. Medical waste generators must complete and submit a questionnaire to the department for determination if they are regulated under the Medical Waste Management Act.

(4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.

(5) The project would not be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant.*

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant.*

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan RPD for Redevelopment Planned District designation in both land use and intensity.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. *Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.*

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. *The impact is less-than-significant.*

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

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan RPD for Redevelopment Planned District designation in both land use and intensity.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan.	☐	X
(3)	The project would physically divide an established community	☐	X

Discussion:

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

(2) No amendment to the General Plan is required by this project.

(3) The project is infill development that will not divide an established community.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

(2)	The project would have a substantial adverse effect on a scenic vista.	☐	X
(3)	The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	☐	X
(4)	The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan RPD for Redevelopment Planned District designation in both land use and intensity.

(2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings. This is an existing site, which had received previous City approval.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area. The existing site conforms to current City regulations regarding night glare to surrounding residences. These requirements shall remain in effect.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1 (c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures (also contained in Section III, "Global List") shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project.

Traffic and Circulation Measures:

N/A

Air Quality Measures:

1. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover

2. All 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.

3. 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.

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. 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.

Noise Measures:

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

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

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

   B. An impact wrench, or other tool or equipment powered by compressed air.

   C. A hand-powered saw.

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

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

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

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

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

Agricultural Land Measures:

N/A

Water Supply Measures:

N/A

Sanitary Sewer Service Measures:

N/A

Sensitive Wildlife and Plant Habitat Measures:

N/A

Archaeological or Historic Sites Measures:

1. 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

Storm Drainage Measures:

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

Flooding and Water Quality Measures:

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

Parks and Open Space Measures:

N/A

Schools Measures:

N/A

Police Services:

N/A

Fire Services:

N/A

Generation of Solid Waste

N/A

Generation of Hazardous Materials

N/A

Potential for Landslides and Seismic Activity

N/A

Energy

N/A

Planning and Land Use

N/A

Aesthetics

N/A

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: ***None.***

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-479

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(587). (STANCO)

WHEREAS, a verified application for an amendment to Section 21-3-9 of the Zoning Map was filed by STANCO on March 10, 2008, to reclassify from Planned Development Zone, P-D(469), to Planned Development Zone, P-D(587), to allow a special need affordable housing project, property located at 605 E. Coolidge Avenue on the west side of E. Coolidge Avenue west of Sunrise Avenue, described as follows:

P-D(469) to P-D(587)

ALL that certain real property situate in a portion of the Northeast Quarter of the Northeast quarter of the Northwest Quarter of Section 21, Township 3, South, Range 9 east, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, described as follows:

Commencing at the Southeast corner of the Northeast Quarter of the Northeast Quarter of the Northwest Quarter of said Section 21; thence along the South line of the Northeast Quarter of the Northeast Quarter of the Northwest Quarter of said Section 21 and also being the centerline of East Coolidge Avenue North 89°37'42" West, 154.99 feet to the Southern prolongation of the East line of Parcel "C" as shown on that map recorded in Volume 26 of Parcel Maps, at page 89, Stanislaus County Records; thence along said prolongation and East line of said Parcel "C", North 0°40'23" West., 266.99 feet to the Southeast corner of Parcel "B", also shown on said parcel map; thence along the South line of said parcel "B" North 89°37'42" West 176.38 feet; thence continuing along said South parcel line, North 0°43'49" West, 2.83 feet; thence North 89°35'59" West 104.00 feet to the Southwest corner of said Parcel "B", thence continuing on a course of North 89°35'59" West, 61.00 feet more or less; thence Southerly 140.00 feet more or less; thence Easterly 63.00 feet more or less; thence Southerly 130.00 feet more or less to aforementioned quarter, quarter Section line and centerline of East Coolidge Avenue; thence along said centerline South 89°37'42" East, 278.00 feet to the point of beginning.

WHEREAS, after a public hearing held on July 7, 2008, in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, it was found and determined

by the Planning Commission, by its Resolution No. 2008-30, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed zone change to P-D is consistent with the Modesto Urban Area General Plan. The General Plan designates this area as "MU" (Mixed-Use), and the rezoning to allow a special need, affordable housing development implements Policy 4.4 of the General Plan Housing Element.

2. The conditions of approval will ensure that the proposed project is compatible with the adjacent residential uses.

3. The proposed project will provide needed affordable housing in Modesto and contribute towards meeting the City's share of the Regional Housing Needs Allocation.

and

WHEREAS, said matter was set for a public hearing of the City Council to be held on August 12, 2008, 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 STANCO 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. 2008-30 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3493-C.S. on the 12th day of August, 2008, reclassifying the above-described property from Planned Development Zone, P-D(469), to Planned Development Zone, P-D(587).

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

1. All development shall conform to the plot plan titled "STANCO Development Coolidge Apartments Affordable Housing (No. PDZ-08-001)" as amended in red, stamped approved by the City Council.

2. Fences or walls shall be constructed prior to occupancy and shall be as follows:

   A six-foot-high concrete-masonry wall with decorative cap along the east and west property lines; a six-foot-high masonry pilaster and board fence shall border the north property line.

3. Prior to the issuance of a building permit, the applicant shall submit a landscaping and irrigation plan conforming to current City of Modesto specifications and standards for review and approval by the Parks, Recreation and Neighborhood Director or designee. Screen landscaping shall border the entire site except for the Coolidge Avenue frontage. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

4. The applicant shall provide sufficient interior parking lot shade trees to meet current Modesto Municipal Code requirements.

5. Prior to issuance of a building permit, improvement plans for required improvements shall be prepared by a Registered Civil Engineer and approved by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans

6. All private streets and parking areas shall be constructed in accordance with the standard structural section for residential streets as contained in the City of Modesto Standard Specifications.

7. All-weather, hard-surfaced roadways shall be constructed and maintained free of obstructions prior to and at all times during construction.

8. 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.

9. Prior to the issuance of a building permit, the developer shall prepare plans and obtain written approval from the M.I.D. as to the disposition of irrigation facilities both on private property and within the Coolidge Avenue right-of-way. Prior to occupancy, all work related to the disposition of these irrigation facilities shall be completed to the satisfaction of the M.I.D. and the City Engineer.

10. Electric facilities and overhead lines shall be removed, relocated, or protected as required by the Modesto Irrigation District and the City Engineer or designee. Appropriate easements for electrical facilities including 10-foot P.U.E. along Coolidge Avenue shall be granted as required. Relocation or installation of electric facilities shall conform to the District's Electric Service Rules. Costs for relocation and/or undergrounding the District's facilities at the request of others will be borne by the requesting party.

11. Trash bins shall be kept in enclosures in accordance with the approved plan and in accordance with plans approved by the Public Works Director or designee. Enclosures shall be constructed of building materials consistent with those used in the major buildings as approved by the Community and Economic Development Department Director or designee.

12. Trash enclosures shall be of a size and design to permit the storage and removal of required recyclable material receptacles, or a separate enclosure of the collection for recyclable materials shall be provided as approved by the Public Works Director or designee.

13. Trash enclosures for the project shall be bermed to prevent storm water run-off and graded to drain to adjacent landscape areas.

14. The developer shall provide permanent, post-construction treatment (grass swale, vegetative strip, or other approved proprietary device) to remove pollutants from the first ½" of stormwater run-off from site.

15. Prior to the issuance of a building permit, the developer shall submit a plan to provide on-site treatment of storm water, as approved by the City Engineer or designee. Storm drain improvements shall be constructed in accordance with the approved plans.

16. Prior to issuance of a building permit, the property owner shall provide owner-signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Development Services, Stormwater for recording.

17. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building & Development Services all fire hydrants as required by the Fire Chief. All hydrants required by the Fire Chief shall be installed and operable prior to construction of any structures.

18. The applicant shall install fire sprinkler systems as required by the 2007 California Fire Code (CFC) and the 2007 California Building Code (CBC) for R-1 occupancies with an occupant load of eleven or more

19. Fire Department Connections (FDC) shall be accessible to the Fire Department and within 90 feet of a fire hydrant

20. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

21. 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.

22. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at time of issuance of the building permit.

23. 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.

24. 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 a wall, 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.

25. All ground mounted utility structures such as transformers, HVAC equipment and back flow prevention valves shall be located out of view from a public street or adequately screened though the use of screening or masonry walls.

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

26. 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.

27. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

28. 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.

29. 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.

30. 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.

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

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

33. 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."

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

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

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

    c. A hand-powered saw.

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

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

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

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

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

35. 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.

36. The developer shall implement pre- and post-construction best management practices (BMP) 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(587):

The entire construction program be accomplished in one phase, construction to begin on or before August 12, 2010, and completion to be not later than August 12, 2011.

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(587), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2008, 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

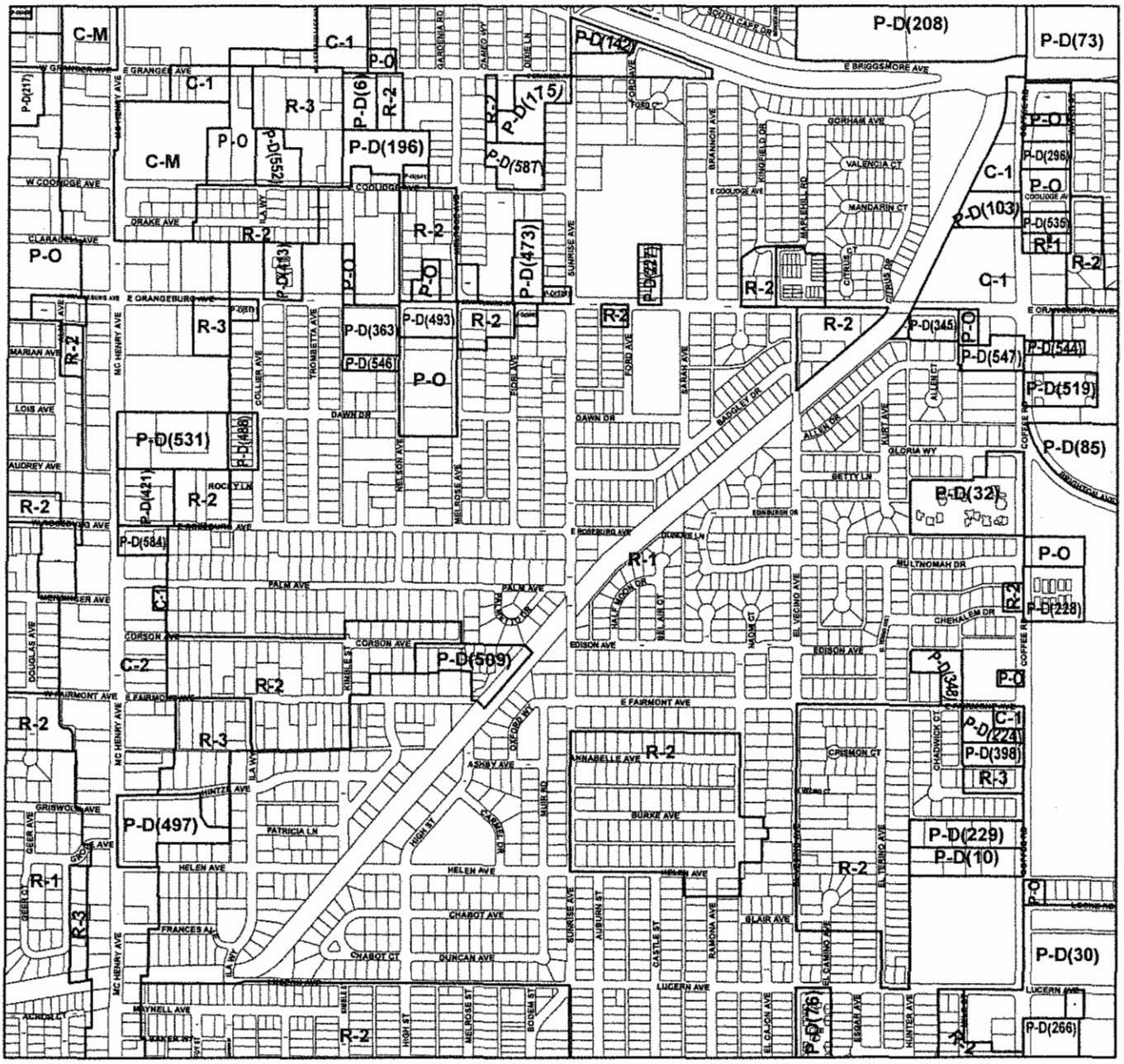
(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By _____
Community & Economic Development Department
Planning Division



City of Modesto Zoning Map

21-3-9

Ordinance No. 3494-C.S.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-480

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDING SECTION 21-3-9 OF THE ZONING MAP TO REZONE FROM PLANNED DEVELOPMENT ZONE, P-D(469), TO PLANNED DEVELOPMENT ZONE, P-D(587) PROPERTY LOCATED AT 605 E. COOLIDGE AVENUE, ON THE NORTH SIDE OF E. COOLIDGE AVENUE, WEST OF SUNRISE AVENUE (STANCO)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, STANCO has proposed that the zoning designation for the property located on the north side of E. Coolidge Avenue, west of Sunrise Avenue, be amended from Planned Development Zone, P-D(469), to P-D(587), to allow for development of a 32-unit special needs, affordable housing project, and

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

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA/C&ED 2008-20 ("Initial Study") reviewed the proposed rezone 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 July 20, 2008 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 August 12, 2008, 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, a copy of which **is attached** hereto as **Exhibit** "A", and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 1999082041) as being within the scope of the Master EIR.

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

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

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

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2008, 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

Initial Study

EA/C&ED 2008-20

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. (2008-20)

For the proposed:

Rezone from Planned Development Zone P-D(469) to a New P-D Zone, to Facilitate Development of a 32-Unit Special Needs Affordable Housing Project

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

May 14, 2008

City of Modesto
Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the Planned Development Project is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

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

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

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

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

II. PROJECT DESCRIPTION

A. Title: Rezone from Planned Development Zone P-D (469) to a new P-D Zone, to Facilitate Development of a32 unit special needs Affordable Housing Project

B. Address or Location: 605 E. Coolidge Avenue, north side of E. Coolidge Avenue, west of Sunrise Avenue

C. Applicant: STANCO, 201 E. Rumble Road, Ste. E Modesto, CA 95355

D. City Contact Person: Robert S. Cannell

Project Manager: Robert S. Cannell
Department: Community and Economic Development Department
Phone Number: (209) 577-5267
E-mail address: bcannell@modestogov.com

E. Current General Plan Designations: "MU" Mixed Use

F. Current Zoning Classification: Planned Development Zone, P-D (469)

G. Surrounding Land Uses: North: Medium Density Residential, R-2, P-D (175), R-2 density
South: Low Density Residential, R-1
East: Low Density Residential, R-1
West: Low Density Residential, R-1

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

The 71,216 net square foot site (1.63-acre) project site is currently zoned P-D(469) allowing a 14 dwelling Townhouse project. There are two existing single-family homes on the site. The applicant is proposing to rezone the property to P-D, Planned Development Zone, to facilitate development of a 32-unit special needs affordable housing project. The proposed development will include two 8-plexes, two 7-plexes, a one-story duplex and a community center building. There will be a total of 24 one-bedroom units and 8 two-bedroom units. Parking will consist of 64 spaces.

I. Other Public Agencies Whose Approval is Required:

None.

IIII. 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.

_____	Senior Planner	May 16, 2008
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, Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

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

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "No" response must be discussed.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	X	☐
(2)	This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	X	☐
(3)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	X	☐
(4)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	X	☐

(5) Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development. X ☐

IV. ENVIRONMENTAL ANALYSIS

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

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

All environmental effects cited reflect year 2025 build-out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts within certain areas of the "Baseline Developed Area":

Effect: Increased traffic will result in certain roadway segments operating at LOS "D" or worse.

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of a LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

DISCUSSION:
The proposed apartment complex is made compatible with the existing surrounding residential development located in this neighborhood. Because the project is consistent with the surrounding uses, the proposed project will not change to a level that will cause a change to the existing road capacities or levels of service.

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

Traffic and Circulation mitigation measures that may be pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, *Mitigation Measures Applied to Project.*

c. Project-Specific Effects

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

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

		YES	NO
(1)	Does the project contribute one hundred (100) or more peak hour trips to or from the site during the adjacent roadway's peak hour or the development's peak hour, to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR.	☐	X

Note:

If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.

		YES	NO
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	X
(3)	Result in inadequate emergency access.	☐	X
(4)	Result in inadequate parking capacity.	☐	X

DISCUSSION:

(1) Engineering and Transportation Staff reviewed the proposed project and have no comments pertaining to the projected traffic generated by the project:

A. The proposed project will not generate traffic impacts to the adjacent roadways in excess of what was assumed under the MEIR. No traffic study is required.
B. A site access study is not required for this project.

(2) The project will not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). The City Engineering and Traffic Department has evaluated the project and has determined that the existing design layout of the project is in accordance to City standards.

(3) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(4) The proposed Apartment Complex is parked at two on-site spaces per-unit (64 spaces) which is adequate for the proposed project and consistent with the Modesto Municipal Code for apartment projects in the City of Modesto.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected City traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. *This is a significant and unavoidable impact.*

Effect: Projected City traffic levels will result in increased ROG and NOX levels in the project area. *This is a significant and unavoidable impact.*

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

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section IV, Mitigation Measures Applied to Project:
DISCUSSION:

Mitigation Measures appropriate to this project include: AQ-17

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-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.	☐	X

(2)	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	☐	X
(3)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	☐	X
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	☐	X
(5)	The project would create objectionable odors affecting a substantial number of people.	☐	X

DISCUSSION:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.

(2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).

(3) Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).

(4) The project is not a significant contributor to pollution levels. PM10 emissions created through any construction will be mitigated as called for by the MEIR by the measures listed above.

(5) The proposed project will not produce objectionable odors.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in an excess of the City's Noise Significance Standards.

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

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

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-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.	☐	X
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	X
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	X
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	X

DISCUSSION:

(1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.

(2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline-developed area are incorporated into the conditions of approval for the project.

(3) The only permanent noise levels produced by the project would be associated with traffic. The increased traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

DISCUSSION:

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

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

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	☐	X
(3)	The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	X
(4)	The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural and will be converted.

(2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.

(3) The project site is not zoned for agriculture nor is it under Williamson Act contract.

(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanized land.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. *This is a less-than-significant impact.*

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. *Consequently, the potential environmental impacts of the Urban Area General Plan are considered less-than-significant.*

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. *This is a significant and unavoidable cumulative impact.*

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

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity. The Mixed-Use General Plan designation allows a "recommended intensity of 14 dwelling units per acre," for the subject mixed use area. The very large Mixed-use area which surrounds the subject property is currently developed at less then half of this density. Due to the vast number of under-developed properties, the proposed project will not result in a density greater than what is permitted in the General Plan for a Mixed-use area. The project is consistent with the General Plan.

(2) The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. *As a result, this impact would be less-than-significant.*

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. *This is a less-than-significant impact.*

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

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

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-4 through V-6-7 MEIR. All feasible measures appropriate to the project to

be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan, both in land use and intensity. The Mixed-Use General Plan designation allows a "recommended intensity of 14 dwelling units per acre," for the subject mixed use area. The very large Mixed-use area which surrounds the subject property is currently developed at less then half of this density. Due to the vast number of under-developed properties, the proposed project will not result in a density greater than what is permitted in the General Plan for a Mixed-use area. The project is consistent with the General Plan.

(2) The project was referred to Engineering and Transportation for comment and there was no indication that there is insufficient capacity to serve the project.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less-than-significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

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

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	X
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	X

DISCUSSION:

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

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) There is no conflict with any local policies or ordinances protecting biological resources.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

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

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR.

DISCUSSION:

Mitigation Measures applicable to this project include: AH-8, Master EIR.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	X

DISCUSSION:

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

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

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered *less-than-significant*.

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

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

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8.

DISCUSSION:

Mitigation measures appropriate to this project include: SD-7, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	☐	X
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity. The Mixed-Use General Plan designation allows a "recommended intensity of 14 dwelling units per acre," for the subject mixed use area. The very large Mixed-use area which surrounds the subject property is currently developed at less then half of this density. Due to the vast number of under-developed properties, the proposed project will not result in a density greater than what is permitted in the General Plan for a Mixed-use area. The project is consistent with the General Plan.

(2) The project does not propose to significantly increase the impervious surface. The project will meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City as required by the above-listed mitigation measures.

(3) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less-than-significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less-than-significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

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

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 MEIR. All feasible measures appropriate to the project have been incorporated into the conditions of approval.

DISCUSSION:

Mitigation measures appropriate to this project include: FWQ-14, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

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

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	X
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	X
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity. The proposed project will not result in a density greater than what is permitted in the General Plan for a Mixed-use area. The project is consistent with the General Plan.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) The project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. *Impacts on parks and open space will be less-than-significant.*

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. *This impact is less-than-significant.*

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

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project, are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project. It is not near any of the riparian area identified by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity. The proposed project will not result in a density greater than what is permitted in the General Plan for a Mixed-use area. The project is consistent with the General Plan.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above

those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan.). As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. *The impact is less-than-significant.*

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. *These policies reduce the impact to a less-than-significant level.*

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

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity. The proposed project will not result in a density greater than what is permitted in the General Plan for a Mixed-use area. The project is consistent with the General Plan.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. *Impacts on fire services of development in these areas will be less-than-significant.*

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. *This impact would be less-than-significant.*

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity. The proposed project will not result in a density greater than what is permitted in the General Plan for a Mixed-use area. The project is consistent with the General Plan.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain

acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: New development projects would exceed available landfill capacity, it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. New projects will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. *The impact would be less-than-significant at such time as the Fink Road Landfill expansion is approved.*

Effect: New development projects can make a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. *This impact is significant and unavoidable.*

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

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-15-5 and V-15-6 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "MU" (Mixed Use) designations in both land use and intensity.

(2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less-than-significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	☐	X
(3)	The project contains a contaminated site not identified as of March 2003.	☐	X
(4)	The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	☐	X

(5) The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment. ☐ X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General "MU" (Mixed Use) designations in both land use and intensity.

(2) This is an infill project, which involves the an existing residential project to be converted to residential condominiums. No hazardous materials will be involved with this project.

(3) The project site is not known to contain any contaminants.

(4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.

(5) The project would not be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant*.

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant.*

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. *Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.*

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. *The impact is less-than-significant.*

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

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

DISCUSSION:

(1) The project is consistent with the Modesto Urban Area General Plan "MU" (Mixed Use) designations in both land use and intensity.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan.	☐	X
(3)	The project would physically divide an established community	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan "MU" (Mixed Use) designations in both land use and intensity.

(2) No amendment to the General Plan is required by this project.

(3) The project is an infill project that will not result in division of a community.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would have a substantial adverse effect on a scenic vista.	☐	X
(3)	The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	☐	X
(4)	The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	☐	X

DISCUSSION:

(1) The project is consistent with the General Plan in both land use and intensity.

(2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area. The development is already existing.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1 (c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures (also contained in Section III, "Global List") shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project.

Traffic and Circulation Measures:

N/A

Air Quality Measures:

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

Noise Measures:

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

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

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

   B. An impact wrench, or other tool or equipment powered by compressed air.

   C. A hand-powered saw.

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

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

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

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

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

Agricultural Land Measures:

N/A

Water Supply Measures:

N/A

Sanitary Sewer Service Measures:

N/A

Sensitive Wildlife and Plant Habitat Measures:

N/A

Archaeological or Historic Sites Measures:

N/A

Storm Drainage Measures:

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

Flooding and Water Quality Measures:

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

Parks and Open Space Measures:

N/A

Schools Measures:

N/A

Police Services:

N/A

Fire Services:

N/A

Generation of Solid Waste

N/A

Generation of Hazardous Materials

N/A

Potential for Landslides and Seismic Activity

N/A

Energy

N/A

Planning and Land Use

N/A

Aesthetics

N/A

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: ***None.***

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-481

A RESOLUTION AMENDING SECTIONS 1 AND 2 OF RESOLUTION NO. 2006-565 ENTITLED "A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(575) (BRIJ GUPTA)" (DR. BRIJ GUPTA)

WHEREAS, the City Council by Ordinance No. 3425-CS, which was introduced on September 5, 2006, and which became effective on October 12, 2006, granted Planned Development Zone, P-D(575), to allow development of medical and professional offices, property located on the west side of Coffee Road north of E. Rumble Road, and

WHEREAS, City Council Resolution No. 2006-565 adopted by the City Council on September 5, 2006, approved the development plan for Planned Development Zone, P-D(575) and contained the conditions of approval thereof, and

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(575), was filed by Dr. Brij Gupta on December 21, 2007, to allow the conversion of an existing medical and professional office complex to seven air-space medical and professional office condominium units and common space, property located on the west side of Coffee Road north of E. Rumble Road, and

WHEREAS, after a public hearing held on February 25, 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. 2008-14, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:.

1. The proposed amendment to Planned Development Zone, P-D(575) will not result in any additional development beyond what has previously been approved for the site.

2. The proposed project is compatible with existing and potential surrounding development, because it consists of single-story condominiums that orient to Coffee Road, a Principal Arterial street.

and

WHEREAS, said matter was set for a public hearing of the City Council to be held on April 1, 2008, 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, the City Council continued the item with direction that it not be reheard until Conditions of Approval No. 3 and 19 of the previous Resolution No. 2006-565, had been satisfied, and

WHEREAS, Conditions of Approval No's. 3 and 19 have been met to the satisfaction of the Community & Economic Development Director and City Attorney, as required by said Conditions, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on August 12, 2008, 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 Dr. Brij Gupta for an amendment to Planned Development Zone, P-D(575), should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth above, and

WHEREAS, the Council has introduced Ordinance No.3494-C.S. on the 12th day of August, 2008 amending Section 2 of Ordinance No. 3425-C.S., to allow seven air-space medical and professional office condominium units with common area,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Sections 1 and 2 of Resolution No. 2006-565 entitled "A Resolution Approving a Development Plan for Planned Development Zone, P-D(575) (Brij Gupta)" are hereby amended to read as follows:

"SECTION 1. DEVELOPMENT PLAN. The development plan for Planned Development, P-D(575), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan titled "Plot Plan for Gupta Professional Plaza" as amended in red, stamped approved by the City Council.

2. All conditions of Planned Development Zone, P-D(575), as stated in the Development Plan approved by City Council Resolution No. 2006-565, not in conflict with this action shall remain in full force and effect.

3. Prior to City Council approval of a final subdivision map, the subdivider shall submit for approval by the City Attorney, relative to a Condominium Owner's Association, the articles of incorporation and bylaws, as well as all covenants, conditions, and restrictions. The covenants, conditions, and restrictions shall guarantee continued maintenance and repair of common areas and associated facilities in the development, including but not limited to the common roof and wall lines. The Articles of Incorporation shall be filed with the Secretary of State prior to recordation of the final subdivision map. All covenants, conditions and restrictions shall be recorded prior to or concurrently with the final subdivision map.

4. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

5. Improvement plans for any required improvements shall be prepared by a Registered Civil Engineer and submitted for approval by the City Engineer or designee. All improvements shall be constructed in accordance with the approved plans.

6. The property owner and developer shall, at their sole expense, defend, indemnify and hold harmless the City of Modesto, its agents, officers, directors and employees, from and against all claims, actions, damages, losses, or expenses of every type and description, including but not limited to payment of attorneys' fees and costs, by reason of, or arising out of, this development approval. The obligation to defend, indemnify and hold harmless shall include but is not limited to any action to arbitrate, attack, review, set aside, void or annul this development approval on any grounds whatsoever. The City of Modesto shall promptly notify the developer of

any such claim, action, or proceeding and shall cooperate fully in the defense.

7. Existing underground and overhead electric facilities and existing irrigation lines within the site shall be removed, protected, or relocated as required by the Modesto Irrigation District and the City Engineer or designee. Appropriate easements for electric facilities and irrigation lines to remain shall be dedicated as necessary.

8. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at time of issuance of the building permit.

9. Prior to sale of a condominium unit, a subdivision map shall be recorded.

10. Prior to recordation of a final subdivision map, the developer shall obtain certification from the Chief Building Official that all construction conforms to building and fire safety standards for condominiums.

11. All signs shall comply with the sign requirements of the P-O Zone.

12. Prior to the removal of any street trees, the developer shall obtain permission from the City of Modesto's Urban Forestry Division.

13. Prior to occupancy, a landscaping and irrigation plan for any new landscaping shall be approved by the Parks, Recreation and Neighborhood Director or designee. Proposed Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

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:

14. 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.

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

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

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

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

c. A hand-powered saw.

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

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

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

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

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

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

"SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said amendment to Planned Development Zone, P-D(575):

The entire construction program shall be accomplished in one phase, construction to begin on or before August 12, 2010 and completion to be not later than August 12, 2011."

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2008, 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. 2008-482

A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE PROJECT COVERED BY THE MODESTO URBAN AREA GENERAL PLAN MASTER ENVIRONMENTAL IMPACT REPORT (SCH NO. 1999082041): AMENDMENT TO PLANNED DEVELOPMENT ZONE, P-D(575), PROPERTY LOCATED ON THE WEST SIDE OF COFFEE ROAD NORTH OF E. RUMBLE ROAD, 3125 COFFEE ROAD (DR. BRIJ GUPTA)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, Dr. Brij Gupta has proposed an amendment to Planned Development Zone, P-D(575) to allow for the conversion of an existing medical and professional office complex to seven air-space medical and professional condominium units, property located on the west side of Coffee Road north of E. Rumble Road, 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 2008-08 ("Initial Study") reviewed the proposed amendment to P-D(575) 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 July 23, 2008, 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 August 12, 2008, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to P-D(575), a copy of which is **attached** hereto as **Exhibit** "A", and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. That the proposed project is contemplated and described in the Master EIR (SCH No. 1999082041) as being within the scope of the Master EIR.

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

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

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

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

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2008, 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 A

Initial Study

EA/C&ED 2008-08

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study C&ED No. 2008-08

For the proposed:

PDA – Planned Development Zone P-D(575) & Tentative Subdivision Map

3125 Coffee Road – Gupta Professional Plaza

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

January 29, 2008

City of Modesto
Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the Planned Development Project is "within the scope" of the project analyzed in the Modesto Urban Area General Plan Master EIR (SCH# 1999082041) (Public Resources Code section 21157.1). When the Initial Study supports this conclusion, the City will issue a finding of conformity.

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

1. it will have no additional significant effects on the environment that were not addressed as significant effects in the Master EIR; and

2. no new or additional mitigation measures or alternatives are required.

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

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

II. PROJECT DESCRIPTION

A. Title: P-PDA-07-012 – Amendment to P-D(575) Gupta Professional Plaza
P-TSM-07-009 – Tentative Subdivision Map for Gupta Professional Plaza

B. Address or Location: 3125 Coffee Road

C. Applicant: Dr. Brij Gupta, 13477 Ginger Glen Road, San Diego, CA 92130

D. City Contact Person: Rita S. Doscher

Project Manager: Rita S. Doscher
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): Planned Development Zone P-D(575)

G. Surrounding Land Uses:
North: Residential Units (R-2 Residential)
South: P-D(573) Professional Offices
East: Residential & Apartments (R-1 & P-D (84))
West: Residential Dwellings (R-1 Residential)

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

This is an application to amend the above reference property Planned Development Zone P-D(575) to allow the approved medical and professional office building to be converted to medical and professional office condominiums subsequently, creating seven air space condominium units, and a one-lot subdivision map is proposed to accommodate the seven air space condominium units and required common area. The proposed development will consist of one single story building: Suite 1 will have a total of 4,127 square feet; Suite 2 will have a total of 2,094 square feet; Suite 3 will have a total of 1,035 square feet; Suite 4 will have a total of 1,100 square feet; Suite 5 will have a total of 1,500 square feet; Suite 6 will have a total of 1,052 square feet; Suite 7 will have a total of 1,550 square feet; and the connecting hallway for Suites 3,4,5,6,& 7 is 516 square feet. The overall square footage for all seven suites including the connecting hallway is 12,974 square feet. In addition, the approved development is providing on site parking, landscaping, and street improvements. The current development fronts onto Coffee Road and access into the site is provided by way of a 30-foot wide off-site access driveway immediately to the south of the project site. The parking area is located to the rear or on the west side of the development and will provide a total of 54 spaces exceeding the minimum requirement of 52 parking spaces.

I. Other Public Agencies Whose Approval is Required:

None.

IIII. 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.

	Assistant Planner	February 7, 2008
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, Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

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

5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "No" response must be discussed.

		YES	NO
(1)	Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.	X	☐
(2)	This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings:	X	☐
(3)	No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.	X	☐
(4)	No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.	X	☐
(5)	Policies remain in place that require site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.	X	☐

IV. ENVIRONMENTAL ANALYSIS

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

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

All environmental effects cited reflect year 2025 build-out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts within certain areas of the "Baseline Developed Area":

Effect: Increased traffic will result in certain roadway segments operating at LOS "D" or worse.

Effect: The substantial increase in traffic relative to the existing load and capacity of the street system will cause, violation, either individually or cumulatively, of a LOS standard established by the County CMP for designated roads and highways.

Effect: Creation of need for Capacity-enhancing modifications to existing facilities.

Effect: Increase in energy consumption associated with the operation of highway projects, rail improvements, and aviation facilities.

Effect: Severe contrast with existing neighborhood or area character caused by highway and transit projects.

This is an application to amend P-D(575) and for a tentative subdivision map in order to allow the approved office buildings to be converted to medical and professional office condominiums subsequently, creating seven air space condominium units. The amendment to P-D(575) for medical and professional office condominiums is compatible with the existing surrounding mix use of residential development and professional office complexes located along this area of

Coffee Road. Because the project is consistent with the surrounding mix use of professional office and residential developments, the use and activities will not change to a level that will cause a change to the existing road capacities or levels of service.

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

Traffic and Circulation mitigation measures that may be pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, *Mitigation Measures Applied to Project.*

c. Project-Specific Effects

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

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

		YES	NO
(1)	The project would contribute one hundred (100) or more peak hour trips to or from the site during the adjacent roadway's peak hour or the development's peak hour, to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR.	☐	X

Note:

If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.

		YES	NO
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	☐	X
(3)	Result in inadequate emergency access.	☐	X
(4)	Result in inadequate parking capacity.	☐	X

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 (e.g., sharp

curves or dangerous intersections) or incompatible uses (e.g. farm equipment). The City Engineering and Traffic Department has evaluated the project and has determined that the existing design layout of the project is in accordance to City standards. The previously approved site plan was designed to accommodate commercial uses and emergency access.

(3) Police and Fire Staff have reviewed this proposal and have indicated that there is no emergency access problem.

(4) The project has been evaluated for compliance to the City of Modesto Parking regulations. The parking area will be located to the rear of the project site and will provide a total of 54 spaces exceeding the minimum requirement of 52 parking spaces. The design and layout of the proposed parking area will comply with both City standards and ADA (Americans with Disability Act) standards.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected City traffic levels will result in increased ambient carbon monoxide (CO) levels in the project area. *This is a significant and unavoidable impact.*

Effect: Projected City traffic levels will result in increased ROG and NOX levels in the project area. *This is a significant and unavoidable impact.*

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

Air Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-2-11 through V-2-18 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:
Mitigation Measures appropriate to this project include: AQ-17

c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-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.	☐	X
(2)	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	☐	X
(3)	The project does not comply with the air quality policies of the Modesto	☐	X

Urban Area General Plan.

(4) The project would expose sensitive receptors to substantial pollutant concentrations. ☐ X

(5) The project would create objectionable odors affecting a substantial number of people. ☐ X

Discussion:

(1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.

(2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).

(3) Applicable General Plan Policies have been applied to the previously approved project site. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).

(4) The project is not a significant contributor to pollution levels in that it involves only a rezone to P-D to allow the conversion of existing offices to condominiums. PM10 emissions created through the construction phase will be mitigated as called for by the MEIR by the measures listed above.

(5) The proposed project will not produce objectionable odors.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in an excess of the City's Noise Significance Standards.

Effect: Noise level projections based on the traffic levels anticipated in the General Plan indicate that noise will exceed the City's General Plan and noise ordinance standards.

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

Noise policies and mitigation measures pertinent to the project being analyzed in this Initial Study are found on pages V-3-10 through V-3-15 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section IV, Mitigation Applied to Project:

Discussion:
Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-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.	☐	X
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	☐	X
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	☐	X
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	☐	X

Discussion:

(1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.

(2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline developed area are incorporated into the conditions of approval for the project.

(3) The only permanent noise levels produced by the project would be associated with traffic. The increased traffic levels are within the scope of what the MEIR assumed for the site. Therefore, this project will not result in a substantial permanent increase in ambient noise levels.

(4) The project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity. There will be some construction related noise, but the noise mitigation measures called for by the General Plan for projects within the baseline developed area, are incorporated into the conditions of approval for the project.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

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 site and the surrounding property are located within a fully developed urbanized area.

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

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 MEIR. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

Discussion:
There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	☐	X
(3)	The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	☐	X
(4)	The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	☐	X

Discussion:

(1) The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural and will be converted.

(2) The project is within the Baseline-Developed area of the City and therefore will not result in the development of land outside the March 2003 planning area boundaries.

(3) The project site is not zoned for agriculture nor is it under Williamson Act contract.

(4) The project will not involve changes to the existing environment that could result in the conversion of farmland to non-agricultural uses. The project is completely surrounded by urbanization.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. *This is a less-than-significant impact.*

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. *Consequently, the potential environmental impacts of the Urban Area General Plan are considered less-than-significant.*

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. *This is a significant and unavoidable cumulative impact.*

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

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:
There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	☐	X

Discussion:
(1) The project is consistent with the Modesto Urban Area General Plan C for Commercial both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. *As a result, this impact would be less-than-significant.*

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. *This is a less-than-significant impact.*

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

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

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-6-4 through V-6-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:
There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan MU for Mixed Use both in land use and intensity.

(2) The project was referred to Engineering and Transportation for comment and there was no indication that there is insufficient capacity to serve the project.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less-than-significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

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

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:
There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

YES NO

(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	☐	X
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan MU for Mixed Use both in land use and intensity.

(2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V 7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.

(3) There is no conflict with any local policies or ordinances protecting biological resources.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

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

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR. The project does not involve physical development and as a result no measures will be incorporated into or made conditions of approval of this project.

Discussion:
Mitigation Measures applicable to this project include: AH-8, Master EIR.

c. Project-Specific Effects

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan MU for Mixed Use in both land use and intensity.

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

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered *less-than-significant*.

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

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

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. The site is fully developed and this new proposal will only involve an amendment to the Planned development zone with no physical canges to the property. No measures will be incorporated into or made conditions of approval of this project.

Discussion:
Mitigation measures appropriate to this project include: SD-7, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	☐	X
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

Discussion:
(1) The project is consistent with the Modesto Urban Area General Plan MU for Mixed Use designation in both land use and intensity.

(2) The project will meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City as required by the above-listed mitigation measures.

(3) The project will not contribute additional water runoff that would exceed the capacity of the storm drainage system.

10. FLOODING AND WATER QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less-than-significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less-than-significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

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

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 MEIR. All feasible measures appropriate to the project have been incorporated into or made conditions of approval of the previously approved development. This project will not involve any modification to the existing site that would require additional measures applied to the new proposal.

Discussion:
Mitigation measures appropriate to this project include: FWQ-14, MEIR. This mitigation measure is addressed by conditions of approval.

c. Project-Specific Effects

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

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	☐	X
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	☐	X
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan MU for Mixed Use designation in both land use and intensity.

(2) The project would comply with the Federal Clean Water Act and the Porter Cologne Act requirements.

(3) Mitigation Measures as called for by FWQ-14 will be applied to the project so that the project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures.

(4) The project would not create or contribute to runoff water in excess of the capacity of existing or planned storm water drainage systems or provide additional sources of polluted runoff.

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. *Impacts on parks and open space will be less-than-significant.*

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. *This impact is less-than-significant.*

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

Parks and Open Space Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-11-4 through V-11-19 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. are listed in Section IV, Mitigation Applied to Project:

Discussion:
There are no mitigation measure applicable to this project. It is not on or adjacent to any park sites, nor is it 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-than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan MU for Mixed Use designation in both land use and intensity. There are no mitigation measures applicable to this project.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan.). As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

Discussion:
There are no mitigation measures applicable to this project.

c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance	☐	X

results in less-than-significant impacts on schools.

Discussion:

(1) The project is consistent with the General Plan MU for Mixed Use in both land use and intensity.

(2) The project was referred to Modesto City Schools who indicated no opposition to the project.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. *The impact is less-than-significant.*

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. *These policies reduce the impact to a less-than-significant level.*

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

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan MU for Mixed Use designation in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. *Impacts on fire services of development in these areas will be less-than-significant.*

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. *This impact would be less-than-significant.*

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Fire Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-14-3 through V-14-5 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios,	☐	X

response times or other performance objectives.

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan MU for Mixed Use designation in both land use and intensity.

(2) The project would not result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. The project meets City Standards for emergency services access.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: New development projects would exceed available landfill capacity; it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. New projects will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. *The impact would be less-than-significant at such time as the Fink Road Landfill expansion is approved.*

Effect: New development projects can make a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. *This impact is significant and unavoidable.*

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

Solid Waste Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study. are found on pages V-15-5 and V-15-6 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

Discussion:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan MU for Mixed Use designation in both land use and intensity.

(2) This project was referred to the County and Solid Waste Division of the Engineering and Transportation Division for review, and no indication was given that there would be a problem serving this project.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less-than-significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under federal, state and county policies and regulations, and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Hazardous Materials Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-16-9 through V-16-12 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	☐	X
(3)	The project contains a contaminated site not identified as of March 2003.	☐	X
(4)	The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter	☐	X

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. ☐ X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan MU for Mixed Use designation in both land use and intensity.

(2) The project does comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes. (No hazardous materials will be involved with this project).

(3) The project site is not known to contain any contaminants.

(4) The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste.

(5) The project would not be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would not create a significant hazard to the public or the environment.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant.*

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, *the project impact will be less-than-significant.*

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-6 and V-17-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

Discussion:
No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	☐	X

Discussion:

(1) The project is consistent with the General Plan MU for Mixed Use designation in both land use and intensity.

(2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. *Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.*

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. *The impact is less-than-significant.*

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

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

Discussion:

No mitigation measures are applicable to this project.

c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan MU for Mixed Use designation in both land use and intensity.

19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan.	☐	X
(3)	The project would physically divide an established community	☐	X

Discussion:

(1) The project is consistent with the Modesto Urban Area General Plan MU for Mixed Use designation in both land use and intensity.

(2) No amendment to the General Plan is required by this project.

(3) The project is infill development that will not divide an established community.

20. AESTHETICS

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR, are based on the planning policies and diagrams adopted as part of the General Plan. At that level of detail, no significant effects on aesthetics were identified.

a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	☐	X
(2)	The project would have a substantial adverse effect on a scenic vista.	☐	X
(3)	The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	☐	X
(4)	The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	☐	X

Discussion:

(1) The project is consistent with the General Plan MU for Mixed Use designation in both land use and intensity.

(2) There are no Scenic Vistas from the location of the proposed development. It is completely surrounded by urbanization. Views to the Diablo and Sierra Mountain Ranges are already precluded from this site and its surroundings.

(3) The project would not substantially degrade the existing visual character or quality of the project site and its surroundings. This is an existing site, which had received previous City approval.

(4) The project would not create a substantial source of light or glare that would adversely affect daytime or nighttime views in the area. The existing site conforms to current City regulations regarding night glare to surrounding residences. These requirements shall remain in effect.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1 (c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures (also contained in Section III, "Global List") shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

All applicable and appropriate mitigation measures have been applied to the project.

Traffic and Circulation Measures:

N/A

Air Quality Measures:

1. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

2. All 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.

3. 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.

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. 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.

Noise Measures:

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

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

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

   B. An impact wrench, or other tool or equipment powered by compressed air.

   C. A hand-powered saw.

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

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

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

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

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

Agricultural Land Measures:

N/A

Water Supply Measures:

N/A

Sanitary Sewer Service Measures:

N/A

Sensitive Wildlife and Plant Habitat Measures:

N/A

Archaeological or Historic Sites Measures:

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

Storm Drainage Measures:

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

Flooding and Water Quality Measures:

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

Parks and Open Space Measures:

N/A

Schools Measures:

N/A

Police Services:

N/A

Fire Services:

N/A

Generation of Solid Waste

N/A

Generation of Hazardous Materials

N/A

Potential for Landslides and Seismic Activity

N/A

Energy

N/A

Planning and Land Use

N/A

Aesthetics

N/A

B. New or Additional Mitigation Measures or Alternatives Required

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: ***None.***

RESCINDED
Print
JUL 12 2016
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2016-308

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-483

A RESOLUTION AMENDING RESOLUTION NO. 2004-367 TITLED "A RESOLUTION SETTING TIPPING FEES AT MODESTO COMPOSTING FOR GREEN WASTE, PRUNED REFUSE, AND BIOSOLIDS AND ESTABLISHING A SEPARATE COMPOST ENTERPRISE FUND" TO ESTABLISH NEW TIPPING FEES AT MODESTO COMPOSTING OF $20.35 PER TON FOR GREEN WASTE, $6.50 PER TON FOR PRUNED REFUSE AND $18.71 PER TON FOR BIOSOLIDS EFFECTIVE SEPTEMBER 1, 2008

WHEREAS, the City of Modesto operates a compost facility, Modesto Composting, at the Secondary Wastewater Treatment facility on Jennings Road, and

WHEREAS, composting is a critical component of the City's solid waste diversion programs, and without it, the City would be unable to meet the 50% State diversion mandates, and

WHEREAS, since the facility opened, it has processed more than 400,000 tons of materials and has saved ratepayers approximately $4,000,000 by keeping this material out of more costly disposal facilities, and

WHEREAS, on July 13, 2004, by Resolution No. 2004-367, the City Council authorized the creation of a separate Compost Enterprise Fund and established tip fees for materials received, and

WHEREAS, a combination of tip fees for green waste, pruned refuse, and biosolids, and revenues from the sale of the compost and co-compost products is used to offset operations costs, and

WHEREAS, on July 13, 2004, the Council established a tip fee of $18.35 per ton for green waste and $6.50 per ton for pruned refuse and biosolids, and

WHEREAS, said tip fees have not been adjusted since the fees were originally set, and revenues from tip fees charged for green waste, pruned refuse and biosolids are no longer sufficient to cover costs and maintain a reserve in the Enterprise Fund, and

WHEREAS, the Modesto City Council must approve changes to the tip fees charged at Modesto Composting, and

WHEREAS, the Solid Waste Advisory Committee met on July 23, 2008, and recommended that the Council to adjust the tip fees for green waste and biosolids and to make no change to the tip fee for pruned refuse, and

WHEREAS, a duly noticed public hearing was held by the City Council on August 12, 2008, at 5:30 p.m., in the Tenth Street Place Chambers, located at 1010 Tenth Street, to consider adjustments to the tip fees for green waste, pruned refuse and biosolids at the City's compost facility,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Resolution No. 2004-367 titled "A Resolution Setting Tipping Fees at Modesto Composting for Green Waste, Pruned Refuse, and Biosolids and Establishing a Separate Compost Enterprise Fund" is hereby amended to establish tipping fees at Modesto Composting of $20.35 per ton for green waste, $6.50 per ton for pruned refuse and $18.71 for biosolids effective September 1, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2008, 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. 2008-484

A RESOLUTION APPROVING ADJUSTMENTS TO THE MAXIMUM RATE SCHEDULE FOR CITY RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL SOLID WASTE COLLECTION SERVICES, AND RESCINDING RESOLUTION NO. 2008-178

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

RESCINDED

NOV 25 2008

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2008-650

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, the Solid Waste Advisory Committee met on July 23, 2008, and supported the recommendation to approve adjustments to the maximum rate schedule for City residential, commercial and industrial solid waste collection services, including the recommendation for quarterly fuel adjustments to the maximum rates, and

WHEREAS, a report dated July 23, 2008, 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 12, 2008, 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 September 1, 2008, 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. 2008-178 is hereby rescinded effective September 1, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2008, 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
- Blue bag recycling
- Countertop container for kitchen scraps
- Drop-off of old TV and computer tubes
- Two bulky item collections per year by appointment

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 **$22.19 per month** regardless of size of container. **A fuel component of $1.17 per month is included in the maximum rate for the quarter beginning January 1, 2008 and ending March 31, 2008**. The fuel component may be adjusted quarterly.

b. The maximum rate for each additional garbage container shall be **$16.01 per month**.

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 **$18.86 per month**. **A fuel component of $1.17 per month is included in the maximum rate for the quarter beginning January 1, 2008 and ending March 31, 2008.** The fuel component may be adjusted quarterly.

b. The maximum rate for each additional garbage container shall be **$14.76 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
Number of Collections Per Week

Container Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
1 CY	$ 37.13	$ 63.77	$ 90.38	$ 117.01	$ 143.64	$ 170.27
2 CY	$ 63.77	$117.01	$ 170.27	$ 223.52	$ 276.76	$ 330.01
3 CY	$ 90.38	$170.27	$ 250.14	$ 330.01	$ 409.90	$ 489.77
4 CY	$117.01	$223.52	$ 330.01	$ 436.52	$ 543.02	$ 649.53
5 CY	$143.64	$276.76	$ 409.90	$ 543.02	$ 679.16	$ 809.28
6 CY	$170.27	$330.01	$ 489.77	$ 649.53	$ 809.28	$ 969.04

* A detachable container rental rate of $10.00 per month is included in the above schedule.

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 $0.24 per cubic yard ($1.02 per month for a 1 cubic yard container collected once a week) is included in the maximum rate for the quarter beginning beginning January 1, 2008 and ending March 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.

COMPACTORS

Maximum Monthly Rates

Front Loader Type:

Compactor Rates						
Container Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
3 CY	$271.14	$510.81	$ 750.42	$ 990.03	$1,229.70	$1,469.31
4 CY	$351.03	$670.56	$ 990.03	$1,309.56	$1,629.06	$1,948.59
6 CY	$510.81	$990.03	$1,469.31	$1,948.59	$2,427.84	$2,907.12

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

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 per household recycling fee, a $0.05 per cubic yard commercial recycling fee, and a $0.25 per ton industrial recycling fee, payable to the City by the garbage company.
2. 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.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-485

A RESOLUTION EXTENDING A CONTRACT FOR FUEL CARD-LOCK SERVICES FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, WITH BOYETT PETROLEUM, MODESTO, CA, FOR ONE-YEAR, FOR AN ESTIMATED ANNUAL TOTAL COST OF $2,045,000, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A FORMAL REQUEST FOR PROPOSAL (RFP) FOR FUEL CARD-LOCK SERVICES

WHEREAS, in May 1996, Council approved the privatization of City's fuel resources for fleet management, and

WHEREAS, by privatizing the supply of fuel, the City was able to provide staff with access to multiple fueling sites within the City, twenty-four (24) hours a day, seven (7) days a week, and

WHEREAS, on July 22, 2003, Council approved Resolution No. 2003-411 authorizing the award of proposal and contract for fuel card-lock services for the Public Works Department, Fleet Services Division, to Boyett Petroleum, Modesto, CA, for a three (3) year period with two (2) one-year extension options, and

WHEREAS, the annual purchase agreement for fuel card-lock services expired on July 21, 2008, and

WHEREAS, Boyett Petroleum has agreed to honor the terms of that agreement for one additional year, and

WHEREAS, a one-year contract extension will afford the City the opportunity to explore new technology in card-lock systems through a Request for Information (RFI) process, and

WHEREAS, once the RFI process has been completed the Purchasing Manager will then issue a formal Request for Proposal (RFP) for fuel card-lock services for a two

(2) year agreement, with three (3) one-year extension options at the sole discretion of the City, and

WHEREAS, due to the volatility of the current fuel market, entering into a one-year contract extension at no additional cost in service to the City is a wise and prudent business decision, and

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

WHEREAS, however, one exception to the code (8-3.204 (d)), allows for the Purchasing Manager, in his discretion, to determine that a process other than the formal bid procedure set forth in Section 8-3.203 will result in a procurement for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, such alternatives may include, but are not limited to, a "two-step" procurement process or a procurement based solely on a technical evaluation, and

WHEREAS, based on the current market conditions and the need to do a technical evaluation of new and existing technology the Purchasing Manager evokes this exception, and

WHEREAS, a one-year contract extension for fuel card-lock services for the Public Works Department, Fleet Services Division, with Boyett Petroleum, Modesto, CA, conforms to code, and

WHEREAS, funds are budgeted and available in the Fleet Fund account 7200-480-5812-0330 for the furnishing of fuel card-lock services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes extending a contract for fuel card-lock services for the Public Works Department, Fleet Services Division, with Boyett Petroleum, Modesto, CA, for one-year, for an estimated annual total cost of $2,045,000,

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a formal RFP for fuel card-lock services for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of August, 2008, 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. 2008-486

A RESOLUTION APPOINTING WILLIAM SCHWARZ 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, Councilmember Will O'Bryant has recommended WILLIAM SCHWARZ as his selection to the Community Qualities Forum.

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

SECTION 1. WILLIAM SCHWARZ is hereby appointed to the Community Qualities Forum 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 newly appointed member of the Community Qualities Forum and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2008, 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:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-487

A RESOLUTION APPOINTING FRANK DEMATTOS AS CITY AUDITOR OF THE CITY OF MODESTO AND AUTHORIZING THE MAYOR TO SIGN AN EMPLOYMENT AGREEMENT WITH FRANK DEMATTOS TO SERVE AS CITY AUDITOR OF THE CITY OF MODESTO, EFFECTIVE SEPTEMBER 22, 2008

WHEREAS, Section 900 of the Modesto City Charter provides that the City Auditor shall be appointed by and serve at the pleasure of the City Council of the City of Modesto, and

WHEREAS, the City Council desires to appoint Frank DeMattos as City Auditor effective September 22, 2008, and enter into an employment agreement with Frank DeMattos to serve as City Auditor, at an annual salary of $96,200,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby appoints Frank DeMattos to serve as City Auditor of the City of Modesto, effective September 22, 2008.

BE IT FURTHER RESOLVED that the Mayor is hereby authorized to sign an employment agreement with Frank DeMattos to serve as City Auditor of the City of Modesto, at an annual salary of $96,200. Said employment agreement is **attached** hereto as **Exhibit "A"** and incorporated herein by this reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2008, 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

EMPLOYMENT AGREEMENT – Frank DeMattos

This agreement, made and entered into this _____ day of _____, 2008, by and between the CITY OF MODESTO, State of California, a municipal corporation, hereinafter called "CITY," and Frank DeMattos, hereinafter referred to as "EMPLOYEE," both of whom understand as follows:

RECITALS:

WHEREAS, Section 902 of the CITY's Charter provides that the City Auditor of Modesto, California (City Auditor), shall be appointed by and serve at the pleasure of the City Council of the City of Modesto ("COUNCIL"), and

WHEREAS, CITY desires to employ the services of EMPLOYEE as City Auditor of the City of Modesto as provided by said City Charter, and

WHEREAS, COUNCIL desires to employ EMPLOYEE as City Auditor and to provide certain benefits, establish certain conditions of employment and set working conditions of EMPLOYEE, and

WHEREAS, EMPLOYEE desires to serve as City Auditor, and

WHEREAS, it is the desire of the parties hereto to provide the terms and conditions by which CITY shall receive and retain the services of EMPLOYEE and to provide for him to remain in such employment, to act as a deterrent against malfeasance or dishonesty for personal gain on his part; and to provide for terminating his services at such time as he may be unable to fully discharge his duties or when COUNCIL may otherwise desire to terminate his employ.

SECTION 1. Duties

CITY hereby agrees to employ said Frank DeMattos, as City Auditor of said CITY to perform the functions and duties specified in Section 902 of the Modesto City Charter and to perform other legally permissible and proper duties and functions, as COUNCIL shall from time to time assign.

SECTION 2. Term

a. Effective September 22, 2008, EMPLOYEE shall fulfill the powers, functions and duties of City Auditor and shall serve in this capacity until such time as this agreement is terminated pursuant to Section 3, below.

b. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of COUNCIL to terminate the services of EMPLOYEE at any time subject only to the provisions set forth in Section 3, below.

c. Nothing in this agreement shall prevent, limit or otherwise interfere with the right of EMPLOYEE to resign at any time from his position as City Auditor, subject only to the provisions as set forth in Section 3, below.

d. EMPLOYEE agrees to remain in exclusive employ of CITY, and neither to accept other employment or to become employed by any other employer until this agreement is terminated.

SECTION 3. Termination and Severance

a. EMPLOYEE may terminate this Agreement, with or without cause, by giving the CITY sixty (60) days written notice in advance of termination unless the parties agree otherwise. During the notice period, all the rights and obligations of the parties under this agreement shall remain in full force and effect. EMPLOYEE will not

receive any severance pay if EMPLOYEE's resignation is solely voluntary on EMPLOYEE's part.

b. The COUNCIL may terminate this Agreement upon affirmative vote of four (4) members of the COUNCIL, with or without cause. COUNCIL shall give EMPLOYEE a minimum of sixty (60) days written notice prior to terminating EMPLOYEE as City Auditor, provided however that if EMPLOYEE is terminated for cause as defined in this agreement, the sixty (60) day written notice requirement shall not apply and EMPLOYEE may be terminated effective immediately upon written notice.

c. If the COUNCIL discharges EMPLOYEE without cause, during the term of this Agreement, and EMPLOYEE is willing and able to perform his duties under this Agreement, then EMPLOYEE shall be entitled to a severance payment equal to three (3) months of EMPLOYEE's then current annual base salary. This provision will not apply in the event the COUNCIL discharges EMPLOYEE for cause, in which case EMPLOYEE will not be entitled to any severance payment or continuation of benefits. The determination of whether there is good cause for termination shall be in the sole discretion of the COUNCIL.

d. For purposes of this agreement, cause shall mean:

(1) Willful and repeated failure to perform the duties of City Auditor;

(2) Conviction of an employment-related illegal act;

(3) Conviction of a felony; or

(4) Malfeasance materially related to the job.

e. Notwithstanding the provisions of this section and in accordance with Article IX, Section 900 of the City Charter, COUNCIL shall not terminate this agreement

during or within ninety (90) days next succeeding the election of a member of the COUNCIL.

SECTION 4. Salary

Effective the 22nd day of September, 2008, CITY agrees to pay EMPLOYEE for his services rendered pursuant to this agreement an annual salary of ninety six thousand two hundred ($96,200.00) dollars, payable in installments at the same time as other employees of CITY are paid.

SECTION 5. Health, Long Term Disability and Life Insurance Benefits

a. CITY agrees to provide health, dental and vision insurance for EMPLOYEE and dependents equal to that which is provided to all other unrepresented Management and Confidential employees of CITY. CITY's contribution toward the premiums for said health, dental and vision coverage shall not be less than that which CITY contributes to other Executive employees of the CITY.

b. CITY agrees to provide long term disability coverage for EMPLOYEE at CITY's expense.

c. EMPLOYEE may elect to submit once per calendar year to a complete physical examination by the CITY medical provider or by the EMPLOYEE's physician under the EMPLOYEE's group insurance plan with CITY reimbursement for EMPLOYEE's out-of-pocket costs, not to exceed the CITY'S cost for comparable services.

d. CITY shall pay the amount of premium due for a term life insurance policy consistent with that provided to other unrepresented Management and Confidential employees of CITY. EMPLOYEE shall name the beneficiary of the life insurance policy.

SECTION 6. Retirement

a. CITY shall continue enrollment of EMPLOYEE in the California Public Employees' Retirement System (CalPERS). CITY shall pay 6.6% and EMPLOYEE shall pay 0.40% of the total 7% "Employee's share," and CITY shall pay 100% of the "Employer's share" on behalf of the EMPLOYEE.

b. CITY shall provide a qualified 401(a) defined contribution plan for EMPLOYEE'S mandatory participation in the form of a money purchase plan to which CITY shall contribute five (5%) percent of EMPLOYEE's base salary. EMPLOYEE shall match the CITY's contribution.

c. CITY shall provide a Section 457 deferred compensation plan for EMPLOYEE's voluntary participation. In addition to the base salary paid by CITY to EMPLOYEE, CITY agrees to pay an amount equal to one and one-half percent (1.5%) of EMPLOYEE's base salary, or greater, into the designated plan on the EMPLOYEE's behalf, in equal proportionate amounts each pay period. EMPLOYEE shall match CITY's contribution.

d. Any or all of the CITY and EMPLOYEE contribution amounts designated in this Section are subject to change in the event that COUNCIL authorizes such change for all Charter Officers of the CITY.

SECTION 7. Other Supplemental Benefits

a. Vacation Leave. Upon the effective date of this agreement, EMPLOYEE shall be credited with forty (40) hours of vacation leave and commence accruing vacation at the rate of one hundred twenty (120) hours during year one (1). In each subsequent year, EMPLOYEE's vacation accrual rate shall increase consistent with the standard vacation accrual progression for Management and Confidential employees. This vacation

accrual is in addition to forty (40) hours of annual Management Leave. EMPLOYEE shall be credited with a pro-rata share of Management Leave hours for calendar year 2008 hours, upon effective date of this agreement. All Management Leave not used during the calendar for which it is advanced shall be forfeited and no cash out of Management Leave shall be permitted.

b. Automobile. EMPLOYEE's functions and duties require that he shall have the use of an automobile during his employment with the CITY. CITY shall pay EMPLOYEE the monthly sum of $400 for the expense of owning, operating, maintaining and insuring his personal automobile.

c. Other Benefits. All actions taken by COUNCIL relating to fringe benefits for unrepresented Management and Confidential employees shall be considered actions granting the same benefits to EMPLOYEE. As used herein, fringe benefits include but are not limited to vacation, sick leave, holidays, retirement (CalPERS) benefits and payments, health insurance, dental insurance, vision insurance, and life insurance.

SECTION 8. Professional Development

In its discretion, COUNCIL shall budget for and pay travel and subsistence expenses of EMPLOYEE for professional and official travel, meetings, courses, institutes and seminars adequate to continue his professional development and to adequately pursue necessary official and other functions on behalf of the CITY, including but not limited to the annual conference of the League of California Cities, the annual California State Municipal Finance Officers Conference, and the annual Association of Local Government Auditor's conference.

SECTION 9. Indemnification

CITY shall defend, save harmless and indemnify EMPLOYEE against any tort, professional liability claim or demand or any other legal action, whether groundless or otherwise, arising out of any alleged act or omission occurring in the course and scope of performance of EMPLOYEE's functions and duties. CITY may compromise and settle any claim or suit and shall pay the amounts of all settlements or judgments rendered against EMPLOYEE and/or CITY thereon.

SECTION 10. Performance Evaluation

a. COUNCIL shall review and evaluate EMPLOYEE's performance at least once a year.

b. Annually, the COUNCIL may define such goals and performance objectives as COUNCIL determines necessary for the proper operation of CITY and the attainment of the COUNCIL's policy objectives and may further establish a relative priority among those various goals and objectives, said goals and objectives to be reduced to writing. Said goals and objectives shall generally be attainable within the time limitations as specified in the annual operations and capital budgets and appropriations provided.

c. In effecting the provisions of this section, the COUNCIL and EMPLOYEE mutually agree to abide by the provisions of applicable law.

d. EMPLOYEE will timely cause to be placed on the COUNCIL agenda each year a "closed session" for purposes of his performance evaluation.

SECTION 11. Additional Term of Employment

COUNCIL, in consulting with EMPLOYEE, shall fix any such other terms and conditions of employment as it may determine from time to time relating to the

performance of EMPLOYEE, provided that such terms and conditions are reduced to writing and included in an amendment to this agreement.

SECTION 12. Notices

Notices pursuant to this agreement shall be given by deposit in the custody of the United States Postal Service, postage pre-paid, addressed as follows, or as such address may be changed from time to time upon notice to the other:

CITY:

Mayor
City of Modesto
P. O. Box 642
1010 10th Street, Suite 6200
Modesto CA 95353

EMPLOYEE:

Frank DeMattos
4028 Ashfield Way
Modesto, CA 95356

Alternatively, notices required pursuant to this agreement may be personally served in the same manner as is applicable to civil judicial practice. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

SECTION 13. General Provisions

a. The text herein shall constitute the entire agreement between the parties.

b. This agreement shall be binding upon and inure to the benefit of the heirs at law and executors of EMPLOYEE.

c. This agreement shall become effective commencing the _____ day of _____, 2008.

d. If any provision, or any portion thereof, contained in this agreement is held unconstitutional, invalid or unenforceable, the remainder of this agreement, or portion thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

IN WITNESS WHEREOF the CITY has caused this agreement to be signed and executed in its behalf by its Mayor under authority of Resolution No. 2008 - _____, and EMPLOYEE has signed and executed this agreement, both in duplicate, the day and year first above written, and EMPLOYEE has caused this agreement to be duly executed.

CITY OF MODESTO
A MUNICIPAL CORPORATION:

By _____
Jim Ridenour, Mayor

EMPLOYEE:

By _____
Frank DeMattos

ATTEST:

By_____
Stephanie Lopez, City Clerk

(SEAL)

APPROVED AS TO FORM:

By_____
Susana Alcala Wood, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-488

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF ASPHALT PAVING MATERIALS FOR THE PUBLIC WORKS DEPARTMENT, TO GEORGE REED, MUNN AND PERKINS PLANT, MODESTO, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE AGREEMENT FOR ONE YEAR, WITH FOUR (4) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST NOT TO EXCEED $2,000,000

WHEREAS, City of Modesto Public Works Department, uses asphalt paving materials and other materials on an "as needed" basis, throughout the year to repair and rehabilitate roads within the City, and

WHEREAS, in past years, City staff solicited pricing from three (3) vendors in the Modesto area, and purchased asphalt and other road construction materials from the lowest priced vendor , and

WHEREAS, this process did not fully conform to the Municipal Code and Purchasing policies, so a formal bidding process was undertaken for Fiscal Year 2008-09. This action is the culmination of the formal bidding process, and

WHEREAS, on June 25, 2008, the City Manager authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the furnishing of asphalt paving materials for the Public Works Department, and

WHEREAS, on July 18, 2008, the Purchasing Division issued Request for Bid No. 0708-34 for the furnishing of asphalt paving materials to five (5) prospective bidders, and formally advertised as required by law , and

WHEREAS, on August 12, 2008, RFB's were formally opened in the City Clerk's office, and

WHEREAS, of the five (5) prospective bidders, one (1) company chose to respond, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the furnishing of asphalt paving materials for the Public Works Department, to George Reed, Munn and Perkins Plant, Modesto, CA, and

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

WHEREAS, funds are budgeted and available in various funds within the Public Works Department for the purchase of asphalt paving materials,

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 asphalt paving materials for the Public works Department, to George Reed, Munn and Perkins Plant, Modesto, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a purchase agreement for one year, with four (4) one-year extension options, at the sole discretion of the City, for an estimated annual cost not to exceed $2,000,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2008, 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. 2008-489

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO CONDUCT A SOLE SOURCE PURCHASE TO ROBOVU OF FOUR (4) MOBILE DATA COMPUTERS (MDCS) ANNUALLY AS A REPLACEMENT TO EXISTING UNITS FOR AN ESTIMATED ANNUAL COST, NOT TO EXCEED $28,000

WHEREAS, the mobile data computers (MDCs) purchased in 2004 are obsolete and unsupported, and

WHEREAS, the original MDCs purchased in 2004 did not allow for replacement units, and

WHEREAS, the City has an ongoing need to purchase replacement MDCs utilized by the City of Modesto Fire Department for public safety,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Manager is hereby authorized to conduct a sole source purchase to RoboVu of four (4) mobile data computers annually as a replacement to existing units, for an estimated annual amount not to exceed $28,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2008, 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. 2008-490

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR MODERNIZATION OF THE ELEVATOR AT THE 11TH STREET PARKING GARAGE FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT, PARKING SERVICES DIVISION, AT AN ESTIMATED COST OF $98,000

WHEREAS, the elevator located in the 11th Street parking garage was installed when the garage was built in 1979, and

WHEREAS, the elevator is outdated and in need of modernization, and

WHEREAS, staff has been informed that further repair to existing equipment may not be possible due to the age of the equipment, and

WHEREAS, the scope of work for the Capital Improvement Program (CIP), Parking Garage Projects, will be amended to include modernization of the elevator located at the 11th Street parking garage, and

WHEREAS, funds are available in the CIP Parking Garage Projects account 6000-350-P597-6040, 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 Request for Bid for modernization of the elevator at the 11th Street parking garage for the Parks, Recreation and Neighborhoods Department, Parking Services Division, conforms to the Modesto Municipal Code,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue a formal Request for Bids (RFB) for modernization of the elevator at the 11th Street parking garage for the Parks Recreation and Neighborhoods Department, Parking Services Division at an estimated cost of $98,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2008, 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. 2008-491

A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM TO REVISE THE DESCRIPTION OF ACTIVITIES IN CIP 6000-350-P597 TO ADD "MODERNIZATION OF THE ELEVATOR AT THE 11TH STREET PARKING GARAGE"

WHEREAS, the elevator located in the 11th Street parking garage was installed when the garage was built in 1979, and

WHEREAS, the elevator is outdated and in need of modernization, and

WHEREAS, staff has been informed that further repair to existing equipment may not be possible due to the age of the equipment, and

WHEREAS, the scope of work for the Capital Improvement Program (CIP), Parking Garage Projects, needs to be amended to include the repair of the elevator located in the 11th Street parking garage, and

WHEREAS, funds are available in the CIP Parking Garage Projects account 6000-350-P597-6040,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that it hereby approves amending the Capital Improvement Program to revise the description of activities in CIP 6000-350-P597-6040 to add "modernization of the elevator at the 11th Street parking garage".

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2008, 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. 2008-492

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) WITH STANISLAUS COUNTY OFFICE OF EDUCATION IN THE AMOUNT OF $54,373 FOR THE PROVISION OF ONE-HALF OF A MODESTO POLICE OFFICER'S/SCHOOL RESOURCE OFFICER'S (SRO) SALARY AND BENEFITS AT PETERSEN ALTERNATIVE CENTER FOR EDUCATION (P.A.C.E.) CAMPUS TO PROVIDE DIRECT LAW ENFORCEMENT SERVICES, EXPERTISE AND TRAINING, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE MOU

WHEREAS, the Stanislaus County Office of Education 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 Stanislaus Office of Education in the amount of $54,373 for the services of this Modesto Police Officer, and

WHEREAS, the City will match the amount of $54,373 in partnership with the Stanislaus County Office of Education, and

WHEREAS, the term of this agreement is August 20, 2008 to June 5, 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Memorandum of Understanding (MOU) with Stanislaus County Office of Education in the amount of $54,373 for the provision of one-half of a

Modesto Police Officer's/School Resource Officer's (SRO) salary and benefits at Petersen Alternative Center for Education (P.A.C.E.) 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 2nd day of September, 2008, 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. 2008-493

A RESOLUTION ACCEPTING THE FEDERAL HIGHWAY SAFETY IMPROVEMENT PROGRAM (HSIP) GRANT IN AN AMOUNT NOT TO EXCEED $49,500, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE NECESSARY GRANT DOCUMENTS

WHEREAS, in April, 2007, City Traffic Engineering staff submitted to Caltrans a Federal Highway Safety Improvement Program (HSIP) grant application to upgrade approximately 270 existing yellow school zone signs with new, diamond-grade, reflective lime-green school zone signs at several intersections within the City limits, and

WHEREAS, in June, 2007, City Traffic Engineering staff received notification that this project was successful in receiving Federal Highway Safety Improvement Program (HSIP) grant funding in an amount not to exceed $49,500, and

WHEREAS, the grant will be used to upgrade existing school zone signs at several intersections within the city limits enhancing pedestrian safety in school zone locations throughout the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that is hereby accepts the Federal Highway Safety Improvement Program (HSIP) grant in an amount not to exceed $49,500.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2008, 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. 2008-494

A RESOLUTION AMENDING THE FISCAL YEAR 2008/2009 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET ACCEPTING THE FEDERAL HIGHWAY SAFETY IMPROVEMENT PROGRAM (HSIP) GRANT FUNDS IN THE AMOUNT OF $49,500, APPROVING AN APPROPRIATION TRANSFER OF $5,500 FROM GAS TAX FOR THE CITY MATCH, AND ESTABLISHING ONE NEW CIP PROJECT TITLED, "INSTALLATION OF LIME GREEN SCHOOL ZONE SIGNS," ACCOUNT NO. 2370-160-E006

WHEREAS, in June, 2007, City Traffic Engineering staff received notification that this project was successful in receiving Federal Highway Safety Improvement Program (HSIP) grant funding in an amount not to exceed $49,500, and

WHEREAS, the grant in the amount of $49,500 will cover 90% of the project costs, and

WHEREAS, the City of Modesto will be responsible for a City match in the amount of $5,500, 10% of the estimated project costs, and

WHEREAS, it is necessary to transfer $5,500 from Gas Tax,

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 (CIP) budget accepting the Federal Highway Safety Improvement Program (HSIP) grant funds in the amount of $49,500, approving an appropriation transfer of $5,500 from Gas Tax for the City match, and establishing one new CIP project titled, "Installation of Lime Green School Zone Signs," in the amount of $55,000, Account No. 2370-160-E006.

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 regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2008, 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. 2008-495

A RESOLUTION APPROVING A SEWAGE GRINDER PUMP ACCESS AND MAINTENANCE AGREEMENT BETWEEN THE CITY OF MODESTO AND KAISER FOUNDATION HOSPITALS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, Kaiser Foundation Hospitals (Kaiser) is in the process of developing a new hospital facility located at the southwest corner of Dale Road and Bangs Road, commonly known as Kaiser Modesto Hospital (Improvements), and

WHEREAS, in connection with the development of said Improvements, Kaiser is required to install a Sewage Grinder Pump and appurtenances thereto, and

WHEREAS, City has inspected the construction of the Pump and has accepted it, and

WHEREAS, City agrees with the conditions set down in the Grinder Pump Access and Maintenance Agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Grinder Pump Access and Maintenance Agreement between the City of Modesto and Kaiser Foundation Hospitals.

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 September 2nd, 2008, 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. 2008-496

A RESOLUTION APPROVING AN AMENDMENT TO THE REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND KAISER PERMANENTE HOSPITAL IN AN AMOUNT NOT-TO-EXCEED $42,883 FOR THE CITY'S SHARE OF CONSTRUCTION COSTS FOR THE PELANDALE AVENUE/DALE ROAD INTERSECTION EAST LEG IMPROVEMENTS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO THE REIMBURSEMENT AGREEMENT

WHEREAS, Council Resolution No. 2004-541 adopted the 2004/2005 Capital Improvement Program, and

WHEREAS, the 2004/2005 Capital Improvement Program included a CIP project H422 titled, "Pelandale Avenue/Dale Road Intersection Improvements," and

WHEREAS, the intersection improvements at Pelandale Avenue and Dale Road have been completed, and

WHEREAS, the construction plans for the intersection improvements consist of Kaiser Build Remote Off-Site capacity and operational improvements on the north, south, and west legs of the intersection, and City-built CIP H422 capacity and operational improvements on the east leg, and

WHEREAS, the overall improvements to the intersection include the addition of a second westbound left-turn lane, addition of two eastbound lanes at the departure leg of the intersection, three westbound through lanes, and a westbound right turn lane with a northbound transition lane in the northeast quadrant of the intersection, and

WHEREAS, the City-built CIPs are included in the Development Agreement between Kaiser and the City as a commitment by the City to provide City-built roadway improvements under the City's Capital Improvement Program, which includes the 6-Lane

widening of Pelandale, and improvements to the east leg of the Pelandale Avenue/Dale Road intersection, and

WHEREAS, a Reimbursement Agreement between the City and Kaiser to compensate Kaiser for the City's portion of the construction was necessary in order to combine the projects and facilitate construction of the subject improvements, and

WHEREAS, the City Council, on September 12, 2006, by Resolution No. 2006-585, approved a Reimbursement Agreement that included an estimated amount of $180,880 to reimburse Kaiser for construction of the east leg of the Pelandale Avenue/Dale Road intersection, and

WHEREAS, the Pelandale Avenue/Dale Road intersection construction was incorporated into the Kaiser Remote Off-Site Project, and construction of this multi-location project was completed in late 2007, and

WHEREAS, City staff and Kaiser representatives negotiated a final reimbursement amount of $223,763, based upon the actual costs expended by Kaiser, making it necessary to amend the Reimbursement Agreement for the additional costs for the completion of the improvements in the amount of $42,883,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Reimbursement Agreement between the City of Modesto and Kaiser Permanente Hospital for construction of the east leg of the Pelandale Avenue/Dale Road Intersection Improvements in an amount not-to-exceed $42,883 for providing complete and in-place east leg improvements to the Pelandale Avenue/Dale Road intersection in accordance with the final plans, specifications, and

cost estimates dated March 7, 2006, and identified as Kaiser Modesto Remote Off-Site Improvements as approved by the City Engineer April 5, 2006.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2008, 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. 2008-497

A RESOLUTION APPROVING THE FISCAL YEAR 2008/2009 DISADVANTAGED BUSINESS ENTERPRISE (DBE) RACE-NEUTRAL IMPLEMENTATION AGREEMENT FOR FEDERALLY FUNDED STREET, AIRPORT, AND TRANSIT PROJECTS, ESTABLISHING A FY 2008/2009 ANTICIPATED DBE PARTICIPATION LEVEL GOAL OF 10.56%, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto, in order to receive federal financial assistance 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-Neutral Implementation Agreement for federally funded street, airport, and transit projects, and

WHEREAS, the City of Modesto wishes to enter into the FY 2008/2009 Disadvantaged Business Enterprise (DBE) Race-Neutral Implementation Agreement, and adopt the Fiscal Year 2008/2009 Annual Anticipated DBE Participation Level (AADPL) goal of 10.56%,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the FY 2008/2009 Disadvantaged Business Enterprise (DBE) Race-neutral Implementation Agreement for federally funded Street, Airport, and Transit projects.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Fiscal Year 2008/2009 Anticipated DBE Participation Level (AADPL) goal of 10.56% is hereby established.

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 FY 2008/2009 DBE Race-Neutral Implementation Agreement with the U. S. Department of Transportation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2008, 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. 2008-498

A RESOLUTION AUTHORIZING PARTICIPATION IN THE "UNIFIED CERTIFICATION PROGRAM" (UCP) IN AN AMOUNT NOT TO EXCEED $2,000, FOR CERTIFYING DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONTRACTORS

WHEREAS, 49 CFR, Part 26 necessitates that the City of Modesto participate in the California Unified Certification Program (UCP), and

WHEREAS, this Program is the vehicle for certifying Disadvantaged Business Enterprise (DBE) contractors, and

WHEREAS, Federal regulations require that all jurisdictions receiving federal funds must participate in training costs for the certifying agencies, and

WHEREAS, in order to continue receiving federal funding on street, airport, and transit projects, the City must adopt a UCP consistent with federal regulations and receive approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that participation in the Unified Certification Program (UCP) in an amount not to exceed $2,000, for certifying Disadvantaged Business Enterprise (DBE) contractors is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2008, 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. 2008-499

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE 2008-2009 SANITARY SEWER COLLECTION SYSTEM REPLACEMENT PROJECT, ACCEPTING THE BID AND APPROVING A CONTRACT WITH CLYDE WHEELER PIPELINE, INC. IN THE AMOUNT OF $237,732.50 FOR THE 2008-2009 SANITARY SEWER COLLECTION SYSTEM REPLACEMENT PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the 2008-2009 Sanitary Sewer Collection System Replacement Project and City staff recommends approval to the City Council, and

WHEREAS, the bids received for the 2008-2009 Sanitary Sewer Collection System Replacement Project were opened at 11:00 a.m. on August 5, 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 $237,732.50 received from Clyde Wheeler Pipeline, Inc. be accepted as the lowest responsible bid and the contract be awarded to Clyde Wheeler Pipeline, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the 2008-2009 Sanitary Sewer Collection System Replacement Project, accepts the bid of Clyde Wheeler Pipeline, Inc. in the amount of $237,732.50, and awards Clyde Wheeler Pipeline, Inc. the contract for the 2008-2009 Sanitary Sewer Collection System Replacement Project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract with Clyde Wheeler Pipeline, Inc. in the amount of $237,732.50 for the 2008-2009 Sanitary Sewer Collection System Replacement Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2008, 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. 2008-500

A RESOLUTION APPROVING THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF MODESTO (CITY) AND THE MODESTO POLICE NON SWORN ASSOCIATION (MPNSA) FOR A TERM OF JULY 22, 2008 THROUGH JUNE 22, 2009

WHEREAS, the Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Police Non Sworn Association (MPNSA) expired on June 23, 2008, 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 MOU provides as follows:

SECTION 1. HEALTH, DENTAL AND VISION BENEFITS. The City's contribution to employees' Health, Dental and Vision coverage shall be as follows:

	7/22/08
Family	$957
Single	$535
Opt Out	$425

Effective July 22, 2008, for employees enrolled in the City-sponsored High Deductible Health Plan, the City shall deposit any balance of the above contribution not needed to pay for the employee's premiums, into the employee's Health Savings Account.

SECTION 2. LABOR MARKET SURVEY. A market survey and a classification study have been completed. The parties agree to implement initial classification and market salary range changes, effective January 6, 2009. Said market

salary changes shall be for those classes which the parties agree are more than 15% "under market."

SECTION 3. UNIFORM ALLOWANCE. Eliminates City direct purchase of safety shoes for Fire Prevention staff and folds cost into uniform allowance. Adds phased in requirement for Class A uniforms, consistent with department sworn staff. Increases uniform allowance from $70/month to $85/month, effective September 1, 2008

SECTION 4. BILINGUAL PAY. Compensation for those employees certified and assigned as Bilingual translators shall change from the current three (3) hours of compensatory time off per pay period, to $50.00 per pay period, effective September 2, 2008.

SECTION 5. SHIFT DIFFERENTIAL Changes provisions to eliminate shift differential for overtime shifts, redefine shift hours to reflect Police Department schedules, and change actual compensation from $5, $7, and $12 per shift to $6 and $8 per shift, effective September 2, 2008.

SECTION 6. ADDITIONAL CHANGES. Other negotiated additions, deletions or amendments to the text of the Memorandum of Understanding deal with language changes for fatigued employees, flexible spending accounts, and leaves of absence. Additionally the parties have agreed to continue negotiations related to the Retiree Health Program, health plans for active employees and impacts of the unblending of retiree premiums, and potential work furloughs.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Memorandum of Understanding (MOU) between the City of Modesto and the Modesto Police Non Sworn Association (MPNSA), which covers a term

from July 22, 2008 through June 22, 2009, 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 2nd day of September, 2008, 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

Memorandum of Understanding

between the

City of Modesto

and the

Modesto Police Non Sworn Association

(MPNSA)

Effective

July 22, 2008

Through

June 22, 2009

Table of Contents

PREAMBLE 1
ARTICLE 1. TERM 1
ARTICLE 2. CITY MANAGEMENT RIGHTS 1
ARTICLE 3. REPRESENTATION 1
ARTICLE 4. RENEGOTIATIONS 2
ARTICLE 5. SALARY RATES AND STEP ADVANCEMENTS 2
ARTICLE 6. PERFORMANCE EVALUATION 3
ARTICLE 7. PAY PERIOD DEFINITION 4
ARTICLE 8. WORKWEEK DEFINITION 4
ARTICLE 9. STANDARD TOUR OF DUTY 4
ARTICLE 10. LEAVE USAGE AND ACCRUALS 4
ARTICLE 11. REST PERIODS 5
ARTICLE 12. OVERTIME 5
ARTICLE 13. STANDBY 6
ARTICLE 14. FATIGUED EMPLOYEES 7
ARTICLE 15. CALL BACK 7
ARTICLE 16. COURT OVERTIME 7
ARTICLE 17. APPROVED WORK SCHEDULES 9
ARTICLE 18. JOB SHARING 10
ARTICLE 19. SHIFT BIDDING & SPECIAL ASSIGNMENTS 10
ARTICLE 20. LICENSES, CERTIFICATES 13
ARTICLE 21. SPECIALTY PAY 13
ARTICLE 22. ACTING PAY 14
ARTICLE 23. UNIFORM ALLOWANCES 15
ARTICLE 24. VACATION 16
ARTICLE 25. HOLIDAYS 17
ARTICLE 26. SICK LEAVE 19
ARTICLE 27. CATASTROPHIC LEAVE 21
ARTICLE 28. BEREAVEMENT LEAVE 22
ARTICLE 29. LEAVES OF ABSENCE 23
ARTICLE 30. RETIREMENT 31
ARTICLE 31. DEFERRED COMPENSATION 31
ARTICLE 32. HEALTH, DENTAL, VISION INSURANCE 32
ARTICLE 33. RETIREE HEALTH INSURANCE 33
ARTICLE 34. EMPLOYEE ASSISTANCE PLAN 34
ARTICLE 35. LONG-TERM DISABILITY INSURANCE 35
ARTICLE 36. LIFE INSURANCE 35
ARTICLE 37. PROBATION 35
ARTICLE 38. LAYOFF AND DEMOTION PROCEDURES UPON REDUCTION IN FORCE 35
ARTICLE 39. GRIEVANCE PROCEDURE 37
ARTICLE 40. DISCIPLINARY ACTIONS 40
ARTICLE 41. DISCIPLINARY APPEALS 41
ARTICLE 42. TIME BANK 43
ARTICLE 43. COMMUTER BUS PASSES 43
ARTICLE 44. EMPLOYEE PARKING 44

ARTICLE 45. OUTSIDE EMPLOYMENT 44
ARTICLE 46. NON DISCRIMINATION 44
ARTICLE 47. AGENCY SHOP AND MAINTENANCE OF ASSOCIATION MEMBERSHIP 45
ARTICLE 48. PROVISIONS OF LAW 47
ARTICLE 49. PENDING ISSUE 47
ARTICLE 50. JOB ACTIONS 47
ARTICLE 51. FULL UNDERSTANDING MODIFICATION AND WAIVER 47
ARTICLE 52. APPROVAL 49
EXHIBIT 1 CLASSIFICATIONS AND SALARY RANGES 50
EXHIBIT 2 SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 07-08 51
APPENDIX A FOUR-ELEVEN (4/11) WORK SCHEDULE 53
APPENDIX B MODIFIED FOUR-TEN (4/10) WORK SCHEDULE 53
APPENDIX C NINE-EIGHTY (9/80) WORK SCHEDULE 54
APPENDIX D SIX-THREE (6/3) WORK SCHEDULE 54

PREAMBLE

It is the purpose of this Memorandum to set forth the wages, hours and other terms and conditions of employment for employees represented by the Modesto Police Non Sworn Association (hereinafter referred to as "MPNSA").

ARTICLE 1. TERM

The term of this Memorandum of Understanding (MOU) shall commence on July 24, 2007 and shall expire and otherwise be fully terminated at midnight, June 23, 2008 .

ARTICLE 2. CITY MANAGEMENT RIGHTS

The City of Modesto (hereinafter referred to as "City") and the Modesto Police Non Sworn Association agree the City has the right to unilaterally make decisions on all subjects that are outside the scope of bargaining. The parties agree the City's exercise of its management rights is not subject to challenge through the grievance procedure or in any other forum, except where otherwise in conflict with a specific term of this Memorandum of Understanding.

The City retains the exclusive right, except as expressly stated herein, to operate and direct the affairs of the City in all of its various aspects, including, but not limited to, the right to direct the working forces; to plan, direct and control all of the operations and services of the City; to determine the methods, means and organizations by which such operations and services are to be conducted; to assign and transfer employees; to hire, promote, demote, suspend, discipline, discharge or relieve employees due to lack of work or other legitimate reasons; and to change or eliminate existing methods, equipment or facilities.

ARTICLE 3. REPRESENTATION

This Memorandum of Understanding covers the employees in the following position classifications of City, which MPNSA is certified as representing, and MPNSA is the formally recognized employee organization which has the exclusive right to represent said employees during the term of this implementation.

Deputy Fire Marshal
Fire Prevention Technician I/II
Police Animal Control Officer I/II
Police Community Service Officer I/II
Police Crime Analyst
Police Evidence and Property Specialist
Police Identification Technician I/II
Police Law Enforcement Academy Recruit (LEAR)
Police Clerk I/II

ARTICLE 4. RENEGOTIATIONS

Negotiations shall begin no later than ninety (90) calendar days prior to the termination date of this Memorandum. The parties shall notify one another of the names of their designated representatives at least thirty (30) days in advance of the first meeting.

When negotiating a successor memorandum, the MPNSA shall be represented by no more than four (4) employees who shall be released from active duty and will not lose wages or benefits when negotiating. A reasonable number of other representatives may attend on their own time; however, the City shall not provide release time for more than four (4) employees.

A reasonable effort will be made to allow MPNSA employees to have their work hours and/or duty days adjusted so they will be on active duty during negotiations. No employee shall receive overtime for time spent negotiating if it is not possible to adjust their work schedule. Participation in negotiations does not release any employee from responsibilities of their full-time employment requiring immediate attention or action (for example, scheduled court appearances or emergency callback).

The parties may mutually agree to use Interest Based Negotiation (IBN). If the parties agree to use IBN, appropriate training will be provided for both parties.

ARTICLE 5. SALARY RATES AND STEP ADVANCEMENTS

The base salary ranges and rates shown in **Exhibit 1** (Salary Ranges and Rates) shall be applicable on the dates indicated for classifications in this Unit as provided in **Exhibit 2** (Schedule of Salary Ranges).

Classification Titles and Ranges may be amended from time to time by Resolution adopted by the City Council.

For purposes of this Memorandum, base salary range shall mean the salary range assigned to a specific classification as provided in **Exhibit 1**. Base salary rate means the hourly rate of pay established pursuant to the Step placement within the base salary range as provided in **Exhibit 2** (Schedule of Salary Ranges) of this Memorandum.

(A) For this contract term there shall be no across the board salary increase. Salary ranges shall be as provided in **Exhibit 2** (Schedule of Salary Ranges) of this Memorandum.

Paid time shall be based upon the base salary rate with the computation rounded to the nearest cent.

(B) Each salary range shall consist of five (5) Steps, A through E. Progression through the steps shall be based upon both length of service and job performance.

(1) Step A will normally be paid upon initial employment. The initial salary may be set at a higher Step only upon approval of the Department Director and City Manager. In cases of exceptional performance, employees hired at higher than

Step A may be considered for their first Step increase after thirteen (13) pay periods.

(2) Step B shall be paid upon completion of thirteen (13) pay periods with an overall "meets" performance evaluation.

(3) Step C through Step E shall be paid upon completion of twenty-six (26) pay periods with an overall "meets" performance evaluation at each Step.

(4) Accelerated Step increases within the established salary range may be granted in addition to those above, upon approval of the City Manager.

(5) When a Step increase is denied, there shall be another performance evaluation of the employee in thirteen (13) pay periods from the effective date of the denied increase. There is no right of appeal to the withholding of a step increase, but the reasons for withholding shall be given in writing to the employee.

(6) Due to inferior work, lack of application, indifferent attitude or other legitimate reasons, an employee's Step may be reduced to a lower Step. There is no right of appeal due to the lowering of Steps, but the reasons for reduction shall be given in writing to the employee.

(7) All other salary administration policies shall be as contained in the Personnel Rules and Personnel Administrative Orders.

(C) Market Survey: The parties agree to the market survey with the following provisions:

a. Parties to meet and confer on labor market data.
b. Classifications more than 15% out of market as defined the median total compensation for the surveyed agencies or as agreed to by both parties shall have salary range adjustments to the range that brings them closest to 15%.
c. Market adjustments will be effective January 6, 2009.

ARTICLE 6. PERFORMANCE EVALUATION

(A) The City and MPNSA agree to use the "Performance Management Guidelines" as the recognized evaluation process. There shall be periodic performance evaluations of all employees, which shall be discussed with the employee and made a matter of record. If the evaluation shows an employee's work to be below standard, the supervisor shall take appropriate steps to encourage improvement and may set a definite period of time in which improvement is expected. Failure to achieve satisfactory improvement may be just cause for demotion, reduction in pay or dismissal.

(B) There shall be a Performance Evaluation Review Committee, composed of City and MPNSA representatives, which will meet as needed to review the performance evaluation system.

(C) The specific procedures of the performance evaluation system shall be as contained in the Personnel Rules and Personnel Administrative Orders.

ARTICLE 7. PAY PERIOD DEFINITION

A pay period is defined as the fourteen (14) calendars day period from 12:01 a.m. Tuesday to 12:00 a.m. (midnight) Monday two weeks thereafter. The first pay period under this Memorandum shall commence at 12:01 a.m., on Tuesday, the day this Memorandum became effective.

ARTICLE 8. WORKWEEK DEFINITION

The workweek is 12:01 a.m. Tuesday to 12:00 a.m. (midnight) the following Monday. Department Directors and individual employees may agree to modify the workweek in order to facilitate alternative work schedules as provided in this Memorandum.

ARTICLE 9. STANDARD TOUR OF DUTY

The standard tour of duty represents the time that an employee is regularly scheduled to work. A regularly scheduled tour of duty, which commences before midnight and ends the following day, shall be reported for payroll purposes as time worked for the day in which the tour of duty began.

The Department Director shall establish the times a standard tour of duty begins and ends and the actual number of hours, which comprises the standard tour of duty for each position. If the City needs require it, employees will be offered, on a voluntary basis, staggered work hours and/or days. If no employees volunteer for such staggered work hours and/or days, employees may be assigned work outside their Standard Tour of Duty by inverse order of seniority, not to exceed one (1) work shift.

When a Department Director finds it necessary to make modifications or changes in the time a standard tour of duty begins or ends or the actual number of hours in a tour of duty, the Department Director shall notify the affected employee(s) and MPNSA indicating the proposed change with seven (7) calendar days prior notice to its implementation. If MPNSA requests to meet and confer, it shall do so in writing to the Personnel Director. The parties shall then expeditiously meet and confer regarding the impact the modification or change would have on employees. An employee or MPNSA may request the Department Director to change the times a standard tour of duty begins and ends or the actual number of hours in a standard tour of duty to meet the needs of the service.

ARTICLE 10. LEAVE USAGE AND ACCRUALS

All leave accrual, including overtime, shall be recorded on a minute-for-minute basis. All leave usage, including overtime, shall be recorded and used on a minute-for-minute basis.

ARTICLE 11. REST PERIODS

Employees shall be entitled to rest periods in accordance with the schedule contained herein, unless otherwise provided for in Appendices A through F. Rest periods shall be scheduled in accordance with the requirements of the department. Rest periods shall be considered as time worked. Employees required to work either before or beyond their regular tour of duty shall be granted a ten (10) minute rest period for each two (2) hours of such work.

Regularly Scheduled Tour of Duty	No. & Limit of Rest Period
After 3 hours and through 6 hours	One (1) 15 Minute Rest Period
After 6 hours and through 10 hours	Two (2) 15 Minute Rest Periods

ARTICLE 12. OVERTIME

(A) Policy: It is the policy of the City of Modesto to discourage overtime except when necessitated by abnormal or unanticipated workload situations. It is the responsibility of Department Directors to arrange for the accomplishment of workload under their jurisdiction within the normal tour of duty of employees. Each department shall keep complete and accurate records of all overtime earned in every pay period. The City has the right to require each employee to work overtime as necessary. To the extent possible and at the sole discretion of the Department Director, overtime will be distributed equitably among qualified employees within the department. Supervisors will not authorize an employee for overtime during the time when he/she is on a disciplinary suspension without pay.

(B) Definition: Overtime is defined as hours actually worked in excess of forty (40) hours in a workweek. Paid leave shall be considered as time actually worked for purposes of computing overtime. Overtime shall not affect leave accruals.

(C) Overtime Compensation: Any employee authorized by the Department Director or authorized representative to work overtime shall be compensated at premium rates, i.e. one and one-half (1-1/2) times the employee's regular hourly rate of pay. Upon an employee's request, overtime may be compensated as compensatory time off (CTO). CTO shall be credited at time and one-half.

Each employee hired before September 27, 2005 will be paid, as part of the last paycheck received in September, December, March and June for all compensatory time over one hundred and sixty (160) hours. Each employee hired on or after September 27, 2005 will be paid, as part of the last paycheck received in September, December, March and June for all compensatory time over one hundred (100) hours.

Employees may request payment of compensatory time to be included as part of a regular paycheck so long as the request is for at least twenty (20) hours. Employees shall make this request to the Payroll Division of Finance at least fourteen (14) calendar days prior to payout. Compensating time off may be taken at the request of the employee and with the approval of the Department Director or designee. Compensating time off will be taken in straight time hours.

Prior to the promotion or reclassification of an employee, all compensating time off shall be taken or paid at the employee's then current regular rate of pay. Overtime compensation for Police Clerks and Community Service Officers assigned to the 6/3 schedule and Community Service Officers and Animal Control Officers assigned to the 4/11 schedule shall be paid pursuant to 29 C.F.R. Sec. 778.114 of the Fair Labor Standards Act regulations.

(D) Wash Time: A Department Director, with the concurrence of the affected employee, may arrange for that employee to take such time off at straight time.

(E) Meal Allowance: An employee required to work for four (4) or more hours beyond the scheduled shift on emergency work, or for four (4) or more consecutive hours of work when on Standby or Call-Back, shall be compensated ten dollars ($10.00) for a meal allowance and shall be entitled to a thirty (30) minutes unpaid meal period for every additional four (4) hours worked. Only one (1) ten-dollar ($10) payment shall be made per shift, unless the employee works four (4) or more consecutive hours, is released from duty, and must return for four (4) or more hours in the same shift.

ARTICLE 13. STANDBY

(A) Definition: Employees, who are released from active duty but are required by the department to leave notice where they can be reached and be available to return to active duty when required by the department, shall be assigned to standby.

To be eligible for standby, an employee must be able to respond to the appropriate geographical location within the time set forth in this Article.

ID Technicians who utilize sick leave or other accrued leave for their own personal illness, or injury, shall be presumed to not be available and therefore not entitled to standby. However, employees have an obligation to report to their supervisor any changed availability as required by this Article, at the beginning of the workday or as soon as such change in availability is known, whichever comes first.

While on standby, an employee shall be free to use the time for his or her own purposes.

(B) Response Time: Standby requires that employees so assigned shall: (1) leave a telephone number where they can be reached or wear a communicating device; and (2) be able to respond to either the geographic center of the City or the employee's assigned work unit location to duty within a reasonable period of time, not to exceed sixty (60)minutes.

Exceptions to the sixty-minute (60) restriction may be made by a department director, based on the operating and staffing needs of the department.

(C) Compensation: Standby time shall not count as hours worked. Assigned personnel shall receive standby pay in the amount of two (2) hours pay on their regularly

scheduled workday and four (4) hours pay on the employee's regularly scheduled days off and fixed City holidays.

ARTICLE 14. FATIGUED EMPLOYEES

Any employee required to work beyond their regularly scheduled shift and who feels too fatigued to satisfactorily complete their next duty shift, may request time off, to be charged to the employee's vacation, holiday, CTO, or CTO balance. This additional approved time off shall not be recorded as an "unscheduled" leave.

ARTICLE 15. CALL BACK

When an employee returns to active duty at the request of the Department Director after said employee has been released from active duty, said employee shall be entitled to call-back compensation. Paid Call-Back shall begin when the employee departs for his/her duty assignment and shall end when the employee departs from the worksite.

(A) The following incidents are not considered call-back and are compensated on a time and one-half basis:

(1) Planned overtime for which the employee has received a minimum of twenty-four (24) hours advance notice;

(2) Overtime associated with assigned Standby as described in Article 13;

(3) Overtime which occurs as an extension of an employee's regular workday;

(4) When an employee begins work at the request of the Department within ninety (90) minutes prior to the scheduled start of his/her regular work shift.

(B) When on call-back, an employee receives the following compensation:

(1) Three (3) hours of straight time per call-back occurrence;

(2) In addition to the three (3) hours of straight time, an employee also receives time and one-half for actual time worked in excess of eighty (80) minutes (beginning when the employee departs for his/her duty assignment).

ARTICLE 16. COURT OVERTIME

(A) Overtime for appearance in court shall be compensated at time and one-half of the regular rate of pay for time spent in court if such appearance is set within two (2) hours time of the beginning or ending of a regular work shift.

(1) If set within two (2) hours time of the beginning of a regular work shift, overtime at time and one-half of their regular rate of pay will be compensated beginning with the appearance time and concluding at the beginning of the shift.

(2) If set within two (2) hours time of the ending of a regular work shift, overtime at time and one-half of their regular rate of pay will be compensated beginning with the shift ending time, and concluding with the completion of the court appearance.

(B) A minimum of one (1) hour at the employee's straight time rate shall be recorded when an employee has been subpoenaed for an appearance and is required to telephone the Court Liaison Officer during off duty hours prior to 12:00 p.m. to inquire whether the employee must appear. An additional one (1) hour as provided above shall be recorded if the employee is required to call back after 12:00 p.m. The Police Chief shall establish requirements for the times that employees must call the Court Liaison Officer. This call-in pay shall only be recorded if the employee is not required to appear in court during the morning or afternoon in which the call in was made.

(C) A court appearance outside of a regularly scheduled duty day shift shall be considered overtime and shall be compensated at time and one-half.

(1) On a duty day or day off, and outside of the two (2)-hour gap, a minimum of four (4) overtime hours shall be recorded for the first appearance on that day and for required court-related time at the Police Department immediately prior to or following an appearance. If, on such a day, a second court appearance is required, a separate minimum of four (4) overtime hours shall be recorded, provided that the second appearance is required to begin after the previous four (4) hours minimum awarded that day is expired. When the second court appearance is required during the previous four (4) hour minimum, no additional pay shall be recorded until the previous four (4) hour minimum shall have expired, at which time hour for hour overtime shall resume.

(2) On a scheduled day off or vacation day, in order to be paid the minimums, the scheduled day or vacation day must be approved prior to the date that a subpoena is received.

(3) Employees who schedule leave utilizing vacation, holiday or compensatory time off for the same day that the employee previously was subpoenaed for a court appearance, shall be compensated as if the employee was not on vacation, but working the employee's regularly assigned shift in accordance with SECTION 7 (COURT OVERTIME) of this MOU.

(D) Employees who have been subpoenaed for a court appearance shall be required to verify that their presence is still needed by checking the calendar posted in the department at the end of their duty day the day before the scheduled appearance and by calling the recorder in the District Attorney's Office or at the Police Department the night before the scheduled appearance. This shall be an uncompensated call. If the scheduled appearance falls during an employee's weekend, the employee shall be

required to check the posted calendar at the end of the employee's last duty day prior to the weekend. If either the calendar or the recorder indicates that the employee is not required to appear as shown on the subpoena, unless otherwise instructed to appear, the employee shall not receive any overtime pay.

(E) Employees who are called back to duty to appear in court while on suspension, sick leave, workers' compensation or leave without pay shall be paid at the straight time rate of pay for hours worked.

(F) Retirees who have received a subpoena through the course and scope of their employment are required to telephone the Court Liaison Officer prior to the court date to inquire whether the retiree must appear. A minimum of one (1) hour at the straight time pay rate shall be paid for this inquiry. An additional one (1) hour at the straight time pay rate shall be paid if the retiree is required to call back. The Police Chief shall establish a time that retirees must call the Court Liaison Officer. This compensation shall only be paid if the retiree is not required to appear in court.
Retirees who are required to appear in court through the course and scope of their employment shall be paid a minimum of four (4) hours at the straight time pay rate for appearances before 12:00 PM. An additional minimum of four (4) hours at the straight time pay rate shall be paid for appearances after 1:00 PM.

A straight time pay rate is defined as the rate of pay the employee earned at the time of retirement.

ARTICLE 17. APPROVED WORK SCHEDULES

Current negotiated schedules include 5/2, 4/10, 9/80, 6/3, modified 4/10 and 4/11 for Community Service Officers within Patrol Division and Animal Control Officers only.

A summary of the provisions of some of these schedules is set forth in Appendices (A) through (D).

The City has the right to implement any of the negotiated work schedules to meet the needs of the organization and the individual department. Prior to implementation, the City shall meet and confer with MPNSA on the impacts to specific employees. MPNSA and/or employees in a work unit may request consideration by the City of the implementation of any negotiated work schedule.

Regardless of assigned schedule, employees shall be assigned to work a sufficient number of workdays and/or be credited with holidays to normally equal a total of two hundred sixty (260) workdays of eight (8) hour periods per calendar year or two thousand eighty (2,080) hours, or a pro rata number thereof.

ARTICLE 18. JOB SHARING

The City will make reasonable accommodation for an employee in a regular position who desires to share his/her job with another qualified employee or eligible person. Jobs may be shared on an hourly or daily basis provided the combined total scheduled hours do not exceed more than eighty (80) hours per pay period.

An employee who works less than forty (40) hours per pay period shall not be eligible to receive any benefits for which the City pays an insurance premium or membership in the retirement system. Should both employees be scheduled for forty (40) hours each pay period, both employees shall assume responsibility for the payment of one-half (1/2) of the City's contribution towards insurance premiums, as well as their own, if any; provided, however, that one (1) employee may elect to waive coverage under the insurance program allowing the other employee to receive the full City contribution. All other benefits for job sharing employees shall be as provided in the appropriate Article on a pro-rated basis based upon a total eighty (80)-hour pay period.

Each employee shall be notified in writing by the Department Director at the time of appointment to a job share position. The notification will clearly define the benefits to which each employee is entitled. Work schedules for job sharers shall be approved in advance by the Department Director with a minimum of one-week (1) notice for scheduled changes. In the event one (1) employee terminates, cancels participation or is on leave of absence, the remaining employee shall assume the position on a full-time basis until a replacement is available.

ARTICLE 19. SHIFT BIDDING & SPECIAL ASSIGNMENTS

(A) Area of Command: Community Services Officers (CSOs) assigned to the Patrol Division will be allowed to choose Area Command Assignments for a two-year (2 year) period based on seniority of date of appointment as a CSO.

(B) Shift Bidding for Patrol:

(1) Community Service Officers assigned to general police field duties within the Operations Division may bid for shift assignments based on seniority. Shift assignments are four (4) consecutive calendar months. Seniority shall be by Badge number.

(2) Subject to the remaining provisions of this paragraph, CSOs assigned to the Operations Division may submit shift bids during the months of November, March and July for the following four-month (4 month) period.

(3) Following six (6) consecutive assignments to the same shift, a CSO shall rotate off that shift by bidding for another shift assignment.

(4) Each employee's bid will contain the following information:

(a) Name

(b) Badge Number
(c) Notation of assignment to any specialized units
(d) First choice of shift
(e) Second choice of shift
(f) Third choice of shift

(5) The Department must post a seniority list of employees no later than November 1st, March 1st and July 1st. Any objections to the posted seniority list shall be reported to the Operations Division Commander within ten (10) calendar days of the posting.

(6) All CSOs who have not successfully completed their initial probationary period prior to the posting of the seniority list may be exempted from the shift bidding process at the discretion of the Operations Division Commander.

(C) Shift Bidding for Records:

(1) Police Clerks assigned to Records Division may bid for shift assignments based on seniority. Seniority shall be by date of hire.

(2) Subject to the remaining provisions of this paragraph, Police Clerks assigned to Records may submit shift bids upon request in anticipation of reassignments. All records reassignments will be based on the shift bids during the months of December and June for the following six-month (6 month) period.

(3) Each employee's bid will contain the following information:

(a) Name
(b) Date of Hire
(c) Notation of prior assignment to any specialized units
(d) First choice of shift
(e) Second choice of shift
(f) Third choice of shift

(4) The Department must post a seniority list of employees each time a seniority bid occurs no later than December 1st, and June 1st. Any objections to the posted seniority list shall be reported to the Records Lieutenant within ten (10) calendar days of the posting.

(5) All Records Clerks who have not successfully completed their initial probationary period prior to the posting of the seniority list may be exempted from the shift bidding process at the discretion of the Records Lieutenant.

(D) Special Assignments:

(1) There shall be a five (5) consecutive year limit to special assignments. A special assignment is defined as any assignment that removes the employee

from regular patrol duties as a Community Service Officer or from Records as a Police Clerk. Absent exceptional circumstances, employees who have completed five (5) consecutive years in special assignments must perform at least twelve (12) months of regular patrol duty or duty in Records before being assigned to another special assignment.

(2) In the event an employee has fulfilled the maximum term limit and must vacate a special assignment and the department has not received any interest from a qualified applicant, the incumbent may, with approval of the Police Chief, extend the assignment one (1) year. However, if the department receives interest from a qualified applicant during the one (1) year extension, the incumbent must vacate the special assignment at the end of the one (1) year extension in order to fill the position with an applicant. The one (1) year extension may be repeated if the preceding conditions persist.

(3) Special assignments and terms are set forth in General Order 2.14, Specialized and Collateral Assignments.

(4) At the effective date of this provision, any employee who already occupies a special assignment shall have their total consecutive special assignment time served to date counted towards their maximum allowable limits.

(5) Not withstanding this special assignment provision, the Chief of Police ultimately has the discretion to determine the length and terms of any assignment based on the needs of the department.

(E) Management Rights:

(1) Nothing contained herein shall limit the discretion of the employer to determine the number of employees to be assigned to each area, shift, Bureau, Division, Unit or specialized position, or the discretion of the employer to assign and transfer employees to meet the operating requirements of the Department, including temporary hardship needs of an employee.

(2) The bid system shall not supersede Management Rights as stated in Article 2 of this Memorandum, nor shall it infringe upon any of the Management Rights contained therein. Specifically, Management retains the right to assign and transfer employees.

(3) The Department Director is the final authority in assigning personnel and such decisions shall not be subject to the grievance procedure, arbitration or considered as discipline.

(4) All other administrative policies and procedures shall be as contained in the Personnel Rules and Personnel Administrative Orders.

ARTICLE 20. LICENSES, CERTIFICATES

Whenever an employee is required to obtain a certificate, registration or license in order to carry out the duties assigned, except a California Class C Driver's License, the City will pay for the costs of obtaining or renewing the certificate or license and the time required to obtain or renew it shall be considered as regular duty time.

ARTICLE 21. SPECIALTY PAY

(A) Shift Pay: Employees who are regularly assigned to work swing shift which is defined as any shift beginning on or after 12 noon, shall receive a shift differential of $6 per shift for every regularly scheduled shift.

Employees who are regularly assigned to work graveyard shift which is defined as any shift beginning on or after 4:30 pm shall receive a shift differential of $8 per shift for every regularly scheduled shift.

Police Clerks regularly assigned to work a swing or graveyard shift shall receive the shift differential when working a double day.

No shift differential shall be paid to an employee working an overtime shift where the employee is receiving time and one half pay. An employee who works overtime on a short week at straight time shall receive the differential.

An employee who works all or part of a regularly scheduled swing or graveyard shift shall receive the full differential for that shift.

(B) Police Clerk Training Pay: Police Clerks in Records directed to train another Police Clerk shall receive five (5%) percent assignment pay for all hours worked as a trainer.

(C) CSO – ID Unit Pay: Community Service Officers assigned to the ID Unit shall receive an additional five (5%) percent in compensation.

(D) CSO Field Training Officer Pay. Community Service Officers assigned as a Field Training Officer shall receive five (5%) percent assignment pay for all hours worked as a Field Training Officer.

(E) Bilingual Pay: Each Department Director shall, on an annual basis, determine the number of bilingual employees that are needed for oral translation purposes within their department. For purposes of this Article, bilingual is defined as Spanish, Southeast Asian language(s) common to this area, sign language or other languages deemed desirable by the Department Director.

Prior to January 1 annually, each department will provide to their employees a list of translation opportunities within the department. Employee participation in this effort is voluntary.

A review panel made up of three (3) experts (as determined by the department) will assess the qualifications of employees wishing to volunteer. Two (2) of the three (3) panel members must agree that the person is capable of bilingual translation.

Employees who pass the review panel and are needed in this capacity by the department shall receive $50.00 (fifty) per pay period. Employees must agree to use their bilingual skills at the direction of the department for a minimum of one (1) year from the time the compensation begins, unless an unusual hardship is presented by the employee.

The Department Director may choose to eliminate the compensation if it is determined that the translation services are not being effectively delivered by the employee and/or the need is no longer present in a specific division. If more employees are deemed to be capable of bilingual translation than the need for these services, the Department Director may choose to rotate this duty between eligible employees.

If the Department Director identifies more opportunities for translation than there are employees certified, the Department and the Personnel Department may establish a second notification for volunteers and a second review panel in July of that year.

An employee certified and receiving bilingual compensation shall cease receiving the pay after they have been out of the workplace for three (3) consecutive pay periods. The pay will not be granted beginning the first day of the following pay period. The pay will be resumed the first full pay period the employee returns to work.

(F) Pay Differentials: Pay differentials provided in paragraphs (A) through (E) herein shall be included in base pay for purposes of compensation for approved vacation and holiday leave, compensating time off and up to forty-eight (48) hours of sick leave per year.

ARTICLE 22. ACTING PAY

(A) Acting Pay: Employees directed to work continuously in a vacant higher-level regular position shall, subject to the other provisions of this paragraph, receive a salary rate increase to the higher level for the time actually worked in excess of one hundred sixty (160) hours. Such increase shall be determined as if the assignment had been a promotion retroactive to the first day of such assignment. For purposes of this Article, a vacant position is defined as an authorized regular position that is unoccupied due to resignation, retirement or termination or due to the incumbent being on an extended leave of absence. Requests for higher compensation must be approved by the Personnel Director. Such requests may only be approved upon certification by the Department Director that the assigned employee meets the minimum training and experience guidelines and is assigned and held responsible to perform fully the full scope of duties normally associated with the higher-level position.

(B) Out-of Class Pay: Employees may request out-of-class pay. After review with the Department Director, the Personnel Director may authorize additional compensation up to ten (10%) percent pay differential for an employee working above their class, provided that the employee has been directed to perform significant assignments from a higher classification, or to perform higher duties and responsibilities, on a continuous basis in excess of one hundred twenty (120) consecutive hours. The decision of the Personnel Director to approve or disapprove such requests is final and binding and not subject to the Grievance Procedure.

(C) Duration of Assignment: Initially, an Acting Assignment or an Out-of-Class Assignment shall be limited to a term of twelve (12) consecutive months for any one employee. Requests to extend the assignment beyond twelve (12) months will require review and approval by the Department Director and the Personnel Director. If approved, the extension of the assignment shall be for a maximum of six (6) additional months. One (1) additional extension of six (6) months, beyond the first six (6) month extension, may be authorized with the approval of the City Manager or Deputy City Manager.

ARTICLE 23. UNIFORM ALLOWANCES

(A) Police: All Police Department employees who are required to wear uniforms shall do so in accordance with the Police Department's uniform and equipment regulation and receive uniform allowance as follows:

(1) Community Service Officers. Animal Control Officers and Identification Technicians shall receive a uniform allowance of ninety-one dollars and sixty-six cents ($91.66) per month paid on the last paycheck of the month.

(2) Property/Evidence Specialists shall receive a uniform allowance of seventy-eight dollars ($78) per month paid on the last paycheck of the month.

(3) Police Clerks I and II shall receive a uniform allowance of sixty-five dollars ($65) per month paid on the last paycheck of the month.

(B) Fire: All Fire Department employees who are required to wear uniforms shall do so in accordance with the Fire Department Rules and Regulations and receive a uniform allowance as follows:

Deputy Fire Marshal and Fire Prevention Technicians I and II shall receive a uniform allowance of eighty-five ($85.00) per month. Newly hired employees shall receive an allowance prorated from the date of hire.

All employees are required to obtain a department approved "Class A" uniform within thirty (30) days of completing their probationary period. Current employees are required to obtain a department approved "Class A" uniform by December 31, 2010. Current employees who were eligible to retire (age 55) prior to January 1, 2009 are not required to purchase a "Class A" uniform.

(C) Reimbursement for Damage: The City will reimburse employees for the cost of replacing or repairing damaged uniforms in accordance with Personnel Administrative Order 19.1-81-6.

(D) An employee hired into or promoted into a position requiring a uniform or different uniform will receive a uniform allowance advance equal to three months accrual. The advancement will be provided within twenty (20) days of hire. The employee will not receive a uniform allowance for the first three months of employment. If an employee leaves the department and is subsequently rehired, such advance allowance will be available provide the employee has been separated from city service for more than twelve (12) months.

ARTICLE 24. VACATION

The following vacation accrual rates shall be established for regular employees:

Annual Vacation Accrual Rate	Years of Service
80 hours	0-5
120 hours	6
128 hours	7
136 hours	8
144 hours	9
152 hours	10
160 hours	11
164 hours	12
168 hours	13
172 hours	14
176 hours	15
180 hours	16
184 hours	17
188 hours	18
192 hours	19
196 hours	20
200 hours	21 or more

Employees may not accrue vacation time in excess of twice their annual vacation accrual rate; provided that no employee shall lose vacation time to meet the needs of the service.

The following rules and regulations are established for the administration of vacation benefits:

(A) All vacation leave must be approved by the Department Director or designated representative.

(B) Employees in regular positions shall accrue, on a pro-rated basis, vacation leave for completed pay periods. Such vacation leave shall be available for use on the first day following the pay period in which it is earned. Employees in regular positions budgeted less than eighty (80) hours per pay period or job shared positions shall receive vacation leave accumulation on a pro-rated basis.

(C) Vacation leave shall be compensated at the employee's regular hourly rate of pay.

(D) An employee about to retire, or who is to be laid off, may utilize their accrual prior to the effective date of any such retirement or layoff. In-lieu of such vacation, the employee may elect a lump sum payment for accrued vacation time. All other employees shall be paid at their regular rate of pay for all hours accrued at time of separation from the City.

(E) Employees may use up to three (3) days of their accrued vacation in any one fiscal year for emergency leave provided they notify the department authority prior to the start of the working day that the employee would be absent.

(F) If, due to operational needs of the City, an employee is denied the ability to take sufficient vacation to remain under his/her cap, the employee may seek City Manager approval to exceed the maximum cap for a time period to be specified by the City Manager.

(G) Negative Vacation:

Employees shall not be permitted to take vacation in advance of accrual, except in cases of extreme hardship or extenuating circumstances, as determined by the City Manager or designee. Use of vacation in advance of accrual shall not be authorized if the employee has other applicable leave time available. Any request for use of vacation in advance of accrual shall include a method and timeline for offsetting the negative vacation balance, as well as authorization from the employee for the City to recover any negative balance still owed to the City upon the employee's separation from service. Such recovery shall be first from the employee's final paycheck and then by either personal payment from employee or by a withdrawal from the employee's deferred compensation account.

ARTICLE 25. HOLIDAYS

(A) Fixed Holidays: All employees in regular positions, except those employees assigned to a 6/3, 4/11 or a modified 4/10 schedule shall be entitled to the following fixed holidays:

New Year's Day	Martin Luther King, Jr. Day
Presidents' Day	Memorial Day
Independence Day	Labor Day
Veterans' Day	Thanksgiving Day
Day after Thanksgiving Day	Christmas Day

The first pay period of January of each year, employees assigned to the 4/11 or modified 4/10 schedule shall be credited with eighty-eight (88) hours of accrued holiday time. Holiday leave shall be reduced by eighty-eight (88) as required by the modified 4/10 schedule for a net of zero (0) hours or reduced by twenty (20) hours as required by the 4/11 schedule, for a net of sixty-eight (68) hours. See Appendix. Employees assigned to the 4/11 or modified 4/10 schedule are not entitled to any additional compensation when the holiday falls on their regular workday. For employees on a 4/11 schedule, the remaining sixty-eight (68) hours of holiday time in the employee's regular holiday account shall be taken as time off, or shall be forfeited at the end of each calendar year. (The end of the calendar year is defined as the pay period in which January 1 falls). If an employee enters into or leaves a 4/11 or modified 4/10 schedule, the employees holiday hours shall be adjusted to reflect the schedule change.

At the sole discretion of the Police Chief, a probationary Community Service Officer assigned to Field Training may be required to cash out all, or a portion, of their holiday time. The Police Chief shall determine the number of hours to be cashed out based on the timing and duration of the Field Training assignment and the needs of the Police Department.

(B) Floating Holiday: Employees in regular positions shall be entitled to a total of eight (8) hours on a 5/2 or 6/3 schedule, nine (9) hours for a 9/80, ten (10) hours for a 4/10 schedule, eleven (11) hours for a 4/11 schedule floating holiday time provided that the employee is on the payroll during the entire pay period in which such floating holiday time is to accrue. "Entire pay period" shall mean that an employee must have been hired prior to, or at the start of, the pay period and not have separated prior to the end of the pay period and was paid for at least one-half (1/2) of the scheduled hours. Floating holiday time shall be accrued during the pay period in which January 1 falls.

(C) Floating holidays accrued shall be available for use the first day following the pay period in which they are accrued, with the approval of the Department Director.

(D) Job Sharing: Employees in regular positions budgeted less than eighty (80) hours per period or job-shared positions shall receive fixed and floating holiday accruals on a pro-rata basis.

(E) If a fixed holiday falls on an employee's regularly scheduled workday, the employee shall be entitled to a total of eight (8), nine (9), ten (10) hours (a full work shift) of holiday time off depending on their current work schedule. Employees on a modified 4-10 or 4-11 shall receive holiday compensation as defined in the shift agreement.

(F) If a fixed holiday falls on a Saturday, the preceding Friday will be observed as the fixed holiday. If a fixed holiday falls on a Sunday, the succeeding Monday will be observed as the fixed holiday.

(G) If a fixed holiday falls on an employee's regularly scheduled day off, the full time employee shall be entitled to a total of eight (8) hours of holiday compensatory time.

(H) Employees working on fixed holidays shall be compensated at time and one-half for time actually worked; irrespective of hours actually worked in this workweek. In no event shall such an employee be compensated for working a fixed holiday in excess of one and one-half (1-1/2) times the employee's regular hourly rate of pay plus hour-for-hour holiday compensatory time except as provided in Article 12 (c).

(I) Whenever a regular employee is required to work on a fixed holiday, which falls within the employee's regularly scheduled work week, the employee shall accrue, on an hour-for-hour basis, up to a total of regularly scheduled hours (eight (8), nine (9) or ten 10), holiday compensatory time.

(J) Whenever a regular employee is required to work on a fixed holiday which falls on a regular day off, the employee shall accrue on an hour-for-hour basis up to a total of eight (8) hours of holiday compensatory time irrespective of employee's normal work schedule (4/10 or 9/80,).

(K) Employees on leave without pay the last scheduled workday before and the first scheduled workday after a fixed holiday shall not receive holiday pay.

(L) Holiday time may be accrued up to a maximum of forty (40) hours. When the employee reaches the forty (40) hour maximum, additional holiday time worked shall be compensated in cash at straight time rates. Upon termination or retirement, employees shall be compensated for any unused accrued holiday time at the then current regular hourly rate of pay.

(M) Employees may request cash-out of up to forty (40) hours of their grandfathered holiday time annually during the pay period in which November 1 falls. This cash-out is at the employee's current regular hourly rate of pay.

ARTICLE 26. SICK LEAVE

(A) Definition: Sick leave with pay is an insurance program provided by the City for employees in regular positions to be granted in circumstances of adversity to promote the health of the individual employee. Sick leave is defined to mean the authorized absence from duty of an employee because of physical or mental illness, injury, pregnancy, confirmed exposure to a serious contagious disease or for a medical, optical or dental appointment. Sick leave shall not be used for any injury arising out of, or incurred in, connection with outside employment.

In compliance with California law, a maximum of one-half (1/2) of an employee's annual calendar year sick leave accrual (forty-eight (48) hours) may be used to care for, or obtain care for, an employee's child, including stepchildren and foster children, parent, spouse, registered domestic partner or the child of a registered domestic partner who is ill.

A maximum of twenty-four (24) hours accrued sick leave may be used to care for, or obtain care for, members of the employee's immediate family who require the attention of the employee. Immediate family includes a sister, brother, mother-in-law, father-in-law, grandparent and foster parent of the employee who is ill.

(B) Accumulation: Employees shall accrue sick leave for each payroll period completed, prorated on the basis of ninety-six (96) hours per year at the rate of three hours and forty-two minutes (3:42) per pay period. Sick leave shall be available for use on the first day following the pay period in which it is earned, provided the employee has completed four hundred eighty hours (480) of service from the employee's hire date.

Employees in regular positions budgeted less than eighty (80) hours per pay period or job-shared positions shall receive sick leave accumulation on a pro-rata basis. Sick leave shall be accumulative up to a maximum of two thousand one hundred (2,100) hours. Sick leave shall not accrue when an employee is absent for more than forty (40) hours in any pay period while on any leave other than holiday, vacation, CTO, bereavement, jury duty or temporary military leave.

(C) Compensation: Sick leave shall be compensated at the employee's regular hourly rate of pay. When an employee is transferred from one department to another, the transfer shall have no effect on the employee's sick leave accruals.

(D) Administration:

(1) It shall be the responsibility and duty of each Department Director or his/her designee to validate each request for sick leave and to allow sick leave with pay where the application is determined to be proper and fitting.

(2) Notice of Sickness: In twenty-four (24) hour departments, the Department Director or designee must be notified at least two (2) hours prior to the start of the employee's scheduled tour of duty of a sickness on the first day of absence. In other departments, the Department Director or designee must be notified not later than the start of the employee's scheduled tour of duty of a sickness on the first day of absence. It is the responsibility of the employee to keep the Department Director or designee informed as to continued absence beyond the first day for reasons due to sickness or occupational disability. Failure to make such notification may result in denial of sick leave with pay.

(3) Review: The Personnel Director may review and determine the justification of any request for sick leave with pay and may, in the interest of the City, require a medical report by a doctor to support a claim for sick leave pay.

(4) Proof: A doctor's certificate or other adequate proof shall be provided by the employee in all cases of absence due to illness when requested by the Department Director.

(5) Improper Use: Evidence substantiating the use of sick leave for willful injury, gross negligence, intemperance, trivial indisposition, instances of misrepresentation or violation of the rules defined herein may result in denial of sick leave with pay or disciplinary action.

(E) Coordination of Benefits: Employees shall be entitled to coordinate fully their sick leave benefits with their Workers' Compensation benefits.

(F) Sick Leave Cash-out: Employees who leave City employment in good standing after five (5) years of continuous service (other than retirement), shall be paid at time of termination for twenty-five (25%) percent of the first two thousand (2,000) hours at the employee's then current regular rate of pay.

(G) Retirement: Employees who retire after five (5) years of service in good standing may, on a one time basis, exercise the option to have ninety (90%) percent of their unused sick leave, up to two thousand (2,000) hours, applied by the City upon retirement to premiums for health insurance plans covered by the City. Said insurance shall be provided in an amount up to that contributed to active employees, as needed to cover the cost of retiree health premiums at the rate of one (1) month of premium contributions for each eight (8) hours of sick leave. The City's contribution to retired employees shall be defined as that amount contributed to active employees on the median priced health plan, excluding union-sponsored plans or PPOs. In the event of death of the retired employee, the employee's spouse, registered domestic partner or dependents shall remain eligible to receive this benefit. If after the ninety (90%) percent conversion, a retiring employee has less than four hundred sixteen (416) hours, accrued vacation leave may be applied to the sick leave account, provided that the total number of hours of sick leave and vacation (at a ninety (90%) percent conversion) does not exceed four hundred sixteen (416) hours.

At the time a retiree initially moves or during any open enrollment period or IRS-approved life change situation, a retiree who moves out of the HMO service area, or out of state, may elect to use multiple monthly increments (up to a maximum of three (3) months) of their accumulated sick leave conversion benefits to offset higher health insurance premiums for plans sponsored by the City. During any subsequent open enrollment, the retiree may reduce the number of multiple increments. Retirees electing this option will be required to sign an acknowledgement form that indicates they understand that they will be using their benefit proportionately.

ARTICLE 27. CATASTROPHIC LEAVE

Employees in regular positions shall be eligible to participate in the catastrophic leave program. To be eligible, an employee must provide written medical verification of a long-term illness or injury, or have a member of the employee's immediate family with a long- term illness or injury which results in the employee being requested to take time off from work to care for that family member. The employee must have exhausted all accrued leave and CTO, or soon will have exhausted all such leave, resulting in the employee being in a no-pay status.

Employees who are receiving long-term disability benefits are not eligible for catastrophic leave. Catastrophic leave shall be coordinated with Family Leave with respect to City payment of insurance contributions.

When a Department Director has determined that an employee would benefit from the establishment of a leave bank and has approved an employee's request for a leave bank, the Department Director will notify the Personnel Department requesting the establishment of a leave bank in the employee's name. The Department Director will be responsible for notifying City employees of the need for donations. The Department Director will take necessary actions to help ensure that individual employee decisions to donate or not donate to a leave bank are kept confidential and that employees are not pressured to participate. **ALL DONATIONS SHALL REMAIN CONFIDENTIAL.**

The maximum time that may be initially donated into an employee's leave bank account is one thousand forty (1,040) hours. To be eligible to receive more than the original one thousand forty (1,040) hour limit, there must be a favorable prognosis for recovery and a predictable date of return to work.

An employee may donate vacation, holiday and up to forty (40) hours of sick leave in increments of four (4) hours to a specific employee for which a leave bank has been created. Employees may donate leave only if their own total accrued leave balance(s) remains in excess of one hundred sixty eight (168) hours. Employees must advise the Personnel Department of the maximum hours they wish to donate. Donated hours shall be credited to the leave bank of the affected employee as sick leave on an as-needed basis. Once the authorized hours are credited to the leave bank of the affected employee, then the donation of leave hours is irreversible. When employees are utilizing leave bank hours, they will not accrue any leave time.

Employees wishing to donate time shall complete and submit the required form to the Personnel Department. After review, the form will be forwarded to the Finance Department for payroll action and adjustment to donor and recipient's paid leave balance. In no event shall donated time have the effect of altering the employment rights of the City or the recipient employee, nor shall it extend or alter the limitations otherwise applicable to leaves of absence or sick leave. The City reserves the right to modify or terminate an established leave bank program, as it deems necessary.

ARTICLE 28. BEREAVEMENT LEAVE

Employees in regular positions shall be entitled to three (3) days of paid leave regardless of work schedule which may be used per occurrence for bereavement due to the death of persons in the immediate family defined as a spouse, registered domestic partner, son, daughter, mother, father, sister, brother, mother-in-law, father-in-law, grandparent, grandchild, stepson, stepdaughter, child of a registered domestic partner, person over which the employee has legal guardianship, person who stood in loco parentis, foster child, and foster parent of the employee or any relative living with the employee.

In addition, a maximum of two (2) days of accrued sick leave regardless of work schedule may be used per occurrence for bereavement due to the death of persons in the immediate family or any relative living with the employee upon approval by the Department head. In extraordinary situations, use of additional sick leave may be approved by the City Manager.

ARTICLE 29. LEAVES OF ABSENCE

(A) Family and Medical Leave. The City shall comply with the Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA), herein collectively referred to as "FMLA/CFRA." The City is a covered employer within the meaning of the FMLA and CFRA.

1. Eligible Employee. As provided under the FMLA and the CFRA, an employee is eligible for FMLA/CFRA leave if he or she is employed by the City for at least 12 months and performed at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave. The 12 months an employee must have been employed need not be consecutive. If the employee is maintained on the payroll for any part of a week, including any periods of unpaid or unpaid leave during which other benefits or compensation are provided by the employed the week counts as a week of employment.

2. Qualifying Leave. As provided under the FMLA and the CFRA, FMLA/CFRA leave is permitted for:

    a. The birth of a child of an employee, and to care for a newborn;
    b. The placement of a child with an employee in connection with the adoption or foster care of a child by an employee;
    c. Leave to care for a child, parent, or spouse who has a serious health condition; and
    d. Leave because of a serious health condition that makes the employee unable to perform the essential functions of his or her usual and customary position.

3. Duration of Leave. As provided under the FMLA and the CFRA, an eligible employee is entitled to a total of 12 workweeks of leave during any 12-month period. An employee's entitlement to leave for the birth or placement of a child for adoption or foster care expires one year after the birth or placement. Thus, such leave must be concluded within one year following the child's birth or placement. There is no minimum amount of leave that must be taken.

4. Computing the 12-month Period. The City computes the 12-month period described in Section (A), subpart 3, above, on a 12-month period measured forward from the first date designated leave is used. This method shall be applied consistently and uniformly to all City employees.

5. Intermittent Leave or Leave on a Reduced Schedule. Leave may be taken intermittently or on a reduced schedule. Intermittent leave is leave taken in separate blocks of time due to a single qualifying reason, rather than for one continuous period of time. A reduced leave schedule means a schedule that reduces the employee's usual number of hours per workweek or workday, usually from full-time to part-time. For intermittent leave or leave on a reduced schedule, only the amount of leave actually taken may be counted toward the 12 weeks of leave to which an eligible employee is entitled.

6. Pay While on Leave. The employee may use accrued leave or the employer may require an employee to use accrued leave. The City shall not require an employee to use accrued leave if use of leave jeopardizes a short or long term disability benefit. An employee with a planned vacation or other absence may retain up to two weeks of paid vacation or other leave.

7. Advance Notice. The employee should notify his or her supervisor, or the City's Personnel Department, as soon as FMLA/CFRA leave is foreseeable.

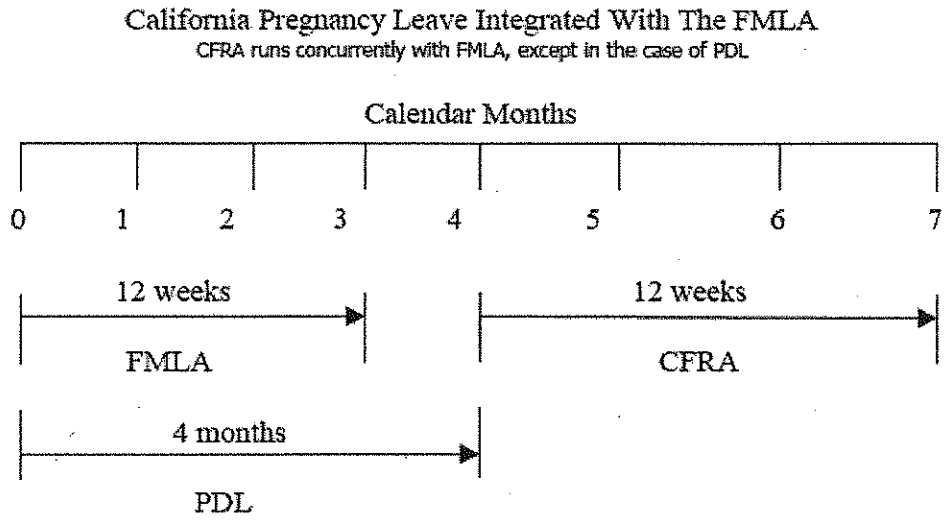
8. Medical Certification. At reasonable intervals, the City may request the employee provide a medical certification or recertification within 30 days to support the request for initial or continuing FMLA/CFRA leave, which includes: whether the child, parent, spouse, or employee suffers from a serious health condition; the probable duration of the medical condition; and the regimen of treatment to be prescribed, The certification or recertification should contain enough information to satisfy these requirements without revealing confidential health information unnecessary to determining whether the leave is FMLA/CFRA qualifying. If the employee submits a complete certification or recertification signed by a healthcare provider, the City may not require additional information from the employee's healthcare provider. However, with the employee's advance permission a healthcare provider representing the City may contact the certifying healthcare provider to clarify and authenticate the medical certification or recertification.

9. Confidential Medical Information. The City's healthcare provider shall not disclose to the City any confidential medical information and shall only:

    a. Clarify the medical certification or recertification;
    b. Authenticate the medical certification or recertification; and
    c. Describe any functional limitations of the employee that may entitle him or her to leave from work for medical reasons or limit the employee's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed.

10. Notice of FMLA Qualifying Leave. The City shall notify the employee in advance of return if any paid or unpaid leave is requested and will run concurrently with the employee's 12-week FMLA entitlement.

11. Concurrent / Integrated Leave. As illustrated below, FMLA leave will run concurrently with Pregnancy Disability Leave (PDL). CFRA leave will commence following the conclusion or exhaustion of PDL.



12. Unscheduled Absences. When an unscheduled absence related to FMLA leave or CFRA leave occurs, the supervisor may not take any action against the employee if the employee, within a reasonable time after the absence, provides medical certification as described in this Section above.

(B) Pregnancy Disability Leave (PDL). As provided under California law, the City shall provide up to four months Pregnancy Disability Leave (PDL) for any full-time or part-time City female employee who is disabled due to pregnancy, childbirth, or a related medical condition (e.g. prenatal care, severe morning sickness, doctor-ordered bed rest, childbirth, recovery from childbirth, etc.) regardless of the length of time she has worked for the City. It is the medical opinion of the woman's physician or health care provider that determines whether she is disabled by pregnancy or a related medical condition. PDL may be intermittent, periodic, or on a reduced work schedule. Following PDL, an employee is entitled to an additional 12 weeks of non-concurrent CFRA leave if she meets eligibility requirements for CFRA leave (illustrated above). When an unscheduled absence related to PDL occurs, the supervisor may not take any action against the employee if she notifies the supervisor promptly following the employee's knowledge of the jury service and provides the supervisor with documentation from the court verifying the date and time of the employee's jury service

(C) Military Leave. Any employee who is granted a military leave of absence to serve in the Armed Forces of the United States shall have his/her seniority as far as salary steps are concerned continued as if the person had remained on the City payroll. The person shall be reinstated from the military leave of absence at the same step in the salary range that s/he would have been eligible to receive had s/he not been granted the military leave of absence. Military leaves of absence will be governed by the provisions of the Military and Veterans Code of the State of California, Section

395 et seq., or any successor statute. When an unscheduled absence related to military leave occurs, the supervisor may not take any action against the employee if the employee, within 72 hours of receipt of documentation, provides documentation from the military verifying the date and time of the employee's military service.

(D) Jury Duty Leave. When an employee is summoned to jury duty he or she shall promptly inform his or her supervisor and, if required to serve, may be absent from duty without loss of salary while rendering such service (including travel time). Jury fees received by an employee, if any, shall be remitted to the City, exclusive of any meal and/or travel reimbursements. When an absence related to jury duty leave occurs, the supervisor may not take any action against the employee if the employee notifies the supervisor promptly following the employee's knowledge of the jury service and provides the supervisor with documentation from the court verifying the date and time of the employee's jury service.

(E) Court Leave. When an employee is subpoenaed or summoned to appear before any court, arbitrator, or tribunal, the employee shall promptly inform his or her supervisor and may be absent from duty without loss of salary while so appearing (including travel time), except when the employee is a plaintiff against the City or testifying on behalf of a claimant against the City based on knowledge of, or activities that occurred, outside the course and scope of his/her job. Witness fees actually received by the employee, if any, shall be remitted to the City, exclusive of any meal and/or travel reimbursements. When an unscheduled absence related to court leave occurs, the supervisor may not take any action against the employee if the employee notifies the supervisor promptly following the employee's knowledge of need for leave and provides the supervisor with documentation from the court, arbitrator, tribunal, or attorney issuing the summons or subpoena verifying the date and time the employee appeared.

(F) Compulsory Leave.

1. If the City reasonably believes an employee is medically incapable of performing the essential functions of his or her usual and customary occupation, the City may place the employee on paid compulsory leave and require the employee to undergo a fitness-for-duty medical evaluation at City expense by a physician or other qualified healthcare professional, subject to the following conditions:

    a. Time spent attending the fitness-for-duty medical examination (including travel time) shall be considered hours worked;

    b. The City's healthcare provider shall not disclose to the City any confidential medical information and shall only describe any functional limitations of the employee that may entitle him or her to leave from work for medical reasons or limit the employee's fitness to perform his or her present employment, provided that no statement of medical cause is included in the information disclosed;

c. Neither the City nor its healthcare provider shall be permitted to require the employee sign an authorization for release of confidential medical information to the City;

d. Neither the City nor its healthcare provider shall order the employee to undergo any particular medical treatment as a condition of continued employment;

e. Time spent on compulsory leave shall not be considered or designated FMLA or CFRA qualifying leave for the purposes of employee's 12-week FMLA entitlement; and

f. The employee shall have a reasonable time to review the fitness-for-duty medical report of the City's healthcare provider and shall thereafter have an opportunity to rebut or supplement it, at the employee's expense, with a second opinion report of the employee's own physician or other qualified healthcare provider.

2. Following review of the fitness-for-duty medical reports, if the City verifies the employee is medically incapable of performing the essential functions of his or her usual and customary occupation the City may offer the employee temporary or permanent employment, if available, within the limits of the employee's medical restrictions or compel the employee to take a leave of absence until the employee's medical condition improves.

3. Following review of the fitness-for-duty medical reports, if the City verifies the employee is medically fit for duty the employee shall be returned to work without loss of pay or benefits and made whole.

(G) Administrative Leave. The City may order an employee off work without reduction in compensation and benefits.

(H) Parental Participation in Children's School Activities.

1. A parent or guardian of a child or children enrolled in kindergarten through grade 12, or attending a licensed day care facility, may take up to 40 hours each year off work (not to exceed 8 hours in any calendar month) to participate in the activities of the school or licensed child day care facility. The employee should provide as much advance notice as reasonably possible to the City of the planned absence. The employee must use vacation, compensatory, or holiday leave. If requested, the employee must provide documentation from the school verifying the date and time the parent participated in school activities.

2. A parent or guardian required by the school to attend a hearing regarding the suspension or expulsion of a child will be permitted to attend the meeting. The employee must provide advance notice and may use accrued vacation, compensatory, or holiday leave.

3. When an unscheduled absence related to parental participation in children's school activities occurs, the supervisor may not take any action against the employee if the employee, within a reasonable time after the absence, provides documentation from the school verifying the date and time the parent participated in school activities or attended the suspension or expulsion hearing.

(I) Paid Release Time. As provided under Government Code section 3505.3, the City shall allow a reasonable number of MPNSA employee representatives reasonable time off without loss of compensation or other benefits when formally meeting and conferring with representatives of the City on all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment. The employee should provide as much advance notice as reasonably possible to the City of the planned absence. When an unscheduled absence related to paid release time occurs, the supervisor may not take any action against the employee if the employee, within a reasonable time after the absence, provides a certification of the reason for the absence.

(J) Time Bank Article 44 provides for time bank hours to be available for association business. Advance notice provisions apply to use of these hours, however, occasionally urgent matters will arise that do not permit the advance notice. MPNSA officers and directors may collectively utilize five unscheduled absences per year that will not be counted as an unscheduled absence.

(K) Leave for Victims of Domestic Violence or Sexual Assault.

1. California state law required that employees who are the victims of domestic violence or sexual assault be given time off to provide for the health needs, safety, or welfare of themselves or their child. This includes, but is not limited to, time off for medical treatment, psychological counseling or other domestic or sexual assault victims' services, safety planning including relocation, or legal proceedings.

2. It is unlawful to retaliate or discriminate in any way against an employee for exercising his or her rights under these laws. California state law also requires, to the extent allowed by law, that confidentiality be maintained regarding such leave.

3. If possible, an employee should provide reasonable notice of time off requested under this Section by submitting a request to his or her supervisor, or the Personnel Department. When an unscheduled absence related to domestic violence or sexual assault occurs, the supervisor may not take any action against the employee if the employee, within a reasonable time after the absence, provides certification of the reason for the absence. Sufficient certification can be any of the following:

a. A police report indicating the employee was a victim of domestic violence or sexual assault;

b. A court order protecting or separating the employee from the perpetrator of an act of domestic violence or sexual assault, or other evidence from the court or prosecuting attorney that the employee appeared in court;

c. Documentation from a medical professional, domestic violence advocate or advocate for victims of sexual assault, healthcare provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse resulting from victimization from an act of domestic violence or sexual assault.

4. The employee may use unpaid leave, accrued vacation, compensatory or holiday leave.

(L) Victims of Crime. If an employee, an immediate family member, domestic partner, or the employee's domestic partner's child is a victim of a violent or serious felony as defined by the Penal Code or felony theft or embezzlement, the employee may take unpaid time off from work in order to attend judicial proceedings related to that crime.

When feasible, prior to taking time off, the employee must supply a copy of the notice of each scheduled proceeding provided to the victim. When advance notice is not feasible or an unscheduled absence occurs, the employee may, within a reasonable amount of time provide documentation evidencing the judicial proceeding from any of the following entities:

1. The court or government agency setting the hearing;

2. The district attorney or prosecuting attorney's office, or;

3. The victim/witness office that is advocating on behalf of the victim.

If appropriate certification is provided within a reasonable time, the absence shall not be counted as an unscheduled absence. The employee may use accrued vacation, compensatory or holiday leave.

(M) Special Leaves of Absence. A special leave of absence without pay with right to return to classification for a period of not more than one (1) year may be granted to an employee who is:

1. Medically incapacitated (including pregnancy) to perform the duties of the position.

a. Prior to such approval, an employee must provide written medical verification of a long-term illness or injury to the City;

b. The City shall comply with California Government Code, Section 21153 which provides: "Notwithstanding any other provision of law, an employer may not separate because of disability a member otherwise eligible to retire for disability but shall apply for disability retirement of any member believed to be disabled, unless the member waives the right to retire for disability and elects to withdraw contributions or to permit contributions to remain in the fund with rights to service retirement as provided in Section 20731";

c. CalPERS regulations, which provide that as soon as it is believed the member is unable to perform the job because of an illness or injury which is expected to be permanent or last longer than six (6) months, the member or someone on the member's behalf, should submit an application for disability retirement. The medical condition does not have to be "permanent and stationary."

2. Desires to engage in a relevant course of study which will enhance the employee's value to the City; or

3. For any reason considered appropriate by the Department Director and the Personnel Director.

4. A request for a special leave of absence without pay must be in writing and requires the approval of the Department Director and the Personnel Director. An employee does not have to exhaust accumulated paid leave prior to requesting a leave of absence without pay.

5. Except as otherwise provided in Article 34, Health, Dental & Vision, when an employee is on a special leave of absence without pay with or without right to return to his or her classification, the employee shall accrue no employee benefits and shall pay the full premium of their health and welfare program prorated on a daily basis, if coverage is continued by the employee. If health and welfare coverage is dropped during a special leave of absence without pay, the employee may be subject to restrictions imposed by the insurance carrier upon return. After a leave of absence with or without right to return of six (6) months or more, a qualifying medical examination, paid by the City, shall be necessary prior to reinstatement.

ARTICLE 30. RETIREMENT

(A) The City's contract with PERS provides for two (2%) percent at age fifty-five (55) retirement benefits and 1959 Survivor Benefit Level 3.

(B) The City shall pay six and six tenths (6.6%) percent of the employee's seven (7%) percent contribution in the employee's name to PERS. Pursuant to the provisions of Section 20615 of the California Government Code, the City shall report City-paid employee contributions to PERS as compensation. Such payments shall be implemented pursuant to the provisions of Section 20023 (c) (4) of the California Government Code, and Internal Revenue Code 414 (h) (2) providing for pre-tax employee contributions.

(C) The cost of providing this benefit is four-tenths (0.4%) percent, which shall be paid by the employee on a pre-tax basis.

(D) The period for determining average salary for retirement benefits shall be the twelve (12) highest paid consecutive months.

(E) Specific procedures and policies governing the above shall be as in the Personnel Rules and Personnel Administrative Orders.

ARTICLE 31. DEFERRED COMPENSATION

The City shall continue to provide access to a 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 (1%) percent of an employee's regular rate of pay on a bi-weekly basis; provided, the employee is contributing at least one (1%) percent. For such employees who have been continuously employed by the City for fifteen (15) or more years, the City shall contribute two (2%) percent; provided the employee is contributing at least two (2%) percent. This increase in the City's contribution shall be effective with the first pay period to begin in the month following completion of fifteen (15) years of service, provided that the employee has completed any required documents.

At the time of retirement, employees may defer some, or all, of their final pay and leave cash-out entitlements. The amount placed into the employee's deferred compensation account may not exceed the then maximum IRS annual deferral. Deferrals must meet all applicable IRS regulations.

Employees contemplating such deferral must contact the City's Employee Benefits Coordinator to sign the appropriate documents at least thirty (30) calendar days before the date they plan to retire.

ARTICLE 32. HEALTH, DENTAL, VISION INSURANCE

All employees in regular positions budgeted for forty (40) hours or more per pay period shall be eligible to participate in the health, dental and vision programs authorized by the City.

The City agrees to make available the health, dental and vision benefits currently provided for employees represented by MPNSA or any other program(s) mutually agreed upon by the parties.

Employees may opt out of participation in any health plan, but shall continue to participate in the City dental and vision plans. This option may only be exercised during the open enrollment period or in coordination with spouse/registered domestic partner's open enrollment period and requires that the employee show proof of alternate health coverage. The Chiropractic and Psychological Services plans are not available under the Opt-out option. No cash payments will be made in-lieu of health coverage, but deferred compensation contributions will be provided as designated below.

For new employees, eligibility for health, dental and vision insurance benefits shall start with the beginning of the payroll period following completion of four (4) full pay periods.

The City shall contribute the following amounts bi-weekly (based on twenty-four (24) pay periods) toward the combined total premium for health, dental and vision insurance plans; the employee is responsible for the balance of the premium cost, if any.

With Dependent Coverage
$478.50 bi-weekly ($957.00 monthly) effective July 22, 2008

The City's contribution for employees with dependent coverage shall not exceed the actual premium amount for the lowest cost HMO (including dental and vision) offered by the City, regardless of the health plan selected by the employee or the contribution amounts listed above.

Without Dependent Coverage
$267.50 bi-weekly ($535.00 monthly) effective July 22, 2008 for employees without dependent coverage, including the City's contribution to in-lieu deferred compensation.

However, at no time shall the City's contribution to an employee with single coverage for health, dental and vision be less than the actual combined premiums for the lowest cost HMO, dental and vision plans.

For employees without dependent coverage, the City shall deposit to the employee's deferred compensation account an amount equal to the remaining balance of the above contributions, if any, not needed to pay for the combined total premiums.

$212.50 bi-weekly ($425.00 monthly) effective July 22, 2008 for employees who opt out of health coverage, including the City's contribution to deferred compensation.

Employees who opt out of health coverage are required to participate in dental and vision. For employees who opt out of health coverage the City shall deposit to the employee's deferred compensation account an amount equal to the remaining balance of the above contributions, if any, not needed to pay for the dental and vision premiums.

Employees in regular positions budgeted less than eighty (80) hours per pay period or in job-shared positions, shall receive premium contributions on a pro-rated basis.
Except as otherwise required by law or this Memorandum, employees on leave without pay in excess of forty (40) hours in a pay period shall not receive a contribution from the City towards premium payment and coverage shall cease, unless the premium is paid by the employee. Employees on leave without pay who return to work shall have their health, dental and vision insurance benefits reinstated on the first day of the pay period following the employee's return to work.

Article 29 of this Memorandum permits employees on Workers' Compensation who have exhausted their accrued leave to apply for and receive Catastrophic Leave donations. Employees who apply for and receive Catastrophic Leave donations in accordance with Article 29 will receive the contribution from the City towards premium payment if they use sufficient Catastrophic Leave that the combination of Workers' Compensation benefits plus Catastrophic Leave equals a full check. Such employees are limited to using the amount of Catastrophic Leave necessary to maintain the City's contribution toward premium payment.

The City shall continue an IRS Section 125 program for pre-tax deductions for the employee share of health, dental and vision insurance premiums for unreimbursed health, dental and vision expenses and dependent care costs.

The City agrees to provide the benefits described in this Article subject to carrier requirements. Selection of the insurance provider(s) shall be within the sole discretion of the City.

ARTICLE 33. RETIREE HEALTH INSURANCE

Employees may elect on a one-time basis at retirement to purchase health, dental and/or vision insurance under a City-authorized plan. Upon the death of a retired employee enrolled in one (1) of the plans, surviving dependents retain eligibility for participation in the plans.

The City's monthly contribution rate towards health, dental and vision insurance for those retiree's participating in the sick leave conversion program shall be up to the following amounts, as needed to cover the cost of the premiums:

- $957 for retirees with dependent coverage.

The City's contribution for retirees with dependent coverage shall not exceed the actual premium amount for the lowest cost HMO for active employees (including dental and vision) offered by the City, regardless of the health plan selected by the retiree or the contribution amounts listed above.

- $535 for retirees without dependent coverage. This contribution rate is subject to changes in the median priced health plan for active employees, excluding union-sponsored plans or PPO plans.

This contribution rate is subject to change August 1 of each year, pursuant to paragraph (G), Article 28, SICK LEAVE, based on changes in premium rates for health, dental and/or vision insurance, provided that the contribution rate shall not exceed the following active employee rate: $535 effective July 22, 2008.

For retirees who do not elect to carry vision and/or dental insurance, the City's contribution shall be reduced proportionately.

If a retiree's health premium in any given month is less than the designated City contribution, the excess contribution shall be applied on behalf of the retiree to that month's premiums for dental and/or vision insurance, if the retiree has elected these plans.

(A) Retiree Health Program: Parties agree to continue the evaluation of an alternative Retiree Health Program Structure (RHPS). Should the parties identify an acceptable alternative RHPS, negotiations shall commence on implementation of the selected RHPS. Negotiations shall include the opportunity to discuss an extended multi-year contract. Both parties acknowledge that the Association will link enhanced PERS retirement formula on the basis of savings that may result from a new RHPS. The parties desire to identify an acceptable alternative to the RHPS by December 1, 2008.

ARTICLE 34. EMPLOYEE ASSISTANCE PLAN

(A) City shall provide employees and dependents professional assistance with financial, marital, psychological, family, alcohol or drug-related problems. The assistance shall consist of assessment, counseling and referral services up to a maximum of three (3) visits each per year for employees and dependents.

(B) Any Community Service Officer, Identification Technician or Animal Control Officer shall receive group crisis debriefing and for those involved in a critical incident, one-on-one critical incident debriefing at the City's expense with the contracted Police professional.

(C) The City shall provide counseling/psychotherapy to Community Service Officers and Identification Technicians. Free counseling will also be provided to their dependents up to a maximum of three (3) sessions. The services provided do not include medical prescription or specialized services such as inpatient substance abuse treatment. Employees who are disabled or unable to work their regularly assigned duties are not eligible for these services. These services shall be provided only by the City's contracted provider for sworn staff and subject to the contract provider agreeing to provide such services.

ARTICLE 35. LONG-TERM DISABILITY INSURANCE

The City shall provide, at City expense, all employees with long-term disability (LTD) insurance. The purpose is to provide employees with an LTD benefit while the employee is totally disabled equal to sixty-six and two thirds (66 2/3%) percent of the first nine thousand ($9,000) per month in earnings, reduced by any income received from other sources. The plan provides for a sixty (60) day waiting period, but if the disability lasts longer than ninety (90) days; the disability payments will be retroactive to the 31st day. The existing LTD program includes a Managed Disability contract. Essentially, this contract provides that LTD benefit dollars will be offset by any workers' compensation income, mandates rehabilitation and changes the definition of disability to a loss of at least twenty (20%) percent of income.

ARTICLE 36. LIFE INSURANCE

The City shall provide at City expense all employees with term life insurance coverage in the amount of twenty thousand ($20,000). Employees shall have the option to buy additional coverage at their own expense.

ARTICLE 37. PROBATION

All original and promotional appointments to positions in the classified service shall be tentative and subject to a probationary period of one (1) 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.

(A) Initial Probation: The initial probationary period is one (1) year from the date of appointment. If an employee has a leave of absence, either paid or unpaid of greater than 400 hours (10 weeks) the probationary period may be extended by the length of the leave.

(B) Promotional Probation: The probationary period of a promoted employee is one (1) year from the date of promotion, If an employee has a leave of absence, either paid or unpaid of greater than 460 hours (11.5 weeks) the probationary period may be extended by the length of the leave.

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.

During the probationary period an employee may be released at any time without right of appeal. Written notice of release shall be furnished the probationer.

ARTICLE 38. LAYOFF AND DEMOTION PROCEDURES UPON REDUCTION IN FORCE

(A) When it becomes necessary through lack of work, lack of funds or for other reasons to reduce the number of employees, the City shall prepare a layoff list by classification

within a department. Within each job class, employees shall be laid off in the following order: temporary, provisional, probationary, regular. The order of layoff shall then be based on the City's needs, with particular regard for length of service with the City and performance evaluation reports.

(B) Whenever there is a reduction in work force, the City shall first demote to a vacancy, if any, in the next lower class for which the employee who is scheduled for layoff meets the minimum employment standards. Employees with the least continuous service and lowest performance evaluations shall be demoted first. All persons so demoted shall have their names placed on the classification reinstatement eligible list.

(C) If there are no vacant positions, in a lower class available, the City shall allow bumping from a higher to a lower classification within a department. An employee may bump into the next lowest class for which the minimum employment standards are met and the employee has greater overall City service, adjusted by performance evaluations as provided in paragraph (f) below. There shall be no lateral bumping. The sequence of bumping shall follow customary promotional progressions, except that an employee may bump down to a classification s/he previously held within the same department. When there is more than one (1) possible lower classification for bumping consideration, the Department Director shall determine the appropriate classification based on the needs of the City.

(D) If there are no vacant positions or bumping possibilities, the City shall layoff employees within a department and classification. Employees with the least continuous service and lowest performance evaluations shall be laid off first. All persons laid off shall have their names placed on the classification reinstatement eligible list.

(E) To determine the length of continuous service, all uninterrupted employment, including periods of authorized leaves of absence, which require a retirement contribution, and including all periods as a full-time CETA and PEP employee, shall be counted.

(F) To determine the level of performance evaluation, the most recent two (2) annual or probationary evaluations shall be used. Each rating of "under standard" shall reduce the employee's continuous years of service by two (2) years. Each rating of "standard" shall reduce the employee's continuous years of service by one (1) year.

(G) An employee scheduled for demotion or layoff shall be given a minimum of fourteen (14)-calendar days notice in writing. The notice shall state the effective date and time of demotion or layoff.

(H) Names shall be placed on classification reinstatement eligible lists in the inverse order of layoff as defined in paragraph (A). Vacant positions within a classification shall first be offered to those on the reinstatement list who meet the minimum employment standards for the vacant position. The eligibility of individuals on the reinstatement list shall be for a period of two (2) years from the date of demotion or layoff. Eligible's not responding to written notification of an opening within fourteen (14) calendar days shall have their names removed from the list.

(I) A reinstated employee shall be entitled to the following benefits:

(1) Prior sick leave accrual (unless sick leave was cashed-out in accordance with the applicable rules).

(2) Seniority at time of layoff or demotion for purposes of determining merit increases, vacation accruals and future reductions in the work force.

(3) A salary as nearly as possible equivalent to that which the employee was receiving immediately prior to layoff or demotion. If the employee chooses to be reinstated in a class at a lower salary range than that held previously, the salary will be either equivalent to the salary immediately prior to layoff or demotion or as close to the equivalent as the new salary range allows.

(J) A person appointed from a reinstatement eligible list within six (6) months to the same position held prior to layoff or demotion, will obtain permanent status upon reinstatement. All other persons appointed from a reinstatement list shall serve a new probationary period.

ARTICLE 39. GRIEVANCE PROCEDURE

(A) Purpose: It is the purpose of this procedure to provide a simplified and definite method for employees represented by MPNSA to resolve grievances they may have in their employment relationships with the City. The overall policy of this procedure is to provide for the resolution of grievances at the lowest level within the employment hierarchy of the City as is possible without unnecessarily disrupting City functions or services. The use of this procedure in resolving grievances shall not be held against any employee in any manner since the adoption of this procedure gives each employee the right to use it.

(B) Definition of Grievance: A grievance is a disagreement between City management and an employee, group of employees or MPNSA concerning the interpretation, application or violation of a specific Article(s) of this Memorandum or established written rule(s) or regulation(s) or custom(s) governing personnel practices.

(C) Association Grievance: An Association grievance is a grievance as defined above which the Association files on its own behalf or on behalf of two (2) or more represented employees. An Association grievance shall be filed with the appropriate Department Director at the Third Step if all affected members are assigned within the same department. All other Association grievances shall be filed with the Personnel Director and shall be considered there as a Third Step grievance.

(D) Time Limitations and Notification: Time limits are established to settle a grievance quickly. Time limits may be modified only by agreement of the parties. If at any step of this Grievance Procedure, the grievant is dissatisfied with the decision rendered or a decision has not been filed in a timely manner, it shall be the grievant's responsibility to initiate the action which submits the grievance to the next level of review within the time

limits specified. Failure to submit the grievance within the time limits imposed shall terminate the grievance process and the matter shall be considered resolved.

A formal grievance may be entertained or advanced to any step if the parties jointly so agree.

For purposes of this procedure, notification to a party may be given personally, telephonically or by mail. When notice is mailed to an employee, it shall be sent to the employee's current address of record. Notice by mail shall be deemed to have been completed on the seventh (7th) calendar day following deposit of notice with the United States Postal Service.

(E) Jurisdiction: The Personnel Director shall have the sole authority within the City to provide the official management interpretation or application to any and all provisions of this Memorandum. The Personnel Director, or designee, may represent the department during any step of this procedure. Unit employees may use this procedure, regardless of membership in any employee organization. The decision to use this procedure and any step thereof is solely that of the employee. In using this procedure, however, any employee may choose to be represented by another, including the representative of an employee organization.

(F) Use of City Time: Reasonable City time, subject to the discretion of the Department Director, may be used in the preparation of a written or oral grievance. City time may be used for the procedure set forth below.

(G) Steps in the Grievance Procedure: No complaint shall be considered a grievance unless it is presented within twenty (20) calendar days after the employee is aware or should have been aware of the conditions precipitating the grievance. Under normal circumstances, no grievance will be processed if the events in the grievance are based on events ninety (90) calendar days or more old as of the written submission. The time limitations of a timely filed grievance shall be placed on hold for any issue which is subject to the grievance procedure when either the City or the Association submits the issue to a Labor-Management Committee in an attempt to resolve the issue by meeting and conferring in good faith. Should the matter not be resolved, the time limits shall be reinstated.

(1) First Step: Any employee or group of employees having a grievance shall first discuss the grievance on a personal face-to-face basis with grievant's immediate supervisor, except as noted in section (C) above. This step shall not require a written grievance but it shall require the employee to notify his/her supervisor that the employee is initiating the grievance procedure. Within ten (10) calendar days the immediate supervisor shall render a decision. If the grievant is not satisfied with the decision, the grievant may submit the grievance to the next step not later than ten (10) calendar days thereafter.

(2) Second Step: If a mutually acceptable solution has not been reached at the First Step, the grievant shall submit the grievance in writing to the supervisor

of the employee's immediate supervisor, who may be the Department Director. If the Department Director is the immediate supervisor or the reviewing supervisor at either the First Step or Second Step, the grievance must meet the requirements of the First and Second Steps, but shall be considered to be at the Third Step. The written grievance shall provide a detailed statement of the grievance, including dates, names and places, applicable Memorandum Article(s) or personnel practices and the specific remedy requested. Within ten (10) calendar days the reviewing supervisor shall meet with the grievant and within ten (10) calendar days thereafter render a decision. If the grievant is not satisfied with the decision, the grievant may submit the grievance to the next step not later than ten (10) calendar days thereafter.

When a written grievance is submitted at the Second Step, the reviewing supervisor shall, upon receipt, forward a copy of the grievance to the Personnel Director for review. Should the reviewing supervisor fail to forward a copy of the grievance to the Personnel Director, the grievant shall not be prejudiced. If the Personnel Director makes a determination that the grievance is a matter for which this Grievance Procedure is not appropriate, the grievant and the supervisor shall be notified in writing within ten (10) calendar days.

(3) Third Step: If a mutually acceptable solution has not been reached, the grievant shall submit the written grievance to the Department Director. The Department Director, or designee, shall personally meet with the grievant as soon as is practicable, but not later than fourteen (14) calendar days from the presentation of the written grievance, to discuss the grievance and shall render a written decision to the grievant within fourteen (14) calendar days of such meeting. The Department Director and the grievant may call any witnesses at such meeting in order to reach a decision. Any meeting may be continued by the Department Director if necessary to allow for a proper investigation. If the grievant is not satisfied with the written decision, the grievant or MPNSA may submit the grievance to the next step not later than thirty (30) calendar days thereafter.

(4) Fourth Step: If a mutually acceptable solution has not been reached, MPNSA or the grievant may submit the written grievance to the Personnel Director with a request that the grievance be submitted to a hearing officer or the City Manager.

If the grievance is submitted to a hearing officer, the City shall request a list of five (5) names from the State Mediation and Conciliation Service. Upon receipt of the list, the parties shall select a hearing officer by using an alternate striking process. The first strike shall be chosen by lot. The cost of the hearing shall be shared equally by the City and MPNSA or the City and the grievant, depending on the party initiating the Fourth Step.

The decision of the hearing officer shall be advisory to the City Manager. The City Manager shall either render a decision to MPNSA in writing within twenty

(20) calendar days after receiving the hearing officer's recommendations or conduct an independent hearing. Should an independent hearing be conducted, MPNSA shall be notified in writing of the decision within ten (10) calendar days following the completion of the hearing. The decision of the City Manager shall be final and binding on all parties.

ARTICLE 40. DISCIPLINARY ACTIONS

(A) The following shall constitute just cause for disciplinary action, including dismissal, demotion, suspension and disciplinary probation.

(1) Violation of the City Charter
(2) Violation of the Modesto Municipal Code
(3) Violation of the Personnel Rules or Personnel Administrative Orders, excluding Personnel Administrative Order No. 13.8-03-2 (Unauthorized Absence)
(4) Fraud in securing employment
(5) Incompetency
(6) Inefficiency
(7) Inexcusable neglect of duty
(8) Insubordination
(9) Dishonesty
(10) Being under the influence of alcohol or controlled substances while on duty
(11) Inexcusable absence without leave, except as described in Personnel Administrative Order No. 13.8-03-2 (Unauthorized Absence)
(12) Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or conviction following a plea of nolo contendere, to a charge of a felony or any offense involving moral turpitude is deemed to be a conviction within the meaning of this section
(13) Discourteous treatment of the public or other employees
(14) Misuse of City property
(15) Violation of any established departmental rule, regulation, policy and/or manual
(16) Other failure of good behavior either during or outside of duty hours, which is of such a nature that it causes discredit to the City
(17) Unlawful discrimination, including harassment, on the basis of race, color, national origin, ancestry, sex, marital status, religion, age, medical condition (cancer related), physical disability (including AIDS) or sexual orientation.
(18) Substantial or credible threats of violence against any person including, but not limited to intimidation, harassment and/or coercion made in the course of employment

(B) The City may demote an employee whose ability to perform required duties falls below an acceptable standard, or for disciplinary purposes. Upon request of an employee, and approval by the City, demotion may be made to a vacant position as a substitution for layoff.

(C) The City may suspend an employee without pay at any time for just cause. Suspension without pay shall not exceed ninety (90) calendar days in any fiscal year.

(D) The City may dismiss an employee at any time. A regular employee in the classified service shall be entitled to a written statement of the just cause for dismissal.

(E) The City may place an employee on disciplinary probation for a specified period, not to exceed one (1) year. Disciplinary probation returns a non-probationary employee to probationary status. Employees placed on disciplinary probation may be dismissed at any time during the probationary period for failure to meet any requirement established as a condition of the probation. Disciplinary probation may only be imposed by delivery of written notice to the employee, pursuant to the Modesto Municipal Code, stating that the employee has been placed on disciplinary probation and stating the reasons for such action.

(F) The Department head may authorize an employee for overtime, standby or call-back during the time when he/she is on disciplinary probation but not while the employee is serving a disciplinary suspension without pay.

(G) An employee shall be given reasonable notice when he/she is scheduled to be interviewed as the subject in an investigation in accordance with the provisions of law. This will include information as to the nature of the allegation, Articles of this Memorandum or other policies and procedures that are believed to have been violated, and the date(s) of the alleged events, if known.

(H) An employee may request an Association member or MPNSA legal representative if the employee believes an investigatory interview could result in discipline as defined in subsection (A).

(I) While written reprimands are not considered discipline, per se, an employee shall have the right to request a review of the Memorandum and the facts included therein first by the supervisor's supervisor and up the chain of command, ending with the Department Director.

ARTICLE 41. DISCIPLINARY APPEALS

(A) Employees shall have the right to appeal any dismissal, suspension, disciplinary probation or demotion for disciplinary reasons. Said right of appeal shall not apply to reclassifications, layoffs, demotions as a substitute for layoffs, changes in status for medical reasons, changes in status due to the employee's loss of a required license or certificate, step reductions or denial of a step increase, or any other actions taken for non-disciplinary reasons. For changes in status for medical reasons, and for step reductions, appeal shall be provided for through the process in Article 39, Grievance Procedure.

(B) An appeal must be filed in writing with the Personnel Director within thirty (30) days following written notice to the employee of the discipline.

(C) Upon filing of an appeal, the City shall request a list of seven (7) hearing officers from the State Mediation and Conciliation Service. The City and employee shall alternately strike names from the list until only one (1) name remains and the remaining name shall be that of the Hearing Officer. The parties shall toss a coin to determine who will strike first. As an alternative, the parties may stipulate to the use of any person as a Hearing Officer, whether identified on the list or not.

(D) The Hearing Officer shall proceed in any manner which will, in the Hearing Officer's judgment, develop all the facts bearing upon the matter, and no informality on the Officer's part shall constitute just cause for criticism of findings and decisions. Upon completion of the hearing, the Hearing Officer shall furnish certified copies of findings and decisions to the persons concerned. The decision of the Hearing Officer shall be final and binding.

(E) The person selected as the Hearing Officer shall set a date for the start of the hearing after consultation with the parties. Failure of the employee to appear at a hearing (except for good cause) shall be deemed withdrawal of the appeal and the discipline being appealed shall stand and be final.

(F) Oral evidence at the hearing shall be taken only on oath or affirmation.

(G) Each party shall have these rights at the hearing: To be represented by Counsel; to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him or her to testify; to subpoena witnesses and relevant documentary evidence and to rebut the evidence against him or her. Further, at the hearing the employee may be examined and may examine or cause any person to be examined under Section 776 of the Evidence Code.

(H) The hearing need not be conducted according to technical rules relating to evidence and witnesses, except as hereinafter provided. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege as set forth in the Evidence Code shall apply. Irrelevant and unduly repetitious evidence shall be excluded.

Evidence of specific instances of a complainants' sexual conduct with individuals other than the alleged perpetrator is presumed inadmissible absent an offer of proof establishing its relevance and reliability and that its probative value is not substantially outweighed by the probability that its admission will create substantial danger of undue prejudice or confuse the issue. For purpose of this paragraph, "complainant" means any person claiming to have been subjected to conduct, which constitutes sexual harassment, sexual assault or sexual battery.

(I) Either party may request a court reporter. The City shall select a competent court reporter to record the proceedings.

(J) If either party requests it, the Hearing Officer may exclude from the hearing room any witness not at the time under examination so that the witness may not hear the testimony of other witnesses, but a party to the proceedings may not be so excluded. Parties to the proceedings shall include the appellant and a management employee from appellant's department to be selected by the City, both of whom may attend the hearing even though they testify as witnesses. In addition, each side may designate other representatives to attend the hearing provided these representatives do not testify at the hearing.

(K) The Hearing Officer shall, after the matter is submitted, prepare and file findings and decisions. The decisions of the Hearing Officer shall be final and binding. The decisions shall be rendered as quickly as possible with due regard for the hardships that may result from undue delay.

(L) The cost of the Hearing Officer and court reporter shall be divided equally between the City and the employee. The Hearing Officer and court reporter shall separately bill the City and the appellant for one-half (1/2) of the cost of his/her services.

ARTICLE 42. TIME BANK

Each employee covered by this Memorandum shall contribute up to one-half (1/2) hour of vacation time to create a pool of two hundred fifty (250) hours to be used for MPNSA business (other than meet and confer and meet and consult items and routine administrative functions dealing with the City). At the request of MPNSA, the City shall deduct twice yearly at the beginning of September and the beginning of March, an equal amount of hours or portions thereof of vacation time from each employee covered by this Memorandum to bring the total remaining pool hours to the two hundred fifty (250) hour maximum.

Use of the time bank shall be accounted for and processed by the Finance Department using a specifically designated payroll code. Association members utilizing the time bank shall be responsible for reporting the time used on their payroll record.

The City Manager or Department Director has the authority to fill an absence created by use of the time bank.

ARTICLE 43. COMMUTER BUS PASSES

The City will make available free commuter bus passes for use by employees in commuting to and from work including the local Law Enforcement Academy site.

ARTICLE 44. EMPLOYEE PARKING

Upon request, employees whose work site is at Tenth Street Place shall be assigned, by the City, to free parking (non-transferable), during their workdays, at the Ninth Street Garage, the Tenth Street Garage and/or at other designated parking locations within a three-block (3) radius of Tenth Street Place. Failure to utilize this right may, after notification to the employee, result in the deactivation of their proximity card garage access or revocation of the parking pass issued to the employee.

ARTICLE 45. OUTSIDE EMPLOYMENT

(A) All employees represented by MPNSA shall request the approval of the City prior to beginning any outside business or employment. Such business or employment shall not affect the time or quality of their City work or cast discredit upon or create embarrassment for the City.

(B) Specific policies and procedures governing outside employment shall be as contained in the Personnel Rules and Personnel Administrative Orders.

ARTICLE 46. NON DISCRIMINATION

(A) The City and MPNSA agree that the provisions of this Memorandum shall be applied without favor or discrimination based on race, color, ancestry, religion or creed, sex, national origin, marital status, age, physical or mental disability or perceived disability, medical condition, pregnancy-related condition, sexual orientation or political affiliation. They agree to recognize, respect and support the City's commitment to nondiscrimination in employment as set forth in the City's Affirmative Action Plan. MPNSA agrees to encourage its members to assist in the implementation of that program.

(B) MPNSA agrees to and acknowledges its responsibility to fairly represent all employees in the bargaining unit without regard to race, color, ancestry, religion or creed, sex, national origin, marital status, age, physical or mental disability or perceived disability, medical condition, pregnancy-related condition, sexual orientation, political affiliation, job classification or employment status.

(C) Because the Americans with Disabilities Act (ADA) requires accommodations for individuals protected under the Act, and because these accommodations must be determined on an individual, case-by-case basis, the parties agree that the provisions of this Memorandum may require modification in order for the City to avoid discrimination under the Act.

(D) MPNSA recognizes that the City has the legal obligation to meet with the individual applicant/employee to be accommodated before any adjustment is made in working conditions. MPNSA will be allowed to meet and consult with the City concerning the proposed accommodations prior to implementation by the City.

Any accommodation provided to an individual protected by the ADA shall not establish a past practice, nor shall it be cited or used as evidence of a past practice in the grievance procedure.

ARTICLE 47. AGENCY SHOP AND MAINTENANCE OF ASSOCIATION MEMBERSHIP

(A) Scope of coverage: Pursuant to Government Code Section 3502.5, MPNSA caused an "agency shop" arrangement to be placed into effect by a secret ballot election that concluded on February 20, 2007. With the establishment of the agency shop arrangement, all employees in the represented classifications must, as a condition of employment, either join the Association or pay the Association a service fee

(B) Responsibilities: MPNSA agrees that it has a duty to provide fair and nondiscriminatory representation to all employees in the bargaining unit, which have elected by a secret ballot in accordance with the law to apply this agency shop agreement regardless of whether or not they are members of MPNSA.

(C) Employee Responsibilities: All employees in, and all employees subsequently hired, promoted, demoted or transferred into classifications in the bargaining unit shall as a condition of employment fulfill one of the following:

(1) Become and remain a member of MPNSA; or

(2) Pay to MPNSA, a fair share fee in an amount which does not exceed the amount which may be lawfully collected under applicable constitutional, statutory and case law, and which under no circumstances shall exceed the monthly dues, initiation fees and approved assessments made during the term of this agreement; or

(3) Do both of the following:

(a) Execute a written declaration to MPNSA, with a copy to the Payroll Division of the Finance Department, that the employee is a member of a bona-fide religion, body or sect which has historically held a conscientious objection to joining or financially supporting any public employee organization as a condition of employment; and

(b) Pay a sum equal to the dues, initiation fees and approved assessments to a nonreligious, non-labor, charitable fund exempt from taxation under the Internal Revenue Service Code Section 501(c) (3), chosen by the employee from the following charities:

1. United Way
2. To be determined
3. To be determined

The employee shall have, on a monthly basis, a payroll deduction of Union Dues, fair share fees or charitable contribution based upon the current dues, assessments and fees scheduled authorized by MPNSA.

All regular full-time employees who are members of MPNSA on the effective date of this MOU shall maintain such membership in good standing during the term of the MOU; subject, however, to the right to resign from membership during the thirty (30) days prior to the expiration of the MOU. Any employee choosing to resign shall do so in writing to both MPNSA and the City.

All regular full-time employees hired after the effective date of this MOU, and who choose to become members of MPNSA, shall maintain such membership in good standing during the remaining term of this MOU.

(D) The City's Responsibilities: All dues, fees, assessments and fair share fees shall be remitted to MPNSA, in a timely manner, normally within fifteen (15) days from the date that such monies are withheld from the employee's payroll. The employer shall also provide to MPNSA a monthly report of those employees that have selected option C.3 above. Such report shall include the name of the employee, the amount deducted and the name of the organization to which such funds have been remitted.

(E) Separation from Unit: The provisions of this MOU shall not apply during such period that an employee is separated from the representation unit but shall be reinstated upon the return of the employee to the representation unit. The term "separation" includes transfer, promotion, demotion, or reclassification out of one of the covered units, or lay-off.

(F) Compliance: The City has agreed to provide all new represented employees on the date of their initial employment, an information packet explaining the agency shop arrangement, association membership, agency fee payer, religious conscientious objector and the agency fee appeals procedure. The City agrees to continue providing the packet to all new represented employees during the term of this MOU. The packet and all enclosed information shall be provided to the City by MPNSA and shall be produced at the sole expense of MPNSA.

(G) Forfeiture of Deductions: If an employee is on leave without pay for any reason for 40 or more hours in a pay period, no such deduction shall be made for that period.

(H) Hold Harmless: In accordance with Government Code 3502.5 (b), MPNSA, agrees to hold the City harmless from all claims, demands, suits or other forms of liability that may arise against the City for or on account of any deduction made from the wages of such employees pursuant to this MOU.

(I) Reporting Requirements: MPNSA shall comply with all applicable provisions of Government Code 3502.5 (f) with regards to financial reporting.

Employees who fail to provide MPNSA with a correct mailing address or who fail to notify MPNSA, of changes in their mailing address and who because of such failure do

not receive any notice required by law shall be entitled to such notice only upon contacting MPNSA to request such notice.

(J) Duration: Notwithstanding the expiration of any agreement between the City and MPNSA, this agreement shall continue in effect until rescinded as permitted by Law.

ARTICLE 48. PROVISIONS OF LAW

It is understood and agreed that this Memorandum of Understanding is subject to all current and future applicable Federal and State laws and regulations and the current provisions of the City Charter and Code. If any part or provision of this Memorandum is in conflict or inconsistent with such applicable provisions of those Federal, State or City enactments or is otherwise held to be invalid or unenforceable by any court of competent jurisdiction, such part or provisions shall be suspended and superseded by such applicable law or regulations, and the remainder of this Memorandum shall not be affected. If any part or provision of this Memorandum is suspended or superseded, the parties agree to reopen negotiations regarding the suspended or superseded part or provision with the understanding that total compensation to employees under this Memorandum shall not be reduced or increased as a result of this Article.

Except as provided in the above paragraph, the parties hereto agree to refrain from initiating any legal action or taking individual or collective action that would invalidate Articles of this Memorandum.

ARTICLE 49. PENDING ISSUE

The parties agree during the term of this MOU to meet and confer regarding the City's retiree Health program once comprehensive information is obtained. In an attempt to reach a mutual agreement regarding the following issue, it is agreed neither party may impose upon the other party any changes of terms and conditions regarding this issue during the term of this MOU.

ARTICLE 50. JOB ACTIONS

MPNSA agrees and acknowledges that strikes, sick-ins, slow-downs or other forms of work stoppage or disturbances are detrimental to the responsibility of MPNSA and its members to insure that high quality service is provided to the people of the City of Modesto. MPNSA and its members agree not to sanction, support, condone, or engage in any such actions directly or indirectly during the term of this Memorandum.

ARTICLE 51. FULL UNDERSTANDING MODIFICATION AND WAIVER

The parties acknowledge that during the negotiations which resulted in this Agreement, each had the full right and adequate opportunity to make demands and proposals with respect to any subject or matter within the scope of representation, that the understandings arrived at after the exercise of that right are set forth in this Agreement. The express

provisions of this Agreement for its duration, therefore, constitute the complete and total contract between the City and MPNSA with respect to wages, hours and other terms and conditions of employment. Any prior or existing Agreement between the parties, whether formal or informal, regarding any such matters is hereby superseded and terminated in its entirety. The parties voluntarily waive the right to meet and confer in good faith with respect to any subject or matter referred to or covered in this Agreement, except that the parties, by mutual agreement, may meet and confer and agree to amend any matter in this Agreement, including compensation.

If the City should absorb another entity which results in employees of the other entity being covered by this MOU, the City and MPNSA shall expeditiously meet and confer regarding the effect of such action on wages, hours and other terms and conditions of employment of such new employees.

All pertinent ordinances and resolutions shall be revised to conform to this Agreement. All other ordinances, resolutions, rules and regulations, practices and policies shall continue in force and effect during the term of this Agreement unless modified either according to the provisions of this Agreement or following the exercise by both parties of their respective rights and obligations to meet and confer or meet and consult regarding matters specified in Government Code Sections 3500 et. seq.

ARTICLE 52. APPROVAL

This MOU shall be presented to the Modesto City Council for approval and shall not be binding until so approved.

FOR THE
CITY OF MODESTO

Greg Nyhoff
City Manager

Barbara Santos
Deputy Director of Personnel

Michael Zahr
Police Captain

Scott Kasper
Employee Relations Specialist

Kimberly Murdaugh
Personnel Analyst

Beth Lyons
Police Civilian Supervisor

FOR THE
MODESTO POLICE NON-SWORN
ASSOCIATION

Michael W. Jarvis
Labor Representative, Mastagni Law

Marlene Valdez
MPNSA President

Denise Ducot 3-04-0,
Denise Ducot
MPNSA Negotiator

Nicole Stone
MPNSA Negotiator

Art Miller
MPNSA Negotiator

Karen Robertson
MPNSA Negotiator

Craig Mossman
MPNSA Negotiator

EXHIBIT 1 CLASSIFICATIONS AND SALARY RANGES

CLASSIFICATION	SALARY RANGE
Deputy Fire Marshal	1134
Fire Prevention Technician I	1116
Fire Prevention Technician II	1120
Police Animal Control Officer I	1114
Police Animal Control Officer II	1119
Police Community Services Officer I	1115
Police Community Services Officer II	1119
Police Crime Analyst	1125
Police Evidence and Property Specialist	1114
Police Identification Technician I	1123
Police Identification Technician II	1127
Police Law Enforcement Academy Recruit (LEAR)	1122
Police Clerk I	1107
Police Clerk II	1111

CITY OF MODDESTO

EXHIBIT 2 SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 07-08

SCHEDULE J
Public Safety Non-Sworn (MPNSA) 3% Effective July 24, 2007

	HOURLY						BIWEEKLY						MONTHLY				
Range	A	B	C	D	E		A	B	C	D	E		A	B	C	D	E
01101	12.5545	13.1822	13.8413	14.5334	15.2601		1,004.36	1,054.58	1,107.30	1,162.67	1,220.81		2,184.48	2,293.71	2,408.38	2,528.81	2,655.26
01102	12.8684	13.5118	14.1874	14.8968	15.6416		1,029.47	1,080.94	1,134.99	1,191.74	1,251.33		2,239.10	2,351.04	2,468.60	2,592.03	2,721.64
01103	13.1901	13.8496	14.5421	15.2692	16.0327		1,055.21	1,107.97	1,163.37	1,221.54	1,282.62		2,295.08	2,409.83	2,530.33	2,656.85	2,789.70
01104	13.5199	14.1959	14.9057	15.6510	16.4336		1,081.59	1,135.67	1,192.46	1,252.08	1,314.69		2,352.46	2,470.08	2,593.60	2,723.27	2,859.45
01105	13.8579	14.5508	15.2783	16.0422	16.8443		1,108.63	1,164.06	1,222.26	1,283.38	1,347.54		2,411.27	2,531.83	2,658.42	2,791.35	2,930.90
01106	14.2043	14.9145	15.6602	16.4432	17.2654		1,136.34	1,193.16	1,252.82	1,315.46	1,381.23		2,471.54	2,595.12	2,724.88	2,861.13	3,004.18
01107	14.5594	15.2874	16.0518	16.8544	17.6971		1,164.75	1,222.99	1,284.14	1,348.35	1,415.77		2,533.33	2,660.00	2,793.00	2,932.66	3,079.30
01108	14.9234	15.6696	16.4531	17.2758	18.1396		1,193.87	1,253.57	1,316.25	1,382.06	1,451.17		2,596.67	2,726.51	2,862.84	3,005.98	3,156.29
01109	15.2965	16.0613	16.8644	17.7076	18.5930		1,223.72	1,284.90	1,349.15	1,416.61	1,487.44		2,661.59	2,794.66	2,934.40	3,081.13	3,235.18
01110	15.6789	16.4628	17.2859	18.1502	19.0577		1,254.31	1,317.02	1,382.87	1,452.02	1,524.62		2,728.12	2,864.52	3,007.74	3,158.14	3,316.05
01111	16.0709	16.8744	17.7181	18.6040	19.5342		1,285.67	1,349.95	1,417.45	1,488.32	1,562.74		2,796.33	2,936.14	3,082.95	3,237.10	3,398.96
01112	16.4727	17.2963	18.1611	19.0692	20.0227		1,317.82	1,383.70	1,452.89	1,525.54	1,601.82		2,866.26	3,009.55	3,160.04	3,318.05	3,483.96
01113	16.8845	17.7287	18.6151	19.5459	20.5232		1,350.76	1,418.30	1,489.21	1,563.67	1,641.86		2,937.90	3,084.80	3,239.03	3,400.98	3,571.05
01114	17.3066	18.1719	19.0805	20.0345	21.0362		1,384.53	1,453.75	1,526.44	1,602.76	1,682.90		3,011.35	3,161.91	3,320.01	3,486.00	3,660.31
01115	17.7393	18.6263	19.5576	20.5355	21.5623		1,419.14	1,490.10	1,564.61	1,642.84	1,724.98		3,086.63	3,240.97	3,403.03	3,573.18	3,751.83
01116	18.1828	19.0919	20.0465	21.0488	22.1012		1,454.62	1,527.35	1,603.72	1,683.90	1,768.10		3,163.80	3,321.99	3,488.09	3,662.48	3,845.62
01117	18.6374	19.5693	20.5478	21.5752	22.6540		1,490.99	1,565.54	1,643.82	1,726.02	1,812.32		3,242.90	3,405.05	3,575.31	3,754.09	3,941.80
01118	19.1033	20.0585	21.0614	22.1145	23.2202		1,528.26	1,604.68	1,684.91	1,769.16	1,857.62		3,323.97	3,490.18	3,664.68	3,847.92	4,040.32
01119	19.5809	20.5599	21.5879	22.6673	23.8007		1,566.47	1,644.79	1,727.03	1,813.38	1,904.06		3,407.07	3,577.42	3,756.29	3,944.10	4,141.33
01120	20.0704	21.0739	22.1276	23.2340	24.3957		1,605.63	1,685.91	1,770.21	1,858.72	1,951.66		3,492.25	3,666.85	3,850.21	4,042.72	4,244.86
01121	20.5722	21.6008	22.6808	23.8148	25.0055		1,645.78	1,728.06	1,814.46	1,905.18	2,000.44		3,579.57	3,758.53	3,946.45	4,143.77	4,350.96
01122	21.0865	22.1408	23.2478	24.4102	25.6307		1,686.92	1,771.26	1,859.82	1,952.82	2,050.46		3,669.05	3,852.49	4,045.11	4,247.38	4,459.75
01123	21.6137	22.6944	23.8291	25.0206	26.2716		1,729.10	1,815.55	1,906.33	2,001.65	2,101.73		3,760.79	3,948.82	4,146.27	4,353.59	4,571.26
01124	22.1540	23.2617	24.4248	25.6460	26.9283		1,772.32	1,860.94	1,953.98	2,051.68	2,154.26		3,854.80	4,047.54	4,249.91	4,462.40	4,685.52

CITY OF MODESTO

EXHIBIT 2 SCHEDULE OF SALARY RANGES IN CITY SERVICE FOR FY 07-08

SCHEDULE J

Public Safety Non-Sworn (MPNSA)3% Effective July 24, 2007

	HOURLY					BIWEEKLY					MONTHLY				
Range	A	B	C	D	E	A	B	C	D	E	A	B	C	D	E
01125	22.7079	23.8433	25.0355	26.2873	27.6017	1,816.63	1,907.46	2,002.84	2,102.98	2,208.14	3,951.17	4,148.73	4,356.18	4,573.98	4,802.70
01126	23.2756	24.4394	25.6614	26.9445	28.2917	1,862.05	1,955.15	2,052.91	2,155.56	2,263.34	4,049.96	4,252.45	4,465.08	4,688.34	4,922.76
01127	23.8575	25.0504	26.3029	27.6180	28.9989	1,908.60	2,004.03	2,104.23	2,209.44	2,319.91	4,151.21	4,358.77	4,576.70	4,805.53	5,045.80
01128	24.4539	25.6766	26.9604	28.3084	29.7238	1,956.31	2,054.13	2,156.83	2,264.67	2,377.90	4,254.97	4,467.73	4,691.11	4,925.66	5,171.93
01129	25.0652	26.3185	27.6344	29.0161	30.4669	2,005.22	2,105.48	2,210.75	2,321.29	2,437.35	4,361.35	4,579.42	4,808.38	5,048.81	5,301.24
01130	25.6918	26.9764	28.3252	29.7415	31.2286	2,055.34	2,158.11	2,266.02	2,379.32	2,498.29	4,470.36	4,693.89	4,928.59	5,175.02	5,433.78
01131	26.3341	27.6508	29.0333	30.4850	32.0093	2,106.73	2,212.06	2,322.66	2,438.80	2,560.74	4,582.14	4,811.23	5,051.79	5,304.39	5,569.61
01132	26.9925	28.3421	29.7592	31.2472	32.8096	2,159.40	2,267.37	2,380.74	2,499.78	2,624.77	4,696.70	4,931.53	5,178.11	5,437.02	5,708.87
01133	27.6673	29.0507	30.5032	32.0284	33.6298	2,213.38	2,324.06	2,440.26	2,562.27	2,690.38	4,814.10	5,054.83	5,307.57	5,572.94	5,851.58
01134	28.3590	29.7770	31.2659	32.8292	34.4707	2,268.72	2,382.16	2,501.27	2,626.34	2,757.66	4,934.47	5,181.20	5,440.26	5,712.29	5,997.91
01135	29.0680	30.5214	32.0475	33.6499	35.3324	2,325.44	2,441.71	2,563.80	2,691.99	2,826.59	5,057.83	5,310.72	5,576.27	5,855.08	6,147.83
01136	29.7947	31.2844	32.8486	34.4910	36.2156	2,383.58	2,502.75	2,627.89	2,759.28	2,897.25	5,184.29	5,443.48	5,715.66	6,001.43	6,301.52
01137	30.5396	32.0666	33.6699	35.3534	37.1211	2,443.17	2,565.33	2,693.59	2,828.27	2,969.69	5,313.89	5,579.59	5,858.56	6,151.49	6,459.08
01138	31.3031	32.8683	34.5117	36.2373	38.0492	2,504.25	2,629.46	2,760.94	2,898.98	3,043.94	5,446.74	5,719.08	6,005.04	6,305.28	6,620.57
01139	32.0857	33.6900	35.3745	37.1432	39.0004	2,566.86	2,695.20	2,829.96	2,971.46	3,120.03	5,582.92	5,862.06	6,155.16	6,462.93	6,786.07
01140	32.8878	34.5322	36.2588	38.0717	39.9753	2,631.02	2,762.58	2,900.70	3,045.74	3,198.02	5,722.47	6,008.61	6,309.02	6,624.48	6,955.69
01141	33.7100	35.3955	37.1653	39.0236	40.9748	2,696.80	2,831.64	2,973.22	3,121.89	3,277.98	5,865.54	6,158.82	6,466.75	6,790.11	7,129.61
01142	34.5528	36.2804	38.0944	39.9991	41.9991	2,764.22	2,902.43	3,047.55	3,199.93	3,359.93	6,012.18	6,312.79	6,628.42	6,959.85	7,307.85
01143	35.4166	37.1874	39.0468	40.9991	43.0491	2,833.33	2,974.99	3,123.74	3,279.93	3,443.93	6,162.49	6,470.60	6,794.13	7,133.85	7,490.55
01144	36.3020	38.1171	40.0230	42.0242	44.1254	2,904.16	3,049.37	3,201.84	3,361.94	3,530.03	6,316.55	6,632.38	6,964.00	7,312.22	7,677.82
01145	37.2096	39.0701	41.0236	43.0748	45.2285	2,976.77	3,125.61	3,281.89	3,445.98	3,618.28	6,474.47	6,798.20	7,138.11	7,495.01	7,869.76
01146	38.1398	40.0468	42.0491	44.1516	46.3592	3,051.18	3,203.74	3,363.93	3,532.13	3,708.74	6,636.32	6,968.13	7,316.55	7,682.38	8,066.51
01147	39.0933	41.0480	43.1004	45.2554	47.5182	3,127.46	3,283.84	3,448.03	3,620.43	3,801.46	6,802.23	7,142.35	7,499.47	7,874.44	8,268.18
01148	40.0706	42.0741	44.1778	46.3867	48.7060	3,205.65	3,365.93	3,534.22	3,710.94	3,896.48	6,972.29	7,320.90	7,686.93	8,071.29	8,474.84
01149	41.0724	43.1260	45.2823	47.5464	49.9237	3,285.79	3,450.08	3,622.58	3,803.71	3,993.90	7,146.59	7,503.92	7,879.11	8,273.07	8,686.73
01150	42.0992	44.2042	46.4144	48.7351	51.1719	3,367.94	3,536.34	3,713.15	3,898.81	4,093.75	7,325.27	7,691.54	8,076.10	8,479.91	8,903.91

APPENDIX A FOUR-ELEVEN (4/11) WORK SCHEDULE

(AVAILABLE FOR CSOs ASSIGNED TO PATROL DIVISION AND ANIMAL CONTROL OFFICERS)

The 4/11 Schedule shall consist of four (4) consecutive duty days, for which the employee shall work eleven (11) hours per day, followed by four (4) days off.

Starting times for 4/11 shifts will be 0600, 0900, 1200, 1700 and 2000 hours. These starting times may be adjusted in accordance with Article 9, Standard Tour of Duty.

The 4/11 Schedule requires that employees work fifty-six (56) hours per year in addition to their regular schedule. Of these fifty-six (56) hours, thirty-six (36) hours will be scheduled as four (4) nine (9)-hour training days. Each of these four (4) days will consist of nine (9) hours, excluding lunch. The remaining twenty (20) hours are owed to the City and shall be deducted from the employee's annual holiday entitlement. See Article 27, Holidays.

Employees assigned to a 4/11 Schedule will have EITHER:

A paid lunch break of thirty (30) minutes coupled with one (1) fifteen (15) minute paid break, for a total of forty-five (45) minutes

-OR-

A paid break of fifteen (15) minutes followed by a forty-five (45) minute lunch of which thirty (30) minutes is paid.

Employees shall remain available by phone or radio, and are subject to recall at any time during their lunch break. In the event of a recall or missed lunch break, there will be no additional compensation.

Overtime shall be compensated in accordance with the Fair Labor Standards Act, 29 CFR Section 778.114 (Fluctuating Work Week Schedule).

APPENDIX B MODIFIED FOUR-TEN (4/10) WORK SCHEDULE

The Modified Four-Ten (4/10) workweek shall consist of four (4) consecutive duty days for which the employee shall work ten (10) hours per day, followed by four (4) consecutive days off.

Starting times for the Modified Four-Ten (4/10) Schedule shall be established by the department or division implementing this schedule.

The Modified Four-Ten (4/10) Schedule requires that employees work two hundred and forty (240) hours per year in addition to their regular schedule. Of this, two-hundred and

forty (240) hours, thirty-two (32) hours will be scheduled as four (4) training days. Each of these four (4) days will consist of eight (8) hours, excluding lunch. One hundred and twenty (120) hours will be worked as twelve (12) ten hour "double days" each year, to be scheduled by the supervisor and worked during the employee's normal thirty-hour (30) work week. The remaining eighty-eight (88) hours are owed to the City and shall be deducted from the employee's annual holiday entitlement. See Article 27, Holidays.

An employee on a Modified Four-Ten (4/10) Schedule will receive an unpaid lunch period of not less than thirty (30) minutes and not more than sixty (60) minutes.

Overtime shall be compensated in accordance with Article 12, Overtime.

APPENDIX C NINE-EIGHTY (9/80) WORK SCHEDULE

The Nine-Eighty (9/80) Work Schedule shall consist of five (5) consecutive duty days for which the employee shall work nine (9) hours per day for four (4) days and eight (8) hours per day for one (1) day, followed by two (2) consecutive days off; followed by four (4) consecutive duty days for which the employee shall work nine (9) hours per day, followed by three (3) consecutive days off.

The employee's workweek will be changed and will no longer be 12:01 a.m. Tuesday through 12:00 a.m. (midnight) Monday. It shall be changed to midday of the employee's "extra" day off to midday of the same day the following week. The Payroll Division of Finance shall be notified of this workweek. For example:

Sunday	Monday	Tuesday	Wed	Thursday	Friday	Saturday
Off	9	9	9	9	8	Off
Off	9	9	9	9	Off	Off
Off						

The employee's workweek shall be from midday Friday to midday Friday.

An employee on a Nine-Eighty (9/80) Schedule will receive an unpaid lunch period of not less than thirty (30) minutes and not more than sixty (60) minutes.

Overtime shall be compensated in accordance with Article 12, Overtime.

APPENDIX D SIX-THREE (6/3) WORK SCHEDULE

The Six-Three (6/3) Work Schedule shall consist of six (6) consecutive duty days for which the employee shall work eight (8) hours per day for six (6) days followed by three (3) consecutive days off.

The Six-Three (6/3) schedule requires that employees work one hundred twenty-eight (128) hours per year in addition to their regular schedule. Of these one hundred twenty-eight (128) hours, forty-eight (48) hours will be scheduled as six (6) eight (8)-hour

training days, excluding lunch. The remaining eighty (80) hours are owed to the City and shall be deducted from the employee's annual holiday entitlement. See Article 27, Holidays.

Employees assigned to a six-three (6/3) schedule will have a paid lunch break of thirty (30) minutes coupled with one (1) fifteen (15) minute paid break, for a total of forty-five (45) minutes.

Employees shall remain available by phone or radio, and are subject to recall at any time during their lunch break.

Overtime shall be compensated in accordance with the Fair Labor Standards Act, 29 CFR Section 778.114 (Fluctuating Workweek Schedule).

AMENDED
on 10-7-2008
By Resolution 2008-685

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-501

A RESOLUTION APPROVING THE CLASS RANGE TABLE FOR PUBLIC SAFETY NON-SWORN CLASSES AS SET FORTH IN EXHIBIT "A" ATTACHED HERETO EFFECTIVE JULY 22, 2008, AND ADOPTED CONCURRENTLY WITH RESOLUTION NO. 2008-500 APPROVING THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF MODESTO (CITY) AND THE MODESTO POLICE NON SWORN ASSOCIATION (MPNSA)

WHEREAS, on September 2, 2008, the City Council adopted Resolution No. 2008-500 approving the (MOU) between the CITY and MPNSA.

WHEREAS, Council desires to establish a Class Range Table for said classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Class Range Table for Public Safety Non-Sworn Classes, entitled "City of Modesto Class Range Table Public Safety Non-Sworn Classes, Effective July 22, 2008", which is **attached** hereto as **Exhibit** "A" and made a part hereof as though set forth in full herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2008, 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

CITY OF MODESTO
CLASS RANGE TABLE
PUBLIC SAFETY NON-SWORN CLASSES
Effective July 22, 2008

RANGE	TITLE
1107	Police Clerk I
1111	Police Clerk II
1114	Animal Control Officer I Evidence and Property Specialist
1115	Community Service Officer I
1116	Fire Prevention Technician I
1119	Animal Control Officer II Community Service Officer II
1120	Fire Prevention Technician II
1122	Law Enforcement Academy Recruit
1123	Identification Technician I
1125	Crime Analyst
1127	Identification Technician II
1134	Deputy Fire Marshal

Exhibit A

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-502

A RESOLUTION AMENDING THE FISCAL YEAR 08-09 OPERATING BUDGET TO APPROPRIATE $62,125 FROM 0100-800-8000-8003, GENERAL FUND RESERVE, TO VARIOUS SALARY AND BENEFIT ACCOUNTS TO PROVIDE FUNDING FOR THE NEGOTIATED MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF MODESTO AND THE MODESTO POLICE NON SWORN ASSOCIATION (MPNSA)

WHEREAS, the City Council desires to authorize salary and benefit changes as part of the negotiated MOU between the CITY and MPNSA, effective July 22, 2008, and

WHEREAS, the FY 08-09 costs associated with these changes are estimated at $68,250, effective July 22, 2008,

WHEREAS, $62,125 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 2008-09 Operating Budget is hereby amended to transfer $62,125 from 0100-800-8000-8003, General Fund Reserve to various salary and benefit accounts to fund said salary and benefit changes negotiated as part of the MOU between the CITY and MPNSA.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2008, 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. 2008-503

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF MODESTO AND THE MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION (MCMA) FOR A TERM OF JULY 22, 2008 THROUGH JUNE 22, 2009

WHEREAS, the Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Confidential and Management Association (MCMA) expired on June 23, 2008, 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 August 11, 2008, 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. HEALTH, DENTAL AND VISION BENEFITS. The City's contribution to employees' Health, Dental and Vision coverage shall be as follows:

	7/22/08
Family	$957
Employee Only	535
Opt Out	425

Effective July 22, 2008, for employees enrolled in the City-sponsored High Deductible Health Plan, the City shall deposit any balance of the above contribution not needed to pay for the employee's premiums, into the employee's Health Savings Account.

SECTION 2. LABOR MARKET SURVEY. A market survey and a classification study have been completed. The parties agree to implement initial classification and market salary range changes effective January 6, 2009. Said market salary changes shall be for those classes which the parties agree are more than 15% "under market."

SECTION 3. ADDITIONAL CHANGES. Other negotiated amendments to the Memorandum of Understanding deal with the Association Time Bank, calculations of salaries upon promotion or reclass, as well as pending items related to CalPERS partial retirement option, the Retiree Health Program, health plans for active employees, impacts of the unblending of retiree premiums, work furloughs and Management and Confidential Leave, and

WHEREAS, the Council considered this matter at its meeting of September 2, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Memorandum of Understanding (MOU) between the City of Modesto and the Modesto Confidential and Management Association (MCMA), which covers a term from July 22, 2008 through June 22, 2009, 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 2nd day of September, 2008, 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:	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

AMENDED
on 15-9-2008
By Resolution 2008-683

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-504

Print

A RESOLUTION APPROVING THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES AS SET FORTH IN EXHIBIT "A" ATTACHED HERETO EFFECTIVE JULY 22, 2008, AND ADOPTED CONCURRENTLY WITH RESOLUTION NO. 2008-503 APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION (MCMA)

WHEREAS, on September 2, 2008, the City Council adopted Resolution No. 2008-503 approving a Memorandum of Understanding (MOU) between the City of Modesto and the Modesto Confidential and Management Association (MCMA) setting forth benefit changes for Represented Management and Confidential Non-Sworn Classes effective July 22, 2008, and

WHEREAS, Council desires to establish a Class Range Table for said classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Class Range Table for Represented Management and Confidential Non-Sworn Classes, entitled "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective July 22, 2008" which is **attached** hereto as **Exhibit** "A" and made a part hereof as though set forth in full herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2008, 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:	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

CITY OF MODESTO
CLASS RANGE TABLE
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective **July 22, 2008**

RANGE	TITLE
403	
407	Administrative Clerk II (Confidential) Administrative Office Assistant II (Confidential)
408	
409	
410	
411	Administrative Office Assistant III (Confidential) Police Clerk II (Confidential)
412	
413	Administrative Technician (Confidential)
414	
415	Administrative Services Technician I (Confidential) Senior Administrative Office Assistant (Confidential) Secretary
416	
417	
418	Legal Secretary Systems Technician I
419	Administrative Services Technician II (Confidential) Public Information Technician (Confidential) Workers' Compensation Claims Assistant
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (Represented) Legal Services Technician

Exhibit "A"

RANGE	TITLE
421	
422	Office Supervisor Utility Dispatch Supervisor Workers' Compensation Claims Examiner I Systems Technician II
423	Custodian Supervisor Parking Services Supervisor
424	Assistant Planner Buyer Police Facilities Coordinator
425	Administrative Analyst I
426	Police Civilian Supervisor Stores Manager Supervising Animal Control Officer Systems Technician III
427	Assistant City Clerk/Auditor Workers' Compensation Claims Examiner II
428	Accountant II (Represented) Senior Buyer
429	
430	Associate Planner Community Services Supervisor Events Coordinator Senior Crime Analyst Software Analyst I
431	Administrative Analyst II Assistant Risk Manager Budget Analyst I Personnel Analyst Recycling Program Coordinator

RANGE	TITLE
432	Communications Specialist Compost Facility Supervisor Customer Services Supervisor Junior Civil Engineer Junior Traffic Engineer Neighborhood Preservation Supervisor Operations and Maintenance Supervisor Parks Project Coordinator Recreation Supervisor II Senior Accountant Water Quality Control Maintenance Supervisor
433	Organizational Development Specialist
434	Budget Analyst II Environmental Laboratory Supervisor Operations Supervisor Regulatory Compliance Supervisor SCADA Supervisor Senior Community Development Program Specialist Senior Housing Rehabilitation Specialist Software Analyst II Supervising Accountant Systems Engineer I
435	Business Analyst Cultural Services Manager Emergency Medical Services Coordinator Integrated Waste Specialist Management Analyst Rate and Fee Analyst Senior Personnel Analyst Weed and Seed Program Coordinator
436	Assistant Civil Engineer Assistant Traffic Engineer Electrical Supervisor Senior Planner
437	

RANGE	TITLE
438	Budget Officer
	Events Supervisor
	Housing Program Supervisor
	Land Surveyor
	Property Agent
	Public Safety Business Services Analyst
	Senior Business Analyst
	Software Analyst III
	Systems Engineer II
439	Administrative Services Officer
	Community Facilities Districts Administrative Officer
440	Transportation Planner
	Water Quality Control Operations Supervisor
441	Airport Manager
	Building Maintenance Superintendent
	Fleet Manager
	Housing and Urban Development Manager
	Parks Operations Superintendent
	Parks Planning and Development Manager
	Purchasing Manager
	Recreation Program Manager
	Streets Superintendent
	Urban Forestry Superintendent
	Wastewater Collections Superintendent
442	Customer Services Division Manager
	Manager of Budget and Financial Analysis
	Software Analyst IV
	Supervising Construction Inspector
	Systems Engineer III
443	Associate Civil Engineer
	Associate Traffic Engineer
444	Principal Planner
	Solid Waste Program Manager
	Supervising Building Inspector
	Transit Manager

RANGE	TITLE
445	Accounting Division Manager
446	Deputy Chief Building Official Information Technology Unit Manager Wastewater Treatment Plant Manager
447	Business Development Division Manager Planning Division Manager Water Superintendent
448	
449	
450	Chief Building Official Senior Civil Engineer Traffic Engineer
451	
452	City Engineer
453	
455	

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-505

A RESOLUTION AMENDING THE FISCAL YEAR 08-09 OPERATING BUDGET TO TRANSFER $82,850 FROM 0100-800-8000-8003, GENERAL FUND RESERVE, AND $79,050 FROM OTHER FUNDS RESERVES, TO VARIOUS SALARY AND BENEFIT ACCOUNTS TO PROVIDE FUNDING FOR THE NEGOTIATED MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION

WHEREAS, the City Council desires to authorize salary and benefit changes as part of the negotiated Memorandum of Understanding between the City of Modesto and the Modesto Confidential and Management Association, effective July 22, 2008, and

WHEREAS, the FY 08-09 costs associated with these changes are estimated at $201,900, effective July 22, 2008, and

WHEREAS, $161,900 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 2008-09 Operating Budget is hereby amended to transfer $82,850 from 0100-800-8000-8003, General Fund Reserve, and $79,050 from other Funds reserves to various salary and benefit accounts, to fund said salary and benefit changes negotiated as part of the Memorandum of Understanding between the City of Modesto and the Modesto Confidential and Management Association.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of September, 2008, 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:	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

AMENDED on July 14, 2009 By Resolution 2009-323

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-506

A RESOLUTION GRANTING HEALTH CONTRIBUTION CHANGES TO UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES, INCLUDING CHARTER OFFICERS AND EXECUTIVES, EFFECTIVE JULY 22, 2008, AND AMENDING SECTION 1 OF RESOLUTION NO. 2007-386

WHEREAS, by Section 1 of Resolution No. 2007-386, which became effective on June 26, 2007, the City Council designated the City's contribution to health, dental and vision benefits for Unrepresented Management and Confidential employees for Fiscal Year 07-08, 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 08-09, to be effective July 22, 2008,

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.

BE IT FURTHER RESOLVED that Section 1 of Resolution No. 2007-386 is hereby amended effective July 22, 2008.

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 2nd day of September, 2008, 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, 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. 2008-507

A RESOLUTION AMENDING THE FISCAL YEAR 08-09 OPERATING BUDGET TO TRANSFER $46,885 FROM 0100-800-8000-8003, GENERAL FUND RESERVE, AND $5,940 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, AND FOR PENDING SALARY RANGE CHANGES

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 City Council desires to allocate funding for pending salary range increases, and

WHEREAS, the Fiscal Year 08-09 costs associated with these changes are estimated at $52,825 for active employees and $22,000 for current retirees, and

WHEREAS, $52,825 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 08-09 Operating Budget is hereby amended to transfer $46,885 from 0100-800-8000-8003, General Fund Reserve, and $5,940 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 2nd day of September, 2008, 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, 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. 2008-508

A RESOLUTION APPROVING THE SALE OF A PORTION OF A PARCEL LOCATED AT THE NORTHEAST CORNER OF 9TH STREET AND D STREET TO THE CALIFORNA DEPARTMENT OF TRANSPORTATION AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ANY RELATED PROPERTY DOCUMENTS AS OWNER ON BEHALF OF THE CITY OF MODESTO FOR THE PARCEL IDENTIFIED AS ASSESSOR PARCEL NUMBER: 106-045-003

WHEREAS, the City of Modesto ("City") is the legal owner of a property (the "Property") located at the northeast corner of 9th Street and D Street in Modesto, CA, which is more particularly described as Assessors Parcel Number 106-045-003, and

WHEREAS, the California Department of Transportation ("Caltrans") is the owner of the road right of way of both 9th Street and D Street at this intersection and Caltrans requires a portion of said Property (2,178 square feet) (the "Portion") in order to complete additional right-of-way improvements to the intersection of 9th Street and D Street, which Portion is shown in **Exhibit A, attached** hereto and made a part hereof by this reference, and

WHEREAS, Caltrans also requires a Temporary Construction Easement adjacent to the Portion to accommodate the intersection construction, and

WHEREAS, said Portion has been evaluated by the City, including environmental analysis, and was determined to be free of environmental contamination, liens and easements, and

WHEREAS, Caltrans has agreed to pay fair market value in the total amount of $34,900 for both the Portion and the Temporary Construction Easement, and has agreed to pay all land transfer costs, and

WHEREAS, the potential impacts of this project have been adequately addressed within the context of the previously completed and certified Modesto Redevelopment Agency Program Environmental Impact Report SCH No. 2006071118, and no changes have been proposed pursuant to this property sale subsequent to the just referenced action which would require important revisions of the environmental document and, pursuant to Sections 15180(c) and 15168(c) of the CEQA Guidelines, no new environmental review need be completed, and this property sale is entirely consistent with the anticipated project(s) that are analyzed in the previous environmental determination,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the sale of a portion of a parcel located at the northeast corner of 9th Street and D Street to the California Department of Transportation is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute any related real estate documents required for this transaction.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2008, 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

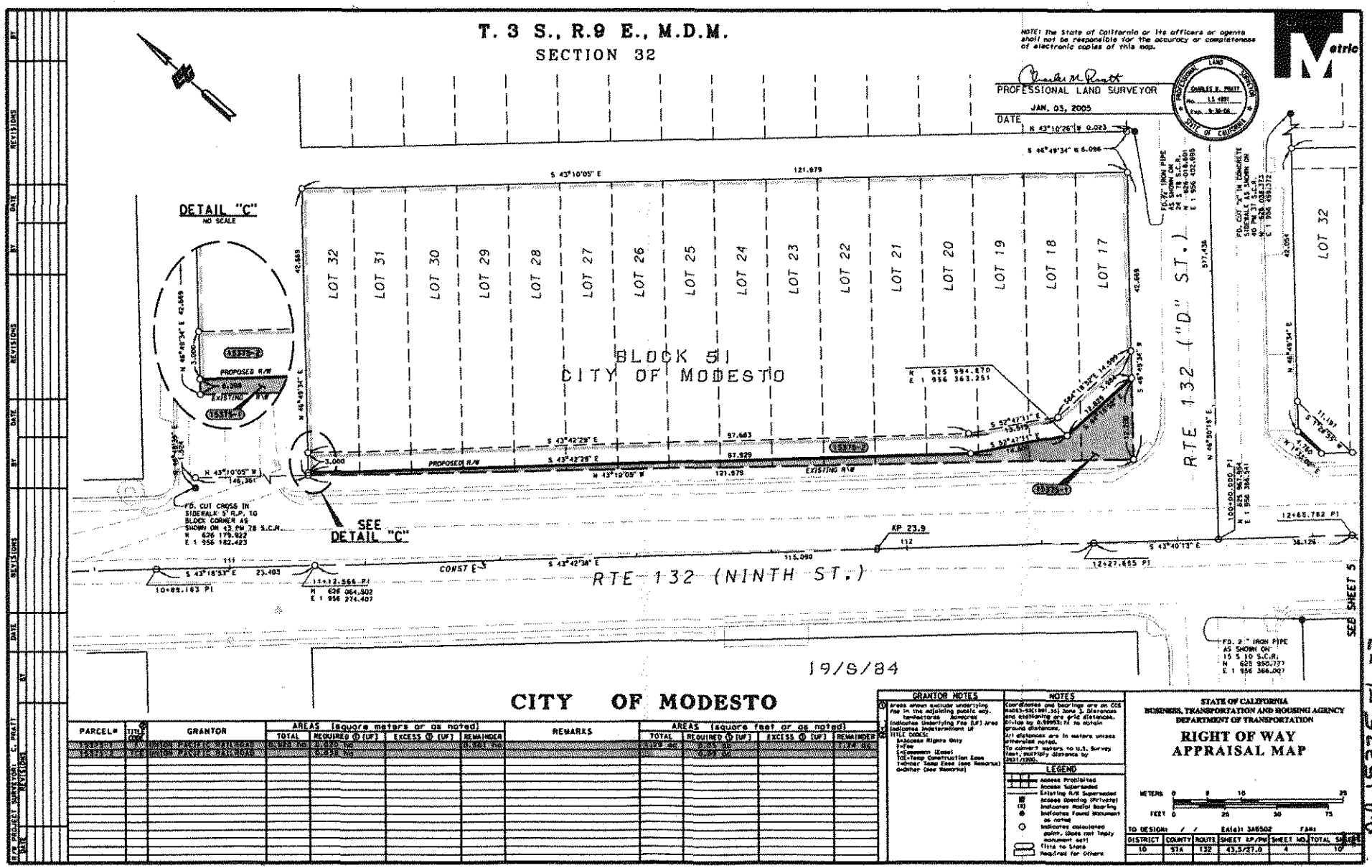
CALIFORNIA DEPARTMENT

OF TRANSPORTATION

9TH & D STREETS

RIGHT OF WAY

LOCATION MAP


T. 3 S., R.9 E., M.D.M.
SECTION 32
NOTE: The state of California or its officers or agents shall not be responsible for the accuracy or completeness of electronic copies of this map.
PROFESSIONAL LAND SURVEYOR
JAN. 03, 2005
DATE
DETAIL "C"
NO SCALE
LOT 32
LOT 31
LOT 30
LOT 29
LOT 28
LOT 27
LOT 26
LOT 25
LOT 24
LOT 23
LOT 22
LOT 21
LOT 20
LOT 19
LOT 18
LOT 17
BLOCK 51
CITY OF MODESTO
PROPOSED R/W
EXISTING R/W
RTE 132 ("D" ST.)
RTE 132 (NINTH ST.)
SEE DETAIL "C"
CONST E
KP 23.9
CITY OF MODESTO
19/8/84
GRANTOR NOTES
NOTES
LEGEND
STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF TRANSPORTATION
RIGHT OF WAY
APPRAISAL MAP
PARCEL#
GRANTOR
REMARKS
DISTRICT
COUNTY
ROUTE
SHEET KP/PM
SHEET NO.
TOTAL SHEETS
10
STA
132
43.5/27.0
4
10

MAR 18 2007

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-509

A RESOLUTION AMENDING THE FISCAL YEARS 2007-2008 AND 2008-2009 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 the Fiscal Years 2007-2008 and 2008-2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2007-2008 and 2008-2009 budgets 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 9th day of September, 2008, 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

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-510

A RESOLUTION GRANTING AUTHORITY TO THE CITY MANAGER TO EXTEND PROVISIONAL APPOINTMENTS BEYOND THE INITIAL SIX-MONTH APPOINTMENT

WHEREAS, the City Council designated the City Manager to review and provide recommendations on the types of items sent to City Council for approval on a consistent basis and

WHEREAS, Personnel Rules provide that the City Manager, with approval of City Council, may extend provisional appointments in sixty (60) day increments, and

WHEREAS, the City Manager has determined that City Council action to approve each and every extension of a provisional appointment in sixty (60) day increments beyond the six (6) month appointment is redundant,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby grants authority to the City Manager to extend provisional appointments beyond the initial six-month appointment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2008, 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. 2008-511

A RESOLUTION APPROVING THE WASTEWATER MASTER PLAN SUPPLEMENT, DATED JUNE 2008, AS COMPLETE

WHEREAS, typically, municipal Wastewater Management Plans (WWMP) are updated every five to seven years to incorporate additional growth, current operations, and new planning data, and

WHEREAS, having a current and comprehensive WWMP is a critical step in keeping the City ahead of the replacement requirements of an aging infrastructure system and the pressures of expanding urban growth, and

WHEREAS, the City Council, on January 27, 2004, by Resolution No. 2004-050, approved an Agreement with Carollo Engineers, P.C. (Carollo), of Walnut Creek, California, to update the City's WWMP, and it was completed and adopted in 2007, and

WHEREAS, the 2007 WWMP was prepared using City-furnished population growth rates available from 2005-2006, and

WHEREAS, the plan relied upon anticipated wastewater discharge permit conditions for the Jennings Road Secondary Treatment Facility based on several meetings and lengthy discussions with staff of the Regional Water Quality Control Board (RWQCB), and

WHEREAS, recent housing and resultant near-term population growth has slowed considerably in the last 12 months, and

WHEREAS, the RWQCB issued a new tentative waste discharge order (TO) on January 15, 2008, with limits more restrictive than those indicated from previous communications, and

WHEREAS, the TO includes unprecedented limits for seasonal secondary effluent discharges into the San Joaquin River, and

WHEREAS, the RWQCB issued the City's new permit with the new limits on April 25, 2008, and became effective on June 14, 2008, and

WHEREAS, the City Council, on April 1, 2008, by Resolution 2008-187, approved an Agreement with Carollo to prepare a WWMP Supplement due to Carollo's familiarity with the City's wastewater treatment facilities, as well as their ongoing work with the Phase 1A Tertiary Treatment Facility and their current task of analyzing alternatives to meet new discharge permit requirements, and

WHEREAS, the WWMP Supplement was prepared to revise the City's strategic plan to meet these new discharge requirements and accommodate revised growth projections, reprioritize the capital improvement program and revise the projected cash flow curve, to be used by others, to update future wastewater rates, and

WHEREAS, recommendations from the WWMP Supplement include: implementing the Phase 1A tertiary project as a permanent facility, restructuring and combining elements of Phase 1B and Phase 2 to meet the new regulatory requirements (including the upgrade to Biological Nutrient Removal (BNR) and tertiary treatment (using Membrane Bioreactor (MBR) technology) to allow for year-round discharge, and implement long-term salinity reduction strategies, and

WHEREAS, the WWMP Supplement also serves as a Treatment Feasibility Study Work Plan and proposed compliance schedule, which the City is required to submit to the RWQCB by October 14, 2008, and

WHEREAS, the City will need to meet the limits of the new wastewater discharge permit, approximately 5 years from the permit's effective date (anticipated in April 2013), and

WHEREAS, the net effect of these new requirements is to advance the timeframe required to achieve tertiary treatment and year-round river discharge from 2016 to 2013, and

WHEREAS, the Wastewater Master Plan Supplement has been successfully completed and will serve as the basis for specific recommendations for the City's Capital Improvement Program, primarily due to the accelerated improvements required to meet the new discharge requirement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Wastewater Master Plan Supplement, dated June 2008, as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2008, 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. 2008-512

A RESOLUTION AMENDING THE FY08/09 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO PROVIDE FUNDING NECESSARY TO BEGIN PROJECT DESIGN, BY DECREASING CIP ACCOUNTS 6210-430-B770 "WASTEWATER TREATMENT-PHASE 1B SECONDARY WQC UPGRADES" IN THE AMOUNT OF $1,020,600 AND 6210-480-B806 "WASTEWATER TREATMENT-PHASE 1B TERTIARY" IN THE AMOUNT OF $4,373,216 TO CLOSE BOTH ACCOUNTS, AND REAPPROPRIATING THE TOTAL AMOUNT OF $5,393,816 TO CIP ACCOUNT 6210-430-B061 "WASTEWATER TREATMENT-PHASE 2 TERTIARY"

WHEREAS, certain budgetary transactions are necessary in the amount of $5,393,816, in order to provide funding to begin project design of the project titled "Wastewater Treatment-Phase 2 Tertiary," and

WHEREAS, due to change in scope included in the Wastewater Master Plan supplement, the FY08/09 Capital Improvement Program budget must be amended by decreasing CIP Account 6210-430-B770-6052 "Wastewater Treatment-Phase 1B Secondary WQC Upgrades in the amount of $1,020,600 and 6210-480-B806-6010 "Wastewater Treatment-Phase 1B Tertiary in the amount of $4,373,216 to close both accounts and returning the funds back to Account 6210-800-8000-8003 "Wastewater Fund Reserve", then decreasing Account 6210-800-8000-8003 "Wastewater Fund Reserve" by the total amount of $5,393,816 and reappropriating the funds to CIP Account 6210-430-B061-6010 to perform the required project design for the project titled "Wastewater Treatment-Phase 2 Tertiary,"

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds in the amount of $5,393,816 as set forth herein to perform the required project design for the project titled "Wastewater Treatment-Phase 2 Tertiary."

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2008, 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. 2008-513

A RESOLUTION ACCEPTING THE WORK BY TIM PAXIN'S PACIFIC EXCAVATION, INC. FOR THE "NEIGHBORHOOD PARKS SECURITY LIGHTING 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 $193,980.91

WHEREAS, a report has been filed by the Public Works Director that the project titled "Neighborhood Parks Security Lighting" has been completed by Tim Paxin's Pacific Excavation, Inc. in accordance with the contract agreement dated January 22, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Neighborhood Parks Security Lighting" is hereby accepted as complete from said contractor Tim Paxin's Pacific Excavation, 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 $193,980.91 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2008, 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. 2008-514

A RESOLUTION APPROVING A SECOND AMENDMENT TO AGREEMENT WITH MARK THOMAS & COMPANY, INC. FOR CONSULTANT SERVICES FOR THE PELANDALE AVENUE AT SISK ROAD AND SR99 NORTHBOUND ON-RAMP PROJECT, IN THE NOT-TO-EXCEED AMOUNT OF $46,190, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO AGREEMENT

WHEREAS, the City of Modesto has been planning for the widening of Pelandale Avenue at Sisk Road and SR99, and

WHEREAS, the project is needed to provide a means of keeping pace with the City's projected growth, and

WHEREAS, the City has entered into a Development Agreement with Kaiser Permanente for the development of the new Kaiser Foundation Hospital on Dale Road south of Kiernan Avenue, and

WHEREAS, one of the mitigation measures in the Development Agreement is the development of the intersection of Dale Road and Kiernan Avenue, and

WHEREAS, the City Council, on July 12, 2005, by Resolution No. 2005-367, approved an Agreement with Mark Thomas & Company, Inc. (Mark Thomas) to complete design services for the Pelandale Avenue at Sisk Road and SR99 Northbound On-ramp project, and

WHEREAS, Mark Thomas has completed the plans and specifications for the Project, and

WHEREAS, upon completion of the right-of-way acquisition, it is the City's responsibility to perform the construction phase of the project, and

WHEREAS, the City of Modesto hired Mark Thomas to provide engineering design services for the Project, and

WHEREAS, the consultant was also hired to perform right-of-way support services, and

WHEREAS, a several month delay has been experienced by the City while right-of-way is being secured, and

WHEREAS, Mark Thomas has been expected to perform additional right-of-way support, utility coordination, plan and specification revisions, as well as construction support work for the Project, and

WHEREAS, the Pelandale/Sisk/SR 99 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, since Mark Thomas prepared the plans and specifications for the Pelandale/Sisk/SR 99 Project, it was considered by City staff to be appropriate for the consultant to continue with the project by providing additional engineering services under a Second Amendment to Agreement in an amount not to exceed $46,190, bringing the Agreement total to $251,090, and

WHEREAS, a separate consultant will be hired to perform construction management services for the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Second Amendment to Agreement with Mark Thomas & Company, Inc. for construction support services for the Pelandale Avenue at Sisk Road and SR99 Northbound On-ramp Project in an amount not to exceed $46,190.

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 meeting of the Council of the City of Modesto held on the 9th day of September, 2008, 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:	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. 2008-515

A RESOLUTION AMENDING THE FY08/09 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO FULLY FUND THE SECOND AMENDMENT TO AGREEMENT WITH MARK THOMAS & COMPANY, INC. FOR CONSULTANT SERVICES, INCLUDING CITY STAFF TIME, TO COMPLETE THE PELANDALE AVENUE AT SISK ROAD AND SR99 NORTHBOUND ON-RAMP PROJECT, TRANSFERRING $44,000 BY DECREASING OBJECT 6030 LAND/ROW ACQUISITION AND REAPPROPRIATING THE SAME AMOUNT TO OBJECT 6010 ENGINEERING/DESIGN/ADMINISTRATION WITHIN THE SAME CIP ACCOUNT 1410-430-H424 "PELANDALE SISK TO 99 IMPROVEMENTS"

WHEREAS, certain budgetary transactions are necessary to fully fund the Second Amendment to Agreement with Mark Thomas & Company, Inc. for consultant services, including City staff time, to complete the Pelandale Avenue at Sisk Road and SR99 Northbound On-ramp project, and

WHEREAS, to fully fund the Second Amendment to Agreement, the FY08/09 Capital Improvement Program budget must be amended transferring $44,000 by decreasing Object 6030 Land/ROW Acquisition and reappropriating the same amount to Object 6010 Engineering/Design/Administration within the same CIP Account 1410-430-H424 "Pelandale Sisk to 99 Improvements" to complete the project titled "Pelandale Avenue at Sisk Road and SR99 Northbound On-ramp,"

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds as set forth herein to fully fund the Second Amendment to Agreement with Mark Thomas & Company, Inc. for consultant services, including City staff time, in the amount of $44,000 to complete the project titled "Pelandale Avenue at Sisk Road and SR99 Northbound On-ramp".

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2008, 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:	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. 2008-516

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY AND THE MODESTO IRRIGATION DISTRICT (MID) RELATED TO THE INITIAL FUNDING, REPAYMENT PROVISIONS, CARRYING COSTS, AND ALLOCATION OF COSTS FOR EXTERIOR INSULATION AND FINISH SYSTEMS (EIFS) REPAIR AND ROOF REPLACEMENT WORK AT THE MODESTO REGIONAL WATER TREATMENT PLANT (MRWTP) AND TERMINAL RESERVOIR/PUMP STATION FACILITY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE MOU

WHEREAS, the MID's MRWTP was completed in 1995 and delivers 30 million gallon (mgd), on an annual average basis, of treated surface water to the City each day, and

WHEREAS, the facilities are currently being expanded to 60 mgd as part of the MRWTP Phase Two Expansion project, and

WHEREAS, the buildings at the MRWTP have rainwater intrusion problems caused primarily by leaks from the internal gutter and downspout system, and

WHEREAS, the leaks have led to interior damage of the buildings in several locations and numerous cracks in the building's exterior insulation and finish systems (EIFS) assembly have also led to rainwater intrusion because there is not a back-up waterproofing system behind the EIFS assembly, and

WHEREAS, water enters the cracks and then into the underlying substrates, such as plywood and metal framing resulting in rot, biological growth, and rust problems, and

WHEREAS, as a result of these collective leak problems, it is necessary to perform extensive repairs and re-design various failed components of the buildings, and

WHEREAS, in addition to the EIFS and internal gutter leak problems, the roofs at the MRWTP are nearing the end of the serviceable life and will be removed and replaced, and

WHEREAS, MID hired a waterproofing specialty consultant, Allana, Buick, and Bers (ABB) to initially investigate and perform a condition assessment of the existing facilities, and

WHEREAS, ABB was subsequently retained to prepare the plans, specifications, and cost estimates for the required repair work, in addition to construction management services to oversee the repairs, and

WHEREAS, the Memorandum of Understanding (MOU) contains provisions that memorialize the cost sharing arrangement between the City and MID, and

WHEREAS, some of the key provisions include; allocation of financial responsibility, fronting costs by MID, repayment provisions, identification of MID's sunk costs to date (i.e. labor, legal services, consultants, etc.), expected length of time carrying the debt, and interest rate, and

WHEREAS, except as noted in the MOU, the provisions within the Amended and Restated Treatment and Delivery Agreement (ARTDA) remain unchanged and applicable to the project, and

WHEREAS, City and MID staff have met and reviewed ABB's analysis and concluded that further technical analysis would not result in any additional insight, and as a practical matter, a negotiated and mutually agreeable settlement would be the most beneficial, and

WHEREAS, using the applicable provisions of the ARTDA under the direction of the Technical Committee and MID staff, ABB completed an extensive cost allocation study that was used as a guideline for policy makers to negotiate a final cost assignment to each agency, which concluded that: 1) The cost for low-sloped roofing should be directly assigned to the City, determined to be 10.5 percent of the project cost; 2) All other costs would be equally split between MID and the City, except carrying cost, and 3) The City shall reimburse MID for interest on City's portion of the project cost, from the date that such costs are incurred and advanced by MID, until payment is made by the City, and

WHEREAS, City staff has reviewed the assumptions used in the proposed 50% / 50% split of the repair work (excluding the low-slope roof replacement, which will be a 100% City cost) and concurs with the provisions stated in the MOU, and

WHEREAS, MID will front the costs of the EIFS repair and roof replacement work, and as with other aspects of the MRWTP project, MID will be reimbursed per the terms and conditions of the ARTDA and the MOU from the City for such costs, and

WHEREAS, the execution of this MOU will allow the EIFS repairs and roof replacements to proceed,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Memorandum of Understanding (MOU) between the City and the Modesto Irrigation District (MID) related to the initial funding, repayment provisions, carrying costs, and allocation of costs for Exterior Insulation and Finish Systems (EIFS) repair and roof replacement work at the Modesto Regional Water Treatment Plant and Terminal Reservoir/Pump Station facility (MRWTP).

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 9th day of September, 2008, 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. 2008-517

A RESOLUTION AUTHORIZING THE MODESTO IRRIGATION DISTRICT (MID) TO EXECUTE A CONSTRUCTION CONTRACT WITH ALPHA RESTORATION & WATERPROOFING IN THE AMOUNT OF $5,901,045 FOR EXTERIOR INSULATION AND FINISH SYSTEMS (EIFS) REPAIR AND ROOF REPLACEMENT AT THE MODESTO REGIONAL WATER TREATMENT PLANT (MRWTP), AND AUTHORIZE A CHANGE ORDER AUTHORITY TO THE MID GENERAL MANAGER FOR UP TO 14.1 PERCENT ($832,047) OF THE CONSTRUCTION CONTRACT AMOUNT, PROVIDED THAT SUCH CHANGE ORDERS HAVE BEEN APPROVED THROUGH THE PROCESS DESCRIBED IN THE AMENDED AND RESTATED TREATMENT AND DELIVERY AGREEMENT (ARTDA)

WHEREAS, the MID's MRWTP was completed in 1995 and delivers 30 million gallon (mgd), on an annual average basis, of treated surface water to the City each day, and

WHEREAS, the facilities are currently being expanded to 60 mgd as part of the MRWTP Phase Two Expansion project, and

WHEREAS, the buildings at the MRWTP have rainwater intrusion problems caused primarily by leaks from the internal gutter and downspout system, and

WHEREAS, the leaks have led to interior damage of the buildings in several locations and numerous cracks in the building's exterior insulation and finish systems (EIFS) assembly have also led to rainwater intrusion because there is not a back-up waterproofing system behind the EIFS assembly, and

WHEREAS, water enters the cracks and then into the underlying substrates, such as plywood and metal framing resulting in rot, biological growth, and rust problems, and

WHEREAS, as a result of these collective leak problems, it is necessary to perform extensive repairs and re-design various failed components of the buildings, and

WHEREAS, in addition to the EIFS and internal gutter leak problems, the roofs at the MRWTP are nearing the end of the serviceable life and will be removed and replaced, and

WHEREAS, MID hired a waterproofing specialty consultant, Allana, Buick, and Bers (ABB) to initially investigate and perform a condition assessment of the existing facilities, and

WHEREAS, ABB was subsequently retained to prepare the plans, specifications, and cost estimates for the required repair work, in addition to construction management services to oversee the repairs, and

WHEREAS, bids were received by three (3) pre-qualified general contractors on August 20, 2008, and

WHEREAS, MID and City staff recommended that the bid of $5,901,045 received from Alpha Restoration & Waterproofing be accepted as the lowest responsible bid and the contract be awarded to Alpha Restoration & Waterproofing, and

WHEREAS, the purpose for providing change order authority to the MID General Manager is to help streamline a multi-layered and time consuming approval process, as outlined in the ARTDA, so that decisions may be made in a timely manner, thereby reducing the potential for delay claims from the contractor,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Modesto Irrigation District (MID) to execute a construction contract with Alpha Restoration & Waterproofing in the amount of $5,901,045 for Exterior Insulation and Finish Systems (EIFS) repair and roof replacement work at the Modesto Regional Water Treatment Plant and Terminal Reservoir/Pump Station facility

(MRWTP), and authorize a change order authority to the MID General Manager for up to 14.1 percent ($832,047) of the construction contract amount, provided that such change orders have been approved through the process described in the Amended and Restated Treatment and Delivery Agreement (ARTDA).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2008, 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. 2008-518

A RESOLUTION DIRECTING STAFF TO PROCEED WITH THE ANNEXATION OF THE SHACKELFORD INFILL AREA

WHEREAS, the Modesto City Council heard recommendations regarding the 2003 Urban Area Growth Policy Review on June 18, 2003, and considered and approved Resolution 2003-359 directing the City Clerk to submit to the voters an advisory measure relating to the extension of sewer service to the unincorporated area referred to as "Shackelford Infill Area" and approving an agreement between the City of Modesto and the County of Stanislaus to resolve potential fiscal impacts of upgrading deficient infrastructure with the Shackelford Infill Area, and

WHEREAS, an advisory vote relating to the extension of sewer service to the Shackelford Infill Area was held on November 4, 2003, and

WHEREAS, the July 1, 2003, public improvement agreement between the City of Modesto and the County of Stanislaus has been substantially fulfilled, and

WHEREAS, the City Council considered directing staff to proceed with annexation of the Shackelford Infill Area at a regularly scheduled meeting on September 9, 2008, 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 hereby directs staff to proceed with the annexation of the Shackelford Infill Area, **attached** hereto as **Exhibit "A"**, and incorporated herein by reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2008, 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

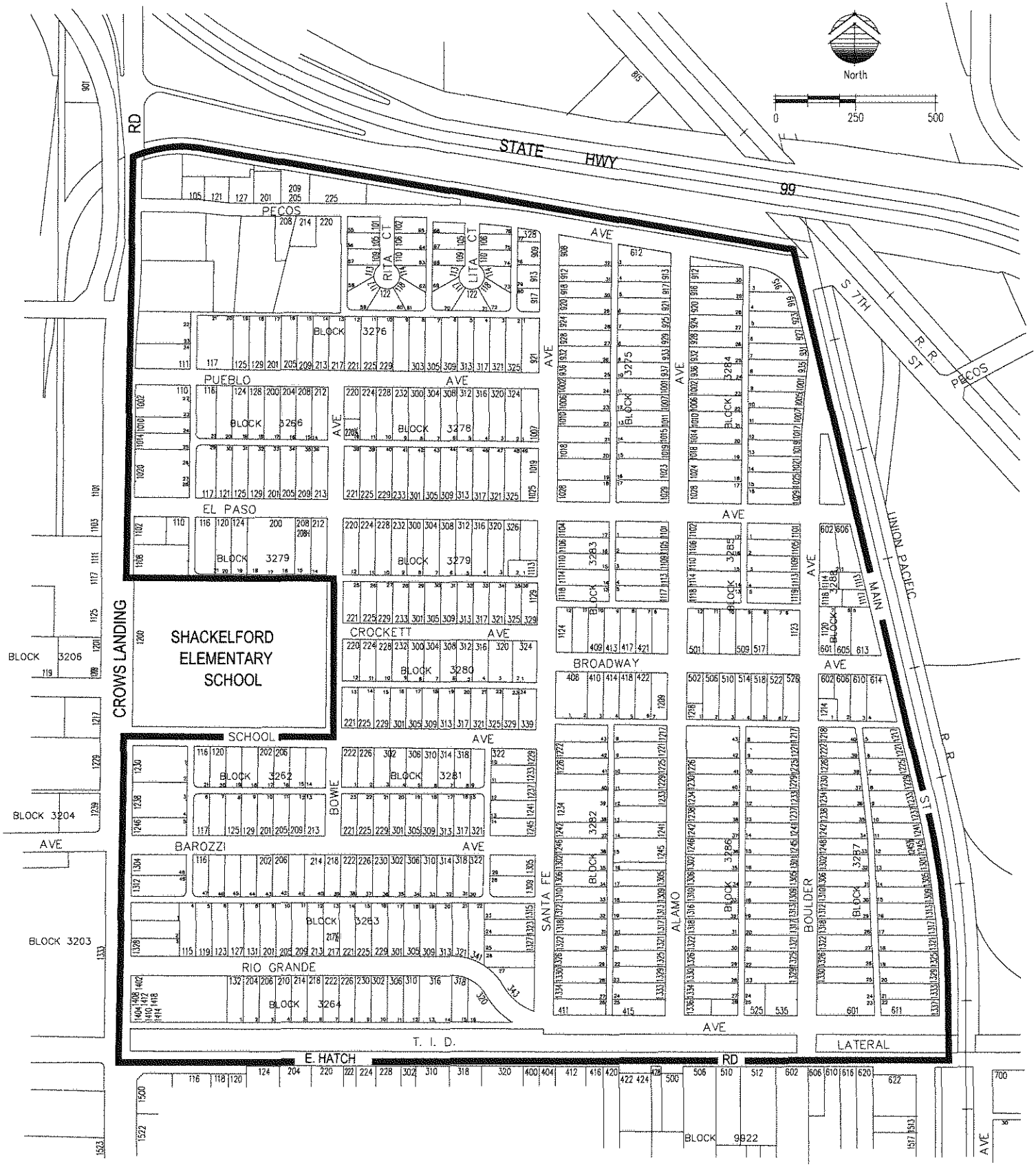
(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Shackelford Infill Area



Shackelford Infill Area

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-519

A RESOLUTION APPROVING THE REVENUE SHARING AGREEMENT BETWEEN THE CITY OF MODESTO AND MAXUM PETROLEUM, INC. FOR SALES TAX REBATES AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE SAID AGREEMENT

WHEREAS, California imposes a sales tax on every retailer of personal property at a rate of 6.25% and an additional 1% sales tax is levied based on the Bradley-Burns Uniform Local Sales and Use Tax Law ("Bradley-Burns 1%") for a minimum statewide total sales tax rate of 7.25%, and

WHEREAS, beginning in 1957, the City of Modesto ("City") has entered into a tax-sharing agreement with Stanislaus County whereby the City receives 95% of the "Bradley-Burns 1%" and the County receives the remaining 5%, and

WHEREAS, the "Bradley-Burns 1%" is collected based upon the location of the sale, not the destination of the goods sold and the "Bradley-Burns 1%" portion of the sales tax is available for sales tax revenue sharing agreements, and

WHEREAS, Maxum Petroleum (dba: General Petroleum) sells business-to-business taxable sales of fuels and lubricants throughout California with an estimated annual taxable sales for all of the Northern California offices estimated to be approximately $200 million, and

WHEREAS, Maxum Petroleum is proposing to consolidate its sales function in two sales offices in California, one in Northern California and one in Southern California, and the office in Northern California will be located in Modesto, and

WHEREAS, in return for its decision to locate its Northern California sales office in Modesto, Maxum Petroleum has requested that the City enter into a Revenue-Sharing

Agreement ("Revenue Agreement") with Maxum Petroleum wherein up to 65% of the City's share of the "Bradley-Burns 1%" sales tax that the City would otherwise obtain from sales made at the new Modesto office would be rebated to Maxum Petroleum, and

WHEREAS, the purpose of said Revenue Agreement is the generation of additional sales tax revenues to the City to use for various public services funded through General Fund revenues, and

WHEREAS, as a charter city, Modesto has the authority to enter into contractual agreements, including revenue-sharing agreements, with private companies, and

WHEREAS, said Revenue Agreement will terminate on December 31, 2028, unless it is extended by the mutual consent of both parties for two (2) five-year options, and

WHEREAS, the revenue sharing between the City and Maxum Petroleum will be as set forth in said Revenue Agreement,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL that the Revenue Sharing Agreement between the City of Modesto and Maxum Petroleum, Inc. is hereby approved.

BE IT FURTHER RESOLVED that the City Council does hereby authorize and direct its City Manager, or his/her designee, to execute said Revenue Sharing Agreement and any related documents on behalf of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 9th day of September, 2008, 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, Olsen, Mayor Ridenour
NOES:	Councilmembers:	O'Bryant
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-520

A RESOLUTION DIRECTING THE AMENDMENT OF THE 2008-2009 FISCAL YEAR GENERAL FUND BUDGET TO REFLECT REVENUES AND EXPENSES RELATED TO A REVENUE SHARING AGREEMENT WITH MAXUM PETROLEUM, INC.

WHEREAS, the City Council has considered staff's report on a proposed revenue sharing agreement between the City and Maxum Petroleum, Inc., and

WHEREAS, under the terms of the proposed revenue sharing agreement the City will be obligated to recognize revenues and expenditures that are not appropriated in the 2008-2009 General Fund operating budget, and

WHEREAS, the City Council has approved the revenue sharing agreement and now wishes to amend the 2008-2009 General Fund operating budget to reflect revenues and expenditures that will result from this agreement, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Finance Director to recognize the revenues and expenditures that result from the Revenue Sharing Agreement entered into between the City and Maxum Petroleum, Inc. as they are realized.

BE IT FURTHER RESOLVED that the Finance Director shall provide periodic updates to the City Council on the budgetary effects of the Revenue Sharing Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of September, 2008, 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, Olsen, Mayor Ridenour
NOES:	Councilmembers:	O'Bryant
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-521

A RESOLUTION APPROVING AN AGREEMENT WITH THE MODESTO LIONS CLUB FOR SPONSORSHIP OF THE VIRGINIA CORRIDOR/MORRIS AVENUE PARK SITE PLAY STRUCTURE AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the 4.2 mile Virginia Corridor Trailway follows the old Tidewater Southern Railway line from Needham Avenue to south of Bangs Road, thus providing a non-motorized link between surrounding neighborhoods, schools, parks, shopping areas, work places and the downtown core, and

WHEREAS, the City of Modesto and the Modesto Lions Club wish to jointly develop the play area at Morris Avenue and Virginia Avenue in the City of Modesto which will include donations of labor, materials, and funding, and

WHEREAS, the City of Modesto is pleased to receive such donations, and

WHEREAS, the Modesto Lions Club wishes to provide certain park amenities at the above-referenced location under the City's Park Partners program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with the Modesto Lions Club for sponsorship of the Virginia Corridor/Morris Avenue Park Site Play Structure.

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 September, 2008, 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

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. 2008-522

A RESOLUTION APPOINTING JASON McCOY TO THE AIRPORT ADVISORY COMMITTEE

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

WHEREAS, the Economic Development Committee met on August 11, 2008, and recommended appointment of JASON McCOY to the Airport Advisory Committee.

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 Airport 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 Airport Advisory Committee, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, 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
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-523

A RESOLUTION APPOINTING ULYSSES CISNEROS AND RICHARD HORNING 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 August 11, 2008, and recommended appointment of ULYSSES CISNEROS and RICHARD HORNING to the Community Qualities Forum.

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

SECTION 1. ULYSSES CISNEROS and RICHARD HORNING, Northeast area residents, are hereby appointed to the Community Qualities Forum with term expirations of January 1, 2012.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, 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

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. 2008-524

A RESOLUTION APPOINTING EVAN YOSHINO AND KAREN SWANSON TO THE DISABLED ACCESS APPEALS BOARD

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

WHEREAS, the Economic Development Committee met on August 11, 2008, and recommended appointment of EVAN YOSHINO and KAREN SWANSON to the Disabled Access Appeals Board.

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

SECTION 1. EVAN YOSHINO and KAREN SWANSON are hereby appointed to the Disabled Access Appeals Board 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 newly appointed member of the Disabled Access Appeals Board, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, 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

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. 2008-525

A RESOLUTION APPOINTING JENNIFER ABRAHAMSON AND CHARLOTTE DALBY 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 August 11, 2008, and recommended appointment of JENNIFER ABRAHAMSON and CHARLOTTE DALBY to the Equal Opportunity/Disability Commission.

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

SECTION 1. JENNIFER ABRAHAMSON and CHARLOTTE DALBY are hereby appointed to the Equal Opportunity/Disability Commission with term expirations of January 1, 2012.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members 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 23rd day of September, 2008, 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

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. 2008-526

A RESOLUTION APPOINTING MICHAEL FORD, JACK JACQUES AND 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 August 11, 2008, and recommended appointment of MICHAEL FORD, JACK JACQUES and 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. MICHAEL FORD, with term expiration of January 1, 2012, JACK JACQUES, with term expiration of January 1, 2011 and JEANNIE McDONALD, with term expiration of January 1, 2009, are hereby appointed to the Golf Courses Advisory Committee.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, 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
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. 2008-527

A RESOLUTION APPOINTING DAN PARK 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 August 11, 2008, and recommended appointment of DAN PARK to the Housing Rehabilitation Loan Committee.

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

SECTION 1. DAN PARK 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 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 23rd day of September, 2008, 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. 2008-528

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF RONALD D. JESKE FROM THE GOLF COURSES ADVISORY COMMITTEE

WHEREAS, RONALD D JESKE was appointed a member of the Golf Courses Advisory Committee, on June 13, 2006, and

WHEREAS, RONALD D. JESKE has tendered his resignation from the aforementioned committee, and

WHEREAS, RONALD D. JESKE has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of RONALD D. JESKE 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 RONALD D. JESKE for his service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, 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
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. 2008-529

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF SETH INGRAM FROM THE CITIZENS ADVISORY COMMITTEE ON RECYCLING

WHEREAS, SETH INGRAM was appointed a member of the Citizens Advisory Committee on Recycling November 27, 2007, and

WHEREAS, SETH INGRAM has tendered his resignation from the aforementioned committee, and

WHEREAS, SETH INGRAM has been a devoted and sincere public servant and has contributed greatly to our civic progress,

NOW, THEREFORE, BE IT RESOLVED that the resignation of SETH INGRAM from the Citizens Advisory Committee on Recycling 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 SETH INGRAM 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 23rd day of September, 2008, 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
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. 2008-530

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE BURKSHIRE ESTATES II SUBDIVISION, (ROSELLE AVENUE WIDENING BETWEEN SYLVAN ROAD AND KODIAK DRIVE) LOCATED 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, STANDARD PACIFIC CORP., ("SUBDIVIDER"), is the subdivider of the BURKSHIRE ESTATES II ("SUBDIVISION"), and

WHEREAS, as a condition of the project, and the Acquisition and Shortfall Agreement ("AGREEMENT") dated October 24, 2006 between the City of Modesto Community Facilities District No. 2004-1 (Village One #2), and the SUBDIVIDER, the SUBDIVIDER was to construct roadway improvements on the east side of Roselle Avenue at Kodiak Drive ("PUBLIC IMPROVEMENTS"), located within the SUBDIVISION, and

WHEREAS, said PUBLIC IMPROVEMENTS, 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 project have been satisfactorily completed and all inspection fees have paid, and

WHEREAS, the Public Works Department will assume maintenance responsibilities upon acceptance of PUBLIC IMPROVEMENTS, and

WHEREAS, pursuant to the AGREEMENT, SUBDIVIDER has filed a Faithful Performance Bond in the amount of $506,782.00, and a Payment Bond in the amount of $506,782.00, and

WHEREAS, pursuant to the AGREEMENT, SUBDIVIDER has filed a Warranty Bond in the amount of $50,678.20, and

WHEREAS, pursuant to the Subdivision Agreement, SUBDIVIDER, has filed a Subdivision Faithful Performance Bond in the amount of $1,711,124.00, and a Subdivision Payment Bond in the amount of $855,562.00, and

WHEREAS, pursuant to the Subdivision Agreement SUBDIVIDER, has filed a Warranty Bond in the amount of $171,112.40, and

WHEREAS, the Public Works Director, in a memorandum to Council, indicates that all work required by the Subdivision Agreement, and the Agreement has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the Public Works Director and the Community Facilities District Administrator have indicated that it would be in order for the City Council to accept said PUBLIC IMPROVEMENTS and public improvements in the SUBDIVISION as complete, authorize the City Clerk to file a Notice of Completion, and to 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 said PUBLIC IMPROVMENTS and public improvements in the SUBDIVISION are hereby accepted, and the City Clerk is hereby authorized to file a Notice of Completion.

2. The City Clerk is hereby authorized to release the Subdivision Faithful Performance Bond in the amount of $1,711,124.00 upon recordation of the Notice of Completion.

3. The City Clerk is hereby authorized to release the Faithful Performance Bond in the amount of $506,782.00, upon recordation of the Notice of Completion.

4. The City Clerk is hereby authorized to release the Payment Bond in the amount of $506,782.00 sixty (60) days after recordation of the Notice of Completion, provided no claim is madder thereon.

5. The City Clerk is hereby authorized to release the Subdivision Payment Bond in the amount of $855,562.00 sixty (60) days after recordation of the Notice of Completion, provided no claim is made thereon.

6. The City Clerk is hereby authorized to release the Warranty Bonds in the amounts of $171,112.40 and $50,678.20 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 23rd day of September, 2008, 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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-531

A RESOLUTION APPROVING STORM DRAINAGE DESIGN INTERIM POLICY FOR INFILL/REDEVELOPMENT PENDING THE ADOPTION & IMPLEMENTATION OF THE NEW STORM WATER MASTER PLAN

WHEREAS, the City of Modesto Standard Specifications address the storage of public storm water in public basins, and

WHEREAS, they do not address onsite storm water drainage, and

WHEREAS, onsite drainage is the flow of water that originates within the boundaries of private property and can impact the City in two main ways, and

WHEREAS, storm water from private development can drain onto City roads causing local flooding and dangerous driving conditions, and

WHEREAS, if onsite storm water does not disperse within 48 hours mosquitoes may breed creating an environmental issue, and

WHEREAS, questions may have been raised over whether the City Standard Specifications adequately identify requirements for infill development and redevelopment, and

WHEREAS, because of varying interpretations of infill and redevelopment storm drainage requirements, a definitive interpretation is warranted, and

WHEREAS, the primary purpose of this interim policy is to further clarify City of Modesto Standard Specifications, and to provide Standards that are equitable and proportional for the onsite storm drainage to the redevelopment and infill projects, and

WHEREAS, the standards are intended to encourage and maximize opportunities for infill development projects, which are beneficial to the community, protective of existing neighborhoods, and well designed, and

WHEREAS, staff is recommending this interim policy to further clarify our Standard Specifications, and to provide standards that are equitable and proportional for the onsite storm drainage to the redevelopment and infill projects, and

WHEREAS, this interim policy will facilitate the improvement plan review process by creating faster turn-around, decrease the number of re-submittals, and help improve working relationships between developers, private engineers and City staff, and

WHEREAS, these interim policy measures will still protect the greater public interest by providing flood intervention, reducing maintenance costs, minimizing inconveniences, and protecting against major property damage,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Storm Drainage Design Interim Policy for infill/redevelopment as part of the 2006 Standard Specifications, pending the adoption and implementation of the new Storm Water Master Plan.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, 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 2008-532

A RESOLUTION APPROVING A REFUND OF $292,618.70 FOR A PORTION OF CAPITAL FACILITIES FEES PAID IN PROTEST FOR BUILDING PERMIT NO. BLD2007-55307 AND APPROVING A DEFERRED PAYMENT AGREEMENT AND NOTICE OF LIEN WITH MASTAGNI/ADERHOLT JOINT VENTURE, A GENERAL PARTNERSHIP, FOR THE PAYMENT OF $325,131.89 IN CAPITAL FACILITIES FEES PLUS INTEREST IN NO MORE THAN TEN (10) ANNUAL INSTALLMENTS AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO EXECUTE THE AGREEMENT (FUNDING SOURCE: CAPITAL FACILITIES FEES REVENUE)

WHEREAS, Mastagni/Aderholt Joint Venture, a General Partnership, ("Owner") owns certain real property located within the City of Modesto, more particularly described on **Exhibit "A", attached** hereto and incorporated herein by reference (Property), and

WHEREAS, Owner has obtained a building permit from the City for the construction of a 27,310 square foot general office building and a 5,000 square foot shell warehouse building, located at 1820 Blue Gum Avenue, Modesto, CA (Project), and

WHEREAS, Owner has paid in protest Capital Facilities Fees, (hereinafter "CFF"), in the amount of $325,131.89 due on building permit No. BLD2007-55307, and

WHEREAS, Owner desires to defer payment of CFF, in the amount of $325,131.89, and

WHEREAS, the City has determined that it is appropriate to refund a portion of CFF paid on BLD2007-55307 and defer payment of said fees pursuant to Modesto City Council Resolution No. 2008-070,

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

1) A total of $292,618.70 in CFF paid on BLD2007-55307 shall be refunded within two weeks of the approval of the Agreement

2) A Deferred Payment Agreement and Notice of Lien ("Agreement") with Mastagni/Aderholt Joint Venture, a General Partnership, retaining payment of $32,513.19 in CFF paid on building permit BLD2007-55307 and deferring $292,618.70 for CFF plus interest in no more than ten (10) annual installments is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or 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 23rd day of September, 2008, 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

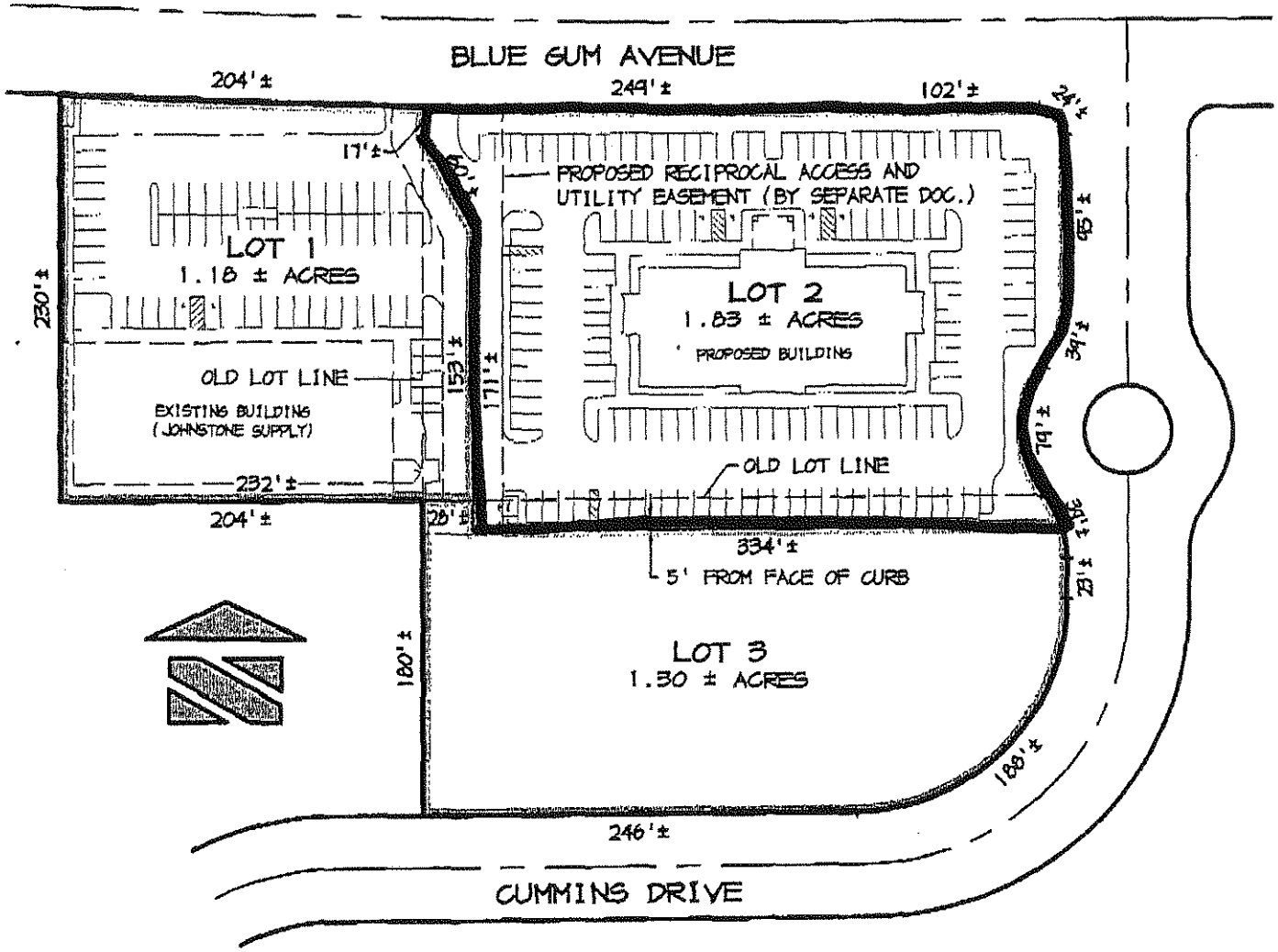
ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Exhibit A



LOT SUMMARY

BEFORE ADJUSTMENT	
LOT 1	1.06 ± ACRES
LOT 2	1.81 ± ACRES
LOT 3	1.44 ± ACRES

NEW LOTS AFTER ADJUSTMENT	
NEW LOT 1	1.18 ± ACRES
NEW LOT 2	1.83 ± ACRES
NEW LOT 3	1.30 ± ACRES

PRELIMINARY

DRAWN	R.M.U.
DATE	8/8/08 10:04
SCALE	1"=100'
JOB #	460C-08
DWG.	460C-LLA

LOT LINE ADJUSTMENT

WEST CAMPUS BUSINESS CENTER

MODESTO CALIFORNIA

ASSOCIATED ENGINEERING, INC.
Surveying · Design · Planning
4206 TECHNOLOGY DRIVE
MODESTO, CALIFORNIA 95356
PH: (209) 545-3390 FAX: (209) 545-3875

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-533

A RESOLUTION EXTENDING THE CONTRACT FOR TIRE RECAPPING AND RELATED SERVICES FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION WITH BRANNON TIRE CORP., STOCKTON, CA, FOR ONE-YEAR, FOR AN ESTIMATED ANNUAL COST OF $80,000, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A FORMAL REQUEST FOR BID (RFB) FOR TIRE RECAPPING AND RELATED SERVICES FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY. (FUNDING SOURCE: FLEET SERVICES DIVISION)

WHEREAS, on August 12, 2003, the City Council, by Resolution No. 2003-440, authorized the award of bid and contract for tire recapping and related services for the Public Works Department, Fleet Services Division, to Brannon Tire Corporation, Stockton, CA, for a three (3) year period with two (2) one-year extension options, and

WHEREAS, the Public Works Department, Fleet Services Division is requesting an extension of the contract for tire recapping and related services, which includes repair of flat tires, mounting and balancing of tires on site, and service calls for the fleet of transportation buses and corporation yard trucks, and

WHEREAS, the recapping of tires provides a cost savings to the City by extending the life of the tires. The average life span of a recapped tire is equivalent to that of a new tire, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. However, one exception to the Code, Section 8-3.204 (d), allows for the Purchasing Manager, in his discretion, to determine that a process other than the formal bid procedure set forth in Section 8-3.203 will result in a procurement for the City

at the lowest possible cost commensurate with the desired quality. Such alternatives may include, but are not limited to, a "two-step" procurement process or a procurement based solely on a technical evaluation, and

WHEREAS, based on the current market conditions a one-year contract extension for tire recapping and related services for the Public Works Department, Fleet Services Division, with Brannon Tire, Corp., Stockton, CA, conforms to the Modesto Municipal Code, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves extending the contract for tire recapping and related services for the Public Works Department, Fleet Services Division, with Brannon Tire Corp., Stockton, CA, for one year, for an estimated annual cost of $80,000.

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

BE IT FURTHER RESOLVED that the Purchasing Manager is authorized to issue a formal Request for Bid (RFB) for tire recapping and related services for a two (2) year Agreement, with three (3) one year extension options, at the sole discretion of the City.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, 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. 2008-534

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO APPROVING THE SELECTION OF A SUCCESSOR REMARKETING AGENT FOR THE MULTIFAMILY HOUSING REFUNDING REVENUE BONDS, SERIES 1994 (LIVE OAK APARTMENTS PROJECT) PREVIOUSLY ISSUED FOR THE PURPOSE OF REFINANCING THE LIVE OAK APARTMENTS PROJECT AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the City of Modesto (the "City") is a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California; and

WHEREAS, pursuant to the provisions of Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State of California, as amended (the "Law"), the City is authorized (i) to engage in certain activities related to the provision of decent, safe and adequate housing for persons residing in the City, including the financing of multifamily housing and (ii) to issue bonds for the purpose of making loans to finance such residential construction; and

WHEREAS, pursuant to the Law the City has implemented a residential construction financing program and in furtherance of such program issued its Multifamily Housing Revenue Bonds, 1987 Series A (First Nationwide Bank Program) in the aggregate principal amount of $9,040,000 (the "Original Bonds"), under and pursuant to that certain Indenture, dated as of August 1, 1987, by and between the City and the trustee named therein, for the purpose of financing the construction of a 328-unit multifamily housing development known as the Live Oak Apartments located in the City of Modesto, California (the "Project"), occupied partially (at least 20%) by individuals of

low and moderate income within the meaning of Section 142(d)(1)(A) of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, the City assisted the owner of the Project, L.O. Associates, a California Limited Partnership (the "Borrower"), in the defeasance of the Original Bonds and the refinancing of the Project through the issuance, pursuant to Section 53570 et seq. of the Government Code of the State of California (the "Act") and pursuant to an Indenture of Trust, dated as of September 1, 1994 (the "Indenture"), by and between the City and the trustee named therein (the "Trustee"), of its Multifamily Housing Refunding Revenue Bonds, Series 1994 (Live Oak Apartments Project) (the "Bonds"); and

WHEREAS, the Federal National Mortgage Association ("Fannie Mae") provides credit enhancement and liquidity for the Bonds by pledging and guaranteeing to the trustee a security interest in certain mortgage loans and other collateral owned by Fannie Mae pursuant to that certain Collateral Agreement ("Collateral Agreement"), dated as of September 1, 1994, by and between Fannie Mae and the Trustee; and

WHEREAS, the Bonds are subject to remarketing from time to time as set forth in the Indenture, and in connection with the issuance of the Bonds a remarketing agent (the "Original Remarketing Agent") was appointed pursuant to the Indenture; and

WHEREAS, the Borrower wishes to replace the Original Remarketing Agent with Banc of America Securities LLC, as successor remarketing agent (the "Successor Remarketing Agent") under the Indenture pursuant to a remarketing agreement (the "Remarketing Agreement") between the Borrower and the Successor Remarketing Agent; and

WHEREAS, the Borrower has caused to be prepared and lodged with the City Clerk the proposed form of the Remarketing Agreement; and

WHEREAS, the City now wishes to approve the Borrower's selection of the Successor Remarketing Agent;

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

Section 1. Findings. The City Council hereby specifically finds and declares that the actions authorized hereby constitute, and are in furtherance of, the municipal affairs of the City and that the statements, findings and determinations of the City Council set forth in the preambles of the documents approved herein are true and correct.

Section 2. Approval of Remarketing Agent and Remarketing Agreement. The City Council hereby approves the selection of Banc of America Securities LLC as Successor Remarketing Agent and the form of the Remarketing Agreement by and between the Borrower and the Successor Remarketing Agent substantially in the form lodged with the City Clerk, and the City Manager or the Finance Director (as the case may be) of the City is authorized and requested to execute and deliver an instrument approving such Successor Remarketing Agreement, but with such changes therein, deletions therefrom and modifications thereof as the City Manager or the Finance Director (as the case may be) shall approve, such approval to be conclusively evidenced by the execution thereof in accordance with the terms hereof.

Section 3. Further Action Authorized. The City Manager, the Mayor, the City Clerk, the City Attorney, the Finance Director and the other officers of the City are hereby authorized and directed, jointly and severally, to do any and all things which they

may deem necessary or advisable in order to evidence the City's approval of Banc of America Securities LLC as Remarketing Agent and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution. Such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, 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
AYES:	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. 2008-535

A RESOLUTION APPROVING AN AGREEMENT WITH THE REDEVELOPMENT AGENCY FOR THE SALE OF CITY-OWNED REAL PROPERTY AT 416 DOWNEY AVENUE FOR THE "DOWNEY AVENUE PROJECT" FOR THE FAIR MARKET VALUE OF $520,000 PLUS ONE-HALF OF THE CLOSING COSTS

WHEREAS, the City of Modesto currently owns property at 416 Downey Avenue and recently purchased the property at 412 Downey Avenue utilizing federal Housing and Urban Development funds, and

WHEREAS, in July 2007, City Council allocated up to $250,000 in HOME Investment Partnership (HOME) entitlement funds to be used for pre-development activities for the development of affordable housing, and

WHEREAS, Parks, Recreation and Neighborhoods Department (PRND) staff believes that the combination of the two parcels would be beneficial in regard to the development of affordable housing, and

WHEREAS, the City of Modesto Redevelopment Agency is required to allocate twenty percent of the annual tax increment revenues for housing set-aside funds to provide affordable housing within the City of Modesto, and

WHEREAS, Parks, Recreation and Neighborhoods Department staff has been actively searching for available parcels to develop affordable housing for low-income citizens, and has found that 416 Downey would be a viable option for RDA to utilize for affordable housing, and

WHEREAS, the sale of 416 Downey Avenue to the RDA would allow the City of Modesto to develop affordable housing on the site and meet the goals as indicated in the Housing Element, and

WHEREAS, the sale of this property to the RDA would also provide an influx of funds into the City of Modesto General Fund, and

WHEREAS, staff is recommending that the RDA pay the City $225,000 in Fiscal Year 2008-2009 and the City will carry the balance as a loan to be paid over a six-year period, and

WHEREAS, with this approach, the Redevelopment Agency will pay $50,000 annually from the housing set-aside fund to the City of Modesto in Fiscal Years 2009-2010 through 2013-2014 and in Fiscal Year 2014-2015, the balance of $46,417 will be paid, and

WHEREAS, the City could also opt to have the RDA pay the entire purchase price at the time of the sale; but this would prohibit the RDA from meeting is funding commitment to projects such as Archway Commons, and

WHEREAS, at its meeting on June 11, 2008, the Citizens Housing and Community Development Committee (CH&CDC) recommended the sale of the City-owned real property at 416 Downey Avenue, and

WHEREAS, at its meeting on August 25, 2008, the Finance Committee supported the recommendation for the sale of 416 Downey Avenue,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an agreement for the sale of City-owned real property at 416 Downey Avenue to the Redevelopment Agency for the "Downey Avenue Project" for the fair market value of $520,000 plus one-half of the closing costs.

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

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 September, 2008, 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. 2008-536

A RESOLUTION AMENDING THE GENERAL FUND BUDGET TO ESTIMATE $520,000 IN REVENUE IN 0100-510-9510-8301.09, LESS A $295,000 ADVANCE TO OTHER FUNDS

WHEREAS, the City of Modesto currently owns property at 416 Downey Avenue and recently purchased the property at 412 Downey Avenue utilizing federal Housing and Urban Development funds, and

WHEREAS, the City of Modesto Redevelopment Agency is required to allocate twenty percent of the annual tax increment revenues for housing set-aside funds to provide affordable housing within the City of Modesto, and

WHEREAS, Parks, Recreation and Neighborhoods Department staff has been actively searching for available parcels to develop affordable housing for low-income citizens, and has found that 416 Downey would be a viable option for RDA to utilize for affordable housing, and

WHEREAS, the sale of 416 Downey Avenue to the RDA would allow the City of Modesto to develop affordable housing on the site and meet the goals as indicated in the Housing Element, and

WHEREAS, the sale of this property to the RDA would also provide an influx of funds into the City of Modesto General Fund, and

WHEREAS, the Redevelopment Agency is willing to purchase this property for $520,000, plus one-half of closing costs, and

WHEREAS, staff is recommending that the RDA pay the City $225,000 in Fiscal Year 2008-2009 and the City will carry the balance as a loan to be paid over a six-year period, and

WHEREAS, with this approach, the Redevelopment Agency will pay $50,000 annually from the housing set-aside fund to the City of Modesto in Fiscal Years 2009-2010 through 2013-2014 and in Fiscal Year 2014-2015, the balance of $46,417 will be paid, and

WHEREAS, the City could also opt to have the RDA pay the entire purchase price at the time of the sale; but this would prohibit the RDA from meeting is funding commitment to projects such as Archway Commons, and

WHEREAS, at its meeting on June 11, 2008, the Citizens Housing and Community Development Committee (CH&CDC) recommended the sale of the City-owned real property at 416 Downey Avenue, and

WHEREAS, at its meeting on August 25, 2008, the Finance Committee supported the recommendation for the sale of 416 Downey Avenue,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the General Fund budget to estimate $520,000 in revenue in 0100-510-9510-8301.09, less $295,000 advanced to other funds.

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 September, 2008, 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. 2008-537

A RESOLUTION APPROVING FIRST AMENDMENTS TO FOUR AGREEMENTS WITH CROWN CASTLE MU LLC, A DELAWARE LIMITED LIABILITY COMPANY, FOR CELL TOWER LEASES LOCATED AT BEYER PARK, BRIGGSMORE AVENUE EAST, DOWNEY PARK AND DRY CREEK AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE FIRST AMENDMENTS TO AGREEMENTS

WHEREAS, on September 25, 2001, Resolutions No. 2001-491, 2001-492, 2001-493 and 2001-494, the City of Modesto and Cricket California Property Company, a Delaware corporation, entered into Site Lease Agreements, whereby Cricket leased certain real properties, together with access and utility easements, located at Beyer Park, Briggsmore Avenue East, Downey Park and Dry Creek Park, and

WHEREAS, Crown Castle MU LLC is currently the Tenant under the Lease as successor in interest to the Cricket California Property Company, and

WHEREAS, Crown Castle desires to amend the agreements to extend the length of the contract, as well as the adjustment indicator for rent escalation, and

WHEREAS, Crown Castle also desires to amend the agreements to allow for an option to lease more property and a right of first refusal if the City chooses to sell the property(ies), and

WHEREAS, for these considerations, Crown Castle will pay the City of Modesto $8,000 for each of the four amendments, a total of $32,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves First Amendments to four (4)

Agreements with Crown Castle MU LLC for the lease of cell tower sites at Beyer Park, Briggsmore Avenue East, Downey Park and Dry Creek Park.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, 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. 2008-538

A RESOLUTION AMENDING THE FY 08-09 OPERATING BUDGET TO ESTIMATE $32,000 IN REVENUE IN 1400-310-3142-8107, DONATIONS, AND TO APPROPRIATE $32,000 IN EXPENDITURES TO 1400-310-3142-0235, FUND DEVELOPMENT, SERVICES PROFESSIONAL AND OTHER, TO BE USED FOR PARK AND RECREATION PURPOSES

WHEREAS, On September 25, 2001, by Resolutions No. 2001-491, 2001-492, 2001-493 and 2001-494, the City of Modesto and Cricket California Property Company, a Delaware corporation, entered into Site Lease Agreements, whereby Cricket leased certain real properties, together with access and utility easements, located at Beyer Park, Briggsmore Avenue East, Downey Park and Dry Creek Park, and

WHEREAS, Crown Castle MU LLC is currently the Tenant under the Lease as successor in interest to the Cricket California Property Company, and

WHEREAS, Crown Castle desires to amend the agreements to extend the length of the contract as well as the adjustment indicator for rent escalation, and

WHEREAS, Crown Castle also desires to amend the agreements to allow for an option to lease more property and a right of first refusal if the City chooses to sell the property(ies), and

WHEREAS, for these considerations, Crown Castle will pay the City of Modesto $8,000 for each of the four amendments, a total of $32,000, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 08-09 operating budget to estimate $32,000 in revenue in 1400-310-3142-8107, Donations, and to

appropriate $32,000 in expenditures to 1400-310-3142-0235, Fund Development, Services Professional and Other, to be used for park and recreation purposes.

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 September, 2008, 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. 2008-539

A RESOLUTION APPROVING A THIRD AMENDMENT TO AGREEMENT WITH GOLDENSTATE TOWER LLC, A DELAWARE LIMITED LIABILITY COMPANY FOR CELL TOWER LEASE AT CREEKSIDE GOLF COURSE AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE THIRD AMENDMENT TO AGREEMENT

WHEREAS, On September 7, 1999, the City of Modesto and Central Wireless Partnership entered into a Site Lease Agreement, whereby Central Wireless Partnership leased certain real property, together with access and utility easements, located at Creekside Golf Course in the City of Modesto, and

WHEREAS, this Agreement was amended on November 14, 2003, and

WHEREAS, this Agreement was further amended on February 27, 2007, and

WHEREAS, Central Wireless Partnership later merged with VIA Wireless LLC, and

WHEREAS, VIA Wireless LLC later merged with UbiqueTel Operating Company, and

WHEREAS, UbiquTel assigned its interest in the Agreement to Goldenstate Towers by way of Bill of Sale and Assignment dated October 15, 2003, and

WHEREAS, Goldenstate Towers desires to amend the agreement to extend the length of the contract as well as the adjustment indicator for rent escalation, and

WHEREAS, Goldenstate Towers also desires to amend the agreement to allow for an option to lease more property and a right of first refusal if the City chooses to sell the property, and

WHEREAS, for these considerations, Goldenstate Towers will pay the City of Modesto $8,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Third Amendment to Agreement with Goldenstate Towers LLC for the lease of cell tower site at Creekside Golf Course.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, 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. 2008-540

A RESOLUTION AMENDING THE FY 08-09 OPERATING BUDGET TO ESTIMATE $8,000 IN REVENUE IN 1400-310-3142-8107, DONATIONS, AND TO APPROPRIATE $8,000 IN EXPENDITURES TO 1400-310-3142-0235, FUND DEVELOPMENT, SERVICES PROFESSIONAL AND OTHER, TO BE USED FOR PARK AND RECREATION PURPOSES

WHEREAS, On September 7, 1999, the City of Modesto and Central Wireless Partnership entered into a Site Lease Agreement, whereby Central Wireless Partnership leased certain real property, together with access and utility easements, located at Creekside Golf Course in the City of Modesto, and

WHEREAS, this Agreement was amended on November 14, 2003, and

WHEREAS, this Agreement was further amended on February 27, 2007, and

WHEREAS, Central Wireless Partnership later merged with VIA Wireless LLC, and

WHEREAS, VIA Wireless LLC later merged with UbiqueTel Operating Company, and

WHEREAS, UbiquTel assigned its interest in the Agreement to Goldenstate Towers by way of Bill of Sale and Assignment dated October 15, 2003, and

WHEREAS, Goldenstate Towers now desires a third amendment to the agreement, and

WHEREAS, for the considerations in the Third Amendment to Agreement, Goldenstate Towers will pay the City of Modesto $8,000, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 08-09 operating budget to estimate $8,000 in revenue in 1400-310-3142-8107, Donations, and to appropriate $8,000 in expenditures to 1400-310-3142-0235, Fund Development, Services Professional and Other, to be used for park and recreation purposes.

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 September, 2008, 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. 2008-541

A RESOLUTION APPROVING A HOME ALLOCATION IN THE AMOUNT OF $343,000 TO WJC DEVELOPMENT, LLC, TO PROVIDE GAP FINANCING IN THE FORM OF DOWN PAYMENT ASSISTANCE TO QUALIFIED FIRST-TIME HOMEBUYERS TO PURCHASE NEW QUALITY HOMES AT SPORTSMEN ESTATES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE MEMORANDUM OF UNDERSTANDING ("MOU") AND RELATED DOCUMENTS

WHEREAS, an RFQ for Affordable Housing Developers was issued on November 1, 2007, and proposals were due on January 14, 2008, and

WHEREAS, a total of eight (8) proposals were submitted, including requests for Community Development Housing Organization (CHDO) set-aside funds, and

WHEREAS, WJC Development, LLC (WJC) submitted a request for $1,000,000 in HOME funds to develop a first time homebuyers program to purchase new quality homes at Sportsmen Estates, and

WHEREAS, the project is located in the City of Modesto, between Sunset and Roselawn Avenues, and

WHEREAS, the project consists of 25 single family units, and

WHEREAS, the floor plans provided to staff show units with 3 bedrooms and 1 bath at 977 sq. ft., 3 bedrooms and 2 baths with 1,185 sq. ft. and 4 bedrooms and 2 baths with 1,360 sq. ft., and

WHEREAS, after interviewing WJC, the review sub-committee recommended allocating funding in the amount of $343,000 to WJC for the implementation of a First Time Home Buyers Program to assist low-income families purchase their first homes; that the program provide only gap financing instead of $100,000 flat loan per household;

that WJC work with staff in providing the First Time Home Buyers Program guidelines in compliance with HOME regulations; that City staff review the income eligibility of each household prior to providing the loan; and based on the program performance, WJC could come back to the City to request additional funds for their First Time Home Buyers Program, and

WHEREAS, in addition, staff recommended to the Citizens Housing and Community Development Committee (CH&CDC) that the Agreement between WJC and the City of Modesto be structured as follows:

1. The City of Modesto will enter into a Memorandum of Understanding with WJC Development to set aside $343,000 in HOME funds, to provide gap financing in the form of Down Payment Assistance to qualified first time homebuyers which are low-income households, to purchase a home at the Sportsmen Estates Subdivision. Once all the funds are used WJC could request to set aside additional funds to assist more families purchase a home within this subdivision.

2. Once the homebuyers are identified, City staff will process and underwrite the loans. The City of Modesto will draft a Promissory Note, a Regulatory Agreement, a Declaration of Conditions, Covenants, and Restrictions and a Deed of Trust between the City of Modesto and each homebuyer, and record the Declaration of Conditions, Covenants, and Restrictions and the Deed of Trust against the purchased property.

3. The Regulatory Agreements will include affordability covenants for each property.

4. The loans will be serviced by the Community Reinvestment Fund, which is the City's loan servicer.

5. The down payment assistance provided for this project will be a 30 year amortized loan, but not to exceed 40 years in the event that WJC or the mortgage companies working with WJC cannot find qualified homebuyers and/or the homebuyers are very low-income.

   The HOME loan shall bear simple interest at the rate of 3% annually, and

   WHEREAS, on April 30, 2008, the CH&CDC accepted the sub-committee's

recommendation to allocate $343,000 in HOME Funds to the WJC Development LLC to

provide gap financing in the form of down payment assistance to first-time homebuyers to purchase new quality homes at Sportsmen Estates,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a HOME allocation in the amount of $343,000 to provide gap financing in the form of down payment assistance to qualified first-time homebuyers to purchase new quality homes at Sportsmen Estates.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Memorandum of Understanding 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 September, 2008, 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. 2008-542

A RESOLUTION APPROVING HOME PROGRAM DOWN PAYMENT ASSISTANCE GUIDELINES TO PROVIDE GAP FINANCING IN THE FORM OF DOWN PAYMENT ASSISTANCE TO FIRST-TIME HOMEBUYERS TO PURCHASE NEW QUALITY HOMES AT SPORTSMEN ESTATES

WHEREAS, an RFQ for Affordable Housing Developers was issued on November 1, 2007, and proposals were due on January 14, 2008, and

WHEREAS, a total of eight (8) proposals were submitted, including requests for Community Housing Development Organizations (CHDO) set-aside funds, and

WHEREAS, WJC Development, LLC (WJC) submitted a request for $1,000,000 in HOME funds to develop a first time homebuyers program to purchase new quality homes at Sportsmen Estates, and

WHEREAS, the project is located in the City of Modesto, between Sunset and Roselawn Avenues, and

WHEREAS, the project consists of 25 single family units, and

WHEREAS, after interviewing WJC, the review sub-committee recommended allocating funding in the amount of $343,000 to WJC for the implementation of a First Time Homebuyers program to assist low-income families purchase their first homes; that the program provide only gap financing instead of $100,000 flat loan per household; that WJC work with staff in providing the First Time Home Buyers Program guidelines in compliance with HOME regulations; that City staff review the income eligibility of each household prior to providing the loan; and based on the program performance, WJC could come back to the City to request additional funds for their first time homebuyers program, and

WHEREAS, on April 30, 2008, the Citizens Housing and Community Development Committee accepted the sub-committee's recommendation to allocate $343,000 in HOME Funds to the WJC to provide gap financing in the form of down payment assistance to first-time homebuyers to purchase new quality homes at Sportsmen Estates,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council approves HOME Program Down Payment Assistance Guidelines to provide gap financing in the form of down payment assistance to first-time homebuyers to purchase new quality homes at Sportsmen Estates.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, 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. 2008-543

A RESOLUTION APPROVING A GRANT APPLICATION FOR $150,000 IN FUNDING FROM THE FEDERAL RECREATIONAL TRAILS PROGRAM FOR THE CONSTRUCTION AND INSTALLATION OF 2,850 LINEAL FEET OF BIKE/PEDESTRIAN TRAIL WITHIN THE PELANDALE/SNYDER BIKE TRAIL AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY DOCUMENTS

WHEREAS, the "Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users:" provides funds to the State of California for Grants for federal, state, local and non-profit organizations to acquire, develop and/or maintain motorized and non-motorized trail Projects, and

WHEREAS, the State Department of Parks and Recreation has been delegated the responsibility for the administration of the program within the State, setting up necessary procedures governing project application under the program, and

WHEREAS, the procedures established by the State Department of Parks and Recreation require the applicant to certify by resolution the approval of the application before submission of said application to the State, and

WHEREAS, the City desires to apply for grant funds in the amount of $150,000 from the Recreational Trails Program for 2,850 lineal feet of pedestrian trail within the Pelandale/Snyder Bike Trail, and

WHEREAS, this project is consistent with the Recreational Trails Program grant project criteria, and

WHEREAS, the City 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 that it hereby:

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 equivalents planning document; and

3. Certifies that said applicant has or will have available prior to commencement of any work on the project(s) included in this application sufficient funds to operate and maintain the project(s); 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 upon acceptance of said grant by the City Council.

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 23rd day of September, 2008, 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. 2008-544

A RESOLUTION AUTHORIZING STAFF TO DECLARE THE CITY-OWNED PROPERTY (APN 1101-001-004) KNOWN AS 720 COLDWELL AVENUE AS SURPLUS PROPERTY AND TO PROCEED WITH A CONTRACT FOR REAL ESTATE SERVICES FOR THE SALE OF THIS PROPERTY

WHEREAS, the City of Modesto owns the property 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, staff is interested in listing the property with a real estate firm for sale, and

WHEREAS, at its May 19, 2008 thru May 23, 2008, meetings, the Finance Committee supported staff's recommendation to sell the property that houses the Parks, Recreation and Neighborhoods Department,

NOW, THEREFORE, BE IT RESOLVED by the City Council of Modesto that it hereby authorizes staff to declare the City-owned property (APN 110-001-004) known as 720 Coldwell Avenue as surplus property.

BE IT FURTHER RESOLVED that the Council hereby authorizes staff to proceed with a contract for real estate services for 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 23rd day of September, 2008, 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

RESOLUTION 2008-545

AUTHORIZING A CORRECTION TO THE
AMENDMENT TO CONTRACT
BETWEEN THE
BOARD OF ADMINISTRATION
CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM
AND THE
CITY COUNCIL
CITY OF MODESTO

WHEREAS, the City Council of the City of Modesto, hereinafter referred to as Public Agency, and the Board of Administration of the Public Employees' Retirement System entered into a contract effective August 1, 1946 providing for the participation of Public Agency in the Public Employees' Retirement System; and

WHEREAS, said contract was amended effective August 1, 2008; and

WHEREAS, due to an inadvertence, paragraph "4. c" read:

"ELECTED CITY COUNCIL MEMBERS PROSPECTIVELY ONLY"; and

WHEREAS, Section 20472 of the Government Code provides that errors in a contract may be corrected through contract correction amendments executed by the adoption of suitable resolutions by the contracting parties; and

NOW, THEREFORE, BE IT RESOLVED that said governing body of Public Agency authorizes, and it does hereby authorize, a correction to the amendment to contract effective August 1, 2008 as follows:

A. Paragraph 4. c of said contract shall be changed as follows:
"CITY COUNCIL MEMBERS ELECTED INTO OFFICE ON OR AFTER AUGUST 1, 2008"

BE IT FURTHER RESOLVED, that the presiding officer of the governing body of Public Agency is hereby authorized, empowered, and directed to execute said amendment for and on behalf of Public Agency.

Adopted this 23rd day of September, 2008.

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 Jim Ridenour
Mayor

Attest:
_____
Clerk Stephanie Lopez

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, 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. 2008-546

A RESOLUTION ACCEPTING THE 2008 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) WITH THE U.S. DEPARTMENT OF JUSTICE, IN THE AMOUNT OF $47,285, FOR FIREARMS UPGRADE, AND AUTHORIZING THE POLICE CHIEF TO EXECUTE THE NECESSARY DOCUMENTS

WHEREAS, on June 24, 2008, the City Council, by Resolution No. 2008-371, authorized submittal of an application to the U.S. Department of Justice for the 2008 Edward Byrne Memorial Justice Assistance Grant (JAG), and

WHEREAS, on August 25, 2008, the U.S. Department of Justice (DOJ) notified the Modesto Police Department that it was awarded the 2008 Edward Byrne Memorial Justice Assistance Grant, and

WHEREAS, funds provided by the JAG will allow the Modesto Police Department to replace firearms that are twelve years old, and

WHEREAS, the total Grant is $47,285, and

WHEREAS, there is no local match required for this Grant, and

WHEREAS, on June 24, 2008, the City Council, by Resolution No. 2008-372, authorized amending the 2008/09 operating budget upon acceptance of the Grant,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the 2008 Edward Byrne Memorial Justice Assistance Grant (JAG) with the U.S. Department of Justice, in the amount of $47,285, for firearms upgrade.

BE IT FURTHER RESOLVED that the Police Chief 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 23rd of September, 2008, 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 NUMBER 2008-546A

A RESOLUTION AMENDING THE FISCAL YEAR 2008/2009 MULTI-YEAR BUDGET, ESTIMATING REVENUE OF $133,280.25 FOR THE COPS 2008 TECHNOLOGY GRANT TO PROVIDE PARTIAL FUNDING FOR THE CITY OF MODESTOAND STANISLAUS OPERATIONAL AREA REGIONAL RADIO INTEROPERABILITY PROJECT

WHEREAS, the Modesto Police Department received notification that we have been awarded $133,280.25 for the COPS 2008 Technology grant from the U.S. Department of Justice, Office of Community Oriented Policing Services 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 dangerously 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,

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 2008/2009 Multi-Year Budget is hereby amended as indicated below to initiate said grant project:

	Expense:		
To:	0410-190-2909-5000	$133,280.25	Technology Grant/Radio Interoperability
	Revenue:		
To:	0410-190-2909-3508	$133,280.25	Federal Police Grant

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, 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. 2008-547

A RESOLUTION APPROVING A LICENSE AGREEMENT WITH THE MODESTO IRRIGATION DISTRICT (MID) FOR THE PURPOSE OF INSTALLING AND MAINTAINING DOMESTIC WATER TRANSMISSION MAINS LOCATED ON MID PROPERTY, WHICH SERVE THE PROPOSED WEST TANK, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City and the Modesto Irrigation District (MID) have begun work to expand the Modesto Regional Water Treatment Plant (MRWTP) from its existing capacity of 30 million gallons per day (mgd) to 60 mgd (Phase Two Expansion), and

WHEREAS, the MRWTP currently treats water from the Modesto Reservoir and conveys it to the City's service area to combine with groundwater sources to meet the City's water supply needs, and

WHEREAS, the City has determined that its distribution system needs additional downstream improvements to fully integrate the expanded MRWTP with the City's water distribution system, and

WHEREAS, a 4-million gallon West Tank is scheduled to be constructed for water storage and distribution, and

WHEREAS, two water transmission pipelines associated with the West Tank will be constructed for fill and distribution, and

WHEREAS, the two water transmission pipelines are needed to adequately distribute water throughout each section of the City, and

WHEREAS, portions of the two water transmission pipelines will be located within MID right-of-way, and

WHEREAS, the Modesto Irrigation District requires a License Agreement to install and maintain improvements in the District's right-of-way,

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 (MID) for the purpose of installing and maintaining Water Transmission Mains associated with the West Tank located on MID property.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember March, 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. 2008-548

A RESOLUTION APPROVING AN IRRIGATION EASEMENT WITH THE MODESTO IRRIGATION DISTRICT (MID) FOR THE PURPOSE OF IDENTIFYING FUTURE IRRIGATION ACCESS ON THE CITY OF MODESTO WEST TANK PROPERTY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City and the Modesto Irrigation District (MID) have begun work to expand the Modesto Regional Water Treatment Plant (MRWTP) from its existing capacity of 30 million gallons per day (mgd) to 60 mgd (Phase Two Expansion), and

WHEREAS, the MRWTP currently treats water from the Modesto Reservoir and conveys it to the City's service area to combine with groundwater sources to meet the City's water supply needs, and

WHEREAS, the City has determined that its distribution system needs additional downstream improvements to fully integrate the expanded MRWTP with the City's water distribution system, and

WHEREAS, a 4-million gallon West Tank is scheduled to be constructed for water storage and distribution, and

WHEREAS, the existing City owned parcel of land for the West Tank does not have an MID pipeline that could convey irrigation water to the adjacent privately owned parcel to the west, and

WHEREAS, the MID requires a 10-foot wide segment of land for a future irrigation or drainage pipeline, to the adjacent privately owned parcel to the west, and

WHEREAS, the 10-foot wide segment of land should be granted in the form of an Irrigation Easement to install and maintain irrigation pipeline improvements on the City West Tank property if needed,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Irrigation Easement with the Modesto Irrigation District (MID) for the purpose of securing right-of-way for a future irrigation pipeline to serve the adjacent property to the west.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, 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. 2008-549

A RESOLUTION APPROVING THE PROTECTED-PERMISSIVE TRAFFIC SIGNALS FOR 2008

WHEREAS, the City has protected-permissive traffic signal phasing at 49 intersections, and

WHEREAS, based on staff's periodic evaluations, staff has determined that protected-permissive phasing is very effective at most locations in town, and

WHEREAS, protected-permissive phasing provides more important non-tangible benefits, such as, reduced driver anxiety and a second chance to turn left during the same cycle, and

WHEREAS, staff recommends continuing the use of protected-permissive phasing at appropriate locations and monitoring these installations for improvement and/or modifications based on periodic technical analysis, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that is hereby approves the Protected-Permissive Traffic Signals Report for 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, 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. 2008-550

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE "MODIFICATION OF TRAFFIC SIGNALS AT THREE LOCATIONS 12th STREET/J STREET, LA LOMA AVENUE/BURNEY STREET, AND BRIGGSMORE AVENUE/CARVER ROAD," PROJECT; ACCEPTING THE BID; APPROVING A CONSTRUCTION CONTRACT WITH COLLINS ELECTRICAL COMPANY, INC., FOR $346,300, FOR THE PROJECT TITLED, "MODIFICATION OF TRAFFIC SIGNALS AT THREE LOCATIONS 12th STREET/J STREET, LA LOMA AVENUE/BURNEY STREET, AND BRIGGSMORE AVENUE/CARVER ROAD;" AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, this project will modify and upgrade the existing traffic signals at the intersections of 12th Street/J Street, La Loma Avenue/Burney Street, and Briggsmore Avenue/Carver Road, and

WHEREAS, bids for this project were opened on July 22, 2008, and

WHEREAS, Collins Electrical Company, Inc., was determined to be the responsible low bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the "Modification of Traffic Signals at Three Locations 12th Street/J Street, La Loma Avenue/Burney Street, and Briggsmore Avenue/Carver Road" project; accepts the bid; and approves a construction contract with Collins Electrical Company, Inc., for $346,300, for the project titled, "Modification of Traffic Signals at Three Locations 12th Street/J Street, La Loma Avenue/Burney Street, and , Briggsmore Avenue/Carver Road."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, 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. 2008-551

A RESOLUTION ACCEPTING THE KAISER WELL PROJECT AND AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION

WHEREAS, the City Council, by Ordinance No. 3357-C.S., which became effective on October 8, 2004, approved the Development Agreement between the City of Modesto and Kaiser Foundation Hospitals (DEVELOPER) for the development of Kaiser Modesto Medical Center/Cornerstone Business Park (DEVELOPMENT), located in the Kiernan Business Park Specific Plan, and

WHEREAS, as a condition of the Development Agreement Kaiser Foundation Hospitals was to construct a City of Modesto Well (PROJECT) as an identified public improvement located within the DEVELOPMENT, and

WHEREAS, the Construction Administration Office has completed all inspections for the PROJECT, and

WHEREAS, the Public Works Department indicates that the PROJECT has been completed to the satisfaction of Public Works, that it would be in order for the City Council to accept the PROJECT as complete, and authorize the City Clerk to record a Notice of Completion,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Kaiser Well Project is hereby accepted,

BE IT FURTHER RESOLVED that the City Clerk, or her designee, is hereby authorized to file a Notice of Completion.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, 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. 2008-552

A RESOLUTION ACCEPTING THE WORK BY TOM MAYO CONSTRUCTION, INC. FOR THE PROJECT TITLED "2005-2006 PAVEMENT REHABILITATION PROGRAM- 9TH STREET RECONSTRUCTION L STREET TO MODESTO IRRIGATION DISTRICT LATERAL NO. 4 AND 9TH STREET OVERLAY B STREET TO D STREET" 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 $1,219,255.38

WHEREAS, a report has been filed by the Public Works Director that the project titled "2005-2006 Pavement Rehabilitation Program- 9th Street Reconstruction L Street to Modesto Irrigation District Lateral No. 4 and 9th Street Overlay B Street to D Street" has been completed by Tom Mayo Construction, Inc. in accordance with the contract agreement dated August 14, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "2005-2006 Pavement Rehabilitation Program- 9th Street Reconstruction L Street to Modesto Irrigation District Lateral No. 4 and 9th Street Overlay B Street to D Street" is hereby accepted as complete from said contractor Tom Mayo 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 $1,219,255.38 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, 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. 2008-553

A RESOLUTION APPROVING A WATER AND SEWER UTILITY AGREEMENT BETWEEN THE CITY OF MODESTO AND THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) IN THE TOTAL AMOUNT OF $33,300 FOR ROADWAY IMPROVEMENTS WITHIN THE PROJECT TITLED, "MODESTO 132 REHAB," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the State of California Department of Transportation (Caltrans) has scheduled roadway improvements at various sites, and

WHEREAS, the City of Modesto has water and wastewater pipelines within the State highway roadway improvements, and

WHEREAS, the underground water pipelines have valves at the roadway surface, and

WHEREAS, the underground wastewater pipelines have manholes at the roadway surface, and

WHEREAS, Caltrans will grind and overlay the existing asphalt roadway, and

WHEREAS, the water valves and wastewater manholes will need to be reset to the new surface elevation, and

WHEREAS, an Agreement is needed between the City and Caltrans to seek reimbursement of costs to reset the water valves and wastewater manholes, and

WHEREAS, Caltrans will be the lead agency in completing the design, bidding, construction, and inspection for the proposed improvements, and

WHEREAS, the proposed projects are to be completed under a Water and Sewer Utility Agreement between the City of Modesto and Caltrans and will consist of a reimbursement of expenditures for utility repair in the total amount of $33,300,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Water and Sewer Utility Agreement between the City of Modesto and the California Department of Transportation (Caltrans) in the total amount of $33,300 for roadway improvements within the project titled, "Modesto 132 Rehab."

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 September, 2008, 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
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-554

A RESOLUTION APPROVING A WATER UTILITY AGREEMENT AND A SEWER UTILITY AGREEMENT BETWEEN THE CITY OF MODESTO AND THE CALIFORNIA DEPARTMENT OF TRANSPORTATION (CALTRANS) IN THE TOTAL AMOUNT OF $20,480 FOR ROADWAY IMPROVEMENTS WITHIN THE PROJECT TITLED, "MODESTO SR108 REHAB," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENTS

WHEREAS, the State of California Department of Transportation (Caltrans) has scheduled roadway improvements at various sites, and

WHEREAS, the City of Modesto has water and wastewater pipelines within the State highway roadway improvements, and

WHEREAS, the underground water pipelines have valves at the roadway surface, and

WHEREAS, the underground wastewater pipelines have manholes at the roadway surface, and

WHEREAS, Caltrans will grind and overlay the existing asphalt roadway, and

WHEREAS, the water valves and wastewater manholes will need to be reset to the new surface elevation, and

WHEREAS, the Agreements are needed between the City and Caltrans to seek reimbursement of costs to reset the water valves and wastewater manholes, and

WHEREAS, Caltrans will be the lead agency in completing the design, bidding, construction, and inspection for the proposed improvements, and

WHEREAS, the proposed projects are to be completed under Water and Sewer Utility Agreements between the City of Modesto and Caltrans and will consist of a reimbursement of expenditures for utility repair in the total amount of $20,480,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Water Utility Agreement and a Sewer Utility Agreement between the City of Modesto and the California Department of Transportation (Caltrans) in the total amount of $20,480 for roadway improvements within the project titled, "Modesto SR108 Rehab."

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 September, 2008, 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
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh, Mayor Ridenour

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-555

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF HYDROCHLORIC ACID FOR THE PUBLIC WORKS DEPARTMENT, WATER QUALITY CONTROL DIVISION, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST NOT TO EXCEED $60,000

WHEREAS, Hydrochloric Acid (HCL) is used at the Jennings Secondary Treatment Plant for pH adjustment of waters discharged to the San Joaquin River as required by the City's National Pollutant Discharge Elimination System (NPDES) permit, and

WHEREAS, HCL is used during the river discharge season from October 1 through May 31 to lower the pH level in the treated effluent, and

WHEREAS, the Jennings Treatment Plant was constructed in 1965, and in 2002 the HCL system was installed to meet the NPDES discharge permit requirements, and

WHEREAS, the annual usage of HCL varies based on weather conditions, and

WHEREAS, funds are budgeted in the amount of $25,000 per year in 6210-480-5214-0312, with additional funding made available not to exceed $60,000 should a wet weather season develop, 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 hydrochloric acid 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 hydrochloric acid for the Public Works Department, Water Quality Control Division, 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 23rd day of September, 2008, 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.2008-556

A RESOLUTION AUTHORIZING STAFF TO ISSUE A REQUEST FOR PROPOSALS (RFP) FOR A FIVE-YEAR FRANCHISE TO PLACE BENCHES WITH ADVERTISING THEREON AT CITY OF MODESTO BUS STOPS AND A LEASE FOR THE PLACEMENT OF ADVERTISING INSIDE MODESTO AREA EXPRESS (MAX) BUSES TO BECOME EFFECTIVE JANUARY 1, 2009

WHEREAS, the current bus bench franchise and interior bus advertising lease expire December 31, 2008, and

WHEREAS, bus benches are used by Modesto Area Express (MAX) customers to wait for buses and are particularly important to individuals who, because of age or physical disability, cannot stand for long periods of time, and

WHEREAS, continuation of the bus bench franchise saves the City a minimum of $50,000 annually in maintenance expenses, and

WHEREAS, by an agenda report to the City Council dated September 4, 2008, from the Public Works Director, City staff recommended that the Council approve issuing a request for proposals for a franchise to place benches with advertising thereon at City of Modesto bus stops and a lease for the placement of advertising inside Modesto Area Express (MAX) buses.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that staff is authorized to issue a request for proposals for a five-year franchise and to place benches with advertising thereon at City of Modesto bus stops and a lease for the placement of advertising inside Modesto Area Express (MAX) buses to become effective January 1, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, 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. 2008-557

A RESOLUTION APPROVING A CAPITAL FACILITIES FEES ("CFF") EXEMPTION/DEFERRAL AGREEMENT BETWEEN THE CITY OF MODESTO AND HABITAT FOR HUMANITY, STANISLAUS ("HABITAT FOR HUMANITY") FOR 20 SINGLE-FAMILY AFFORDABLE HOUSING UNITS, COMMONLY KNOWN AS HOPE VILLAGE, LOCATED AT 800 HOUSER LANE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in 2004, the City Council allocated a $10,000 loan in Community Housing Development Organization (CHDO) set-aside HOME funds and a $640,000 loan from the Community Development Block Grant Revolving Fund to Habitat for Humanity to purchase a 1.85-acre parcel located at 800 Houser Lane, and

WHEREAS, in 2005 and 2007, the City Council allocated CHDO set-aside funds in the amounts of $206,372 and $196,611.75 to Habitat for Humanity to assist with the predevelopment of Hope Village, and

WHEREAS, in May 2008, Habitat for Humanity submitted a CFF Exemption Application for Hope Village, and

WHEREAS, the current CFF amount for a single family unit is $21,584, and

WHEREAS, exempting the payment of 20 units will result in the waiver of $431,680 in development impact fees, and

WHEREAS, staff has reviewed and established that the CFF application complies with City Council Resolution No.2008-070 ("CFF Policies and Procedures") which provides for the exemption of CFF for any low income or very low income housing units constructed or expanded by an entity, and

WHEREAS, the Housing Element adopted by Modesto City Council Resolution No. 2004-233 also established a multi-family developer incentive program as one of the goals to reduce government constraints, and

WHEREAS, this program exempts the non-profit sponsors of housing for very low and low income households from the City's Capital Facility Fees, and

WHEREAS, staff is also recommending that the CFF exemption approval should be contingent on Habitat for Humanity obtaining all of the funding needed to complete the development of Hope Village by the time the Certificates of Occupancy are pulled, and

WHEREAS, a duly noticed public hearing was held by the Council on September 23, 2008, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, to consider approving a Capital Facilities Fees ("CFF") Exemption/Deferral Agreement between the City of Modesto and Habitat for Humanity, Stanislaus ("Habitat for Humanity") for 20 single-family affordable housing units, commonly known as Hope Village, located at 800 Houser Lane,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Capital Facilities Fees ("CFF") Exemption/Deferral Agreement between the City of Modesto and Habitat for Humanity, Stanislaus ("Habitat for Humanity") for 20 single-family affordable housing units, commonly known as Hope Village, located at 800 Houser Lane.

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 September, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	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. 2008-558

A RESOLUTION APPROVING THE CITY OF MODESTO CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER) FOR FISCAL YEAR 2007-2008, 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 U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD) FOR REVIEW AND APPROVAL. (FUNDING SOURCE: CDBG FUND, HOME FUND, ESG FUND)

WHEREAS, the City of Modesto receives several Federal grants from the U.S. Department of Housing and Urban Development (HUD), and

WHEREAS, the Consolidated Annual Performance and Evaluation Report (CAPER) reflects the activities of the City and its sub-recipients for the period of July 1, 2007, through June 30, 2008, 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 29, 2008, through September 23, 2008, 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 September 10, 2008, and reviewed and recommended the CAPER, and

WHEREAS, a duly noticed public hearing was held by the Council on September 23, 2008, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, to consider approval of the CAPER,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Consolidated Annual Performance and Evaluation Report for Fiscal Year 2007-2008 is hereby approved, 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 23rd day of September, 2008, 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
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. 2008-559

A RESOLUTION APPROVING THE REVENUE SHARING AGREEMENT BETWEEN THE CITY OF MODESTO AND BOYETT PETROLEUM, INC. FOR SALES TAX REBATES AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE SAID AGREEMENT

WHEREAS, California imposes a sales tax on every retailer of personal property at a rate of 6.25% and an additional 1% sales tax is levied based on the Bradley-Burns Uniform Local Sales and Use Tax Law ("Bradley-Burns 1%") for a minimum statewide total sales tax rate of 7.25%, and

WHEREAS, beginning in 1957, the City of Modesto ("City") has entered into a tax-sharing agreement with Stanislaus County whereby the City receives 95% of the "Bradley-Burns 1%" and the County receives the remaining 5%, and

WHEREAS, the "Bradley-Burns 1%" is collected based upon the location of the sale, not the destination of the goods sold and the "Bradley-Burns 1%" portion of the sales tax is available for sales tax revenue sharing agreements, and

WHEREAS, Boyett Petroleum sells wholesale taxable sales of fuels throughout California with an estimated annual taxable sales for all of the California offices estimated to be approximately $50 million, and

WHEREAS, Boyett Petroleum currently conducts its California sales in their office located at 601 McHenry Avenue in Modesto, CA, and

WHEREAS, Boyett Petroleum has requested that the City enter into a Revenue-Sharing Agreement ("Revenue Agreement") with Boyett Petroleum wherein up to 65% of the City's share of the "Bradley-Burns 1%" sales tax that the City would otherwise obtain from sales made at the Modesto office would be rebated to Boyett Petroleum, and

WHEREAS, the purpose of said Revenue Agreement is the generation of additional sales tax revenues to the City to use for various public services funded through General Fund revenues, and

WHEREAS, as a charter city, Modesto has the authority to enter into contractual agreements, including revenue-sharing agreements, with private companies, and

WHEREAS, said Revenue Agreement will terminate on December 31, 2028, unless it is extended by the mutual consent of both parties for two (2) five-year options, and

WHEREAS, the revenue sharing between the City and Boyett Petroleum will be as set forth in said Revenue Agreement,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL that the Revenue Sharing Agreement between the City of Modesto and Boyett Petroleum, Inc. is hereby approved.

BE IT FURTHER RESOLVED that the City Council does hereby authorize and direct its City Manager, or his/her designee, to execute said Revenue Sharing Agreement and any related documents on behalf of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 23rd day of September, 2008, 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

NOES: Councilmembers: O'Bryant

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. 2008-560

RESOLUTION AMENDING THE FY 08-09 OPERATING BUDGET TO INCREASE THE ANTICIPATED SALES TAX REVENUE BEGINNING IN FY 08-09 AND TO CREATE AN EXPENDITURE APPROPRIATION ACCOUNT NO. 0100-510-9510-0235 FOR PURPOSES OF REVENUE SHARING PAYMENTS TO BOYETT PETROLEUM, INC. PURSUANT TO THE APPROVED REVENUE SHARING AGREEMENT WITH THE CITY OF MODESTO

WHEREAS, on September 23, 2008, the City of Modesto ("City") entered into a Revenue Sharing Agreement with Boyett Petroleum, Inc for the purpose of rebating a portion of the sales tax received by the City from sales of Boyett Petroleum, Inc. products within Modesto city limits, and

WHEREAS, in order to implement said Revenue Sharing Agreement, the City's operating budget must be amended to increase the anticipated sales tax revenue by $475,000 beginning in FY 08-09, and

WHEREAS, in addition, expenditure appropriation account no. 0100-510-9510-0235 must be created for purposes of providing the revenue sharing payments to Boyett Petroleum, Inc., and

WHEREAS, the revenue sharing formula between the City and Boyett Petroleum will be as set forth in said Revenue Agreement,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL that the City's operating budget is hereby amended to increase the anticipated sales tax revenue by $475,000 beginning in FY 08-09 and an expenditure appropriation account no. 0100-510-9510-0235 is hereby created for purposes of providing the revenue sharing payments to Boyett Petroleum, Inc. pursuant to the Revenue Sharing Agreement between the City and Boyett Petroleum, Inc.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 23rd day of September, 2008, 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
NOES:	Councilmembers:	O'Bryant
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. 2008-561

A RESOLUTION APPROVING THE REVENUE SHARING AGREEMENT BETWEEN THE CITY OF MODESTO AND BRESHEARS PETROLEUM, INC. FOR SALES TAX REBATES AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE SAID AGREEMENT

WHEREAS, California imposes a sales tax on every retailer of personal property at a rate of 6.25% and an additional 1% sales tax is levied based on the Bradley-Burns Uniform Local Sales and Use Tax Law ("Bradley-Burns 1%") for a minimum statewide total sales tax rate of 7.25%, and

WHEREAS, beginning in 1957, the City of Modesto ("City") has entered into a tax-sharing agreement with Stanislaus County whereby the City receives 95% of the "Bradley-Burns 1%" and the County receives the remaining 5%, and

WHEREAS, the "Bradley-Burns 1%" is collected based upon the location of the sale, not the destination of the goods sold and the "Bradley-Burns 1%" portion of the sales tax is available for sales tax revenue sharing agreements, and

WHEREAS, Breshears Petroleum, Inc. sells wholesale taxable sales of fuels throughout California with an estimated annual taxable sales for all of the California offices estimated to be approximately $20 Million, and

WHEREAS, Breshears Petroleum, Inc. currently conducts its California sales in their office located at 720 "B" Street in Modesto, CA, and

WHEREAS, Breshears Petroleum has requested that the City enter into a Revenue-Sharing Agreement ("Revenue Agreement") with Breshears Petroleum wherein up to 65% of the City's share of the "Bradley-Burns 1%" sales tax that the City would otherwise obtain from sales made at the Modesto office would be rebated to Breshears

Petroleum, and

WHEREAS, the purpose of said Revenue Agreement is the generation of additional sales tax revenues to the City to use for various public services funded through General Fund revenues, and

WHEREAS, as a charter city, Modesto has the authority to enter into contractual agreements, including revenue-sharing agreements, with private companies, and

WHEREAS, said Revenue Agreement will terminate on December 31, 2028, unless it is extended by the mutual consent of both parties for two (2) five-year options, and

WHEREAS, the revenue sharing between the City and Breshears Petroleum, Inc. will be as set forth in said Revenue Agreement,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL that the Revenue Sharing Agreement between the City of Modesto and Breshears Petroleum, Inc. is hereby approved.

BE IT FURTHER RESOLVED that the City Council does hereby authorize and direct its City Manager, or his/her designee, to execute said Revenue Sharing Agreement and any related documents on behalf of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 23rd day of September, 2008, 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
NOES:	Councilmembers:	O'Bryant
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. 2008-562

RESOLUTION AMENDING THE FY 08-09 OPERATING BUDGET TO INCREASE THE ANTICIPATED SALES TAX REVENUE BEGINNING IN FY 08-09 AND TO CREATE AN EXPENDITURE APPROPRIATION ACCOUNT NO. 0100-510-9510-0235 FOR PURPOSES OF REVENUE SHARING PAYMENTS TO BRESHEARS PETROLEUM, INC. PURSUANT TO THE APPROVED REVENUE SHARING AGREEMENT WITH THE CITY OF MODESTO

WHEREAS, on September 23, 2008, the City of Modesto ("City") entered into a Revenue Sharing Agreement with Breshears Petroleum, Inc for the purpose of rebating a portion of the sales tax received by the City from sales of Breshears Petroleum, Inc. products within Modesto city limits, and

WHEREAS, in order to implement said Revenue Sharing Agreement, the City's operating budget must be amended to increase the anticipated sales tax revenue by $180,000 beginning in FY 08-09, and

WHEREAS, in addition, expenditure appropriation account no. 0100-510-9510-0235 must be created for purposes of providing the revenue sharing payments to Breshears Petroleum, Inc., and

WHEREAS, the revenue sharing formula between the City and Breshears Petroleum will be as set forth in said Revenue Agreement,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL that the City's operating budget is hereby amended to increase the anticipated sales tax revenue by $180,000 beginning in FY 08-09 and an expenditure appropriation account no. 0100-510-9510-0235 is hereby created for purposes of providing the revenue sharing payments to Breshears Petroleum, Inc. pursuant to the Revenue Sharing Agreement between the City and Breshears Petroleum, Inc.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 23rd day of September, 2008, 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
NOES:	Councilmembers:	O'Bryant
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. 2008-563

RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PHASE 1A TERTIARY WASTEWATER TREATMENT PROJECT, ACCEPTING THE BID AND APPROVING A $19,148,562.50 CONTRACT WITH PACIFIC MECHANICAL CORPORATION FOR THE PHASE 1A TERTIARY WASTEWATER TREATMENT PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Phase 1A Tertiary Wastewater Treatment Project and City staff recommends approval to the City Council, and

WHEREAS, the bids received for the Phase 1A Tertiary Wastewater Treatment Project were opened at 11:00 a.m. on August 26, 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 $19,148,562.50 received from Pacific Mechanical Corporation be accepted as the lowest responsible bid and the contract be awarded to Pacific Mechanical Corporation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of Pacific Mechanical Corporation in the amount $19,148,562.50, and hereby awards Pacific Mechanical Corporation the contract titled "Phase 1A Tertiary Wastewater Treatment Project."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, 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
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. 2008-564

RESOLUTION APPROVING A MITIGATED NEGATIVE DECLARATION DATED JULY 2008 AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE PHASE 1A TERTIARY WASTEWATER TREATMENT PROJECT, AND ADOPTING A FINDING THAT THE CITY COUNCIL HAS REVIEWED AND CONSIDERED AND MADE FINDINGS REGARDING THE CEQA ENVIRONMENTAL REVIEW DOCUMENT

WHEREAS, the City Council, on March 13, 2007, by Resolution No. 2007-178, certified the Final Master Environmental Impact Report (MEIR) (SCH No. 2006052076) for the Modesto Wastewater Master Plan Update, and

WHEREAS, the Master Plan and MEIR identify certain improvements to be carried out in furtherance of enhanced treatment of wastewater, and

WHEREAS, construction of the Phase 1A Tertiary Wastewater Treatment Project will improve the quality of the effluent discharge and allow the City to discharge to the San Joaquin River and is specifically envisioned by the Modesto Wastewater Master Plan and its associated MEIR, and

WHEREAS, Sections 21157.1 and 21157.5 of CEQA provide for a lead agency to prepare an Initial Study on any proposed project being carried out subsequent to a Master EIR to analyze whether the project may cause any significant effect on the environment, and

WHEREAS, the City of Modesto Department of Public Works has prepared an Initial Study/Mitigated Negative Declaration (EA-PW No. 2008-13) as provided for by CEQA, and

WHEREAS, a 30-day public review period for the proposed Initial Study/Mitigated Negative Declaration began on July 22, 2008 and ended on August 21, 2008, and

WHEREAS, the City received four letters commenting on the draft Initial Study/Mitigated Negative Declaration (IS/MND), and

WHEREAS, the City prepared written responses to all written comments received on the draft IS/MND, and

WHEREAS, the Mitigation Monitoring and Reporting Plan (MMRP) for this project is **attached** to this resolution as **Exhibit 1**, and is hereby incorporated by reference and made a part of this resolution,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study/Mitigated Negative Declaration (EA/PW No. 2008-13) and Mitigation Monitoring and Reporting Plan prepared for the Phase 1A Tertiary Wastewater Treatment Project, and based on the substantial evidence provided in said Initial Study/Mitigated Negative Declaration makes the following findings:

1. The type of project is described in Chapter III of the MEIR.

2. All applicable policies, regulations, and mitigation measures identified in the MEIR have been applied to the project.

3. The Statement of Overriding Considerations made pursuant to Public Resources Code Section 21091 and CEQA Guidelines Section 15091 et seq. in connection with adoption of the MEIR and found in Exhibit A to City Council Resolution No. 2007-178 remain in full force and effect and are hereby incorporated by reference into this Resolution. The significant and unavoidable impacts identified in the MEIR and associated with its implementation cannot be avoided or substantially reduced by feasible changes or alterations to the Project, other than by changes or alterations already adopted.

4. The Initial Study/Mitigated Negative Declaration prepared for the proposed project has identified additional potentially significant environmental effects beyond those identified in the MEIR.

5. Before the Initial Study/Mitigated Negative Declaration was released for public review, feasible mitigation measures were made by or agreed to by the City, which will avoid or mitigate the effects to a point where clearly no significant effect will occur.

6. 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.

7. The Initial Study/Mitigated Negative Declaration reflects the independent judgment of the lead agency.

8. The Initial Study/Mitigated Negative Declaration, Environmental Assessment (EA/PW 2008-13) provides the substantial evidence to support findings 1 through 6, above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts the Mitigation Monitoring and Reporting Program as required by Public Resources Code Section 21081.6 et. seq., a copy of which is **attached** and made **Exhibit** 1 to this resolution, and

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts the Initial Study/Mitigated Negative Declaration EA/PW 2008-13, a copy of which is on file with the City Clerk and incorporated herein by reference.

BE IT FURTHER RESOLVED that the City of Modesto Public Works Department, Capital Improvement Services, is the custodian of the documents and other materials, which constitute the record of proceedings upon which its decision is based. The records are located at the office of the City of Modesto Public Works Deputy Director, 1010 Tenth Street, Fourth Floor, Modesto, CA 95354.

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 23rd day of September, 2008, 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
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

Phase 1A Wastewater Project
Mitigation Monitoring and Reporting Program

August 2008

Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Monitoring Schedule	Verification
Mitigation Measures from Wastewater master Plan MEIR Mitigation Measures drawn from the WWMP MEIR are included in the WWMP MEIR MMRP, which is incorporated by reference into this Program	As shown in WWMP MEIR MMRP	As shown in WWMP MEIR MMRP	As shown in WWMP MEIR MMRP	
Mitigation Measure 1. American Badger potentially occurs in the ruderal areas and irrigated pasture within the Project Area. If found, impacts to American badger would be a potentially significant impact. The following measure is incorporated to reduce this measure to a less-than-significant level: A qualified biologist shall conduct a pre-construction survey for potential dens within the Project footprint. If an occupied den is present, it shall be avoided and the biologist shall monitor the den until the badger disperses out of the area. At that time, the den can be filled.	City of Modesto Public Works Department	City of Modesto Public Works Department	Prior to construction and as/if needed during construction	
Mitigation Measure 2. Western Pond Turtle may occur in the slough located near the Project Site. Although the project will avoid wetland habitats, a dispersing turtle may be encountered in any upland habitat. The following measure is incorporated to reduce this impact to a less-than-significant level:	City of Modesto Public Works Department	City of Modesto Public Works Department	Prior to construction	

Mitigation Measure	Implementing Responsibility	Monitoring Responsibility	Monitoring Schedule	Verification
All project personnel shall receive special status species training that includes procedures to avoid impacts to dispersing turtles. This training shall be conducted by a qualified biologist prior to project construction.				
Mitigation Measure 3. In the project area, the most common and recognizable evidence of prehistoric archaeological resources are deposits of shell and/or bones, usually in fragments, and usually in a darker fine-grained soil (midden); chert, obsidian and other stone flakes left from manufacturing stone tools, or the tools themselves or ground stone (mortars, pestles, grinding slabs, arrowheads and spear points), other artifacts (shell beads, bone tools, etc.), and human burials, often as dislocated bones. Historic materials older than 45 years–bottles, artifacts, privy and disposal pits, structural remains, etc.–may also have scientific and cultural significance and should be more readily identified. The Modesto General Plan contains a requirement for a pre-construction survey prior to construction within any archaeological resource study area. If during the proposed construction project any such evidence is uncovered or encountered, all excavations within 10 meters/30 feet should be halted long enough to call in a qualified archaeologist to assess the situation and propose appropriate measures.	City of Modesto Public Works Department	City of Modesto Public Works Department	Throughout construction activities involving grading or trenching.	

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-565

RESOLUTION AMENDING THE FY08/09 CAPITAL IMPROVEMENT PROGRAM BUDGET IN ORDER TO PROVIDE FUNDING NECESSARY FOR DESIGN SUPPORT DURING CONSTRUCTION, INCLUDING CITY STAFF TIME, BY DECREASING CIP ACCOUNT 6210-430-B812 "PRIMARY OUTFALL REHABILITATION" IN THE AMOUNT OF $900,000, AND REAPPROPRIATING THE SAME AMOUNT TO CIP ACCOUNT 6210-480-B805 "WASTEWATER TREATMENT-PHASE 1A TERTIARY"

WHEREAS, certain budgetary transactions are necessary in the amount of $900,000, in order to fully fund a Second Amendment with Carollo Engineers, P.C. (Carollo) for design support during construction, including City staff time to administer the Second Amendment, and budget for state sales tax on pre-purchased equipment for the Phase 1A Tertiary Wastewater Treatment Project, and

WHEREAS, due to the project's complexity, and since Carollo is the primary design engineer of the Phase 1A Tertiary Wastewater Treatment Project, it will be necessary to amend Carollo's Agreement to provide design support during construction, which includes equipment submittal review, responding to the contractor's request for information (RFIs), and progress meetings, the FY08/09 Capital Improvement Program budget must be amended by decreasing CIP Account 6210-480-B812-6040 "Primary Outfall Rehabilitation" in the amount of $900,000, and returning the funds back to Account 6210-800-8000-8003 "Wastewater Fund Reserve," then decreasing Account 6210-800-8000-8003 "Wastewater Fund Reserve" by the same amount and reappropriating $755,789 to Object 6010-Engineering/Design/Administration and $144,211 to Object 6040-Construction in CIP Account 6210-480-B805 "Wastewater Treatment-Phase 1A Tertiary" to perform the required design support during

construction, including City staff time, and budget for state sales tax for pre-purchased equipment for the Phase 1A Tertiary Wastewater Treatment Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of funds in the amount of $900,000, as set forth herein, to perform the required design support for construction, including City staff time, and budget for state sales tax on pre-purchased equipment for the Phase 1A Tertiary Wastewater Treatment Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of September, 2008, 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
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. 2008-566

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF DWIGHT BATEMAN FROM THE HUMAN RELATIONS COMMISSION

WHEREAS, DWIGHT BATEMAN was appointed a member of the Human Relations Commission on January 7, 2003, and

WHEREAS, DWIGHT BATEMAN has tendered his resignation from the aforementioned commission,

NOW, THEREFORE, BE IT RESOLVED that the resignation of DWIGHT BATEMAN from the Human Relations Commission 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 DWIGHT BATEMAN 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 October, 2008, 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. 2009-567

A 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 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 7th day of October, 2008, 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

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-568

A RESOLUTION OPPOSING THE PASSAGE OF PROPOSITION 5, ALSO KNOWN AS THE NONVIOLENT OFFENDER REHABILITATION ACT (NORA). THIS PROPOSITION WILL BE ON THE NOVEMBER 2008 STATEWIDE BALLOT

WHEREAS, the Drug Policy Alliance, who placed Proposition 36 on the ballot in 2000, has again gathered signatures to place Proposition 5, the *Nonviolent Offender Rehabilitation Act*, on the November 2008 ballot, and

WHEREAS, law enforcement professionals believe the passage of Proposition 5 (NORA) will increase crime and addiction levels resulting in a less safe community, and

WHEREAS, the California Police Chiefs' Association, California Peace Officers' Association, California District Attorneys' Association, and Chief Probation Officers' of California oppose the passage of Proposition 5,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby opposes the passage of Proposition 5, also known as the Nonviolent Offender Rehabilitation Act (NORA). This proposition will be on the November 2008 statewide ballot.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October, 2008, 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. 2008-569

A RESOLUTION SUPPORTING PROPOSITION 6: SAFE NEIGHBORHOODS ACT TO BE VOTED ON IN THE NOVEMBER 2008 GENERAL ELECTION

WHEREAS, the State Legislature's failure to adopt a budget on time forces the City of Modesto, and other municipalities, to make assumptions as to what effect the final State budget will have on local funding for critical public safety programs, and

WHEREAS, there is over $1.5 million in jeopardy to the City of Modesto in critical frontline public safety funding that is being held hostage as the legislature engages in partisan bickering over the final budget adoption, and

WHEREAS, holding public safety funding hostage has become a standard practice in the State budget process and has cost local public safety millions of dollars, and

WHEREAS, this critical public safety funding represents less than 1% of the entire State budget, and

WHEREAS, Proposition 6 will require these critical frontline public safety monies to be funded and fully allocated to local public safety agencies,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby supports Proposition 6: *Safe Neighborhoods Act*, to be voted on in the November 2008 general election.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October, 2008, 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. 2008-570

A RESOLUTION ACCEPTING THE COPS 2008 TECHNOLOGY GRANT IN THE AMOUNT OF $133,280.25 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 PROGRAM DOCUMENTS

WHEREAS, on September 15, 2008, the Modesto Police Department received notification that the City of Modesto has been awarded $133,280.25 for the COPS 2008 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 a disaster situations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the COPS 2008 Technology grant in the amount of $133,280.25 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 program 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 7th day of October, 2008, 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. 2008-571

A RESOLUTION AMENDING THE FISCAL YEAR 2008/2009 MULTI-YEAR BUDGET, ESTIMATING REVENUE OF $133,280.25 FOR THE COPS 2008 TECHNOLOGY GRANT TO PROVIDE PARTIAL FUNDING FOR THE CITY OF MODESTOAND STANISLAUS OPERATIONAL AREA REGIONAL RADIO INTEROPERABILITY PROJECT

WHEREAS, on September 15, 2008, the Modesto Police Department received notification that the City of Modesto has been awarded $133,280.25 for the COPS 2008 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 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 the 2008/2009 Multi-Year Budget is hereby amended as indicated below to initiate said grant project:

	Expense:		
To:	0410-190-2909-5000	$133,280.25	Technology Grant/Radio Interoperability
	Revenue:		
To:	0410-190-2909-3508	$133,280.25	Federal Police Grant

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October, 2008, 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. 2008-572

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE FURNISHING AFTER HOURS ANSWERING SERVICES FOR THE PUBLIC WORKS DEPARTMENT, FOR A TWO (2) YEAR AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF $16,500

WHEREAS, the City of Modesto Water and Wastewater Divisions require after-hours answering service for customers needing to report possible emergencies or concerns related to the water and sewer utilities; and

WHEREAS, this service handles customer calls occurring after normal business hours and on weekends, and handles approximately 20,000 calls annually, and

WHEREAS, it is essential to have after-hours answering service for emergency calls, such as water main breaks, sewer blockages, flooding, and storm damage, and

WHEREAS, the Water and Wastewater Divisions currently contract this service at an annual cost of $16,500, and

WHEREAS, staff recommends moving to a multi-year contract to ensure the City gets the best price for the service, 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 furnishing of after-hours answering services for the Public Works Department conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted in Account Numbers 6100-480-5016-0210 and 6210-480-5212-0210 for the furnishing of after-hours answering services,

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 furnishing of after-hours answering services for the Public Works Department, 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 October, 2008, 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. 2008-573

A RESOLUTION FINDING THAT THE PROJECT TITLED, "MERLE AVENUE IMPROVEMENTS AT THE VILLAGE ONE CENTRAL BASIN," 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, the City Council has received and considered the Written Checklist, Environmental Assessment No. EA/PW No. 2008-15, that concludes that the project titled "Merle Avenue Improvement Project," 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 15182 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 15182 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. 2008-15, 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 7th day of October, 2008, 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. 2008-574

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE MERLE AVENUE IMPROVEMENTS AT THE VILLAGE ONE CENTRAL BASIN PROJECT, ACCEPTING THE BID AND APPROVING A $229,910.41 CONTRACT WITH A. TEICHERT & SON, INC., DBA TEICHERT CONSTRUCTION FOR THE MERLE AVENUE IMPROVEMENTS AT THE VILLAGE ONE CENTRAL BASIN PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, plans and specifications have been prepared for the Merle Avenue Improvements at the Village One Central Basin project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Merle Avenue Improvements at the Village One Central Basin project were opened at 11:00 a.m. on September 9, 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 $229,910.41 received from A. Teichert & Son, Inc., dba Teichert Construction (Teichert Construction) be accepted as the lowest responsible bid and the contract be awarded to Teichert Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the Merle Avenue Improvements at the Village One Central Basin project, accepts the bid of Teichert Construction in the amount of $229,910.41, and awards Teichert Construction the contract for the Merle Avenue Improvements at the Village One Central Basin project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract with Teichert Construction, in the amount of

$229,910.41, for the Merle Avenue Improvements at the Village One Central Basin project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October, 2008, 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. 2008-575

A RESOLUTION APPROVING A SECOND AMENDMENT TO AGREEMENT WITH CAROLLO ENGINEERS, P.C. (CAROLLO) FOR FINAL DESIGN SERVICES FOR PHASE 1A TERTIARY WASTEWATER TREATMENT FACILITY PROJECT TO INCLUDE DESIGN SUPPORT DURING CONSTRUCTION IN AN AMOUNT NOT TO EXCEED $732,600, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SECOND AMENDMENT TO 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, due to the lengthy process of implementing a full-scale tertiary facility, a phased approach is underway that will allow the City to comply with expected regulatory issues and continue with development within a short timeframe, and

WHEREAS, the City Council, on February 13, 2007, by Resolution 2007-110, approved an Agreement with Carollo Engineers, P.C. (Carollo) to complete the 35% design effort and a Preliminary Design Report (PDR) for the Phases 1A and 1B Tertiary Treatment Facilities Project, and

WHEREAS, the PDR serves as the basis of design for the two phases; the City Council, on June 26, 2007, by Resolution 2007-379 approved the final PDR as complete, and

WHEREAS, the City Council, on July 3, 2007, by Resolution 2007-408, approved an Agreement with Carollo for Final Design of the Phase 1A Tertiary Wastewater Treatment Facility Project, and

WHEREAS, the City Council, on February 12, 2008, by Resolution No. 2008-103, approved a first Amendment to Agreement to perform additional work as required in order to include the low-pressure in-vessel ultraviolet (UV) system as a bid alternative, and

WHEREAS, the Phase 1A Final Design was completed and bids were solicited in July 2008, and

WHEREAS, the City opened bids for the construction of the Phase 1A project on August 26, 2008, and

WHEREAS, the City Council awarded the construction contract to Pacific Mechanical Corporation (PMC) of Concord, CA on September 23, 2008, by Resolution No. 2008-563, and

WHEREAS, the project will include the low-pressure in-vessel UV system, and

WHEREAS, additional design support services by Carollo are required during the construction of the Phase 1A project, and

WHEREAS, in addition to providing design support during construction, there are funds included to design a bridge crane to simplify and safely remove wastewater treatment equipment for servicing, provide both start-up and training City staff on the operation and maintenance of the new tertiary wastewater treatment facility, and submit final recording drawings and specifications, and

WHEREAS, as the design firm for the Phase 1A project, Carollo is most familiar and best suited to provide additional design support services during construction, including submittal review and responding to Requests for Information (RFIs) from the contractor, and

WHEREAS, the additional cost for these design support services is necessary to help the construction manager maintain construction schedule and ensure overall facility quality and equipment performance, and

WHEREAS, a standard level of effort for construction support for wastewater treatment projects is 3 – 5 percent of the construction cost, and

WHEREAS, the total cost for construction support would be approximately 3.8% of the $19.1 million construction project, and

WHEREAS, selecting Carollo to perform the design support services during construction will maximize benefits to the City related to utilizing knowledge gained through the preliminary and final design efforts, and

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

WHEREAS, City staff recommends a Second Amendment to Agreement with the consulting firm of Carollo Engineers, P.C. as the City does not have the staffing level or subject matter expertise to complete the design support services during construction for the Phase 1A Tertiary Wastewater Treatment 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 the Second Amendment to Agreement between City of Modesto and Carollo Engineers, P.C. for final design services for the Phase 1A Tertiary Wastewater Treatment Project to include design support during construction in the amount of $732,600.

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 7th day of October, 2008, 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. 2008-576

A RESOLUTION APPROVING AN AGREEMENT WITH GEORGE OSNER, AICP, FOR ON-CALL ENVIRONMENTAL PLANNING SUPPORT SERVICES FOR VARIOUS PUBLIC WORKS – CAPITAL IMPROVEMENT SERVICES PROJECTS FOR ONE YEAR, WITH THREE 1-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, IN AN AMOUNT NOT TO EXCEED $85,000 PER YEAR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT, AND UP TO THREE 1-YEAR EXTENSION OPTIONS

WHEREAS, the Public Works Department – Capital Improvement Services Division (CIS) performs a number of tasks requiring environmental planning support services that are beyond the ability of City's engineering staff to accomplish in a timely manner, and

WHEREAS, CIS has found it necessary to utilize the services of specialized consulting environmental firms, and

WHEREAS, retaining an on-call environmental planning consultant allows the division to have quick access to specific environmental planning support 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 environmental planner 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 environmental planning support services consultant is to standardize the outcome of the review process, reduce response

time, and promote project cost savings, which is a positive budget impact to the Capital Improvement Program (CIP), and

WHEREAS, George Osner, AICP, former Planner for the City of Modesto, is familiar with the City's existing infrastructure, and

WHEREAS, Mr. Osner provided prior services in conjunction with the City's overall urban and environmental planning efforts, and has demonstrated satisfactory services to the City on past and current projects, and

WHEREAS, as an example, Mr. Osner provided planning services to the Community & Economic Development Department including interpreting and applying environmental quality laws and regulations to ensure that City projects are in compliance with state and federal laws, and

WHEREAS, Mr. Osner is currently providing environmental planning support services to the Public Works Department assisting in preparing requests for proposals, consultant selection, contract preparation and management for environmental services, preparing Initial Studies, and assisting in preparing or reviewing Environmental Impact Reports and other documents, and

WHEREAS, Mr. Osner is deemed the most qualified to provide the requested on-call environmental planning support services in a timely and cost effective manner, and

WHEREAS, Mr. Osner has an intimate knowledge of coordinating with City and agency staff to complete environmental planning services and conferring with and advising City staff regarding environmental laws, regulations and policies, and

WHEREAS, Mr. Osner will submit a written scope of services outlining the specific work, schedule, and cost estimate associated with each task order, and

WHEREAS, Mr. Osner will perform no service until Capital Improvement Services management has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to Mr. Osner prior to commencement of services, and

WHEREAS, City staff recommends an On-call Environmental Planning Support Services Agreement with George Osner, AICP, be approved, and

WHEREAS, Mr. Osner will be paid on an hourly basis for actual hours required to perform specific task orders at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with George Osner, AICP, for On-call Environmental Planning Support Services for various Public Works – Capital Improvement Services projects for one year, with three 1-year extension options at the sole discretion of the City in an amount not to exceed $85,000 per year. Total cost for four years is not to exceed $340,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement with Mr. Osner, and up to three 1-year extension options.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of October, 2008, 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. 2008-577

A RESOLUTION AMENDING THE FISCAL YEAR 2008-09 ADOPTED BUDGET ESTIMATES FOR MAJOR AND NON-MAJOR REVENUES AND APPROVING THE MAYOR'S PROPOSED REVENUE ENHANCEMENTS AND SPENDING REDUCTIONS

WHEREAS, on June 3, 2008, the Modesto City Council adopted the 2008-09 General Fund budget, and

WHEREAS, there have been changes in the revenue forecasts which require amending the previously adopted revenue projections for Fiscal Year 2008-09, and

WHEREAS, the recommendations, detailed in **Attachment 1** attached hereto and incorporated herein by reference, will improve the City's revenues by nearly $1.5 million dollars, and

WHEREAS, the recommended revenue improvements are coupled with approximately $5.1 million in expenditure reductions to improve the General Fund balance by $6.6 million, and

WHEREAS, the recommended adjustments to the adopted revenue estimates are detailed in **Attachment 2** attached hereto and incorporated herein by reference, and

WHEREAS, on September 22, 2008, the Finance Committee reviewed and approved the current fiscal year General Fund revenues and recommended expenditure reductions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2008-09 revenue estimates for sales tax, property tax and other major revenues and approving the Mayor's proposed revenue

enhancements and spending reductions detailed in **Attachments 1 and 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 October, 2008, 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

FY 2008-09 RECOMMENDED BUDGET ACTIONS TO ADDRESS REVENUE SHORTFALL

ID.	Dept.	Recommended Action	Revenue	Expense	Org.	Object	Change by Dept.
1	CC	Recognize salary savings from vacant funded positions		45,787			
2	CC	Reduce discretionary spending by 10%		7,098			
3		**CITY COUNCIL SAVINGS**					**52,885**
4	CMO	Recognize salary savings from vacant funded positions		67,574			
5	CMO	Reduce discretionary spending by 10%		12,265			
6		**CITY MANAGER OFFICE SAVINGS**					**79,839**
7	CATT	Recognize salary savings from vacant funded positions		182,288			
8		**CITY ATTORNEY OFFICE SAVINGS**					**182,288**
9	CLK	Recognize salary savings from vacant funded positions		88,568			
10		**CITY CLERK OFFICE SAVINGS**					**88,568**
11	AUD	Recognize salary savings from vacant funded positions		79,924			
12	AUD	Reduce discretionary spending by 10%		2,640			
13		**OFFICE OF CITY AUDITOR SAVINGS**					**82,564**
14	CEDD	Recognize salary savings from vacant funded positions		489,689			
15	CEDD	Reduce discretionary spending by 10%		75,338			
16	CEDD	Further reduction of discretionary spending.		272,747			
17	CEDD	Recognize service credit revenue from the Infrastructure Financing Program work unit for work done by Administrative Office Assistant II (.5 FTE). This service credit comes about through the Council approved reorganization which moved this work unit to the Community & Economic Development Department from the City Manager's Office. Support to the team is now being partially provided through existing CEDD office support staff.	23,250				
18	CEDD	Eliminate funding for part-time vacant position because of development slow down.		15,000	1401	140	
19	CEDD	Transfer Bldg Inspector II temporarily to PW to help in inspection of capital projects.		63,936			
20	CEDD	Eliminate part-time assistance in Planning Division.		63,411			
21	CEDD	General Plan update		50,000			
22	CEDD	Recognize service credit revenue from Infrastructure Financing Program work unit for administration/implementation and collection of Capital Facility Fees by building staff. This service credit acknowledges the current workload of building safety staff to collect fees at the time of permit issuance.	15,000		1401		
23		**COMMUNITY AND ECONOMIC DEVELOPMENT DEPT. SAVINGS**					**1,068,371**
24	FIN	Recognize salary savings from vacant funded positions		213,485			
25	FIN	Reduce discretionary spending by 10%		112,877			
26	FIN	Recognize revenue from increase in Return Check charge. This fee was approved by Council on June 3, is already being collected.	12,000		1225	8134	
27	FIN	Recognize revenue from improved collection on aging Driving Under the Influence (DUI) invoices.	11,504		1225		
28		**FINANCE DEPARTMENT SAVINGS**					**349,866**
29	FIRE	Recognize salary savings from vacant funded positions		383,788			
30	FIRE	Reduce discretionary spending by 10%		183,976			
31	FIRE	Eliminate funding for station runner between fire stations.		10,083	1810	140	
32	FIRE	Convert fire engine purchase to lease/purchase.		150,000	1815	223	
33	FIRE	Eliminate funding for part-time fire investigator position.		25,000	1820	110	
34	FIRE	Eliminate Fire Prevention Technician II position. Incumbent recently retired.		56,739	1822	110	

ID.	Dept.	Recommended Action	Revenue	Expense	Org.	Object	Change by Dept.
35	FIRE	Periodically, the personnel from engine 21 (downtown) will be utilized to fill vacancies occurring throughout the department, reducing the use of overtime. This will happen when the number of personnel vacancies exceeds the number of relief personnel available. When this happens, there will be one less engine company in the system for that 24 hour period. It is anticipated that this will occur approximately 70% of the time between December 1, 2008 and July 1, 2009.		405,562	1832	130	
36		**FIRE DEPARTMENT SAVINGS**					1,215,148
37	PD	Recognize salary savings from vacant funded positions		505,806			
38	PD	Reduce discretionary spending by 10%		472,238			
39	PD	Transfer-in from Traffic Safety Fund for Traffic Operations activities in the General Fund. Sufficient reserve funds are available within the Traffic Safety Fund for eligible General Fund expenses.	200,000				
40	PD	Recognize service credit revenue from agreement with Parking Fund to provide enforcement activities in the parking facilities. Parks and Police staffs have negotiated an agreement to provide enhanced parking enforcement in the parking lots/garages through part-time parking attendants.	52,000				
41	PD	A transfer from Asset Forfeiture funds will partially offset the salary costs of one full-time Police Officer position (drug enforcement related).	70,000				
42	PD	Due to policing efforts over the past few years, a solid working relationship with the downtown businesses, the closure of a few problem generating venues and the constant evaluation of staffing needs, there has been realized a reduction in overtime expenditures in the DED area. This was accomplished through the addition of two full-time DED officers on Thursday, Friday and Saturday nights, a reduction in hours and later deployment times, a reduction in the number of officers, supervisors and equestrian units deployed. The number of overtime hours per weekend which includes Sergeants, officers and CSO's varies, but has decreased from 2007 by approximately 50-70 hours per week (depending on time of year, events and circumstances). Re-evaluation of DED staffing needs is an on-going process."		100,000	1951	130	
43	PD	Reflects additional General Fund support needed for grant funded public safety positions beyond the annual $150K allocation.		-26,000			
44		**POLICE DEPARTMENT SAVINGS**					1,374,044
45	PERS	Reduce discretionary spending by 10%		17,689			
46	PERS	Recognize service credit revenue from water and wastewater funds due to work done on disciplinary investigations by Personnel staff on behalf of PW. Disciplinary activity has increased to the point that Public Works staff are no longer able to handle the volume of work. Personnel staff has stepped in to handle these activities traditionally done at the department level. Should the volume of disciplinary actions diminish, this service credit would no longer be needed.	65,888		301	4909	
47	PERS	Recognize salary savings from having Organizational Development Specialist working as an Intern in City Manager's Office for 16 hours/week (City Manager's Office incurs salary cost) through September.		9,299	301	4909	
48	PERS	Release encumbrance to Bryce Consulting for appeals related to Wall to Wall Study.		14,000	301	235	

ID.	Dept.	Recommended Action	Revenue	Expense	Org.	Object	Change by Dept.
49	PERS	Unrecognized savings - As part of the budget adoption in June, Personnel anticipated savings from the retirement of a Senior Personnel Analyst. That retirement is unlikely to occur in this Fiscal Year so the savings will not be realized.		-52,491			
50		**PERSONNEL DEPARTMENT SAVINGS**					**54,385**
51	PRN	Recognize salary savings from vacant funded positions		26,780			
52	PRN	Reduce discretionary spending by 10%		168,444			
53	PRN	Recognize service credit revenue for work done by Administrative Analyst II on capital projects in the parks program. Administrative Analyst is spending more time providing fiscal oversight to capital projects.	21,882		3001	4909R	
54	PRN	Recognize service credit revenue for work done by part-time Public Information Technician on fund development activities. Staff will charge more time to a non-General Fund organization for activities related to fund development collaterals.	11,383		3001	4909R	
55	PRN	Recognize service credit revenue for work done by part-time Public Information Technician on developing signs and other collateral materials for Parking Fund. These are new activities.	2,276		3001	4909R	
56	PRN	Recognize service credit revenue for administrative activities related to the Carpenter Road landfill. Department administrative staff has not been charging for time related to oversight, including budgetary and fiscal activities.	16,674		3001	4909R	
57	PRN	Recognize service credit revenue for case development of illegal dumping violations on behalf of the Solid Waste Division by staff from the Neighborhood Preservation Unit, a General Fund organization.	20,000		3770	4909R	
58	PRN	Recognize service credit revenue for maintenance activities at the Carpenter Road landfill. Department staff has not been charging for time to provide maintenance of the property, to include discing, and litter pick up.	21,888		3522	4909R	
59	PRN	Recognize anticipated revenue from the sale of property at Coldwell/Virginia (former Recreation Program site) per appraisal.	325,000				
60	PRN	Recognize anticipated revenue sale of 800 E. Morris. The appraisal for this property came in at $650,000 in 2007; $200,000 was already anticipated in the FY 2008-09 adopted budget with another $200,000 going to the Park Development Fund. This recommendation moves $85,000 of the anticipated Park Development Fund proceeds to the General Fund. The City does have interested buyers.	85,000				
61	PRN	Reduce General Fund transfer to Centre Plaza Enterprise Fund by holding the Deputy Director position vacant through FY 08-09. This is the position left vacant with Bob Quintella's retirement.		133,276			
62	PRN	Reorganize the Housing Rehabilitation work unit eliminating one filled Sr. Housing Rehabilitation Specialist position and transferring one filled Code Enforcement Officer position to the CDBG Fund to provide sub-standard housing enforcement activities. **This results in the lay-off of one filled position.**		49,430	3770	0110/0188	
63	PRN	Transfer one filled Administrative Office Assistant III to vacant position in Solid Waste and consolidate clerical front-desk activities eliminating part-time staff. This will also change the front desk hours to 8:30-4:30.		57,869	3801		
64	PRN	Utilize CDBG funds to pay for qualifying programs at Maddux.	15,000		3732		
65	PRN	Utilize CDBG funds to pay for qualifying programs at Marshall.	15,000		3733		

ID.	Dept.	Recommended Action	Revenue	Expense	Org.	Object	Change by Dept.
66	PRN	Eliminate weekday trash pick-up from Grover contract (3 weekdays) and replace with trash pick-up by City staff (2 weekdays)		50,000	3522	235	
67	PRN	Utilize existing City staff to maintain Capital Facilities District funded Fairview Park site.	40,000		3522	5101R	
68		**PARKS, RECREATION, & NEIGHBORHOODS DEPT. SAVINGS**					**1,059,902**
69	PW	Recognize salary savings from vacant funded positions		14,004			
70	PW	Reduce discretionary spending by 10%		92,874			
71	PW	Modesto Arch project funding will come from HUD/RDA rather than General Fund.		43,000	M710		
72	PW	Recognize service credit revenue from internal reorganization that moves supervision/oversight of street redesign resources to the Traffic Service Division per Council approved reorganization plan.	25,000		4301	4909	
73	PW	Recognize as revenue the replacement dollars returned to the General Fund from the Fleet Fund through the elimination of vehicles/equipment in Community Forestry used for services no longer performed such as tree planting and other service areas reduced such as tree/stump removal and tree preservation.	83,170		4712		
74	PW	Eliminate use of temporary laborers in Community Forestry. This reduction will result in some delays in the cycle pruning efforts as staff is pulled away on occasion to deal with other issues such as responding to citizen inquiries, etc.		42,974	4712	269	
75		**PUBLIC WORKS DEPARTMENT SAVINGS**					**301,022**
76	STATE	Recognize revenue from Safe Law Enforcement Supplement Funding (SLESF) for overtime. This revenue comes from the State and thus, is dependent on positive resolution within the State budget process.	350,000				
77	STATE	Booking Fees savings due to State budget		320,000			**670,000**
78		**ANTICIPATED STATE BUDGET-RELATED SAVINGS**					
79		**SUB-TOTAL:**	**1,481,915**	**5,096,967**			
80		**TOTAL FROM REVENUE ENHANCEMENTS AND EXPENSE REDUCTIONS:**	**6,578,882**				**6,578,882**

6,578,882

FY 2008-09 REVENUE OPTIONS - FURTHER ANALYSIS RECOMMENDED

ID	Dept.	Recommended Action
1	FIRE	Implement billing for motor vehicle accident response
2	FIN/ PRN/PD	Evaluate various opportunities for improvements in parking programs.
3	PRN	Child care program at Maddux
4	ALL	Fee for administrative hearings
5	PW	As of January 1, implement Service Level Option A for Forestry Program suspend programmed tree pruning and divert displaced staff to Water Division meter program.

ATTACHMENT 2

General Fund - (0100) Major & Construction Revenue Adjustments - FY 2008-09

Revenue	2008-09 Final Adopted 6.30.08	2008-09 Revised Projection	2008-09 Variance - Adopted to Revised ($)	2008-09 Variance - Adopted to Revised (%)	Comments
Sales Tax:	**26,726,430**	**25,697,193**	**(1,029,237)**	**-3.85%**	
Sales Tax	19,860,348	19,138,618	(721,730)	-3.63%	Adjusted down 3% due to revised information from Muni Services.
Triple Flip	6,866,082	6,558,574	(307,508)	-4.48%	Adjusted down 3% due to revised information from Muni Services.
Property Tax:	**16,115,503**	**13,762,188**	**(2,353,315)**	**-14.60%**	
Current Secured	14,141,328	12,645,992	(1,495,336)	-10.57%	Adjusted down due to the decrease in assessed values from the county.
Delinquent Tax	-	-	-	0.00%	
Delinquent Unsecured	30,300	30,300	-	0.00%	
Current Unsecured	642,875	574,896	(67,979)	-10.57%	Adjusted down due to the decrease in assessed values from the county.
Supplemental Roll	790,000	200,000	(590,000)	-74.68%	Adjusted down due to the decrease in assessed values reflected in home sales.
In-Lieu Tax	6,000	6,000	-	0.00%	
State Hiway Rental Tax	-	-	-	0.00%	
Property Transfer Tax	505,000	305,000	(200,000)	-39.60%	Adjusted down due to the decrease in assessed values reflected in home sales.
VLF Flip	**15,958,000**	**14,500,000**	**(1,458,000)**	**-9.14%**	Adjusted down due to the relationship with assessed values.
Utility Users Tax	**19,615,000**	**19,000,000**	**(615,000)**	**-3.14%**	Adjusted down to equal prior year actual.
Franchise Fees:	**4,273,751**	**4,008,151**	**(265,600)**	**-6.21%**	
Towing	360,000	360,000	-	0.00%	
Parks Concessions	4,000	4,000	-	0.00%	
Cable TV Franchise	1,564,000	1,300,000	(264,000)	-16.88%	Adjusted down to equal prior year actual and fee increase approved.
PG & E Franchise	535,000	535,000	-	0.00%	
PG & E Franchise (SB278)	127,045	127,045	-	0.00%	
Garbage Service Fee	1,572,506	1,572,506	-	0.00%	
Railroad Franchise	6,200	4,600	(1,600)	-25.81%	
Thurman Field Franchise	105,000	105,000	-	0.00%	
VLF:	**1,259,190**	**1,050,000**	**(209,190)**	**-16.61%**	
Abandoned Vehicle	150,000	150,000	-	0.00%	
Motor Vehicle License	1,109,190	900,000	(209,190)	-18.86%	Adjusted down to equal prior year actual.
Business License/Mill Tax:	**10,970,111**	**9,021,130**	**(1,948,981)**	**-17.77%**	
Business License Registration	983,904	980,000	(3,904)	-0.40%	
Business License Mill Tax	9,986,207	8,041,130	(1,945,077)	-19.48%	Adjusted down due to reflect change in Sales Tax revenue forecast and increased enforcement.
Transient Occupancy Tax	**2,222,000**	**2,050,000**	**(172,000)**	**-7.74%**	Adjusted down to equal prior year actual.
Major Revenue Subtotal	**97,139,985**	**89,088,662**	**(8,051,323)**	**-8.29%**	
Construction Related	**3,255,850**	**2,555,850**	**(700,000)**	**-21.50%**	Adjusted down to equal prior year actual.
Total Major & Construction Revenue	**100,395,835**	**91,644,512**	**(8,751,323)**	**-8.72%**	

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-578

A RESOLUTION APPROVING THE REQUEST BY THE CITIES OF PATTERSON, HUGHSON, NEWMAN, AND WATERFORD TO EXPAND THE GEOGRAPHIC BOUNDARIES OF THEIR ENTERPRISE ZONES BY A COMBINED TOTAL OF 778.5 ACRES AND DIRECT THE STANISLAUS ECONOMIC DEVELOPMENT AND WORKFORCE ALLIANCE, AS THE STANISLAUS ENTERPRISE ZONE ADMINISTRATOR, TO SUBMIT FOR EACH CITY THE WRITTEN REQUEST TO EXPAND AND REQUIRED ACCOMPANYING DOCUMENTATION TO THE CALIFORNIA DEPARTMENT OF HOUSING & COMMUNITY DEVELOPMENT

WHEREAS, the County of Stanislaus currently has an Enterprise Zone that was established on November 16, 2005 and has jurisdiction over the existing zone, as well as the proposed expansion area, and

WHEREAS, existing law allows an Enterprise Zone to expand its geographic boundaries up to a maximum of 15% of the original zone boundaries, and

WHEREAS, the Stanislaus Enterprise Zone is comprised of 67,508 acres and has an expansion capacity of approximately 10,126 acres, and

WHEREAS, the Cities of Patterson (64 acres), Hughson (54.5 acres), Newman (401 acres) and Waterford (259 acres) wish to expand the boundaries of their Enterprise Zones by a combined total of 778.5 acres, and

WHEREAS, land included within the proposed expansion areas is zoned for industrial or commercial use, and

WHEREAS, basic infrastructure is available to the areas that would be included in the proposed expansion area, and

WHEREAS, the Cities of Patterson, Hughson, Newman and Waterford will provide the same or equivalent local incentives in the expansion areas as provided to the existing Enterprise Zone, and

WHEREAS, the Cities of Patterson, Hughson, Newman and Waterford will submit a written request as required to the California Department of Housing & Community Development to have their respective enterprise zone boundaries expanded,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that this Enterprise Zone Expansion Request by the Cities of Patterson, Hughson, Newman and Waterford is hereby approved.

BE IT FURTHER RESOLVED that the Council of the City of Modesto does hereby direct the Stanislaus Economic Development and Workforce Alliance, as the Stanislaus EZ Administrator, to submit the written request and required accompanying documentation to expand the Enterprise Zone for the Cities of Patterson, Hughson, Newman and Waterford.

The foregoing resolution was introduced at a regular meeting of the City Council of the City of Modesto held on the 14th day of October, 2008, 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. 2008-579

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF WATER METERS FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, TO BADGER METER, INC., MILWAUKEE, WI, AND AUTHORIZING THE PURCHASING MANAGER 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 ANNUAL COST OF $1,600,000

WHEREAS, the Public Works Department, Water Division installs water meters of various sizes at residential sites, and at commercial and industrial businesses within the City, and

WHEREAS, these meters are part of an existing meter replacement program for non-operable and non-repairable water meters, as well as installation for new metered service in new subdivisions, and

WHEREAS, on July 1, 2008, Council approved Resolution No. 2008-400, authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of water meters for the Public Works Department, Water Division, and

WHEREAS, on July 11, 2008, the Purchasing Division issued Request for Bid No. 0809-01, for the purchase of water meters to twenty-seven (27) prospective bidders, two (2) of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on August 12, 2008, RFB's were formally opened in the City Clerk's office. Of the twenty-seven (27) prospective bidders, four (4) companies chose to respond, one company was a local bidder. Of the four (4) bids received three (3) were considered responsive and responsible, and

WHEREAS, based on providing the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of water meters for the Public Works Department, Water Division, to Badger Meter, Inc., Milwaukee, WI, and authorizing the Purchasing Manager 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 annual cost of $1,600,000, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases, which meet or exceed $50,000 for material, equipment or contractual services to be formally bid. The award of bid and contract for the purchase of water meters for the Public Works Department, Water Division, to Badger Meter, Milwaukee, WI, conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in account 6180-480-W416 for the purchase of water meters,

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 water meters for the Public Works Department, Water Division, to Badger Meter, Inc., Milwaukee, WI.

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 annual cost of $1,600,000.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 14th day of October, 2008, 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. 2008-580

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) 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, FOR AN ESTIMATED ANNUAL COST OF $60,000

WHEREAS, the City uses chemical feed metering pumps as its primary source for chlorination, and

WHEREAS, these pumps pump a 12.5% sodium hypochlorite solution in to the discharge lines of the water pumping station to disinfect drinking water, and

WHEREAS, using chemical feed metering pumps will ensure the water quality supply for the City's water system and meet the compliance requirements set forth by the California Department of Public Health, and

WHEREAS, a contract for an extended period of time will ensure better pricing for the City and enable the Water Division to purchase chemical feed metering pumps on an as-needed basis, 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 chemical feed metering pumps for the Public Works, Water Division conforms to the Modesto Municipal Code, and

WHEREAS, funds are budget for the purchase of chemical feed metering pumps in FY 2008/09 Operating Budget Account No. 6100-480-5013-0312,

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 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, 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 14th day of October, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmemeber 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. 2008-581

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "DOWNSTREAM WATER SYSTEM IMPROVEMENTS-TIER 2, WEST TANK 12 WATER TRANSMISSION MAINS," ACCEPTING THE BID AND APPROVING A $2,387,300 CONTRACT WITH D.A. WOOD CONSTRUCTION, INC. FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS – TIER 2 WEST TANK 12 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 2, West Tank 12 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 2, West Tank 12 Water Transmission Mains project were opened at 11:00 a.m. on September 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 $2,387,300 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 Downstream Water System Improvements-Tier 2, West Tank 12 Water Transmission Mains project, accepts the bid of D.A. Wood Construction, Inc. in the amount of $2,387,300, and awards D.A. Wood Construction, Inc. the contract for the Downstream Water System Improvements-Tier 2, West Tank 12 Water Transmission Mains 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 $2,387,300, for the Downstream Water System Improvements-Tier 2, West Tank 12 Water Transmission Mains project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2008, 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. 2008-582

A RESOLUTION TO MAKE CERTAIN FINDINGS CONCERNING MITIGATION MEASURES, MAKE FINDINGS CONCERNING ALTERNATIVES, ADOPT A STATEMENT OF OVERRIDING CONSIDERATIONS, AND CERTIFY THE FINAL MASTER ENVIRONMENTAL IMPACT REPORT FOR THE URBAN AREA GENERAL PLAN (SCH No. 2007072023)

WHEREAS, on March 4, 2003, the City Council of the City of Modesto re-certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 1999082041) for the Modesto Urban Area General Plan, and

WHEREAS, the City's Community and Economic Development Department ("City") prepared an amendment to the Urban Area General Plan ("Project"), and

WHEREAS, the City, on July 8, 2007, published 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, on July 18, 2007, the City held a public scoping meeting to receive public comments on the scope and content of the Master EIR, and

WHEREAS, the City published and distributed a Draft Master EIR for the Project (SCH No. 2007072023) for public comment on March 24, 2008, in accordance with Section 21091 of the California Environmental Quality Act ("CEQA"), and

WHEREAS, the Draft Master EIR 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 May 9, 2008, and

WHEREAS, during the 45-day public comment period the City received thirteen letters commenting on the Draft Master EIR, and

WHEREAS, the City prepared written responses to all written comments received on the Draft Master EIR, said responses being contained in a Final Master EIR for the Urban Area General Plan Update (SCH No. 2007072023) ("Final MEIR") prepared pursuant to Section 15089 of the CEQA Guidelines, and

WHEREAS, the Final MEIR was published and distributed on August 4, 2008, and consists of the Draft EIR, a list of commentors, copies of all written comments received, responses to those comments that raise environmental issues, and any revisions to the text of the Draft Master EIR made in response to the comments, as required by Section 15132 of the CEQA Guidelines, 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 September 8, 2008, at 7:00 p.m. 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, the Planning Commission has received and considered the Final MEIR for the Urban Area General Plan Update (SCH No. 2007072023) that analyzed the potential environmental effects of the proposed Project and adopted a resolution recommending the City Council make certain findings, adopt a statement of overriding considerations, and certify the Final Master Environmental Impact Report, and

WHEREAS, a public hearing on the Project was held by the City Council on October 14, 2008, at 5:30 p.m., 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, the City Council has received and considered the Final MEIR for the Urban Area General Plan Update (SCH No. 2007072023) that analyzed the potential environmental effects of the proposed Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council, that it hereby has reviewed and analyzed the Final MEIR and other information in the record, and has taken such other actions as are necessary and appropriate to make the following findings in respect to the Final MEIR, and make said findings:

1. That the Final MEIR has been completed in compliance with CEQA; that the City Council has reviewed and analyzed the Final MEIR 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 Final MEIR and the Project, prior to acting upon or approving the Project; and that the Final MEIR represents the independent judgment of the City of Modesto; and

2. That the Findings and recommendations set forth in **Exhibit "A"**, and incorporated herein by reference, are made by the City 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 City 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:

i. that the Project will cause significant, unavoidable impacts to Traffic and Circulation, Generation of Noise; Agricultural Lands, Archaeological and Historical Sites, and Energy, as described in **Exhibit B**.

ii. that the Project will contribute to significant, unavoidable cumulative impacts to Air Quality, Generation of Noise, Agricultural Lands, Long-Term Water Supplies, Sensitive Wildlife and Plant Habitat, Storm Drainage, Energy, Visual Resources, and Climate Change, as described in **Exhibit B**.

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, and each of the overriding considerations set forth in **Exhibit B**, 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 Final Master EIR, 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 and in **Exhibit B**.

i. The stabilization of City finances by collecting revenues in accordance with State law sufficient to fund construction and maintenance of public infrastructure and services; and

ii. Accurately reflect the practices and policies of the City Council and provide improved guidance for future development; and

iii. Incorporate new policies and information from the most recent sewer, water, and storm drainage master plans into the Urban Area General Plan; and

iv. Incorporate new information from the traffic model into the Urban Area General Plan; and

v. Update the 1995 Urban Area General Plan, as amended, to allow its continued use until such time as a comprehensive general plan update is undertaken and completed.

The City Council has weighed the benefits of the proposed Project against its unavoidable environmental risks and adverse environmental effects identified in the Final MEIR 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.

4. The City Council hereby finds and recognizes that the Final MEIR contains additions, clarifications, modifications and other information in its responses to comments on the Draft Master EIR for the Project and also incorporates information obtained by the City since the Draft Master EIR was issued. This Council hereby finds and determines that such changes and additional information are not significant new information as that term is defined under the provisions of the California Environmental Quality Act, because such changes and additional 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 Draft Master EIR have been proposed that would lessen significant environmental impacts of the Project; and that no feasible alternatives considerably different from those analyzed in the Draft Master EIR have been proposed that would lessen significant environmental impacts of the Project. Accordingly, this Council hereby finds and determines that recirculation of the Final MEIR for further public review and comment is not warranted; and

5. 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

6. 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 Final MEIR, with the stipulations that all information in these findings is intended as a summary of the full administrative record supporting the Final MEIR, 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 commenters to the Draft Master EIR and were not adopted as part of the Final MEIR are hereby expressly rejected for the reasons stated in the responses to the comments set forth in the Final MEIR and elsewhere in the record.

BE IT FURTHER RESOLVED by the City Council that it hereby certifies the Final Master Environmental Impact Report for the Urban Area General Plan Update (SCH No. 2007072023), **attached** as **Exhibit "C"**.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2008, 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"

STATEMENT OF FINDINGS OF SIGNIFICANT IMPACTS AND REJECTION OF ALTERNATIVES

EXHIBIT "B"

STATEMENT OF OVERRIDING CONSIDERATIONS

STATEMENT OF FINDINGS OF SIGNIFICANT IMPACTS AND REJECTION OF ALTERNATIVES

Pursuant to Public Resources Code Section 21081 and Section 15091 of the State CEQA Guidelines (14 California Code of Regulations 15000, et seq.), the City of Modesto cannot approve a project for which an Environmental Impact Report (EIR) has been certified which identifies significant effects on the environment unless it adopts findings with respect to each significant effect. Prior to approving the project, the City must also find that there are specific considerations that make infeasible the project alternatives identified in the EIR.

In Section A below, the City will make the following finding for each of the significant effects identified in the Master EIR:

> Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Section 15091 provides that when a project will have a significant and unavoidable impact, the following finding is to be made relative to mitigation measures:

> Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible *the mitigation measures identified in the EIR.* (emphasis added)

This Master EIR contains no discrete mitigation measures. Instead, it relies upon the policies being proposed as part of the Urban Area General Plan (UAGP) to limit potential impacts. Since there are no mitigation measures identified in the Master EIR, this finding cannot be made.

In Section B below, the City will make the following finding regarding each of the alternatives identified in the Master EIR.

> Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the Master EIR.

Section 21081 provides that the City may also find that "changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency." That finding does not apply to any of the significant effects identified in the Master EIR.

A. FINDINGS REGARDING SIGNIFICANT IMPACTS

Traffic and Circulation Needs Impact: The project will result in an increase in traffic, with a related reduction in the level of service (LOS) to below LOS D on various streets within the planning area.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

The city has not adopted discrete mitigation measures as part of the Master EIR. However, proposed UAGP update policies described as items TC-17 through TC-64 in Chapter V of the Master EIR will mitigate these effects. In particular, these include policies for efficient use of existing roadways, requirements for enhancing and improving roadways to meet increased demand due to growth, preparation of a Citywide Transportation Improvement Plan, and provision and improvement of facilities for non-auto transportation, including walking, biking, and transit to reduce auto trips.

The Initial Study prepared for each subsequent project under the Master EIR (as required by Public Resources Code Section 21157.1) will determine whether the projected traffic from the subsequent project would exceed the applicable LOS standard under the UAGP and, if so, would require an analysis and mitigation of the excess traffic.

City policies identified as items TC-42 through TC-46 in Master EIR Chapter V applicable in the Redevelopment and Baseline Developed Areas and TC-50 in the Planned Urbanizing Area require that subsequent projects that will exceed the allowable LOS D standard will be subject to additional analyses. Where the project would take place on a road segment projected for LOS F and would cause further substantial degradation of traffic conditions, or would involve adoption of a Specific Plan within a Comprehensive Planning District (CPD), a comprehensive traffic study will be required if the project generates more than 100 peak-hour trips greater than the number of trips expected to occur with development consistent with the UAGP and the MEIR or which requires a general plan amendment in order to assess the level of impact of the project. Under certain circumstances, individual site-specific development will be required to prepare a site access study to identify potential impacts.

These policies will reduce the impact, but not to a less than significant level. No further feasible mitigation is available to reduce this impact to a less than significant level, and the impact remains significant and unavoidable.

The anticipated increase in traffic giving rise to this potential impact is the result of social and economic conditions that favor continued automobile-dependent growth within California and Stanislaus County. State Planning Law, in particular the requirements for housing elements, requires Modesto to plan for its fair share of future housing needs (Government Code Section 65580 et seq.). The City cannot choose to restrict housing opportunities below those identified in its regional housing need allocation. Accordingly, the City is legally bound to plan for additional growth.

Traffic and Circulation Needs Cumulative Impact: The project will contribute to the substantial cumulative impacts of the proposed Stanislaus County Regional Transportation Plan (RTP) road network improvements.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

City policies identified as items TC-17 through TC-64 in Chapter V of the Master EIR would reduce the UAGP's contribution to the cumulative impacts. Nonetheless, there will be cumulative impacts to which Modesto development will make a considerable contribution. These policies will reduce the impact, but not to a less-than-significant level. No further feasible mitigation is available to reduce this impact to a less-than-significant level, and the impact remains significant and unavoidable.

The UAGP traffic and circulation element and the amendments being proposed are consistent with the RTP. StanCOG's current population projection for Modesto in 2025 is 439,750. This is within about 2 percent of the City's estimated capacity under the UAGP of approximately 428,000 residents.

The EIR prepared for StanCOG's 2007 RTP analyzed the potential impacts of the proposed RTP road network improvements. StanCOG analyzed future traffic volumes to 2025 based on its travel demand model. Significance findings were based on whether the RTP projects would result in an LOS in excess of LOS D in urban areas and LOS C in rural areas of the county. StanCOG identified numerous significant and unavoidable impacts that would result from its 2007 RTP.

The anticipated increase in traffic giving rise to this potential cumulative impact is the result of conditions that favor continued automobile-dependent growth within California and Stanislaus County. State Planning Law, in particular the requirements for housing elements, requires the County and its cities, including Modesto, to plan for its fair share of future housing needs (Government Code Section 65580 et seq.). Neither the County nor the city may choose to restrict housing opportunities.

Degradation of Air Quality Cumulative Impact: The SJVAB is an air quality non-attainment area for ozone and particulate matter. Any contribution to air pollution in a non-attainment area is considered a significant cumulative air quality impact. Motorized traffic from development in the City of Modesto would contribute, with motorized traffic from other new development in the County and region, toward a cumulative increase in roadside air pollutant levels on major roads and highways throughout the County. Within the City itself, the traffic analysis and corresponding traffic air pollutant analysis takes into account cumulative traffic volumes and is inherently cumulative in nature:

The traffic study data includes cumulative traffic volumes which were utilized as an input to the air quality modeling analysis.

Due to the size of Modesto and the future growth projected under its General Plan, it will make a considerable contribution to this cumulative effect. The San Joaquin Valley Air Basin is an air quality non-attainment area for ozone and particulate matter. Planned growth in Modesto under the amended UAGP will make a considerable contribution to the cumulative air quality impact within the Air Basin.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Activities within the City of Modesto are subject to regulation by the SJVAPCD. These regulations are designed to improve regional air quality over time so that the basin will reach air quality attainment. However, in the shorter term, these measures do not avoid the cumulative effect. The City of Modesto policies described as items AQ-1 through AQ-56 in Chapter V of the Master EIR will reduce the UAGP's contribution to the cumulative impact, but not to a less-than-significant level. No further feasible mitigation is available to reduce this impact to a less-than-significant level, and the impact remains significant and unavoidable.

Generation of Noise Impact: Traffic noise levels under future conditions have the potential to result in exceedances of the City's noise significance standards.

Findings:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Implementation of the UAGP policies will reduce construction-related, transportation related, and industrial/commercial noise impacts, with the exception of aircraft noise, to less-than-significant levels.

The City has adopted, as part of its Urban Area General Plan, various policies, described as items N-1 – N14 in Chapter V of the Master EIR, which moderate the effects of increased traffic and growth on noise. These include the Modesto City Noise Ordinance, which limits noise to daytime hours and prohibits the production of loud noises from stationary engines, and General Plan policies requiring mitigation of noise in new development in the existing City limits and Planned Urbanizing Area through setbacks, building standards, and noise buffers. These policies are implemented through the Initial Study analysis that is applied to all discretionary projects undertaken under the General Plan. With implementation of these policies, the impact is reduced to a less-than-significant level.

Generation of Noise Impact: Aircraft noise levels under future conditions after 2015 have the potential to result in exceedances of the City's noise significance standards.

Findings:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

UAGP Policies described as items N-11 and N-12 in Chapter V of the Master EIR require specific studies of airport and aircraft noise and development of mitigation measures for new construction to meet the noise compatibility standards of the UAGP. However, since the airport master plan has not yet been completed, future airport operations are not sufficiently known to allow full analysis of impacts and the development of specific mitigation measures, compatible with Federal Aviation Administration regulations. These policies will reduce the impact, but not to a less-than-significant level. No further feasible mitigation is available to reduce this impact to a less-than-significant level, and the impact remains significant and unavoidable.

Generation of Noise Impact: Traffic from development in the City of Modesto would contribute, with traffic from new development in the County and region, toward a cumulative increase in roadside noise levels on major roads and highways throughout the County. Within the City itself, the traffic analysis and corresponding traffic noise analysis take into account cumulative traffic volumes. The traffic study data includes cumulative traffic volumes, which were utilized as an input to the noise modeling analysis. Noise level projections based on the traffic levels anticipated in the UAGP indicate that noise will exceed the UAGP and noise ordinance standards. This is a significant cumulative effect. The development allowable under the UAGP will make a considerable contribution to that effect.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Although the policies of the UAGP will reduce noise impacts, cumulative future noise is projected to exceed UAGP standards, even with implementation of the UAGP policies described as items N-11 and N-12 in Chapter V of the Master EIR. No further feasible mitigation is available and the impact remains significant and unavoidable.

As described above in the discussion of air quality impacts, California Planning Law and the County's growth rate combine to limit the ability of the City to restrict growth and avoid increases in noise associated with additional growth (including traffic). Individual project contributions, although moderated by the City Noise Ordinance and General Plan policies described above, would be sufficient to result in a cumulative exceedance of City noise standards in some situations.

Effects on Agricultural Land Impact: The Urban Area General Plan will convert land from agricultural to urban use, particularly in the Planned Urbanizing Area. This impact is less-than-significant in the Baseline Developed and Redevelopment Areas since this conversion has already taken place. Development under the UAGP would convert substantial areas of farmland to urban uses within the Planned Urbanizing Area.

The UAGP would also place urban uses in proximity to existing agricultural activities, creating a potential conflict between urban and agricultural land uses, which could indirectly result in the conversion of additional areas of farmlands from agricultural uses to other uses.

Finding:

> Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

> The UAGP policies described as items AL-15 through AL-21 in Chapter V of the Master EIR require the orderly conversion of agricultural land as available developable land is occupied within the city. The City has adopted policies intended to encourage compact growth, including the policies of Section III.C.3 of the Urban Area General Plan. While these policies will result in higher densities of development than would otherwise occur without those policies, thereby reducing the total amount of farmland that would otherwise be converted to meet growth projections, the existing built area of the City cannot absorb the projected increase in City population during the planning period. These policies will reduce the impact, but not to a less than significant level. No further feasible mitigation is available to reduce this impact to a less than significant level, and the impact remains significant and unavoidable.
>
> As described above in the discussion of air quality impacts, California Planning Law and the County's growth rate combine to limit the ability of the City to restrict growth and avoid conversion of agricultural land associated with additional growth. Individual project contributions, although moderated by the General Plan policies described above, would be sufficient to result in conversion of agricultural lands.

Effect on Agricultural Land Impact: Modesto's growth will contribute to the cumulative impact of County-wide growth on agricultural lands.

Finding:

> Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

As described above in the discussion of air quality impacts, California Planning Law and the County's growth rate combine to limit the ability of the City to restrict growth and avoid the conversion of agricultural land associated with additional growth (including traffic). The City has adopted policies intended to encourage compact growth, including the policies of Section III.C.3 of the Urban Area General Plan. While these policies will result in higher densities of development than might occur without those policies, thereby reducing the total amount of farmland that must be converted to meet growth projections, the existing built area of the City cannot absorb the projected increase in City population during the planning period. These policies will reduce the impact, but not to a less than significant level. No further feasible mitigation is available to reduce this impact to a less than significant level, and the impact remains significant and unavoidable.

Increased Demand for Long-Term Water Supplies Impact: Future development under the Urban Area General Plan will contribute to the cumulative impact of future (2020) groundwater overdraft within the San Joaquin River basin during drought years.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

The population of Stanislaus County is projected to increase at a rate similar to Modesto. The California Department of Finance (DOF) estimates that the county population, approximately 521,500 persons in 2007 will reach approximately 857,900 persons by 2030 (Finance does not have a 2025 projection). This will result in substantial additional demands on the available water supplies. Cumulative impacts to water supplies could occur from increased groundwater extraction adjacent to the Modesto planning area boundaries that may result in overdrafting of the aquifer.

Starting in 2005, the City began retrofitting single-family, flat-rate customers to meters at a rate of 6% per year. Based on the City's metering plan, existing single-family flat-rate customers will be gradually converted to metered rates once all non-metered, flat-rate customers have been converted to metered use. Charging customers by their level of water consumption rather than at a flat rate will ultimately decrease the amount of per capita water use.

However, during drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions.

Implementation of the UAGP policies described as items WS-10 – WS-37 in Chapter V of the Master EIR, which include requirements for water conservation, obtaining new surface water supplies, and implementing a conjunctive groundwater/surface water management program, will reduce the impact, but not to a less than significant level. No further feasible mitigation is available to reduce this impact to a less than significant level, and the impact remains significant and unavoidable.

As described above in the discussion of air quality impacts, California Planning Law and the County's growth rate combine to limit the ability of the City to restrict growth and water consumption associated with additional growth. Individual project contributions, although moderated by the General Plan policies described above, would be sufficient to result in this impact.

Loss of Sensitive Wildlife and Plant Habitat Impact: Development under the Urban Area General Plan will result in the loss or degradation of sensitive wildlife and plant habitat, and may result in impacts on valley foothill riparian, riverine, fresh emergent wetland and vernal pool habitats in the Planned Urbanizing Area.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid these significant effects on the environment.

Supporting Evidence:

Except for lands within the designated riparian corridors (protected from development under the Urban Area General Plan's Comprehensive Planning District [CPD] policies, and specifically UAGP Policy VIIE.3[c]), lands within the Baseline Developed Area and the Redevelopment Area are of limited habitat value. Impact within these areas are less-than-significant.

Within the Planned Urbanizing Area, development will be subject to further environmental review through CEQA, as well as the federal Clean Water Act, the state and federal Endangered Species Acts, and the California Fish & Game Code, when CPDs are proposed for development. During the preparation of the specific plan for each CPD, appropriate measures will be required, including urban design and development standards, to avoid taking of listed species. Urban Area General Plan policies, including policies VII-E.3a, b, and c (and requiring implementation of Table 7-1 of the Master EIR) and measures in the Tuolumne River Regional Park (TRRP) Master Plan will protect sensitive habitats. With implementation of these policies, the impact is reduced to a less than significant level.

Loss of Sensitive Wildlife and Plant Habitat Impact: Development under the Urban Area General Plan will contribute to the cumulative loss of sensitive wildlife and plant habitat.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Within the Planned Urbanizing Area, development will be subject to further environmental review through CEQA, as well as the federal Clean Water Act, the state and federal Endangered Species Acts, and the California Fish & Game Code, when CPDs are proposed for development. During the preparation of the specific plan for each CPD, appropriate measures will be required, including urban design and development standards, to avoid taking of listed species. Urban Area General Plan policies, including policies VII-E.3a, b, and c (and requiring implementation of Table 7-1 of the Master EIR) and measures in the TRRP Master Plan will protect sensitive habitats. These policies will reduce the impact, but not to a less than significant level. No further feasible mitigation is available to reduce this impact to a less than significant level, and the impact remains significant and unavoidable.

As described above in the discussion of air quality impacts, California Planning Law and the County's growth rate combine to limit the ability of the City to restrict growth and thereby avoid loss of some habitat lands. The amount of growth that is forecast to arrive in the San Joaquin Valley, Stanislaus County, and Modesto by the year 2020 portends significant losses of habitat within the region.

Potential Disturbance of Archaeological or Historical Sites Impact: Substantial changes to existing historical resources and structures resulting from Zoning Ordinance requirements such as parking and landscaping, or demolition of such a structure could have a significant effect.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Known historical resources are primarily located within the Baseline Developed Area, which is already developed. Impacts of new construction, therefore, apply to development within 100 feet of a structure more than 50 years old because activities may affect that structure. If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years old, the impacts may be significant. 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 UAGP policies described as items AH-3

through AH-17 in Chapter V of the Master EIR. In particular, UAGP policies AH-4 through AH-8 require protection of existing archaeological and historical resources within the planning area through implementation of existing federal and state regulations, preparation inventories of significant resources, requiring specific evaluation of potential resources prior to construction, and adopting flexible zoning regulations for historic structures.

Demolition of a significant building cannot be mitigated to a less-than-significant level, and, even with implementation of the policies, the impact would be significant and unavoidable.

Potential Disturbance of Archaeological or Historical Sites Impact: Construction could result in impacts to currently unknown archaeological resources within and outside of riparian corridors.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Implementation of the UAGP policies described as items AH-3 – AH17 in Chapter V of the Master EIR, which require investigation and assessment of potential archaeological or historic resources at the time of application for development involving effects on structures of 50 years of age or more or earthmoving, will reduce this effect to less-than-significant levels. The General Plan policies require protection of archaeological and historical resources within the planning area.

Increased Demand for Storm Drainage Impact: New development will require improvements to existing stormwater drainage systems.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

The potential impacts on storm drainage that could occur from the project were qualitatively evaluated with respect to several factors, including the extent of the projected increase in urban surface area compared to undeveloped ground, the magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions, the regulatory criteria and guidelines, and professional judgment. Based on the above threshold of significance, the potential impacts of the UAGP on storm drainage are considered less than significant because the UAGP includes policies that require new development in all three sections of the planning area to install approved drainage facilities. These policies are identified as items SD-2 through SD-17 in Chapter V of the Master EIR.

New development is required under the policies of the UAGP to install storm drainage facilities that restrict the amount of post-development runoff from exceeding predevelopment conditions. In the Planned Urbanizing Area, this will include the installation of dual-use facilities that will provide recreational opportunities as well. Additionally, the UAGP includes policies for the City to maintain and upgrade storm drainage facilities as needed. Pursuant to the RWQCB's recent directive to the City to incorporate Low Impact Development (LID) design elements into new development policies, small, onsite infiltration will be utilized wherever possible, allowing large, regional basins and other storm drainage structures to be downsized. Implementation of the UAGP policies will reduce the impact to a less than significant level.

Increased Demand for Storm Drainage Impact: Development in Modesto and the County will contribute to a cumulative impact on the capacity of Modesto Irrigation District and Tuolumne Irrigation District canals to convey drainage waters.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

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 drainage. Cumulative hydrologic impacts of stormwater 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 stormwater runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point that would allow 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 impact is considered significant. While implementation of the UAGP policies described above and described as items SD-2 – SD-17 in Chapter V of the Master EIR will reduce the impact, it will not be reduced to a less than significant level. No further feasible mitigation is available to reduce this impact to a less than significant level, and the impact remains significant and unavoidable.

As described above in the discussion of air quality impacts, California Planning Law and the County's growth rate combine to limit the ability of the City to restrict growth and thereby avoid increased volumes of storm drainage water.

Flooding and Water Quality Impact: Increased development could contribute to runoff, contributing to flooding problems in the urban area. Development of urban areas could increase discharges of erosion and wastes to surface waters through urban runoff, affecting surface water quality.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

UAGP policies described as items FWQ-5 – FWQ-10 in Chapter V of the Master EIR, including policies to restrict development in the floodplain and thus avoiding exposing persons and property to flood hazards, and requiring new development under the UAGP install stormwater drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions will reduce this impact to a less than significant level.

City policies and capital improvement projects for stormwater 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 stormwater permit require new development to implement an appropriate selection of permanent pollution control measures. Implementation of the UAGP policies will reduce erosion and water quality impacts to a less than significant level.

Flooding and Water Quality Impact: Cumulative impacts could occur from the project's contributions to runoff and discharges of waste and erosion.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

UAGP policies described as items FWQ-5 – FWQ-10 in Chapter V of the Master EIR, including policies to restrict development in the floodplain and thus avoiding exposing persons and property to flood hazards, and requiring new development under the UAGP install stormwater drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions will reduce the project's contribution to the cumulative impact to less than cumulatively considerable.

City policies and capital improvement projects for stormwater 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 stormwater permit require new development to implement an appropriate selection of permanent pollution control measures. Implementation of the UAGP policies will reduce the project's contribution to the cumulative impact to less than cumulatively considerable.

Increased Demand for Parks and Open Space Impact: Increased population under the Urban Area General Plan would increase demand for park and open space facilities, requiring new facilities to be constructed in the Planned Urbanizing Area and contributing to a significant cumulative impact.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

UAGP goals and policies described as items POS-2 – POS-46 in Chapter V of the Master EIR, including the goals and policies in UAGP sections V-G.2 , V-G.3, and V-G.4, require the provision of park facilities as new development occurs in the Planned Urbanizing Area. The required minimum acreages can be met through the application of existing policies and regulations, including also Government Code Section 66474, which enables the City to require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. With implementation of the UAGP policies, the direct impact on the demand for parks and open space in the Planned Urbanizing Area will be reduced to less than significant and the UAGP's contribution to a cumulative impact will be reduced to less than cumulatively considerable.

Increased Demand for Police Services Impact: Additional demand for police services/facilities will be created by increased population under the Urban Area General Plan.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Complying with the UAGP policies described as items PS-2 – PS-15 in Chapter V of the Master EIR, particularly the policy that requires a long-range financing strategy for each Comprehensive Planning District, will allow the City to provide the resources necessary to extend service to the newly growing Planned

Urbanizing Area and maintain services in the Baseline Developed Area. Implementation of the UAGP policies will reduce impacts related to police services to a less-than-significant level through increased staffing and better building design and site planning.

Increased Demand for Fire Protection Services Impact: Annexations under the Urban Area General Plan could contribute to a cumulative impact on fire protection services.

Finding:

The City disagrees with the conclusion of the drafters of the Master EIR that the project could contribute to a cumulative impact on fire protection services. Specifically, the drafters concluded that cumulative impacts on fire services may occur should some or all of the existing fire protection districts become insolvent as a result of the loss of property tax revenues due to annexation of territory to the City. The City disagrees with this conclusion for the following reasons. First, the insolvency of one or more rural fire protection districts due to annexation of their territory to the City is not a significant environmental impact appropriate for environmental review under CEQA. Under CEQA, a significant environmental effect is defined as a substantial or potentially substantial adverse change in the environment. See Pub. Resources Code § 21100(b)(1); CEQA Guidelines § 15126, 15126.2. While the economic effects of City annexations on the finances of rural fire protection districts is undoubtedly a significant policy consideration for the City and LAFCO when evaluating possible annexations, it is not a "significant environmental effect" requiring evaluation under CEQA. Second, any indirect effects of currently-proposed and future annexations on the ability of rural fire protection districts to maintain levels of service to their territories are adequately addressed by current City and LAFCO policies applicable to City annexations. Among other things, these policies require:

- The City's Fire Chief and the Fire Chiefs of adjoining rural fire protection districts to meet on an as-needed basis to discuss the financial impacts of annexations on the rural fire protection districts and how to prevent the erosion of fire protection and emergency services provided by those districts.
- Property tax allocation agreements between the City and all affected rural fire protection districts, which agreements are subject to the approval of the governing board of the fire protection district and of the City Council.
- A 'plan for services' as part of any annexation application demonstrating how existing levels of service will be maintained.
- Denial of any annexation application that would reduce existing levels of service in the annexation areas.

The City hereby finds that the appropriate implementation of these policies by the City and LAFCO will reduce any indirect impacts on fire protection services to less-than-significant levels, and ensure that the project's contribution to any cumulative impact on fire protection services is not cumulatively considerable.

Generation of Hazardous Materials Impact: Impacts from the generation, transportation, storage, and disposal of hazardous materials within the Baseline Developed Area and the Planned Urbanizing Area could contribute to the cumulative impact of past activities where spills or contamination have occurred.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Urban Area General Plan policies as described as items HM-3 - HM-26 in Chapter V of the Master EIR, including policies V-M.2 and V-E.3, require avoidance of impacts in new development. In addition, federal and state laws regulating the transportation, storage, disposal, and clean-up of hazardous materials and wastes, including those programs administered by Stanislaus County, are described in Section V-16 of the Master EIR. Together, these reduce the UAGP's contribution to the cumulative impact to less than cumulatively considerable.

Geologic Hazards Impact: New construction could be subject to hazards from expansive soils.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Impacts related to the location of new development on expansive soils within the Modesto planning area would be assessed through the City's development review process and mitigated through UAGP Policy VI-B.2 [a], which requires conformance with the most recent UBC standards; and UAGP Policy VI-E.1 [a], which requires the preparation of site-specific geotechnical studies for new subdivisions. With these policies and their outcomes in place, impacts related to expansive soils would be reduced substantially, and any residual impact is considered less than significant.

Energy Impact: Continued development in the Planned Urbanizing Area would increase demand for energy.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Continued development within the Planned Urbanizing Area would have an impact on available energy supplies. Energy consumption likely would increase substantially by 2025 as a result of the increase in population of 1.7 times that of the current population. UAGP Policies described as items E-6 through E-42 in Chapter V of the Master EIR would promote energy-saving strategies and would help to reduce energy-related impacts resulting from continued development of the Modesto planning area. Title 24 CCR (California Building Standards – including energy efficiency standards) also would reduce energy use and infrastructure impacts by ensuring that continued development in the UAGP would not exceed local, state, and federal energy standards for new construction. Additionally, the City, in partnership with the Modesto Irrigation District, is in a better position to manage its own energy supply portfolio and ensure that supplies are adequate for its users than are similar cities that do not have access to hydroelectric power. However, these measures cannot be quantified in order to determine whether the impact has been reduced to a less than significant level on a direct or cumulative level. No additional feasible mitigation is available to reduce this impact to a less than significant level or to reduce the UAGP's contribution to the cumulative impact to less than considerable, and the impacts remain significant and unavoidable.

Visual Impact: Continued development in the Planned Urbanizing Area would alter the visual character of the area.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

The UAGP would allow urban development on currently flat or vacant land or land that is developed with agricultural uses. Such new development would change the visual character of the land. Implementation of UAGP Policy III-C.1 (h) would help to ensure the visual compatibility of new development: "Establish and maintain an orderly and compatible land use pattern. Evaluate land use compatibility, noise, traffic, and other environmental hazards when making land use decisions."

Overall, the UAGP incorporates policies described as items VR-2 – VR10 in Chapter V of the Master EIR place value on the preservation of visual resources and important vistas and viewsheds. The proposed planning principles encourage the visual enhancement of neighborhoods, planning districts, and parks. The UAGP has specific policies guiding the visual quality of riverside parks under the proposed River Greenway Program, which emphasizes the preservation of views from these parks, which would include the City's two river parks, Dry Creek Park and the TRRP. With implementation of these policies, the impact is reduced to a less than significant level.

Visual Impact: Continued development in the Planned Urbanizing Area would increase light and glare and contribute to a cumulative impact.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Adoption of the Growth Strategy Diagram for the Planned Urbanizing Area, as presented in Chapter II of the Master EIR, would lead to new development in areas that are currently vacant or used for agricultural purposes. This would lead to the introduction of light and glare in areas that are not illuminated currently. Additionally, the adoption of proposed UAGP actions and policies that would lead to an expanded street system and enhanced transit system would increase light and glare in the planning area. The City has adopted Guidelines for Small-Lot Single-Family Residential Developments and Design Guidelines for Commercial & Industrial Development that include standards for the design of outdoor lighting fixtures. These standards (UAGP Policy III-C.3[j]) limit the size of fixtures and require that fixtures focus their light to avoid spilling onto nearby properties. This will reduce the potential for light and glare impacts from new development in the Planned Urbanizing Area, however, the impacts will not be reduced to a less than significant level. No additional feasible mitigation is available to reduce the UAGP's contribution to the cumulative impact to less than considerable.

Climate Change Impact: Continued development in the Planned Urbanizing Area would increase energy consumption and vehicle miles traveled (VMT) in the City and region, increasing the volume of greenhouse gas (GHG) emissions generated in the City and region and contributing to a cumulative impact.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

Increased energy use and VMT from future development under the amended UAGP will contribute GHG emissions that add to the existing problem. As part of the traffic analysis prepared for the Master EIR, VMT in the planning area is estimated to reach 12,447,000 by 2025. This represents an 82 percent increase over the estimated 2005 VMT. Therefore, future development under the UAGP will make a cumulatively considerable contribution to global climate change. UAGP policies described as items CL-3 – CL-24 in Chapter V of the Master EIR will reduce the levels of GHG emissions that might otherwise result from the projected level of growth; however, these will not reduce the UAGP's contribution to the cumulative impact to less than considerable, and its contribution to this cumulative impact will remain significant and unavoidable.

Because the state has not adopted its full slate of regulations intended to reduce GHG emissions to 1990 levels, there is no guidepost by which to measure whether local general plans would interfere with the ability to meet that objective. However, the level of GHG emissions reduction needed (73 million metric tons or 15 percent below the 2007 emissions level) in the face of an anticipated 17 percent increase in California's population by 2020 establishes a formidable target. The extent of reductions required will necessitate utilizing local land use regulations to minimize new GHG emissions by improving energy conservation and reducing VMT through sensitive urban design and planning.

Growth-Inducing Impact: The Urban Area General Plan will have a growth-inducing impact by removing regulatory obstacles to growth.

Finding:

Changes or alterations have been incorporated into the project which mitigate or avoid the significant effects on the environment.

Supporting Evidence:

State Planning Law requires each city and county to adopt a general plan for its future development. This general plan must consider land use, transportation, housing, conservation, open-space, noise, and safety issues. Under the Housing Element, State Law requires the City of Modesto, to plan for its fair share of future housing needs (Government Code Section 65580 et seq.). Fair share housing need allocations are assigned on the basis of population projections for the region. The California Department of Finance projects that the population of Stanislaus County will increase by approximately 56.6 percent by the year 2020 (*Interim County Population Projections* -- June 2001).

State law prohibits the City from adopting a general plan that does not provide for this future growth.

As described in Chapter VI of the Master EIR, the City has adopted a number of policies intended to control the rate of its growth, and to encourage higher-than-usual density of development so that the urban area will develop compactly. These policies will channel the direction and form of growth, but will not prevent it. The impact is significant and unavoidable.

B. FINDINGS SUPPORTING REJECTION OF ALTERNATIVES

The Final MEIR discussed and evaluated a range of alternatives as required by CEQA Guidelines Section 15126.6. In order to reject an alternative, the City must find:

Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the alternatives identified in the Master EIR.

Following are the findings supporting rejection of each of the alternatives.

Alternative 1. No Project Alternative: The No-Project Alternative is the continuation of the 1995 UAGP, as amended, into the future. The No-Project Alternative would not include any of the new policies being added to the UAGP with the current update.

Finding for rejection:

Specific legal and fiscal considerations make infeasible the alternative identified in the Master EIR.

Supporting Evidence:

The California Planning and Zoning Law (Government Code Section 65300, et seq.) requires each City to adopt a long-term general plan for its physical development. The general plan is expected to be comprehensive, internally consistent, and have a long-term perspective (Chapter 1, *State General Plan Guidelines*. Office of Planning and Research. 1998) Furthermore, the provisions of the circulation element must be "correlated" with the land use element (Government Code Section 65302(b)). In addition, in a charter city such as Modesto, subdivisions of land, specific plans, development agreements, capital improvement plans, and comprehensive plans must be consistent with the general plan (Government Code Sections 66474, 65454, 65867.5, 65103, and 65300.5, respectively). Generally, a city is expected to update its general plan at least every ten years. The current UAGP Amendment responds to changes in federal, state, and local policies that have occurred since the General Plan was adopted by the Modesto City Council in 1995 and amended in 2003. It is not a comprehensive update to the UAGP. No major land use changes are proposed as part of the amendment. The horizon of the UAGP remains 2025. The amendment to the UAGP would extend the useful life of the UAGP until a comprehensive update is completed.

Since the 1995 adoption of the Urban Area General Plan, the City has revised its job generation estimates, refined its traffic model, and identified numerous cultural resources, among other things. These will change the way in which the City considers land use projects. Accordingly, these changes must be represented in revisions to the General Plan roadway network (in order to maintain correlation with the land use element), cultural resources section, and other policies in the Urban Area General Plan so that they may be reflected in the review of subdivisions, specific plans, and other City actions that require consistency with the General Plan. In order to ensure that the general plan consistently reflects proposed changes to the City's roadway network, cultural resources preservation policies, and other policies described in Chapter III (Project Description) of the Master EIR, the City is required to incorporate these proposed changes into the General Plan itself.

The California Environmental Quality Act provides that a Master EIR must be examined within 5 years of its original certification to ensure that it continues to reflect the environment and current information about environmental effects

(Public Resources Code Section 21157.6). Since the certification of the Master EIR for the Urban Area General Plan in 1995, the City has consistently cross-referenced new information from later environmental analyses, such as the EIR prepared for the Kaiser Medical Center and the Master EIR for the Wastewater Master Plan, to the Urban Area General Plan Master EIR. Furthermore, the "No Project" alternative would not allow the City to address climate change and State legislative actions by adopting climate change policies into the Urban Area General Plan and implementing them. In order to ensure that its Master EIR meets the spirit, as well as the letter, of the law Modesto is updating its General Plan and certifying this update of its Master EIR.

Alternative 2: No Changes to Street Designations

The proposed UAGP update includes revisions to the currently planned configurations of six streets, Dale Road, Bangs Avenue, Claratina Expressway, Carpenter Road, Claus Road, and Sylvan Avenue. Under Alternative 2, the City would not revise the designations of these streets, and they eventually would be constructed as currently planned. This would reduce noise impacts along those streets in comparison to the proposed UAGP.

Finding:

Specific legal and technical considerations make infeasible the alternative identified in the Master EIR.

Supporting Evidence:

This alternative would reduce proposed transportation improvements proposed in the draft UAGP. Under this alternative greater transportation impacts along those roads would occur than under the proposed project (the draft UAGP). Additionally, the transportation improvements that would not occur would reduce opportunities for non-auto transportation, an essential part of addressing key impacts on traffic, air quality, and climate change, and the objective of many of the policies of the UAGP.

Government Code Section 65300.5 states that "the general plan and elements and parts thereof [must] comprise an integrated, internally consistent and compatible statement of policies for the adopting agency." Alternative 2 is rejected because it would not provide for bicycle transportation in that it would not alter the designation of Carpenter Road to a principal arterial with bike lanes and would not allow for improved bicycle facilities on some of the other affected roadways. This would make the UAGP internally inconsistent in not complying with policies such as UAGP Policy V-B.6, concerning transportation demand management and encouraging non-auto forms of transportation.

STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to Public Resources Code Section 21081 and Section 15093 of the State CEQA Guidelines (14 California Code of Regulations 15000, et seq.), the City of Modesto cannot approve a project for which an Environmental Impact Report (EIR) has been certified which identifies significant unavoidable effects on the environment, unless it adopts a statement of overriding considerations that finds that specific overriding economic, legal, social, technological or other benefits of the project outweigh its significant effects on the environment.

A. SIGNIFICANT UNAVOIDABLE IMPACTS

The Master EIR identified the following adverse effects of the project that cannot be mitigated below a level of significance:

Traffic and Circulation Needs (direct and cumulative impacts)
Degradation of Air Quality (cumulative impacts)
Generation of Noise (direct and cumulative impacts)
Loss of Productive Agricultural Land (direct and cumulative impact)
Increased Demand for Long Term Water Supplies (cumulative impact)
Loss of Sensitive Wildlife and Plant Habitat (cumulative impact)
Potential Demolition of Significant Historical Structures (direct impact)
Increased Demand for Storm Drainage (cumulative impact)
Increased Demand for Energy (direct and cumulative impact)
Increased Light and Glare (cumulative impact)
Climate Change (cumulative impact)
Growth-Inducement

B. STATEMENT OF OVERRIDING CONSIDERATIONS

The City Council has determined that the update Modesto Urban Area General Plan should be approved and that any remaining unmitigated environmental impacts attributable to the Modesto Urban Area General Plan are outweighed by the following specific benefits.

Overriding Considerations Relating To All Significant And Unavoidable Impacts (direct and cumulative impacts)

California Planning and Zoning Law requires the City to adopt a general plan for its long-range physical development (Government Code Section 65300 et seq.). Substantial population increases are projected to occur in Stanislaus County and the City of Modesto during the planning period. The California Department of Finance projects that the population of Stanislaus County will increase by approximately 33 percent by 2020, increasing to 699,144 from its current population of 525,903 and 63 percent by 2030 (projected 2030 population - 857,893) *(State of California, Department of Finance, Population Projections for California and Its Counties 2000-2050, Sacramento, California, July 2007; and State of California, Department of Finance, E-1 Population Estimates for Cities, Counties and the State with Annual Percent Change — January 1, 2007 and 2008. Sacramento, California, May 2008)*. The level of development proposed under the proposed Urban Area General offers the planning benefit of directing how the expected population increase will be efficiently located within the City through compact

development policies contained in the plan, and describing City policies for the provision of future infrastructure and other needs. State laws and the countywide growth rate combine to limit the ability of the City to restrict growth. The contributions of individual projects to cumulative impacts, although moderated by policies contained in the Urban Area General Plan, would still result in environmental impacts.

The development associated with the Urban Area General Plan would result in approximately 130,000 new employment opportunities in total within the planning area in the planning horizon year. The increased number of local jobs has the benefit of reducing chronic local unemployment levels that are currently at 10.9 percent *(California Employment Development Department Labor Market Information Division July 18, 2008 REPORT 400 M - Monthly Labor Force Data for California Counties and Metropolitan Statistical Areas June 2008 – Preliminary)*, which is more than one and a half times the current statewide average of 7.0 percent. The increase in housing will economically, socially and legally benefit the community by helping it meet its future regional fair share housing allocations, as required under Government Code Section 65580 et seq.

The City of Modesto's Redevelopment Plan, adopted in 1991, contains numerous goals and policy statements, which would not be achieved without the promotion of significant employment opportunities. The proposed project benefits the City economically by enabling the creation of nearly 45,000 new employment opportunities and new housing opportunities for 5,700 residents in the central city area.

Primary among these redevelopment goals are the following:

- The replanning, redesign and development of undeveloped areas, which are stagnant or improperly utilized.

- The strengthening of retail and other commercial functions in the Project Area.

- The strengthening of the economic base of the Project Area and the community by the installation of needed site improvements to stimulate new commercial expansion, employment and economic growth.

- The expansion of the supply of housing for low- and moderate-income persons.

Additional Overriding Considerations Relating to Traffic and Circulation Needs, Noise, and Air Quality (direct and cumulative impacts)

The proposed Urban Area General Plan traffic and circulation element and the amendments being proposed are consistent with the Stanislaus County Regional Transportation Plan. Thus, although the project will exceed Level of Service standards along numerous road segments within the Planning Area and contribute to regional cumulative traffic impacts, the it will also contribute to improvements in the movement of goods and people throughout the region and ensure internal consistency within the General Plan and correlation of the Circulation and Land Use elements, as required under Government Code Section 65300.5.

Overriding Considerations Relating to Loss of Productive Agricultural Land (direct and cumulative impact)

Agriculture is a leading industry in Stanislaus County and San Joaquin County; the value of Stanislaus County's agricultural commodities totaled approximately $1.98 billion in 2005, and San Joaquin County's totaled $1.74 billion (California Department of Food and Agriculture 2006). The agriculture, forestry, and fishing industries rank second only to the public sector in number of jobs in the San Joaquin Valley, with 181,300 jobs in 2007. In 2005, Stanislaus and San Joaquin Counties ranked as the sixth and seventh most agriculturally productive counties in California, respectively, based on the value of agricultural products sold (California Department of Food and Agriculture 2006). Nonetheless, agriculture is a seasonal occupation and is one reason for Stanislaus County's relatively high unemployment rate. High unemployment rates are common among the agricultural-dependent counties of the San Joaquin Valley, as well as Imperial County (*Civilian Labor Force, Employment and Unemployment.* Employment Development Department. January 15, 2003).

As explained above, the project has the social and economic benefits of encouraging significant new employment opportunities outside of agriculture, as the business parks identified in the Urban Area General Plan are developed. In the planning horizon year, the plan would allow up to 130,000 new employment opportunities in total within the planning area. This will create a more diversified job market. It will also enable the City to meet the economic development goals of its general plan calling for diversification of its economic base and provision of economic development opportunities (Policy II-B.1[a]).

Additional Overriding Considerations Relating to Increased Demand for Long Term Water Supplies (cumulative impact)

The General Plan and Urban Water Management Plan (UWMP) identify a number of actions that the City is currently conducting or planning to implement to reduce demands on the water supply. These measures include Urban Area General Plan policies described as items WS-10 through WS-37 in Chapter V of the Master EIR, which include requirements for water conservation, obtaining new surface water supplies, and implementing a conjunctive groundwater/surface water management program. The project facilitates the City's efforts to implement these actions to conserve and more efficiently utilize the City's existing and future water supplies.

Additional Overriding Considerations Relating to Loss of Sensitive Wildlife and Plant Habitat (cumulative impact)

The policies of the Urban Area General Plan relating to the CPDs and protection of special status species within the riparian corridors and the Planned Urbanizing Areas offer the benefit of enabling the City to undertake comprehensive planning of large areas. This will provide opportunities for programmatic, large-scale approaches to the protection of special status species and their habitats.

Additional Overriding Considerations Relating to Potential Demolition of Significant Historical Structures (direct impact)

Urban Area General Plan policies described as items AH-4 through AH-8 in Chapter V of the Master EIR require protection of archaeological and historical resources within the planning area through implementation of existing federal and state regulations, preparation inventories of significant resources, requiring specific evaluation of potential resources prior to construction, and adopting flexible zoning regulations for historic

structures. The identified impact is associated only with those future projects that may affect existing historic structures. Most historic structures in the City are located in the existing urban core. Effects on existing historic structures would likely occur as a part of the redevelopment and intensification of the existing urban core, consistent with Urban Area General Plan policies directed toward creating more compact development, reducing auto travel, and encouraging non-auto travel including pedestrian and transit modes.

Additional Overriding Considerations Relating to Increased Demand for Storm Drainage (cumulative impact)

Substantial population increases are projected to occur in Stanislaus County and the City of Modesto during the planning period. The level of development proposed under the proposed Urban Area General Plan offers the planning benefit of directing how this increased population will be efficiently located within the City through compact development policies contained in the plan, and describing City policies for the provision of future infrastructure and other needs.

The Urban Area General Plan CPD policies give the City the opportunity to undertake comprehensive planning of large areas identified for future development. This provides the benefit of being able to develop large-scale drainage facilities as part of these plans, in cooperation with other affected agencies. This has the planning benefit of creating programmatic solutions to drainage within those CPDs. The City is currently completing a *Stormwater Master Plan* that will describe the schematic layout of future storm drainage systems in all of the Planned Urbanizing Area. In addition, the City is participating with MID and other local agencies on the preparation of an *Integrated Water Resources Management Plan* that will address water resources planning and management in the region for surface water, groundwater, wastewater, and storm drainage.

Additional Overriding Considerations Relating to Increased Demand for Energy and Air Quality (direct and cumulative impacts)

Urban Area General Plan Policies described as items E-6 through E-42 in Chapter V of the Master EIR would promote energy-saving strategies and would help to reduce energy-related impacts resulting from continued development of the Modesto planning area. Title 24 CCR (California Building Standards – including energy efficiency standards) also would reduce energy use and infrastructure impacts by ensuring that continued development in the Urban Area General Plan would not exceed local, state, and federal energy standards for new construction. Energy use would, however necessarily increase as housing, jobs, and population increase in the City and the region.

Additional Overriding Considerations Relating to Increased Light and Glare (cumulative impact)

The City has adopted *Guidelines for Small-Lot Single-Family Residential Developments* and *Design Guidelines for Commercial & Industrial Development* that include standards for the design of outdoor lighting fixtures. These standards (UAGP Policy III-C.3[j]) limit the size of fixtures and require that fixtures focus their light to avoid spilling onto nearby properties. This will reduce the potential for light and glare impacts from new development in the Planned Urbanizing Area. However, as land uses change from rural and agricultural to urban, light and glare would necessarily increase.

Additional Overriding Considerations Relating to Climate Change and Air Quality
(cumulative impacts)

Development under the proposed Urban Area General Plan will, as it increases vehicle travel and energy use, contribute to the cumulative impact generation of greenhouse gases has been determined to have on climate change. The Urban Area General Plan includes policies and land use design elements designed to reduce the City's use of energy and to reduce auto trips. Given the existing setting and available technology, new development, including construction of housing and public services, and economic activity, will necessarily increase trips and energy use.

EXHIBIT "C"

FINAL MASTER ENVIRONMENTAL IMPACT REPORT FOR THE URBAN AREA GENERAL PLAN UPDATE

http://www.modestogov.com/ced/projects/gp-meir.aspx

Original Exhibit "C" kept on file and available from the Modesto City Clerk's office upon request.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-583

A RESOLUTION APPROVING AN AMENDMENT TO THE MODESTO URBAN AREA GENERAL PLAN (COMMUNITY AND ECONOMIC DEVELOPMENT DEPARTMENT)

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, 2007-066, and 2008-142, copies of which are on file in the office of the City Clerk, and

WHEREAS, Government Code Section 65358 permits the amendment of General Plans by the legislative body, and

WHEREAS, the Community and Economic Development Department ("Applicant") filed the Amendment to the Urban Area General Plan ("Project") (File No. P-GPA-06-002) to:

1. incorporate as policies various practices that are regularly approved and have effectively become policy;
2. include new policies to provide direction for anticipated issues; and
3. incorporate adopted policies that have not been amended into the General Plan.

WHEREAS, a Final Master Environmental Impact Report was prepared for the Urban Area General Plan Update (SCH No. 2007072023) which analyzed the potential environmental effects of the proposed Project, and

WHEREAS, on September 8, 2008, the Planning Commission held a duly noticed public hearing at 7:00 p.m. 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, a public hearing on the Project was held by the City Council on October 14, 2008, at 5:30 p.m., 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 Planning commission adopted Resolution No. 2008-39, recommending to the City council an amendment to the Modesto Urban Area General Plan.

NOW, THEREFORE, BE IT RESOLVED, by the City 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 Master Environmental Impact Report for the Urban Area General Plan (SCH No. 2007072023) and has been adequately analyzed by the Master Environmental Impact Report.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby adopts the proposed amendment to the Urban Area General Plan as described in **Exhibit "A," attached** hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community and Economic Development Department Director is hereby authorized and directed to forward certified copies of this resolution and said amendment to the Urban Area General Plan to the Board of Supervisors, and file a Notice of Determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2008, 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:

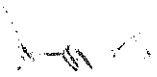
By: _____
SUSANA ALCALA WOOD, City Attorney

EXHIBIT "A"

GENERAL PLAN AMENDMENT

http://www.modestogov.com/ced/projects/gp-meir.aspx

Original Exhibit "A" kept on file and available from the Modesto City Clerk's office upon request.



Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-584

A RESOLUTION APPROVING THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF MODESTO (CITY) AND THE MODESTO CITY EMPLOYEES ASSOCIATION (MCEA) FOR A TERM OF JULY 22, 2008 THROUGH JUNE 22, 2009

WHEREAS, the Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto City Employee's Association (MCEA) expired on June 23, 2007, 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 MOU provides as follows:

SECTION 1. HEALTH, DENTAL AND VISION BENEFITS. The City's contribution to employees' Health, Dental and Vision coverage shall be as follows:

	7/22/08
Family	$957
Single	$535
Opt Out	$425

Effective July 22, 2008, for employees enrolled in the City-sponsored High Deductible Health Plan, the City shall deposit any balance of the above contribution not needed to pay for the employee's premiums, into the employee's Health Savings Account.

SECTION 2. LABOR MARKET SURVEY. A market survey and a classification study have been completed. The parties agree to implement initial classification and market salary range changes, effective January 6, 2009. Said market

salary changes shall be for those classes which the parties agree are more than 15% "under market."

SECTION 3. ADDITIONAL LEAVE. Provides each MCEA represented employees a one time allotment of sixteen (16) hours of additional leave that will have no cash-out value and must be used within twelve (12) months from adoption by Council.

SECTION 4. ADDITIONAL CHANGES. Other negotiated additions, deletions or amendments to the text of the Memorandum of Understanding deal with language changes including differential pay for commercial driver's licenses, amending waiting period for health coverage for new hires from six pay periods to four pay periods, reimbursing cost of new Homeland Security required background process for hazardous material endorsement, safety shoe allowance, as well as language changes regarding commercial driver's licenses, time bank deductions and leaves of absence. Additionally the parties have agreed to continue negotiations related to the Retiree Health Program, health plans for active employees and impacts of the unblending of retiree premiums, and potential work furloughs.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Memorandum of Understanding (MOU) between the City of Modesto and the Modesto City Employee's Association (MCEA), which covers a term from July 22, 2008 through June 22, 2009, 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 14th day of October, 2008, 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

AMENDED exhibit "A" on July 3, 2012 By Resolution 2012-272

AMENDED on 12-9-2008 By Resolution 2008-682

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-585

Print

A RESOLUTION APPROVING THE CLASS RANGE TABLE FOR GENERAL NON-SWORN CLASSES AS SET FORTH IN EXHIBIT "A" ATTACHED HERETO EFFECTIVE JULY 22, 2008, AND ADOPTED CONCURRENTLY WITH RESOLUTION NO. 2008-584 APPROVING THE MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF MODESTO (CITY) AND THE MODESTO CITY EMPLOYEE'S ASSOCIATION (MCEA)

WHEREAS, on October 14, 2008, the City Council adopted Resolution No. 2008-584 approving the MOU between the CITY and MCEA.

WHEREAS, Council desires to establish a Class Range Table for said classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Class Range Table for General Non-Sworn Classes, entitled "City of Modesto Class Range Table General Non-Sworn Classes, Effective July 22, 2008", which is **attached** hereto as **Exhibit "A"** and made a part hereof as though set forth in full herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2008, 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

AMENDED on June 12, 2012 By Resolution 2012-233

CITY OF MODESTO
CLASS RANGE TABLE
GENERAL NON-SWORN CLASSES
Effective **October 14, 2008**

RANGE	TITLE
101	Custodian I
103	Administrative Office Assistant I
104	
105	
106	
107	Administrative Office Assistant II Custodian II Exhibits Coordinator
108	
109	Customer Services Account Clerk I
110	Security Officer Maintenance Worker I
111	Account Clerk Administrative Office Assistant III Customer Services Account Clerk II
112	
113	Administrative Technician Computer Operator Drafting and Graphics Technician
114	Electrical Technician I Equipment Service Technician Maintenance Worker II Production Technician Storeskeeper

RANGE	TITLE
115	Accounting Technician Administrative Services Technician I Customer Services Account Clerk III Senior Administrative Office Assistant
116	Equipment Operator Motor Sweeper Operator Traffic Operations Technician Used Oil Coordinator Wastewater Collection System Operator Water Distribution Operator I
117	Electrical Technician II
118	Customer Services Accounting Technician Fleet Procurement Specialist Parking Lot Maintenance Crewleader Parks Crewleader Recreation Coordinator Senior Storeskeeper Tree Trimmer Water Distribution Operator II
119	Administrative Services Technician II Assistant Buyer Building Maintenance Mechanic Civil Engineering Technician I Code Enforcement Officer-Neighborhood Preservation I Maintenance Mechanic – Parks Maintenance Mechanic – Pumps Public Information Technician
120	Accountant I Assistant Electrician Laboratory Analyst I Senior Equipment Operator Traffic Painter Crewleader Wastewater Treatment Plant Operator I Water Resource Specialist I Welder/Fabricator

RANGE	TITLE
121	Solid Waste Enforcement Officer
122	Equipment Mechanic Fire Equipment Mechanic Tree Trimmer Crewleader
123	Airport Maintenance Crewleader Civil Engineering Technician II Code Enforcement Officer-Neighborhood Preservation II Maintenance Mechanic Crewleader – Parks
124	Community Development Program Specialist I Cross Connection Specialist Environmental Compliance Inspector I Heavy Equipment Mechanic Laboratory Analyst II Operation and Maintenance Crewleader Planning Assistant Plant Mechanic Wastewater Treatment Plant Operator II Water Conservation Specialist Water Distribution Operator III Water Production Operator I Water Resource Specialist II Water Services Equipment Operator I
126	Equipment Mechanic Crewleader Housing Financial Specialist Housing Rehabilitation Specialist I Wastewater Treatment Plant Operator III
127	Civil Engineering Assistant Senior Fire Equipment Mechanic
128	Building Inspector I Community Development Program Specialist II Electrician Environmental Compliance Inspector II Heavy Equipment Mechanic Crewleader Instrument Repair Technician Water Production Operator II

RANGE	TITLE
	Water Services Equipment Operator II
129	
130	Construction Inspector Housing Rehabilitation Specialist II Laboratory Analyst III Senior Wastewater Treatment Plant Operator
131	Senior Civil Engineering Assistant
132	Building Inspector II Environmental Review Specialist Senior Environmental Compliance Inspector Water Division Crewleader
133	
134	Plan Review Engineer Senior Construction Inspector
136	Senior Building Inspector

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-586

A RESOLUTION AMENDING THE FISCAL YEAR 08-09 OPERATING BUDGET TO TRANSFER $99,300 FROM 0100-800-8000-8003, GENERAL FUND RESERVE, AND $182,800 FROM OTHER FUNDS RESERVES, TO VARIOUS SALARY AND BENEFIT ACCOUNTS TO PROVIDE FUNDING FOR THE NEGOTIATED MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO CITY EMPLOYEE'S ASSOCIATION

WHEREAS, the City Council desires to authorize salary and benefit changes as part of the negotiated Memorandum of Understanding between the City of Modesto and the Modesto City Employees' Association, effective July 22, 2008, and

WHEREAS, the FY 08-09 costs associated with these changes are estimated at $324,900 effective July 22, 2008, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2008-09 Operating Budget is hereby amended to transfer $99,300 from 0100-800-8000-8003, General Fund Reserve, and $182,800 from other Funds reserves to various salary and benefit accounts, to fund said salary and benefit changes negotiated as part of the Memorandum of Understanding between the City of Modesto and the Modesto City Employee's Association.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of October, 2008, 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. 2008-587

A RESOLUTION APPROVING THE 2009 CITY COUNCIL MEETING CALENDAR

BE IT HEREBY RESOLVED by the Council of the City of Modesto that the 2009 City Council Meeting Calendar, **attached** hereto as "**Exhibit A**", is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, 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 Council Calendar
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	CANCELLED per MMC 2-1.01
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

C:\DOCUME~1\cerbe\LOCALS~1\Temp\agscan\31547.doc

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-588

A RESOLUTION SUPPORTING PROPOSITION 1A, THE SAFE, RELIABLE HIGH-SPEED PASSENGER TRAIN BOND ACT, AND PROPOSITION 11, REDISTRICTING, TO BE VOTED ON IN THE NOVEMBER 2008 GENERAL ELECTION

WHEREAS, the California Legislature has placed on the November 2008 ballot, Proposition 1A, the Safe, Reliable High-Speed Train Bond Act for the 21st Century, which would finance construction of a High-Speed Rail System in California, and

WHEREAS, Proposition 1A will put California on track to build a clean, efficient high-speed rail network connecting all of the State's major population centers, and

WHEREAS, Proposition 1A will allow the State to raise $9.95 billion in bond funding for a private-public partnership that will benefit California and its residents by making the most of every dollar California invests by allowing the bond money to be used only after private and federal dollars are raised for the project, and

WHEREAS, Proposition 1A will ease congestion on our highways and in our airports. With three of the national's top five congested metropolitan areas congestion costs California some $20 billion in wasted fuel and lost time each year. High-speed trains will remove millions of car miles from our packed highways and millions of passengers from our stressed airports, and

WHEREAS, Proposition 1A will save valuable energy. High-speed trains use one-third of the energy of air travel and one-fifth of the energy of auto travel and combined that could reduce our dependence on foreign oil by up to 12.7 million barrels per year, and

WHEREAS, Proposition 1A will help clean and protect California's environment by annually eliminating more than 12 billion pounds of the greenhouse gas emissions that causes global warming; equal to removing more than a million cars from our roads for a year, and

WHEREAS, Proposition 1A would create new jobs. The plan, design and build phases of the 800-mile long network will create as many as 160,000 new construction related jobs in California, and more than 400,000 additional permanent jobs are expected to be created as a result of economic growth the new system will bring, and

WHEREAS, Proposition 11, Redistricting, would strip the Legislature of its power to draw the lines for Assembly and Senate districts and turns the task over to a 14-person citizens' commission, and

WHEREAS, partisan gridlock has prevented our state lawmakers from effectively addressing California's most pressing issues such as the state budget, health care reform, education, the impending water crisis, and the environment, and

WHEREAS, contributing greatly to the policy logjam in the state is the fact that state legislators currently draw the boundaries of the districts in which they subsequently compete, and

WHEREAS, the current redistricting process results in a 99% re-election rate in California legislative races and gives little incentive for elected officials to be responsive to voter needs, and

WHEREAS, California voters deserve increased responsiveness and accountability among our state lawmakers, and

WHEREAS, for several years the California legislature has promised, but failed to deliver, true redistricting reform, and

WHEREAS, Proposition 11 will change the way legislative districts are drawn to increase accountability among our elected officials and help break the partisan gridlock that paralyzes our state government, and

WHEREAS, Proposition 11 will ensure redistricting is conducted in an open manner with real opportunities for public dialogue and feedback, and

WHEREAS, Proposition 11 will ensure the integrity of neighborhoods, communities of interest, and cities when districts are drawn, and

WHEREAS, Proposition 11 will ensure redistricting is conducted by a qualified, independent citizen commission that is representative of the racial, ethnic, geographic and gender diversity of California, and

WHEREAS, Proposition 11 is in accordance with the Voting Rights Act of 1965, and

WHEREAS, a broad-based, diverse and bi-partisan coalition of California organizations and individuals support Proposition 11, which will appear on the November 2008 General Election Ballot, and

WHEREAS, the City of Modesto wants to help ensure that our state government will be held accountable and will be more effective in addressing the pressing needs of our constituents,

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

that it hereby supports Proposition 1A, the Safe, Reliable High-Speed Passenger Train Bond Act and Proposition 11, Redistricting, to be voted on in the November 2008 General Election.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by 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. 2008-589

A RESOLUTION OPPOSING THE PASSAGE OF PROPOSITION 2, STANDARDS FOR CONFINING FARM ANIMALS, TO BE VOTED ON IN THE NOVEMBER 2008 GENERAL ELECTION

WHEREAS, a Washington, D.C.-based special interest group has qualified an initiative for the November 4, 2008 statewide ballot that would ban current safe and humane farming practices in California, particularly regarding housing requirements for egg-laying hens, and

WHEREAS, this unnecessary initiative would place new, extreme mandates on how egg-laying hens are housed, banning almost all modern egg production in California, which would have dangerous and expensive consequences for our state, and

WHEREAS, existing laws and standards already protect animal welfare and food safety, and

WHEREAS, modern housing systems, which constitute about 95% of U.S. egg production, were developed by animal scientists to ensure the fundamental components of sound animal care – optimal feed, light, air, water, space and sanitation for egg-laying hens, and

WHEREAS, as drafted, Proposition 2 wields a message that farmers caring for egg-laying hens treat their birds poorly, when the reality is that local farmers know their success depends on healthy and content animals and without advanced animal welfare practices egg production would diminish and farms would likely fail, and

WHEREAS, non-cage production costs are simply too far above the costs of the cage systems used in other states to allow California producers to compete with imported

eggs in the conventional egg market, which could result in the elimination of almost all of the California and local egg industry over a few years, and

WHEREAS, the potential impact to the California and local farm industry is the almost complete elimination of egg production in California within the five-year adjustment period, and

WHEREAS, from an environmental and economic standpoint, the value of locally produced farm products is high. As drafted, Proposition 2 has the potential to chase away local farmers only to have our needs met by eggs trucked hundreds of miles from other states, and

WHEREAS, the economics of this issue are critical to the local family farmers who stand to lose their livelihoods and their hundreds of employees who stand to lose their jobs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby opposes the passage of Proposition 2, Standards for Confining Farm Animals, to be voted on in the November 2008 General Election.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by 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. 2008-590

A RESOLUTION APPROVING A CAPITAL FACILTIES FEES "LIKE FOR LIKE" CREDIT AGREEMENT BETWEEN THE CITY OF MODESTO AND MCHENRY-BRIGGSMORE REAL ESTATE INVEST GROUP, A CALIFORNIA LIMITED LIABILITY COMPANY, FOR RETAIL DEVELOPMENT LOCATED AT THE SOUTHWEST CORNER OF BRIGGSMORE AVENUE AND MCHENRY AVENUE AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT (FUNDING SOURCE: CAPITAL FACILITIES FEES)

WHEREAS, on February 5, 2008, the City Council adopted Resolution No. 2008-070 updating and amending its Capital Facilities Fees Policies and Procedures, and provided for Capital Facilities Fees ("CFF") to be credited for former buildings, and

WHEREAS, McHenry-Briggsmore Real Estate Invest Group, a California Limited Liability Company, (the "Developer") is constructing a retail development at the southwest corner of McHenry Avenue and Briggsmore Avenue ("Project") in the City of Modesto, ("City"), and

WHEREAS, Developer will be eligible for a CFF credit based on its using fewer square feet for its retail operations than were previously used for retail operations in the same shell building, and

WHEREAS, in a separate Agreement entitled "CFF Right of Way and Improvement Reimbursement Agreement", Developer is also being required to construct certain street improvements in order to obtain its building permit, and

WHEREAS, Developer and City wish to provide the manner in which Developer will pay the required CFF and be reimbursed for the "like for like" retail building credit and for constructing certain street improvements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines that:

1. The Project's total CFF obligation to CITY is $527,320 ("Total CFF").

2. Developer is entitled to a "like for like" credit of 9,814 square feet against its Total CFF to compensate for the reduced retail square footage in its building in the sum of $193,827.

3. Total CFF required to be paid at issuance of Developer's building permit shall be reduced by the credit sum so that the net payment to account for CFF from Developer to City to be paid at issuance of Developer's building permit shall be $333,498.

4. Developer agrees that prior to receiving its Certificate of Occupancy, it will install street improvements in accordance with the CFF Right of Way and Improvement Reimbursement Agreement approved by Council on October 14, 2008 and a Notice to Proceed issued by the City. If these requirements are not fulfilled, and the infrastructure is installed, it will be deemed dedicated to the CITY, and no reimbursement will be due to Developer.

BE IT FURTHER RESOLVED that the CFF "Like for Like" Credit Agreement between the City of Modesto and McHenry-Briggsmore Real Estate Invest Group, a California Limited Liability Company is hereby approved.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, 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. 2008-591

A RESOLUTION APPROVING A CAPITAL FACILITIES FEES RIGHT OF WAY AND IMPROVEMENT REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND BRIGGSMORE-MCHENRY REAL ESTATE INVEST GROUP, A CALIFORNIA LIMITED LIABILITY COMPANY, WITH A MAXIMUM REIMBURSEMENT AMOUNT OF $153,413 FOR RIGHT OF WAY DEDICATION AND CONSTRUCTION OF CERTAIN STREET IMPROVEMENTS AT THE SOUTHWEST CORNER OF BRIGGSMORE AVENUE AND MCHENRY AVENUE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT (FUNDING SOURCE: CAPITAL FACILITIES FEES)

WHEREAS, Briggsmore-McHenry Real Estate Invest Group, a California Limited Liability Company, (the "Developer") has a legal interest in property located at the southwest corner of Briggsmore Avenue and McHenry Avenue ("Project) in the City of Modesto ("City"), and

WHEREAS, in connection with the development of said Project, Developer is required to construct certain street improvements on McHenry Avenue along the frontage of the Property (the "Improvements"), and

WHEREAS, as a condition of approval of the Project, the Developer is required to dedicate 2,954 square feet of right of way along McHenry Avenue (the "Dedication"), and

WHEREAS, all or a portion of the Improvements and Dedication are reimbursable through the City's Capital Facilities Fees ("CFF") program, and

WHEREAS, the City and the Developer are proposing to enter into a CFF Right of Way and Improvement Reimbursement Agreement ("Agreement") between the City of Modesto and Developer to provide for reimbursement for the right of way to be dedicated and improvements to be constructed, and

WHEREAS, said Agreement shall have a maximum reimbursement amount of $153,413, which will be allocated from the Streets CFF fund as follows, not later than thirty (30) days after completion and acceptance of Improvements and not later than sixty (60) days after recordation of the Dedication, as follows:

ITEM	QTY,	UNIT COST	FUND	TOTAL COST
McHenry ROW	2,954 sf	$8.34/sf	1410-Streets	$ 24,646.00
McHenry Improvements			1410-Streets	$ 128,767.00
			TOTAL	**$153,413.00**

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines that:

1. The proposed CFF Right of Way and Improvement Reimbursement Agreement between the City of Modesto and Briggsmore-McHenry Real Estate Invest Group, a California Limited Liability Company ("Project") is consistent with the Modesto Urban Area General Plan.

2. The reimbursement for the proposed right of way is included in the 2006 CFF Program.

3. As per Sections 15168(c) and 15182 of the California Environmental Quality Act ("CEQA") Guidelines, this Project is within the scope of the projects covered by the General Plan Master EIR ("Program EIR") and no new environmental document or findings are required by CEQA.

4. 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.

5. 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.

6. 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.

BE IT FURTHER RESOLVED that the CFF Right of Way and Improvement Reimbursement Agreement between the City of Modesto and McHenry-Briggsmore Real Estate Invest Group, a California Limited Liability Company, is hereby approved.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, 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. 2008-592

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO SOLICIT BIDS FOR NEW VEHICLES AND HEAVY EQUIPMENT THROUGHOUT FY 08/09 THROUGH VARIOUS COMPETITIVE PROCESSES AND IN A CUMULATIVE AMOUNT NOT TO EXCEED THE BUDGETED AMOUNT OF $1,779,000

WHEREAS, the City has an ongoing need to purchase vehicles and heavy equipment throughout the year, and

WHEREAS, the expenditures for vehicles and heavy equipment have been approved by Council through the budget process, and

WHEREAS, the vehicles and heavy equipment are purchased by means of formal and informal bid processes, auction, negotiation, and by "piggybacking" off State contracts and other agencies' competitively bid contracts, and

WHEREAS, in past years Council has authorized the Purchasing Manager to solicit bids and go to auction for said vehicles and heavy equipment without having to go before the Finance Committee and the Council for authorization to issue bids, and

WHEREAS, by authorizing the Purchasing Manager or his designee to solicit bids for vehicles and heavy equipment for the entire fiscal year without having to go before Council for bid/purchasing approval the City will save substantial staff and processing time, and

WHEREAS, the request for authorization to award bids and contracts for new vehicles and equipment will still come before Council, and conform to Modesto Municipal Code Section 8-3.203(a), and

WHEREAS, upon approval by Council, the Purchasing Manager will solicit bids for new vehicles and heavy equipment throughout FY 08/09 through various competitive processes and in a cumulative amount not to exceed the budgeted amount of $1,779,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Manager is hereby authorized to solicit bids for new vehicles and heavy equipment throughout FY 08/09 through various competitive processes and in a cumulative amount not to exceed the budgeted amount of $1,779,000, returning to Council for authorization to award bids and contracts on new vehicles and heavy equipment.

The foregoing resolution was introduced at a meeting of the Council of the City of Modesto held on the 28th day of October, 2008, 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. 2008-593

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF DIESEL PARTICULATE FILTERS TO A-Z EMISSIONS SOLUTION, SACRAMENTO, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR AN ESTIMATED TOTAL COST OF $139,063

WHEREAS, funds are budgeted in Fleet Management Fund Account 7200-480-5812-0365-05 in the amount of $139,063 for the purchase of diesel particulate filters, and

WHEREAS, in 2000, the California Air Resources Board (CARB) approved the Diesel Risk Reduction Plan, which focused on reducing diesel particulate matter (PM) emissions. This plan targets 1960 to 2006 model year on-road diesel powered vehicles, and

WHEREAS, beginning in 2007, the implementation of the Diesel Risk Reduction Plan affected only municipalities and utilities, and

WHEREAS, in 2007, twenty percent (20%) of City's seventy-one (71) vehicles were affected by these regulations with the entire fleet compliant by 2011, and

WHEREAS, on September 22, 2008, the CARB issued a deadline for the installation of diesel particulate filters that do not comply with the 2009 Nitrogen Dioxide Emission Limits, and

WHEREAS, the diesel particulate filters that are needed by the City must be purchased by October 31, 2008, and installed before February 28, 2009, due to the revised CARB requirements, 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, one exception to the Modesto Municipal Code, Section 8-3.204 (c), allows for the Purchasing Manager, in his discretion, to determine that calling for bids on a competitive basis as set forth in Section 8-3.203 is undesirable due to exigent circumstances, and

WHEREAS, due to the manufacturer requirements that all orders be placed by October 31, 2008, and the installation deadline from the CARB, an Informal Bid was issued for the purchase of diesel particulate filters for the Public Works Department, Fleet Services Division, which conforms to the Modesto Municipal Code, and

WHEREAS, based on being deemed the lowest responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of diesel particulate filters to A-Z Emission Solutions, Sacramento, CA, for an estimated total cost of $139,063,

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 diesel particulate filters to A-Z Emissions Solutions, Sacramento, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for an estimated total cost of $139,063.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, 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. 2008-594

A RESOLUTION APPROVING AN AMENDMENT TO THE EXISTING LICENSE AGREEMENT WITH THE MODESTO NUTS PROFESSIONAL BASEBALL CLUB TO EXTEND THE DEADLINE FOR STADIUM IMPROVEMENTS AT JOHN THURMAN FIELD BY ONE YEAR TO OCTOBER 24, 2010, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AMENDMENT TO AGREEMENT

WHEREAS, the City owns, operates and manages John Thurman Field, a Class A professional baseball stadium, and

WHEREAS, on October 24, 2006, by Resolution No. 2006-691, the City Council approved a ten-year license agreement between the City of Modesto and the Modesto Nuts Professional Baseball Club for the lease of John Thurman Field, and

WHEREAS, it is the desire of the City of Modesto and the Modesto Nuts Professional Baseball Club to continue with stadium improvements at John Thurman Field, and

WHEREAS, the existing license agreement requires stadium improvements to be completed by October 24, 2009, and

WHEREAS, both the City of Modesto and the Modesto Nuts Professional Baseball Club wish to extend the deadline for stadium improvements by one year, and

WHEREAS, the new expiration date for the completion of stadium improvements at John Thurman Field will be October 24, 2010,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Amendment to the License Agreement between the City of Modesto and the Modesto Nuts Professional Baseball Club is hereby approved.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, 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. 2008-595

A RESOLUTION APPROVING A LEASE AGREEMENT BETWEEN PROJECT SENTINEL AND THE CITY OF MODESTO FOR THE PROPERTY LOCATED AT 412 DOWNEY AVENUE FOR ONE DOLLAR ($1.00) FOR A ONE-YEAR TERM TO PROVIDE FAIR HOUSING SERVICES; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN THE LEASE AGREEMENT

WHEREAS, Project Sentinel provides fair housing services for the City of Modesto and is funded through the Community Development Block Grant (CDBG), and

WHEREAS, on November 13, 2007, the Modesto City Council directed staff to look for a way to assist Project Sentinel to help ease the reduction in CDBG funding, and

WHEREAS, the City of Modesto owns and manages the property located at 412 Downey Avenue, and

WHEREAS, staff has determined that by allowing Project Sentinel to lease the property located at 412 Downey Avenue for One Dollar ($1.00) for a one-year term, they will be able to utilize their current CDBG funding to provide fair housing services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that a Lease Agreement between Project Sentinel and the City of Modesto for the property located at 412 Downey Avenue for One Dollar ($1.00) for a term of one year is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is 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 28th day of October, 2008, 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. 2008-596

Print

A RESOLUTION APPROVING A LOAN AGREEMENT, PROMISSORY NOTE, AFFORDABLE RENTAL COVENANT AND OTHER NECESSARY DOCUMENTS BETWEEN STANISLAUS COMMUNITY ASSISTANCE PROJECT AND THE CITY OF MODESTO FOR $100,000 IN COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS TO REHABILITATE TWO RENTAL UNITS INTO ACCESSIBLE UNITS AT 1312 ENSENADA DRIVE; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE REQUIRED DOCUMENTS

WHEREAS, the Stanislaus Community Assistance Project (SCAP) provides programs and services for persons living with HIV/AIDS and other life threatening illnesses within the City of Modesto, and

WHEREAS, SCAP recently purchased 1312 Ensenada Drive and has requested a rehabilitation loan from the City of Modesto to modify two of the units into accessible units, and

WHEREAS, the City of Modesto manages the Community Development Block Grant funds and can offer an assistance rehabilitation loan to modify the two units requested by SCAP, and

WHEREAS, the proposed Loan Agreement between the City of Modesto and the Stanislaus Community Assistance Project will provide a ten-year affordability covenant on the two units, and

WHEREAS, the Loan Agreement is for $100,000 for a ten-year period; however, if the affordability covenant is met, the loan will be forgiven and turned into a grant at the end of the ten years,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Loan Agreement between the Stanislaus Community Assistance Project (SCAP)

and the City of Modesto for $100,000 using Community Development Block Grant funds, to rehabilitate two units into accessible units with a ten-year affordability covenant is approved.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008 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

Amended for Clerical Error

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-597

A RESOLUTION APPROVING GRANT APPLICATIONS TO THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD (CIWMB) FOR SOLID WASTE PROGRAMS, ACCEPTING GRANT AWARDS, AMENDING THE ANNUAL BUDGET AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT- RELATED DOCUMENTS, AND RESCINDING RESOLUTION NO. 2004-669

WHEREAS, the State of California collects fees which provide funds to cities and counties for establishing and maintaining solid waste programs throughout the state, and

WHEREAS, the California Integrated Waste Management Board has the responsibility for the administration of beverage container recycling programs as well as other 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 California Integrated Waste Management Board 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 solid waste 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.

RESCINDED
MAR 23 2010
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2010-104

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

BE IT FURTHER RESOLVED by the Council of the City of Modesto that Resolution No. 2004-669 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, 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

Amended for Clerical Error

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-598

A RESOLUTION APPROVING GRANT APPLICATIONS TO THE CALIFORNIA DEPARTMENT OF CONSERVATION (DOC) FOR SOLID WASTE PROGRAMS, ACCEPTING GRANT AWARDS, AMENDING THE ANNUAL BUDGET AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT-RELATED DOCUMENTS, AND RESCINDING RESOLUTION NO. 2004-669A

WHEREAS, the State of California collects fees which provide funds to cities and counties for establishing and maintaining solid waste programs throughout the state, and

WHEREAS, the California Department of Conservation has the responsibility for the administration of beverage container 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 California Department of Conservation 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 Department of Conservation (DOC) for solid waste 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.

RESCINDED

MAR 23 2010

THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2010-109

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

BE IT FURTHER RESOLVED by the Council of the City of Modesto that Resolution No. 2004-669A is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October 2008, 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. 2008-599

A RESOLUTION AUTHORIZING THE EMPLOYEES REPRESENTED BY MODESTO CITY FIRE FIGHTERS ASSOCIATION TO PARTICIPATE IN THE CENTRAL VALLEY RETIREE MEDICAL TRUST

WHEREAS, pursuant to the Memorandum of Understanding between the City of Modesto and the Modesto City Fire Fighters Association (MCFFA) authorized by Council on December 12, 2006, the parties agreed to implement a tax deferred savings plan to provide for tax deferral of employee leave cashouts. The specific savings plan instrument was to be mutually agreed to by the parties and at no expense to the City, and

WHEREAS, the City and MCFFA have now agreed to implement employee participation in the health savings program identified by MCFFA, the Central Valley Retiree Medical Trust (CVRMT), and

WHEREAS, participation will require the mandatory cashout of all earned but unused vacation hours into the savings plan upon an employee's separation from City service or upon retirement, with no option for the employee to receive cash for said hours upon separation or retirement. A mandatory employee contribution into the plan of one hundred dollars ($100) per month, to be made by all active employees on an on-going basis, will also be required, and

WHEREAS, as an interim measure, it has been mandatory that all earned but unused vacation hours owed to any employee in the bargaining unit represented by MCFFA who retired or separated from City service on, or after, December 30, 2007 have not been available for cashout to the employee. Instead, funds equal to the cash value of said vacation hours have been held in trust by the City of Modesto on behalf of each individual employee, until a health savings program could be implemented,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City is authorized to initiate MCFFA's participation in the CVRMT and in the Medical Expense Reimbursement Plan of the CVRMT, to make the mandatory payroll deductions and to process the mandatory contribution of all vacation hours into the CVRMT upon the separation or retirement from City service for any employee in the bargaining unit represented by MCFFA. The effective date of participation in the CVRMT will be December 1, 2008, but said participation shall include vacation funds currently held by the City on behalf of employees who separated or retired from City service on and after December 30, 2007.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, 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. 2008-600

A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 BUDGET TO REFLECT THE USE OF $30,582 WITHIN THE OPERATION BLOCK GRANTS FUND FOR THE MODESTO POLICE ACTIVITIES LEAGUE (PAL) AND GANG/DRUG AWARENESS PROGRAMS; AND AUTHORIZING THE FINANCE DIRECTOR, OR HIS DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION.

WHEREAS, Health and Safety Code Section 11489 states that 15% of seized assets forfeited must be placed in a special Gang/Drug Prevention Trust Account, and

WHEREAS, the Stanislaus County District Attorney's Office maintains this Trust Account, and

WHEREAS, during FY 2007/2008, the Modesto Police Department received $30,582 from the Trust Account, which represents the 15% of Stanislaus Drug Enforcement Agency's (SDEA) forfeitures for the last few years, and

WHEREAS, SDEA's Governing Board approved these funds to be used "solely by the Modesto Police Activities League (PAL) in their efforts for gang prevention and anti-drug abuse education", and

WHEREAS, any Gang/Drug Prevention funds originating from forfeited assets originating from Modesto Police Department cases can also be used for the PAL program or for anti-gang or anti-drug programs that the Department might develop and wish to implement, and

WHEREAS, in the future when the Asset Forfeiture Gang/Drug Prevention Trust is distributed by the Stanislaus County District Attorney's Office to the City of Modesto, the funds will be placed in this special multi-year account and an adjustment will be made to increase the revenue and to increase the appropriation, and

WHEREAS, the 2008/2009 Multi-Year Budget will be amended as shown in **Exhibit A**, which is incorporated by reference herein, and

WHEREAS, on October 6, 2008, the Safety & Communities Committee unanimously recommended approval of this item to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2008-2009 budget to add a new multi-year appropriation 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 October, 2008, 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 400 – Police Operations Grants

Revenue:	Description:	Increase (Decrease)
0400-190-2932-7203	Seized Forfeiture Revenue	$ 30,582
Expense:		
0400-190-2932-0235	Drug/Gang Awareness Prog.	$ 30,582

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-601

A RESOLUTION ACCEPTING THE WORK BY ODYSSEY LANDSCAPING CO., INC. FOR THE PROJECT TITLED "LANDSCAPING AT SYLVAN PEDESTRIAN OVERCROSSING" 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 $158,960.39

WHEREAS, a report has been filed by the Public Works Director that the project titled "Landscaping at Sylvan Pedestrian Overcrossing" has been completed by Odyssey Landscaping Company, Inc. in accordance with the contract agreement dated November 27, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Landscaping at Sylvan Pedestrian Overcrossing" is hereby accepted as complete from said contractor Odyssey Landscaping Company, 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 $158,960.39 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, 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. 2008-602

A RESOLUTION ACCEPTING THE WORK BY PRESTON PIPELINES, INC. FOR THE PROJECT TITLED "ROSE AVENUE SEWER MANHOLE INSTALLATION" 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 $33,320.42

WHEREAS, a report has been filed by the Public Works Director that the project titled "Rose Avenue Sewer Manhole Installation" has been completed by Preston Pipelines, Inc. in accordance with the contract agreement dated June 10, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Rose Avenue Sewer Manhole Installation" 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 $33,320.42 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 28th day of October, 2008, 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. 2008-603

A RESOLUTION ACCEPTING THE WORK BY ROLFE CONSTRUCTION FOR THE "CARVER ROAD SEWER LINE REPLACEMENT 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 $55,840

WHEREAS, a report has been filed by the Public Works Director that the "Carver Road Sewer Line Replacement Project" has been completed by Rolfe Construction in accordance with the contract agreement dated June 3, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the "Carver Road Sewer Line Replacement Project" is hereby accepted as complete from said contractor Rolfe Construction, that the City Clerk is authorized to file a Notice of Completion with the Stanislaus County Recorder and to release securities upon expiration of statutory periods, and that payment of amounts totaling $55,840 is authorized as provided in the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, 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. 2008-604

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS FOR THE PURCHASE OF THREE (3) VERTICAL TURBINE MIXED FLOW PROPELLER PUMPS FOR THE JENNINGS TREATMENT PLANT FOR A COST NOT TO EXCEED $120,000

WHEREAS, the Jennings Treatment Plant uses pumps in the slough drainage pump station for flood control measures to prevent adverse effects to the treatment and disposal process, and

WHEREAS, the three existing pumps are 20+ years old and need to be replaced, and

WHEREAS, funds are budgeted in an amount not to exceed of $120,000 in Account No. 6210-480-B103-6081 for the purchase of these pumps, 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 three (3) mixed flow propeller pumps for the Public Works Department, Water Quality Control 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 28th day of October, 2008, 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. 2008-605

A RESOLUTION APPROVING AN AGREEMENT WITH HOLDREGE & KULL CONSULTING ENGINEERS AND GEOLOGISTS FOR DESIGN SERVICES FOR GROUT STABILIZATION OF THE WASTEWATER TREATMENT PLANT CHLORINATION FACILITY, IN AN AMOUNT NOT TO EXCEED $85,473 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $8,547 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $94,020, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the Wastewater Treatment Plant Chlorination Facility (Chlorination Facility), located at the Secondary Treatment Plant Site at 7007 Jennings Road, has had ongoing soil settlement and seepage issues around the effluent pump station and adjacent to the levee embankment, and

WHEREAS, on March 27, 2007, by Resolution No. 2007-200, Council approved an Agreement with Holdrege & Kull Consulting Engineers and Geologists (Holdrege & Kull), a geotechnical engineering firm, to perform a thorough site investigation and provide a report of their findings, and

WHEREAS, based on geotechnical soil testing of the area, Holdrege & Kull reported several issues at the site: 1) Relatively high potential for liquefaction of the soil surrounding the chlorination facility pumps because the soil strength has been decreased due to partial saturation from seepage; 2) Insufficient utility trench backfill compaction in the areas adjacent to the pump station; 3) Significant settlement of the concrete box culvert gravity drain and settlement of the soil underneath the discharge pipes and gate valves, and

WHEREAS, the Geotechnical Engineering Investigation Report recommended compaction grouting of the loose soils in and around the pump station and permeation grouting in the vicinity of the concrete box culvert gravity drain, and

WHEREAS, the compaction grouting is intended to densify the loose sandy soil which will reduce its potential to further settle, and

WHEREAS, the permeation grouting is intended to act as a seepage cut-off wall around the concrete gravity drain box culvert which should minimize seepage flows that may be occurring along the outside of the San Joaquin River channel, and

WHEREAS, the recommended actions will stabilize the soils and help to prevent liquefaction and settling, and

WHEREAS, the original geological study Agreement with Holdrege & Kull did not include technical plans and specifications, testing and quality control engineering; specifically the scope of work was to provide an evaluation of the likely cause of the soil settlement, conduct soils testing, and to provide recommendations for soil stabilization, and

WHEREAS, Holdrege & Kull satisfactorily completed the study within budget and provided recommendations for remediation of the soil settlement problems at the Chlorination Facility in their report submitted to the City on January 22, 2008, and

WHEREAS, in order to implement the recommendations of Holdrege & Kull, technical plans and specifications are necessary for bidding purposes, and testing and quality control reports to ascertain that the work is performed consistent with the technical plans and specifications, 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 the consulting firm of Holdrege & Kull for design services for grout stabilization of the Chlorination Facility as the City does not have the subject matter expertise to complete the design services for grout stabilization of the Chlorination Facility,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Holdrege & Kull Consulting Engineers and Geologists for design services for grout stabilization of the Wastewater Treatment Plant Chlorination Facility, in an amount not to exceed $85,473 for the identified scope of services, plus $8,547 for additional services (if needed) for a maximum total amount of $94,020.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, 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. 2008-606

RESOLUTION APPROVING AN AMENDMENT OF THE FY08/09 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET IN ORDER TO FUND OTHER HIGH-PRIORITY CIP PROJECTS AND APPROVING THE TRANSFER OF FUNDS AS SET FORTH HEREIN FOR THE REQUIRED REDISTRIBUTION OF FUNDS TO THE OTHER STREETS CAPITAL FACILITY FEE PROJECTS

WHEREAS, certain budgetary transactions are necessary in the amount of $3,150,000, in order to provide funding for other high-priority CIP projects within the Streets Capital Facility Fee fund, and

WHEREAS, due to a significantly lower bid received for the Pelandale Avenue Widening project, savings were realized, and

WHEREAS, the savings realized are now being reallocated to fund other high-priority CIP projects within the City making it necessary to amend the budgets to redistribute the savings to other Streets Capital Facility Fee accounts, and

WHEREAS, the FY08/09 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 FY 08-09 Capital Improvement Program budget 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 regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, 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
Streets Capital Facility Fees

Expenditures		Increase/(Decrease)
6-Lanes Dale to McHenry	1410 – 430 – H461 - 6040	($3,150,000.00)
Claratina/McHenry to Coffee	1410 – 430- H455 -6030	$2,500,000.00
Pelandale/Dale to McHenry	1410 – 430 –H579 – 6010	$ 400,000.00
	1410 – 430 – H579 – 6040	$ 250,000.00

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-607

A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S AUTHORITY TO ISSUE CHANGE ORDERS ON THE "PELANDALE AVENUE WIDENING" PROJECT BY $350,000 FROM 8% ($756,663) TO 11.7% ($1,106,663) OF THE ORIGINAL CONTRACT PRICE WITH GEORGE REED, INC. TO FUND THE CHANGE ORDER FOR THE MEDIAN CURB INSTALLATION

WHEREAS, the City Council on August 12, 2008, by Resolution No. 2008-476, awarded a $9,458,292.06 contract to George Reed, Inc. to construct the Pelandale 6-lane widening project between Dale Road and McHenry Avenue, and

WHEREAS, installation of a large quantity of median curb was not included in the original contract and was estimated to cost $350,000, and

WHEREAS, the maximum amount of change orders that the Public Works Director is authorized to issue on this project is $756,663 per the Council's Change Order Approval Policy adopted on July 19, 1994, by Resolution No. 94-443, and

WHEREAS, on a project of this size, staff anticipates that the entire contingency amount will be needed and does not want to reduce the contingency by $350,000 at the beginning of the project,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director's authority to issue change orders on the Pelandale Avenue Widening project by $350,000 from 8% ($756,663) to 11.7% ($1,106,663) of the original contract price with George Reed, Inc. to fund the change order for the median curb installation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, 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. 2008-608

A RESOLUTION APPROVING AN AGREEMENT CONSENTING TO COMMON USE WITH THE MODESTO IRRIGATION DISTRICT, FOR CONSTRUCTION RELATED TO THE EMERALD TRUNK SEWER LINE REHABILITATION PROJECT, TO USE CERTAIN REAL PROPERTY LOCATED AT 929 WOODLAND AVENUE (APN-115-002-001), AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City of Modesto desires to remediate and construct a 36" sewer trunk line for the purpose of improving its Emerald Trunk Line Wastewater Collection Facility, and

WHEREAS, this project was identified as one of the priority trunk sewer rehabilitation and reliability projects in the City's Wastewater Collection System Master Plan, and

WHEREAS, MID is the owner in possession of certain real property within Modesto Irrigation District's "Service Center," located at 929 Woodland Avenue (APN 115-002-001), that the City desires to use for the rerouting of the 36" sewer trunk line, and

WHEREAS, the City will need approximately 838 square feet of MID's property for the sewer trunk line, and

WHEREAS, MID requires an Agreement Consenting to Common Use prior to allowing construction within its right-of-way, and

WHEREAS, this will allow the City to use the MID property for the trunk 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 with the Modesto

Irrigation District, for construction related to the Emerald Trunk Sewer Line Rehabilitation project, to use certain real property located at 929 Woodland Avenue (APN-115-002-001).

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, 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. 2008-609

A RESOLUTION DECLARING THE OMITTED CONTRACTOR QUALIFICATIONS INFORMATION AS A MINOR IRREGULARITY, APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "DOWNSTREAM WATER SYSTEM IMPROVEMENTS-TIER 2, WEST TANK 12 AND PUMP STATION," ACCEPTING THE BID AND APPROVING A $5,760,000 CONTRACT WITH A. TEICHERT & SON, INC., DBA TEICHERT CONSTRUCTION FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS-TIER 2, WEST TANK 12 AND PUMP STATION 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 2, West Tank 12 and Pump Station project and City staff recommends approval by the City Council, and

WHEREAS, the bids received for the Downstream Water System Improvements-Tier 2, West Tank 12 and Pump Station project were opened at 11:00 a.m. on September 23, 2008, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, the Public Works Director has recommended the omitted contractor qualifications information was a minor irregularity in the bid, and

WHEREAS, the Public Works Director has recommended that the bid of $5,760,000 received from A. Teichert & Son, Inc., dba Teichert Construction be accepted as the lowest responsible bid and the contract be awarded to Teichert Construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby declares the omitted contractor qualifications information as a minor irregularity, approves the plans and specifications for the project titled "Downstream Water System Improvements-Tier 2, West Tank 12 and Pump Station," accepts the bid of

Teichert Construction in the amount of $5,760,000, and awards Teichert Construction the contract for the Downstream Water System Improvements-Tier 2, West Tank 12 and Pump Station project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract with Teichert Construction, in the amount of $5,760,000, for the Downstream Water System Improvements-Tier 2, West Tank 12 and Pump Station project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, 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, Marsh, Olsen, Mayor Ridenour
NOES:	Councilmembers:	Keating, Lopez, O'Bryant
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-610

A RESOLUTION IMPLEMENTING $1.6 MILLION IN BUDGET REDUCTIONS IN THE STORM DRAIN OPERATING BUDGET FOR FY 2008-09; APPROVING AN AB 939 GREEN WASTE DIVERSION FEE TO FUND THE COLLECTION OF PRUNED REFUSE AND FORESTRY MATERIALS FOR COMPOSTING PURPOSES TO BE CHARGED ON A PER-TON BASIS THROUGH THE MAXIMUM GARBAGE RATES; SETTING A PUBLIC HEARING TO SET THIS FEE, WHICH WOULD BE CHARGED TO THE CITY'S LICENSED SOLID WASTE HAULERS ON A PER-TON BASIS FOR RESIDENTIAL, COMMERCIAL, AND DROP BOX SOLID WASTE; INCORPORATING THE FEE AS PART OF THE COST STRUCTURE OF MAXIMUM RATES FOR SOLID WASTE COLLECTION SERVICES, TO BECOME EFFECTIVE JANUARY 1, 2009; ESTABLISHING A SEPARATE AB 939 GREEN WASTE DIVERSION FUND IN THE SOLID WASTE FUND

WHEREAS, on October 7, 2008, Council considered several options for bringing the Storm Drain Fund into balance, and

WHEREAS, a key piece of that discussion was a recommendation by staff that the Council consider converting the current City-operated Pruned Refuse Pickup Program into a garbage hauler containerized pickup program, and

WHEREAS, as an alternative, Council was presented with an option to keep the current program and seek voter approval for a new fee to pay the annual $1.13 million cost, and

WHEREAS, Council directed staff to return on October 28, 2008, with three options to go to the voters for approval of a fee increase for the Storm Drain Fund, and

WHEREAS, Council expressed concern that other viable alternatives had not been presented, and

WHEREAS, during the process of evaluating the three Storm Drain Fund options, a fourth funding option emerged which warrants consideration, and

WHEREAS, AB 939 requires Cities and Counties to divert 50% of their solid waste from disposal, or face $10,000 per day fines, and

WHEREAS, in the event that the Pruned Refuse program is discontinued, the City runs the risk of not attaining the mandated diversion, and

WHEREAS, the Public Resources Code allows cities to assess fees for AB 939 program implementation to meet the diversion mandates, and

WHEREAS, Fees are typically charged on a per-ton basis, and are built into the maximum rate structure, and

WHEREAS, AB 939 Fee could be incorporated as part of the cost structure of maximum rates for solid waste collection services, to become effective January 1, 2009, and

WHEREAS, Staff estimates that the revenue generated from the AB 939 Green Waste Diversion fee would be approximately $1,681,000 million per year if both pruned refuse and forestry materials are included,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves $1.6 million in budget reductions in the Storm Drain operating budget for FY 2008-09; funding pruned refuse collection services through an AB 939 green waste diversion fee to fund the collection of pruned refuse and forestry materials for composting purposes to be charged on a per-ton basis through the maximum garbage rates; setting a Public Hearing to set this Fee, which would be charged to the City's licensed solid waste haulers on a per-ton basis for residential, commercial, and drop box solid waste; incorporating the Fee as part of the cost structure of maximum rates for solid

waste collection services, to become effective January 1, 2009; establishing a separate AB 939 Green Waste Diversion Fund in the Solid Waste Fund..

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, 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. 2008-611

RESOLUTION CONSIDERING AND MAKING FINDINGS AS TO THE MASTER ENVIRONMENTAL IMPACT REPORT ("MEIR") FOR THE URBAN AREA GENERAL PLAN UPDATE, AS SUCH MEIR RELATES TO THE PROPOSED AMENDMENT TO THE AMENDED REDEVELOPMENT PLAN FOR THE MODESTO REDEVELOPMENT PROJECT

WHEREAS, the Redevelopment Agency of the City of Modesto (the "Agency") has proposed an Amendment to the existing Amended Redevelopment Plan (the "Redevelopment Plan") for the Modesto Redevelopment Project (the "Redevelopment Project") which would make a minor, technical modification to the language in the Redevelopment Plan to ensure that the land uses specified in the Redevelopment Plan conform to the land use designations specified in the Redevelopment Master Plan, the City's Urban Area General Plan, and where applicable, the County's General Plan (the "Proposed Amendment"); and

WHEREAS, the Proposed Amendment does not change or expand the boundaries of the Redevelopment Project Area, nor does it amend any of the other limits or provisions currently established under the existing Redevelopment Plan, and also does not modify the land uses established for the properties within the Redevelopment Project Area, and is not intended to modify the Agency's redevelopment activities or the goals and objectives of the Agency to redevelop the Redevelopment Project Area; and

WHEREAS, the City Council and the Agency held a joint public hearing in the City Council Chambers, on Tuesday, October 28, 2008, to consider adoption of the Proposed Amendment; and

WHEREAS, the Proposed Amendment is proposed in conjunction with the recently approved Modesto Urban Area General Plan technical update, which General

Plan update incorporates both the Redevelopment Plan and the Redevelopment Master Plan by reference; and

WHEREAS, the City of Modesto prepared a Master Environmental Impact Report (the "General Plan MEIR") for the Urban Area General Plan Update (SCH No. 2007072023) pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq., hereinafter referred to as "CEQA"), the Guidelines for Implementation of the California Environmental Quality Act (14 California Code of Regulations, Section 15000 et seq., hereinafter referred to as the "State CEQA Guidelines") and procedures adopted by the City relating to environmental evaluation; and

WHEREAS, the General Plan MEIR was certified as completed by the City Council on October 14, 2008, by Resolution No. 2008-582 and the City Council made certain findings relating to the Urban Area General Plan Update; and

WHEREAS, a Program Environmental Impact Report for the Redevelopment Master Plan ("Master Plan EIR") was certified as completed by the Agency on October 9, 2007, by Resolution No. 10-2007 and the Agency made findings and adopted mitigation measures and a mitigation monitoring plan relating to the Redevelopment Master Plan;

NOW, THEREFORE, the City Council of the City of Modesto does hereby resolve as follows:

Section 1. The City Council has reviewed and considered the information contained in the General Plan MEIR with respect to the Proposed Amendment, the Agency's Report to the City Council on the Proposed Amendment, all staff reports, oral and written testimony given at public hearings on the Proposed Amendment, and all other matters deemed material and relevant prior to adopting this Resolution. All documents

and materials that constitute the record of the proceedings upon which the Agency decisions are based are located at the office of the City Clerk and Secretary of the Agency, located at City Hall, 1010 Tenth Street, Sixth Floor, Modesto, California.

Section 2. The City Council finds and determines that the Proposed Amendment is covered by the previously approved Master Plan EIR and the General Plan MEIR relating to the Urban Area General Plan Update (collectively, the "Prior EIRs"), and that all applicable mitigation measures, including the mitigation monitoring plan, approved and identified in Agency Resolution Nos. 10-2007 and Council Resolution No. 2008-582 have been incorporated into the Proposed Amendment. The City Council further finds that the Proposed Amendment is within the scope of the Prior EIRs and that no additional environmental impact report or other environmental analysis is required because: (a) the Amendment does not propose subsequent changes in the Redevelopment Plan which will require major revisions to the Prior EIRs; (b) substantial changes have not occurred with respect to the circumstances under which the Proposed Amendment will be implemented which will require major revisions in the Prior EIRs; and (c) there is no new information available which was not known or could not have been known at the time the Prior EIRs were certified as complete. The foregoing findings are based on the following facts: the Proposed Amendment makes a minor, technical modification to the language in the Redevelopment Plan to ensure that the land uses specified in the Redevelopment Plan conform to the land use designations specified in the Redevelopment Master Plan, the City's Urban Area General Plan, and where applicable, the County's General Plan; the Proposed Amendment does not change or expand the boundaries of the Redevelopment Project Area; the Proposed Amendment does not amend any of the other limits or provisions currently established under the existing

Redevelopment Plan; the Proposed Amendment does not modify the land uses established for the properties within the Redevelopment Project Area; and the Proposed Amendment is not intended to modify the Agency's redevelopment activities or the goals and objectives of the Agency to redevelop the Redevelopment Project Area. Based on the foregoing, the City Council finds and determines that the Proposed Amendment will not have a significant effect upon the environment.

Section 3. Following approval and adoption of the Proposed Amendment by the City Council, the City Clerk, in conjunction with the Secretary of the Agency, is hereby directed to file a Notice of Determination with the County Clerk of the County of Stanislaus pursuant to the provisions of Section 21152 of CEQA and Section 15094 of the State CEQA Guidelines.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of October, 2008, 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:	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. 2008-612

A RESOLUTION ACCEPTING A COMPONENT OF THE SUBDIVISION IMPROVEMENTS INSTALLED FOR CENTER COURT SUBDIVISION, WAIVING THE WARRANTY SECURITY REQUIREMENT, AND AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION FOR THE LANDSCAPE AND IRRIGATION IMPROVEMENTS ONLY

WHEREAS, CHARLESTON PLACE, a California Limited Partnership (collectively "SUBDIVIDER"), is the subdivider of the CENTER COURT SUBDIVISION (collectively "SUBDIVISION") in the Village One Specific Plan area and,

WHEREAS, Village One Community Facilities District No. 1996-1 ("CFD") was formed to fund both the infrastructure and maintenance of facilities needed to serve the Village One Specific Plan, and

WHEREAS, on December 31, 2004, a Mutual Release and Settlement Agreement by and between the City of Modesto, Village One Community Facilities District No. 1996-1 and Charleston Place was approved by the City of Modesto, and

WHEREAS, Paragraph 2.g. of the Agreement allows for satisfactory completion of certain components of improvements not affected by work not completed to be partially accepted, and

WHEREAS, the following improvements ("PUBLIC IMPROVEMENTS") have been constructed by Charleston Place:

1. Landscape and irrigation improvements along Dermond Road and Belharbour Drive.

WHEREAS, the Construction Administration Office of the Public Works Department has verified that the landscape and irrigation improvements along Dermond Road and Belharbour Drive for SUBDIVISION have been satisfactorily completed, and

WHEREAS, the Public Works Department will assume maintenance responsibilities upon acceptance of PUBLIC IMPROVEMENTS, and

WHEREAS, the above-referenced improvements are functional segments of the SUBDIVISION'S improvements, and

WHEREAS, the City Engineer has indicated that it would be in order for the City Council to accept the partial improvements in SUBDIVISION as complete, and to authorize the City Clerk to file a Notice of Completion,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the landscape and irrigation improvements along Dermond Road and Belharbour Drive installed for the Center Court Subdivision, waives the warranty security requirement, and authorizes the City Clerk to record a Notice of Completion for the landscape and irrigation improvements along Dermond Road and Belharbour Drive only.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, 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. 2008-613

A RESOLUTION RESCINDING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF TWO (2) DUMP TRUCKS FOR THE PUBLIC WORKS DEPARTMENT, FLEET SERVICES DIVISION, WITH BONANDER TRUCK, TURLOCK, CA, AND AUTHORIZING THE PURCHASING MANAGER TO CANCEL THE PURCHASE ORDER WITH BONANDER TRUCK IN THE AMOUNT OF $134,909

WHEREAS, on May 6, 2008, the City Council, by Resolution No. 2008-264, authorized the award of bid and contract for the purchase of eight (8) dump trucks to several vendors, and

WHEREAS, on May 8, 2008, Purchase Order No. 08-06640 was issued to Bonander Truck, Turlock, CA, for two (2) dump trucks, for delivery on December 12, 2008, and

WHEREAS, on September 22, 2008, Bonander Truck notified the City that production would not begin until January 2009, for both trucks, and

WHEREAS, on October 8, 2008, a letter of cancellation was sent to Bonander Truck for failure to perform, and

WHEREAS, on October 24, 2008, Bonander Truck acknowledged the cancellation letter and that GMC is having production problems and cannot meet the delivery date, and

WHEREAS, the two (2) dump trucks are part of the California Air Resources Board (CARB) compliance program, and if delivery continually slips there is a danger of not meeting the City's requirements for the CARB compliance program, and

WHEREAS, Interstate Truck Center, Stockton, CA was the next lowest responsive and responsible bidder and was contacted for vehicle availability. Interstate

Truck Center has honored the original bid price and provided a reliable delivery time frame for a cost increase of $2,592.00,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves rescinding the award of bid and contract for the purchase of two (2) dump trucks for the Public Works Department, Fleet Services Division, with Bonander Truck, Turlock, CA,

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to cancel the purchase order with Bonander Truck.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, 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. 2008-614

A 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 INTERSTATE TRUCK CENTER, STOCKTON, CA, FOR AN ESTIMATED TOTAL COST OF $137,501

WHEREAS, on May 6, 2008, the City Council, by Resolution No. 2008-264, authorized the award of bid and contract for the purchase of eight (8) dump trucks to several vendors, and

WHEREAS, on May 8, 2008, Purchase order No. 08-06640 was issued to Bonander Truck, CA, for two (2) dump trucks, for delivery on December 12, 2008, and

WHEREAS, on September 22, 2008, Bonander Truck notified the City that production would not begin until January 2009, for both trucks. The Fleet Services Division was notified of the production schedule and rejected the new production dates, and

WHEREAS, Interstate Truck Center, Stockton, CA was the next lowest responsive and responsible bidder and was contacted for vehicle availability. Interstate Truck Center has honored the original bid price and provided a reliable delivery time frame for a total cost of $137,501.00,

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 Interstate Truck Center, Stockton, CA, for an estimated total cost of $137,501.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, 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. 2008-615

A RESOLUTION AUTHORIZING THE ISSUANCE OF FORMAL REQUEST FOR BIDS FOR PERSONAL PROTECTIVE EQUIPMENT CARE AND MAINTENANCE SERVICES FOR THE MODESTO FIRE DEPARTMENT FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, FOR AN ESTIMATED ANNUAL COST OF $30,000, AND A ONE TIME COST OF UP TO $100,000 FOR REPLACEMENT OF PERSONAL PROTECTIVE EQUIPMENT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

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,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the issuance of formal Request for Bids for personal protective equipment care and maintenance services for the Modesto Fire Department for a two (2)

year agreement, with three (3) one-year extension options, for an estimated annual cost of $30,000, and a one-time cost of up to $100,000 for replacement personal protective equipment.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, 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. 2008-616

A RESOLUTION AUTHORIZING THE ISSUANCE OF FORMAL REQUEST FOR BIDS FOR LINEN SERVICES FOR THE MODESTO FIRE DEPARTMENT FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS FOR AN ESTIMATED ANNUAL COST OF $35,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, each of the City's eleven (11) 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, line 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,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the formal Request for Bids for linen services for the Modesto Fire Department for a two (2) year agreement, with three (3) one-year extension options for an estimated annual cost of $35,000.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, 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. 2008-617

A RESOLUTION APPROVING A GRANT APPLICATION FOR $1 MILLION FROM THE STATE OF CALIFORNIA'S URBAN STREAMS RESTORATION GRANT PROGRAM FOR THE STABILIZATION OF THE RIVER BANKS AT DRY CREEK, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY GRANT DOCUMENTS

WHEREAS, the California Department of Water Resources, Division of Planning and Local Assistance, Urban Streams Restoration Program has announced the availability of funds for grants, and

WHEREAS, said grants are intended to help solve flooding and erosion problems in a way that provides environmental enhancement, and

WHEREAS, the City of Modesto desires to apply for grant funds in the amount of $1 million from the Urban Streams Restoration Grant Program for the stabilization of the river bank along Dry Creek, remove invasive plants from the banks and bottom of the creek bed, remove garbage from the creek bed, and plant native riparian plant material, and

WHEREAS, the La Loma Neighborhood Association has proposed to co-sponsor a grant application with the City of Modesto, and

WHEREAS, staff has concluded the proposed project would be environmentally beneficial, and we will comply with all requirements of CEQA prior to implementation of the project, and

WHEREAS, staff has reviewed the proposed project and believes that it reflects most closely the goals of the Urban Streams Restoration Grant Program, and consider the prospects of receiving the grant to be reasonably likely,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a grant application for $1 million from the State of California's Urban Streams Restoration Grant Program.

BE IT FURTHER RESOLVED by the Council that it authorizes the City Manager, or his designee, to execute all necessary grant documents.

BE IT FURTHER RESOLVED that the Council authorizes the Parks, Planning and Development Manager, or his designee, to act as the Project Manager on the project. The Council hereby delegates authority to the Project Manager to manage the Agreement, and to delegate authority to others to provide management and support services required for performance of the work and administration of the Agreement. The delegation of authority to submit invoices requires written consent by both grantees which will be provided to the Department of Water Resources.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, by Councilmember Lopez, who moved its adoption, which motion being duly seconded by Councilmember Hahn, 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. 2008-618

A RESOLUTION APPROVING A GRANT APPLICATION FOR $2.2 MILLION IN FUNDING FROM THE STATE OF CALIFORNIA'S RIVER PARKWAYS GRANT FUNDING PROGRAM FOR THE DEVELOPMENT OF PROJECTS WITHIN THE TUOLUMNE RIVER REGIONAL PARK GATEWAY PARCEL, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL NECESSARY GRANT DOCUMENTS

WHEREAS, the Legislature and Governor of the State of California have provided funds for the River Parkways Grant Funding Program, and

WHEREAS, the State Resources Agency has been delegated the responsibility for the administration of this grant program, establishing necessary procedures, and

WHEREAS, said procedures established by the State Resources Agency require a resolution certifying the approval of an application by the City Council of the City of Modesto before submission of the application to the State, and

WHEREAS, the City of Modesto desires to apply for grant funds in the amount of $2.2 million from the River Parkways Grant Funding Program for the development of projects within the Tuolumne River Regional Park Gateway parcel, and

WHEREAS, the City of Modesto, if selected, will enter into an agreement with the State of California to carry out the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby:

1. Approves the filing of an application for $2.2 million in funding from the State of California's River Parkways Grant Funding Program for the Tuolumne River Regional Park Gateway Parcel; and

2. Certifies that the City understands the assurances and certification in the application; and,

3. Certifies that the City or title holder will have sufficient funds to operate and maintain the project consistent with the land tenure requirements; or will secure the resources to do so; and,

4. Certifies that it will comply with all provisions of Section 1771.5 of the California Labor Code; and,

5. Certifies that the project will comply with any laws and regulations including, but not limited to, the California Environmental Quality Act (CEQA), legal requirements for building codes, health and safety codes, disabled access laws, and, that prior to commencement of construction, all applicable permits will have been obtained.

BE IT FURTHER RESOLVED that the Council authorizes the City Manager, or his designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to, applications, agreements, payment requests, etc, which may be necessary for the completion of the aforementioned projects.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, 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. 2008-619

A RESOLUTION ACCEPTING THE REPORT ON XCLAMATION FEST 2008, AND APPROVING XCLAMATION FEST 2009, TO BE HOSTED BY CHRIS RICCI PRESENTS, INC. IN DOWNTOWN MODESTO ON SATURDAY, JULY 18, 2009

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 September 5, 2007, and supported approval of Xclamation Fest 2008 for July 19, 2008, and

WHEREAS, on September 25, 2007, by Resolution No. 2007-556, the City Council approved Xclamation Fest 2008, to be hosted by Chris Ricci Presents, Inc. in downtown Modesto on Saturday, July 19, 2008, and

WHEREAS, the eighth annual Xclamation Fest was held on Saturday, July 19, 2008, and

WHEREAS, Xclamation Fest 2008 was financially successful, and provided a safe, entertaining festival for Modesto residents, and

WHEREAS, the proposed date for Xclamation Fest 2009 is Saturday, July 18, 2009, 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, and

WHEREAS, at its October 6, 2008 meeting the Safety and Communities Committee accepted the staff report on Xclamation Fest 2008, and supported Xclamation Fest 2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts staff's report on Xclamation Fest 2008, held in downtown Modesto on Saturday, July 19, 2008.

BE IT FURTHER RESOLVED that the Council hereby approves Xclamation Fest 2009, to be held in downtown Modesto on Saturday, July 18, 2009.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, 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. 2008-620

A RESOLUTION ACCEPTING TWO TARGET GRANTS TOTALING $4,200 TO PROVIDE FUNDING FOR "ACCESS MPD" AND NATIONAL NIGHT OUT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY GRANT DOCUMENTS

WHEREAS, the Modesto Police Department applied for two Target grants totaling $4,200, and

WHEREAS, one application was for "Access MPD", a program the Modesto Police Department would like to implement so citizens can access helpful educational tips on crime prevention, and

WHEREAS, a plasma TV and tilt mount and a computer will be installed in the Modesto Police Department lobby to allow citizens access to helpful tips on crime prevention seven days a week, year-round, and

WHEREAS, the National Night Out award will provide funding for a National Night Out Knight Costume to be used for all future National Night Out events, parades, crime prevention and educational events, and

WHEREAS, there will be no fiscal impact to the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts two Target grants totaling $4,200 to provide funding for "Access MPD" and National Night Out.

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 November, 2008, 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 NUMBER 2008-621

A RESOLUTION AMENDING THE FISCAL YEAR 2008/2009 GENERAL FUND BUDGET, ESTIMATING REVENUE OF $4,200 FROM TWO TARGET GRANTS

WHEREAS, the Modesto Police Department applied for two Target grants, and

WHEREAS, one application was for "Access MPD", a program the Modesto Police Department would like to implement so citizens can access helpful education tips on Crime Prevention, and

WHEREAS, this equipment will allow all citizens access to helpful tips on Crime Prevention and Education seven days a week, year-round, and

WHEREAS, the National Night Out grant will provide funding for a National Night Out Knight Costume to be used to promote National Night Out, and promotional materials, and

WHEREAS, there is no local match required for these programs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2008/2009 General Fund Budget is hereby amended as indicated below to initiate these grant projects:

	Expense:		
To:	0100-190-1961-0370	$3,000	Misc. Expense
	0100-190-1961-0370	$1,200	Computer Equipment
	Revenue:		
To:	0100-190-1961-3761	$4,200	Misc. Grants/donations

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 November, 2008, 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. 2008-622

A RESOLUTION APPROVING AN AGREEMENT WITH NOLTE ASSOCIATES, INC. FOR CONSTRUCTION MANAGEMENT SERVICES OF THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS - TIER 2, WEST TANK 12 AND PUMP STATION PROJECT IN AN AMOUNT NOT TO EXCEED $635,595.56, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City and the Modesto Irrigation District (MID) have been planning for the expansion of the Modesto Regional Water Treatment Plant (MRWTP) from its existing capacity of 36 million gallons per day (mgd) to 72 mgd, and

WHEREAS, the MRWTP currently treats water from the Modesto Reservoir and conveys it to the City's service area to combine with groundwater sources to meet the City's water supply needs, and

WHEREAS, Phase One of the MRWTP began operation in 1995 and significantly reduced the City's reliance on groundwater pumping and improved the condition of the groundwater aquifer, and

WHEREAS, this project is needed to provide existing users with a continued reliable water source and keep pace with the City's projected growth, and

WHEREAS, although MID facilities will soon be capable of conveying the expanded treatment plant capacity of 60 mgd, the City has determined that its existing water system needs additional storage and distribution systems to fully integrate the expanded MRWTP with the City's distribution system, and

WHEREAS, these downstream improvements are primary parts of the Tier 1 and Tier 2 improvements, and

WHEREAS, Tier 1 improvements include pressure and/or flow regulating valves at MID system turnouts, the north storage tank and pump station, and the corresponding water transmission pipelines, and

WHEREAS, the installation of the Tier 1 transmission mains are nearing completion and the installation of the valves at MID system turnouts are expected to be completed April 2009, and

WHEREAS, Tier 2 improvements include the west and southeast storage tanks and pump stations, along with associated transmission pipelines, and the north and southeast tanks will be part of future improvements, and

WHEREAS, on April 8, 2008, by Resolution No. 2008-220, City Council approved an Agreement with West Yost Associates, Inc. to prepare the final project design of the Modesto Regional Water Treatment Plant (Downstream Water System Improvements) Tier 2 – West Tank Improvements, and

WHEREAS, the final design has been completed and will include the construction and startup of a new 4 mgd storage tank and associated booster pump station, as identified in the final Preliminary Design Report (PDR), which was accepted by the City Council, on April 8, 2008, by Resolution No. 2008-219, and

WHEREAS, due to the complexity of the construction of the Downstream Water System Improvements - Tier 2, West Tank 12 and Pump Station project (West Tank 12 and Pump Station) and the current staffing levels, a construction management firm is being tasked with the management and inspection of this project, and

WHEREAS, the selection process for construction management services followed the City's selection procedures for professional consultants, and

WHEREAS, staff mailed a Request for Qualifications for services to all firms that had previously indicated an interest in providing construction management services to the City, and

WHEREAS, four consulting firms specializing in construction management services were asked to provide a proposal, and

WHEREAS, the City's Selection Committee reviewed the proposals submitted and held interviews with three firms, and

WHEREAS, the firm of Nolte Associates, Inc. (Nolte) was considered the most qualified to provide construction management services for the project, and

WHEREAS, Nolte's scope of work under this Agreement will include construction administration, processing and tracking of submittals and requests for information, coordination associated with inspections, inspection of installation of equipment and startup, coordination with City staff, documentation of daily and weekly field activities, and project closeout, and

WHEREAS, the West Tank Transmission Mains project will be managed and inspected by City staff, and

WHEREAS, staff recommends that an agreement with the consulting firm of Nolte Associates, Inc. be approved to perform the construction management services as the City does not currently have the staffing and expertise to manage the construction of the West Tank 12 and Pump Station project with the other scheduled capital improvement construction projects, and

WHEREAS, City desires to enter into an agreement with Nolte Associates, Inc. in an amount not-to-exceed $635,595.56, to perform construction management services for

the Downstream Water System Improvements – Tier 2, West Tank 12 and Pump Station project, and

WHEREAS, Nolte will be paid on a time and materials basis for actual hours required to perform individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Nolte Associates, Inc. in an amount not-to-exceed $635,595.56, for construction management services for the Downstream Water System Improvements – Tier 2, West Tank 12 and Pump Station 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 special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, 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:

YES:	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

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-623

Print

A RESOLUTION APPROVING A CONTRACT WITH ECOLOGIC FOR CONSULTANT SERVICES FOR THE REMOVAL AND DISPOSAL OF CONTAMINANTS FROM THE DRINKING WATER SUPPLY AT THE JENNINGS WASTEWATER TREATMENT PLANT, IN AN AMOUNT NOT TO EXCEED $150,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, the City of Modesto's Secondary Wastewater Treatment and Compost Facilities are located at 7007 Jennings Road, and currently have a total of 29 employees and consultants on site, and

WHEREAS, on July 17, 2008, the City of Modesto received a Citation and Notice of Penalty from the State of California, Division of Occupational Safety and Heath, for non-potable water being used for showering at the end of the work shift, and for washing dishes used for drinking and eating, and

WHEREAS, the domestic and operational water needs of the facilities are met by four water wells with pump systems, and

WHEREAS, each well has different levels of arsenic, uranium and manganese that exceed Maximum Contaminate Levels (MCLs) according to California Code of Regulations Title 22, and

WHEREAS, in order to identify what process needs to be taken to correct the situation at the Jennings facility, staff issued a Request for Qualifications (RFQ) on August 25, 2008 to 21 consultants, and

WHEREAS, staff received three proposals which were evaluated by five staff members, and

WHEREAS, after reviewing the proposals and the cost estimates, staff has determined that EcoLogic is the most qualified and cost effective consultant for the project, and

WHEREAS, funds are budgeted in CIP Water Supply at Jennings Treatment Plant Account No. 6210-480-B104-6010 for this project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a contract with EcoLogic for consultant services for the removal and disposal of contaminants from the drinking water supply at the Jennings Wastewater Treatment Plant, in an amount not to exceed $150,000.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of November, 2008, 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. 2008-624

A RESOLUTION ACCEPTING THE WORK BY JOHN D. BAKER CONSTRUCTION COMPANY, FOR THE PROJECT TITLED "INSTALLATION OF DETECTOR LOOPS AT 7 INTERSECTIONS" 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 $242,295

WHEREAS, a report has been filed by the Public Works Director that the project titled "Installation of Detector Loops at 7 Intersections" has been completed by John D. Baker Construction Company in accordance with the contract agreement dated January 9, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Installation of Detector Loops at 7 Intersections" is hereby accepted as complete from said contractor John D. Baker Construction Company; 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 $242,295 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 November, 2008, 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. 2008-625

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF LILIANA LAZO FROM THE CULTURE COMMISSION

WHEREAS, LILIANA LAZO was appointed a member of the CULTURE COMMISSION on February 28, 2006, and

WHEREAS, LILIANA LAZO has tendered her resignation from the CULTURE COMMISSION, and

WHEREAS, LILIANA LAZO 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 LILIANA LAZO 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 LILIANA LAZO for her outstanding service to the community.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of November, 2008, 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, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

_____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-626

A 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 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 special meeting of the Council of the City of Modesto held on the 12th day of November, 2008, 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, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: Stephanie Lopez
STEPHANIE LOPEZ, City Clerk

(SEAL)
APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-627

A RESOLUTION APPROVING THE PURCHASE OF A PIERCE QUANTUM 1500GPM FIRE APPARATUS FROM GOLDEN STATE FIRE APPARATUS IN THE AMOUNT OF $445,885.00 THROUGH A LEASE-PURCHASE AGREEMENT BETWEEN THE CITY OF MODESTO AND OSHKOSH CAPITAL TO FINANCE THE ACQUISITION

WHEREAS, the Modesto Fire Department uses fifteen engine companies and three truck companies in its current fire/life safety delivery system, and

WHEREAS, front line apparatus consists of eleven engine companies and three truck companies, and

WHEREAS four reserve engines are utilized when front line apparatus are out-of-service for repairs and/or when additional apparatus is needed to maintain our system delivery, and

WHEREAS, the National Fire Protection Agency (NFPA) recommends fire apparatus useful life span at fifteen (15) years in front line service and five (5) years in reserve status, and

WHEREAS, the Modesto Fire Department maintains apparatus to higher than average standards which allows the extension of this life span to eighteen years in front line service and five years in reserve status, and

WHEREAS, on June 27, 2006, by Resolution No. 2006-416, Council adopted Pierce Manufacturing's apparatus as the standard apparatus for the Modesto Fire Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the purchase of one (1) Pierce Quantum 1500GPM Fire Engine from Golden State Fire Apparatus for a total cost of $443,885.00.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of November, 2008, 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. 2008-628

A RESOLUTION APPROVING CHANGES TO THE FISCAL YEAR 2009-2009 GENERAL FUND AND FLEET REPLACEMENT FUND BUDGETS TO REFLECT THE COSTS ASSOCIATED WITH THE LEASE-PURCHASE OF A NEW FIRE APPARATUS

WHEREAS, the Modesto City Council approved the lease-purchase of a fire apparatus from Oshkosh Capital in the amount of $445,585.00, and

WHEREAS, the lease-purchase will be accounted for in the Fleet Replacement Fund (fund 7210), and

WHEREAS, the Fleet Replacement Fund will bill the General Fund annually for the cost of the lease-purchase payments, and

WHEREAS, the Fleet Maintenance Fund has sufficient equity to offset the unpaid lease-purchase liability until it is repaid in full.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the amendment of the General Fund and Fleet Replacement fund budgets as shown in **Exhibit A** and authorizes the Finance Director to take all steps necessary to reflect those changes within the city's financial accounting system.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of November, 2008, 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	Description	Increase/(Decrease)
General Fund		
Expense		
	Transfer out to Fd. 7210 (0100-700-7000-7721)	$38,838.87
	Fire Equipment Replacement (0100-180-1815-0223)	($38,838.87)
Fleet Equipment Replacement		
Revenue		
	Transfer from General Fund (7210-700-7000-9010)	$38,838.87
Expense		
	Apparatus (7210-480-5814-5900)	$38,838.87
	Interest Expense (7210-480-5814-0452)	$13,981.00*

$22,368.82/ 12*7.5 mos.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-629

A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "INSTALLATION OF TRAFFIC SIGNALS AT FOUR LOCATIONS: CLAUS ROAD/SYLVAN AVENUE, FLOYD AVENUE/LINCOLN OAK DRIVE, TULLY ROAD/STODDARD AVENUE, AND SISK ROAD/VINTAGE FAIRE DRIVEWAY;" ACCEPTING THE BID AND APPROVING A CONSTRUCTION CONTRACT WITH ANGELO UTILITIES, FOR $695,870, FOR THE PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT

WHEREAS, this project will install traffic signals at the intersections of Claus Road/Sylvan Avenue, Floyd Avenue/Lincoln Oak Drive, Tully Road/Stoddard Avenue, and Sisk Road/Vintage Faire Driveway, and

WHEREAS, bids for this project were opened on August 26, 2008, and

WHEREAS, Angelo Utilities was determined to be the responsible low bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the project titled "Installation of Traffic Signals at Four Locations: Claus Road/Sylvan Avenue, Floyd Avenue/Lincoln Oak Drive, Tully Road/Stoddard Avenue, and Sisk Road/Vintage Faire Driveway," accepts the bid and approves a construction contract with Angelo Utilities for $695,870, for the project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is 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 12th day of November, 2008, 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. 2008-630

A RESOLUTION APPROVING PREQUALIFIED CONSULTANT LISTS FOR ENGINEERING DESIGN SERVICES FOR UNDERGROUND UTILITIES, STREET DESIGN, LANDSCAPE DESIGN, AND THE PREQUALIFIED CONSULTANTS FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES FOR DOMESTIC WATER TREATMENT AND DELIVERY, WASTEWATER COLLECTION SYSTEMS, BUILDINGS, PARKS, TRAFFIC SIGNALS, AND STREETS

WHEREAS, the Public Works Department – Capital Improvement Services Division (CIS) performs several Capital Improvement Projects (CIP's) that require engineering design, construction management, and inspection services that are beyond the City's current staffing levels and workload to accomplish in a timely manner, and

WHEREAS, CIS has found it necessary to utilize the services of specialized engineering design, construction management, and inspection services consulting firms, and

WHEREAS, retaining prequalified shortlists of consultants allows the division to have quick access to specific engineering design, construction management, and inspection 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 experienced consultants provides a quick turnaround, which is essential to efficient response to the large undertaking of numerous projects, and

WHEREAS, the goal in having shortlists of consultants is to promote project cost savings, which is a positive budget impact to the Capital Improvement Program, and

WHEREAS, six of the on-call consultants on the shortlists are local firms to the area and are familiar with the layout of the City as well as City Standards, and

WHEREAS, the shortlists of on-call consultants have established experience and were the most qualified consultants from those who submitted Statement of Qualifications, and have demonstrated satisfactory services to the City on past and current projects, and

WHEREAS, for each CIP, a written proposal outlining the scope of services, design or construction schedule, and cost estimate will be submitted by the selected consultant, and

WHEREAS, the selected consultant will perform no service until Capital Improvement Services management has approved the proposal and a written Notice to Proceed is prepared and sent to the selected consultant prior to commencement of services, and

WHEREAS, City staff recommends approving the prequalified consultant lists, 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 shortlists for each particular CIP project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the prequalified consultant lists for engineering design, construction management, and inspection services for various Capital Improvement Projects for three years, with the option of revising or renewing the shortlists after threes years at the sole discretion of the City.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of November, 2008, 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. 2008-631

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF PAUL FREDERICKS FROM THE COMMUNITY QUALITIES FORUM

WHEREAS, PAUL FREDERICKS was appointed a member of the Community Qualities Forum on July 13, 2007, and

WHEREAS, PAUL FREDERICKS has tendered his resignation from the Community Qualities Forum, and

WHEREAS, PAUL FREDERICKS has been a devoted and sincere public servant and has contributed greatly to our civic progress.

NOW, THEREFORE, BE IT RESOLVED that the resignation of PAUL FREDERICKS from the Community Qualities Forum be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to PAUL FREDERICKS for his outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, 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

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-632

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF LARRY DOVICHI FROM THE COMMUNITY QUALITIES FORUM

WHEREAS, LARRY DOVICHI was appointed a member of the Community Qualities Forum on May 15, 2001, and

WHEREAS, LARRY DOVICHI has tendered his resignation from the Community Qualities Forum, and

WHEREAS, LARRY DOVICHI has been a devoted and sincere public servant and has contributed greatly to our civic progress.

NOW, THEREFORE, BE IT RESOLVED that the resignation of LARRY DOVICHI from the Community Qualities Forum be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to LARRY DOVICHI for his outstanding service to the community.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, 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, 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. 2008-633

A RESOLUTION DENYING AN APPLEAL FILED BY MODESTO CITY EMPLOYEES ASSOCIATION (MCEA) AND MODESTO CONFIDENTIAL & MANAGEMENT ASSOCIATION (MCMA) REGARDING THE REQUEST FOR PROPOSAL (RFP) FOR CUSTODIAL SERVICES

WHEREAS, in February of 2008, the Purchasing Division issued Request for Proposal (RFP) No. 0708-18 for the furnishing of custodial services for City-owned buildings. Proposals were received and opened in April of 2008. The City received six (6) responsive proposals. One of those proposals was from the MCEA/MCMA associations, and

WHEREAS, the proposals were evaluated by a committee based on established criteria and associated point weightings and a decision was announced. The evaluation committee ranked Pride Industries the highest proposer and made a recommendation to award. The proposal from MCEA/MCMA was ranked fifth by the evaluation committee, and

WHEREAS, MCEA and MCMA filed a written protest and appeal on August 27, 2008 with the Purchasing Manager based on the announced decision to award a contract to Pride Industries. The Purchasing Manager reviewed the protest and found the majority of the protest to be without merit. Therefore, the Purchasing Manager denied the protest, and

WHEREAS, MCEA and MCMA appealed the Purchasing Manager's decision to the Deputy City Manager as allowed for in City protest procedures. That appeal was not received within the applicable time frames contained in the purchasing manual. Therefore, it was not reviewed or considered by the Deputy City Manager. The decision

by the Deputy City Manager was memorialized in correspondence to Attorney W. Robert Phibbs on September 17, 2008, and

WHEREAS, the representative for MCEA and MCMA objected to the rejection of the appeal by the Deputy City Manager in a September 22, 2008 letter, and

WHEREAS, on September 30, 2008 counsel for MCEA and MCMA requested two separate appeals to the Mayor and City Council including: 1) Appeal of Purchasing Manager's Decision to Deputy City Manager; and 2) Appeal of Deputy City Manager's decision that the appeal to that level was time barred. Furthermore, the appeal requested the Council to overrule the decision of the Deputy City Manager or in the alternative, for the Council to directly rule on the appeal, and

WHEREAS, the City Council granted a date and time to hear the requests submitted by the representative for MCEA and MCMA and such matter was heard by the Mayor and City Council members on November 5, 2008, whereby the Council heard the appeal and voted to deny it,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal filed by Modesto City Employees Association (MCEA) and Modesto Confidential & Management Association (MCMA) regarding the Request for Proposal (RFP) for Custodial Services is denied.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, 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, 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

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-634

A RESOLUTION ACCEPTING THE FINAL SUBDIVISION MAP AND PUBLIC IMPROVEMENTS AT 3125 COFFEE ROAD FOR CONDOMINIUM PURPOSES FOR THE GUPTA PROFESSIONAL PLAZA, AND AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, BRIJ GUTPA, ("SUBDIVIDER"), is the subdivider of the GUPTA PROFESSIONAL PLAZA FOR CONDOMINIUMS ("SUBDIVISION") located at 3125 Coffee Road in the City of Modesto and,

WHEREAS, the Gupta property is part of the Planned Developed Zone, P-D (575) area of the City of Modesto, and

WHEREAS, on February 25, 2008, the Planning Commission, by Resolution No. 2008-15, approved the Tentative Subdivision Map to allow condominiums, and

WHEREAS, the Secretary of the Planning Commission of the City of Modesto has certified that the final map of said tract substantially conforms to the approved tentative map, and

WHEREAS, the City Engineer of the City of Modesto has certified that the final map of said SUBDIVISION meets all of the provisions of the California Subdivision Map Act and the provisions of the Modesto Municipal Code relating to subdivisions, and that the map is technically correct, and

WHEREAS, the Construction Administration Office of the Public Works Department have verified that all required public improvements for this project have been satisfactorily completed and all inspection fees have been paid, and

WHEREAS, the Public Works Department will assume maintenance responsibilities upon acceptance of public improvements, and

WHEREAS, SUBDIVIDER has posted a Subdivision security equal to 50% of the estimated cost of the public improvements in the amount of $28,046.70, and

WHEREAS, SUBDIVIDER has posted a warranty security equal to 10% of the estimated cost of the public improvements in the amount of $5,609.34,

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

1. The final map is hereby approved.

2. The improvements completed along the property frontage on Coffee Road are hereby accepted, and the City Clerk is authorized to file a Notice of Completion.

3. The City Clerk is hereby authorized to certify the map of said SUBDIVISION 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.

4. The City Clerk is further authorized to release the Warranty security to guarantee improvements in the amount of $5,609.34 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, 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, 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

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-635

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF A 2009 CRANE TRUCK TO ALTEC INDUSTRIES, INC., DALEVILLE, VA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF $171,812

WHEREAS, on August 14, 2007, the City Council, by Resolution No. 2007-495, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment, throughout FY 07/08 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, a crane truck for the Water Division was included in the FY 07/08 new vehicles and heavy equipment list authorized by Council, and

WHEREAS, on June 6, 2008, the Purchasing Division issued RFB No. 0708-30 for the purchase of a 2009 Crane Truck to thirty-six (36) prospective bidders, posted the bid on the City's web site and formally advertised as required by law, and

WHEREAS, on July 15, 2008, RFB's were formally opened in the City Clerk's office. Of the thirty-six (36) prospective bidders, one (1) company chose to respond, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid/contract for the purchase of a 2009 Crane Truck to Altec Industries, Inc., Daleville, VA, for the total estimated cost of $171,812,

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 a 2009 Crane Truck to Altec Industries, Inc., Dalesville, VA.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a Purchase Order for a total estimated cost of $171,812.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, 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. 2008-636

A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 WATER ENTERPRISE FUND CAPITAL PROJECT BUDGET TO TRANSFER $86,812 TO THE FLEET REPLACEMENT FUND WHERE IT WILL BE APPLIED TO THE PURCHASE OF A 2009 CRANE TRUCK

WHEREAS, the City Council approved the purchase of a 2009 Crane Truck from Altec Industries, Inc., and

WHEREAS, the original appropriation for this purchase was $85,000 before the additional requirements imposed by the California Air Resource Board (CARB), and additional needed equipment were considered, and

WHEREAS, sufficient monies have been identified within the Water Enterprise Capital Project Fund to pay the additional amount necessary to acquire the crane truck,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2008-2009 Water Enterprise Fund Capital Project Budget and the Fleet Replacement Fund 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 25th day of November, 2008, 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	Description/Line Item	Increase/(Decrease)
Water Enterprise Capital Project Fund		
Expense		
Strengthen/Replace Water System	6180-480-W428-6052	($86,812.00)
Transfer out	6180-700-7000-7721	$86,812.00
Fleet Replacement Fund		
Revenue		
Transfer in	7210-700-7000-9618	$86,812.00
Expense		
Crane Truck	7210-480-5814-5787	$86,812.00

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-637

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF A DIGGER DERRICK TRUCK TO TEREX UTILITIES, SACRAMENTO, CA, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A PURCHASE ORDER FOR A TOTAL ESTIMATED COST OF $195,672

WHEREAS, on August 14, 2007, the City Council, by Resolution No. 2007-495, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for new vehicles and heavy equipment throughout FY 07/08 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, a digger derrick truck for the Electric Division of the Public Works Department was included in the FY 07/08 new vehicles and heavy equipment list authorized by Council, and

WHEREAS, on January 4, 2008, Turlock Irrigation District went through a competitive bid process for the purchase of a digger derrick truck. The lowest responsive and responsible bidder was Terex Utilities, Sacramento, CA, and

WHEREAS, to take advantage of this process and award by "accessing the terms" of the Turlock Irrigation District's competitive bid process is an efficient and effective way to purchase this digger derrick truck, 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. The purchase of a digger derrick truck by "accessing the terms" of the Turlock Irrigation District contract with Terex Utilities, Sacramento, CA, conforms to MMC 8-3.204(d),

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 a digger derrick truck to Terex Utilities, Sacramento, CA.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a Purchase Order for a total estimated cost of $195,672.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, 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. 2008-638

A RESOLUTION AUTHORIZING THE AWARD OF BID AND APPROVING A TWO-YEAR AGREEMENT WITH BRENDA ATHLETIC CLUB FOR GYM SERVICES WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ANNUAL COST OF $11,000, AND POTENTIAL FIVE (5) YEAR COST OF $55,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, since 1992 the Fire Department and Risk Management have researched ways to improve the results of City physicals for firefighters, and

WHEREAS, Risk Management found that firefighters who participated in a regular fitness program had a reduction of work-related injuries which resulted in substantial savings to the City in Workers' Compensation claims, and

WHEREAS, Risk Management began interviewing local fitness centers for quarterly classes and evaluations, and

WHEREAS, one of the benefits of working with a local fitness center is they are willing to provide fitness center memberships for each member of the Fire Department, and

WHEREAS, the Fire Department wishes to continue to offer gym services to facilitate ongoing fitness training outside of the work environment, and

WHEREAS, Request for Bids were issued to six local vendors as well as posted on the City's website and legally advertised by the City Clerk's office, and

WHEREAS, three (3) vendors responded, with Brenda Athletic Club submitting the lowest responsive and responsible bid,

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 Brenda Athletic Club for gym services with three (3) one-year extension options, at the sole discretion of the City, for a total annual cost of $11,000, and potential five (5) year cost of $55,000.

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 25th day of November, 2008, 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. 2008-639

A RESOLUTION ACCEPTING THE LACI AND CONNER SEARCH AND RESCUE FUND DONATION TOTALING $5,096 TO PURCHASE SEARCH AND RESCUE EUQIPMENT; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY FUNDING DOCUMENTS.

WHEREAS, the Laci and Conner Search and Rescue Fund, a program of the Carole Sund/Carrington Memorial Reward Foundation, provides financial assistance to law enforcement agencies and non-profit organizations involved in search and rescue operations, and

WHEREAS, the Modesto Police Department has been awarded $5,096.00 for the purchase of scuba equipment, and

WHEREAS, the scuba equipment will allow the Modesto Police Department to perform underwater search, recovery and rescue operations, and

WHEREAS, there will be no fiscal impact to the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Laci and Conner Search and Rescue Fund donation totaling $5,096 to purchase search and rescue equipment.

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 25th day of November, 2008, 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 NUMBER 2008-640

A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 OPERATING BUDGET, AND AUTHORIZING THE FINANCE DIRECTOR, OR HIS DESIGNEE, TO INCREASE THE REVENUE AND APPROPRIATION ACCOUNTS ESTIMATING REVENUE OF $5,096 FROM THE LACI AND CONNER SEARCH AND RESCUE FUND DONATION TO PROVIDE FUNDING FOR THE PURCHASE OF SEARCH AND RESCUE EQUIPMENT

WHEREAS, the Laci and Conner Search and Rescue Fund, a program of the Carole Sund/Carrington Memorial Reward Foundation, provides financial assistance to law enforcement agencies and non-profit organizations involved in search and rescue operations, and

WHEREAS, the Modesto Police Department has been awarded $5,096.00 for the purchase of scuba equipment, and

WHEREAS, the scuba equipment will allow the Modesto Police Department to perform underwater search, recovery and rescue operations, and

WHEREAS, the Fiscal Year 2008-2009 Operating Budget will be amended as shown in **Exhibit A**, which is **attached** hereto and incorporated herein by reference,

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 to add a new appropriation 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 25th day of November, 2008, 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

	Expense:		
To:	0100-190-1961-5026	$5,096	Scuba Equipment
	Revenue:		
To:	0100-190-1961-3761	$5,096	Misc. Grants/donations

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-641

A RESOLUTION APPROVING CONTINUATION OF MODESTO AREA EXPRESS ROUTE 43 BUS SERVICE, WHICH CONNECTS THE DOWNTOWN TRANSPORTATION CENTER WITH PARADISE ROAD, CARPENTER ROAD AND CALIFORNIA AVENUE

WHEREAS, Stanislaus County opened a new medical clinic located on the north side of Paradise Road immediately west of the intersection with Martin Luther King, Jr. Drive, and

WHEREAS Stanislaus County requested a bus stop be placed on the same side of the street as the clinic to shorten the walk of their clients and to prevent them from having to cross the street, and,

WHEREAS, at the time of the request Modesto Area Express (MAX) provided service in the area but did not have a bus stop on the north side of Paradise Road adjacent to the medical facility, and

WHEREAS, Public Works Department staff concluded that a new bus route would be needed in order to establish a bus stop on the north side of Paradise Road as requested by Stanislaus County, and

WHEREAS, on May 6, 2008, the City Council, by Resolution No. 2008-263, approved establishment of the new bus route on a trial basis, and directed staff to return to Council for approval to continue the route on a permanent basis, and

WHEREAS, Public Works staff has reviewed the performance of the route and recommends its continuation on a permanent basis,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves continuation of Modesto Area Express Route 43 bus service,

which connects the Downtown Transportation Center with Paradise Road, Carpenter Road and California Avenue.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, 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. 2008-642

A RESOLUTION AMENDING THE FISCAL YEAR 2008-2009 WATER ENTERPRISE FUND OPERATING BUDGET AND THE GENERAL FUND OPERATING BUDGET TO REFLECT THE SUPPORT FOR NEW COSTS ASSOCIATED WITH THE METER INSTALLATION PROGRAM

WHEREAS, Assembly Bill 2572 mandated that, by January 1, 2010, all customers who have a water meter be billed based on the actual volume of water used, and

WHEREAS, since 2003, staff has been installing and retrofitting meters with automated meter reading (AMR) devices to meet the January 2010 deadline, and

WHEREAS, the extra workload created by the Meter Installation Program requires the addition of two Customer Service Account Clerk I positions and related miscellaneous costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2008-09 Water Enterprise Fund operating budget and the General Fund 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 25th day of November, 2008, 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

Description:	Account:	Amount:
Water Enterprise Fund		
Service Credit Cost	6100-440-5099-0255	$72,288.00
Professional Svc.	6100-440-5099-0235	$ 7,260.00
General Fund		
Revenue		
Interfund Svc. Credit	0100-120-1223-4909	$72,288.00
Expense		
Salary Adjustment	0100-120-1223-0181	$57,548.00
Postage	0100-120-1223-0201	$14,740.00

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-643

A RESOLUTION ACCEPTING THE WORK BY MOZINGO CONSTRUCTION, INC. FOR THE PROJECT TITLED "DOWNSTREAM WATER SYSTEM IMPROVEMENTS, TIER 1 - ORANGEBURG TRANSMISSION MAIN" 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 $3,268,562.05

WHEREAS, a report has been filed by the Public Works Director that the project titled "Downstream Water System Improvements, Tier 1 - Orangeburg Transmission Main" has been completed by Mozingo Construction, Inc. in accordance with the contract agreement dated January 8, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Downstream Water System Improvements, Tier 1 - Orangeburg Transmission Main" is hereby accepted as complete from said contractor Mozingo 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 $3,268,562.05 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 25th day of November, 2008, 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. 2008-644

A RESOLUTION ACCEPTING THE WORK BY KAWEAH CONSTRUCTION CO. FOR THE PROJECT TITLED "DISSOLVED AIR FLOTATION FACILITY" 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 $6,489,791.60

WHEREAS, a report has been filed by the Public Works Director that the project titled "Dissolved Air Flotation Facility" has been completed by Kaweah Construction Co. in accordance with the contract agreement dated January 2, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the project titled "Dissolved Air Flotation Facility" is hereby accepted as complete from said contractor Kaweah Construction Co., 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 $6,489,791.60 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 25th day of November, 2008, 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. 2008-645

A RESOLUTION APPROVING A SETTLEMENT AGREEMENT AND MUTUAL RELEASE BY AND BETWEEN THE CITY OF MODESTO, A MUNICIPAL CORPORATION OF THE STATE OF CALIFORNIA, CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2003-1 (FAIRVIEW VILLAGE), A COMMUNITY FACILITIES DISTRICT OF THE STATE OF CALIFORNIA AND DEL VALLE CAPITAL CORPORATION, INC., A CALIFORNIA CORPORATION AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, in December 1997, a Development Agreement was executed between Norman Galas, et al. and the City of Modesto, and

WHEREAS, on January 9, 2003, the Development Agreement was amended and named Del Valle Capital Corporation, Inc. as a party to the agreement, and

WHEREAS, additional amendments to the Development Agreement have occurred and additional agreements have been executed between the City of Modesto ("City"), City of Modesto Community Facilities District No. 2003-1 ("CFD No. 2003-1") and Del Valle Capital Corporation, Inc. ("Del Valle"), a chronology of which is **attached** hereto as **Exhibit "A"**, (collectively "Agreements") and

WHEREAS, portions of the improvements related to the Agreements have been accepted by the City Council, and

WHEREAS, there are significant improvements remaining to be accepted, and

WHEREAS, the City agrees to pay Del Valle $1,300,000 ("Gross Settlement Amount") for the water improvements, and

WHEREAS, the City will deduct $99,044.89 from the Gross Settlement Amount for unfinished work to be completed by City crews, and

WHEREAS, the City will deduct $266,902.68 from the Gross Settlement Amount and will pay this amount directly to HOWK Systems as payment for the Stop Notice filed with the City of Modesto, and

WHEREAS, the City will deduct $70,578.00 from the Gross Settlement Amount and will pay this amount directly to Developers Surety and Indemnity Company as the premium payment for the Subdivision Payment Bonds, and

WHEREAS, the City will deduct $15,839.09 from the Gross Settlement Amount for payment it is due for staff time related to construction administration associated with the water improvements, and

WHEREAS, the City will issue a Net Settlement Check to Del Valle in the amount of $847,635.34, and

WHEREAS, the City, CFD No. 2003-1 and Del Valle desire to memorialize this understanding in a document entitled Settlement Agreement and Mutual Release,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Settlement Agreement and Mutual Release by and between the City of Modesto, City of Modesto Community Facilities District No. 2003-1 (Fairview Village) and Del Valle Capital Corporation, Inc.,

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, 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"

Chronology of Agreements related to Galas Brothers Subdivision Unit Nos. 1 & 2

- Development Agreement between the City of Modesto and Norman Galas, June Galas, Stanley Galas and Bonnie K. Galas dated as of September 16, 1997, as amended by the First Amendment to Development Agreement between the City of Modesto and Norman Galas, June Galas, Stanley Galas, Bonnie K. Galas and Del Valle Capital Corporation, Inc. dated as of January 9, 2003, and as further amended by the Second Amendment to Development Agreement between the City of Modesto and Norman Galas, June Galas, Stanley Galas, Bonnie K. Galas and Del Valle Capital Corporation, Inc. dated as of June 10, 2003, and as finally amended by the Third Amendment to Development Agreement between the City of Modesto and Norman Galas, June Galas, Stanley Galas, Bonnie K. Galas, Del Valle Capital Corporation, Inc. dated as of June 22, 2004

- Advanced Funding Agreement for the City of Modesto Community Facilities District No. 2003-1 (Fairview Village) dated as of October 28, 2003 Subdivision Agreement, dated as of December 23, 2003 pertaining to Galas Brothers Subdivision Unit No. 1

- Subdivision Agreement, dated as of December 23, 2003 pertaining to Galas Brothers Subdivision Unit No. 2

- Agreement to Complete Necessary Infrastructure Prior to Final Inspection or Occupancy, dated as of December 23, 2003, as amended by the Amendment to Agreement dated as of January 25, 2005, and as further amended by the Second Amendment to Agreement dated as of November 9, 2005, and as further amended by the Third Amendment to Agreement dated as of December 14, 2005 and as finally amended by the Fourth Amendment to Agreement, dated as of June 27, 2006

- Two Acquisition and Shortfall Agreements between the City of Modesto Community Facilities District No. 2003 1 (Fairview Village) and Del Valle Homes, each dated as of June 22, 2004

- Agreement by and between the City of Modesto, Del Valle Capital Corporation, D.R. Horton, Inc., and Pulte Home Corporation Regarding the Funding and Construction of Certain Interim Water Improvements in Return for City's Issuance of Certain Permits, dated as of September 30, 2005

- Letter of Agreement between City of Modesto and Del Valle Homes dated as of February 2, 2007

- Agreement for the Acceptance of Completed Public Improvements and Partial Release of Security, dated as of June 12, 2007

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-646

RESOLUTION APPROVING AN AMENDMENT OF THE FY 08-09 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET IN ORDER TO FULLY FUND THE SETTLEMENT AGREEMENT AND MUTUAL RELEASE WITH DEL VALLE CAPITAL CORPORATION AND CREATE A NEW CIP PROJECT D002 (FAIRVIEW STORM DRAIN REPAIRS) AND APPROVE THE BUDGET ADJUSTMENTS INCLUDED IN ATTACHMENT A

WHEREAS, on November 25, 2008, the City Council approved a Settlement Agreement and Mutual Release ("Settlement Agreement") with Del Valle Capital Corporation, Inc., and

WHEREAS, certain budgetary transactions are necessary in the amount of $421,724.35, in order to fully fund the Settlement Agreement, and

WHEREAS, sufficient monies are available in the CFD NO. 2003-1 (Fairview Village) reserve fund reserve to support this budget adjustment, and

WHEREAS, the FY 08-09 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 FY 08-09 Capital Improvement Program budget 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 regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, 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: ***City of Modesto CFD No. 2003-1 (Fairview Village)***

Expenditures	Account Name	Increase/(Decrease)
2641-800-8000-8003	Reserve	($ 421,725)
2641-020-X725-6040	Fairview Village Water System	$ 322,680
0700-480-E007-6041	Galas Brothers Units 1 & 2	$ 62,745
6280-480-D002-6041	Fairview Storm Drain Repairs	$ 36,300
2641-700-E007-7070	Transfer to Gas Tax (0700)	$ 62,745
2641-700-D002-6041	Transfer to Storm Drain (6280)	$ 36,300
Revenues		
0700-700-E007-9264	Transfer from Fairview Village (2641)	$ 62,745
6280-700-D002-9264	Transfer from Fairview Village (2641)	$ 36,300

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-647

A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE FURNISHING OF CUSTODIAL SERVICES FOR CERTAIN CITY-OWNED FACILITIES OTHER THAN THE PUBLIC SAFETY BUILDING (OPTION 2 IN THE STAFF REPORT) TO PRIDE INDUSTRIES, ROSEVILLE, CALIFORNIA; AUTHORIZING STAFF TO NEGOTIATE AN AGREEMENT WITH PRIDE INDUSTRIES; AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN ANNUAL 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 $308,064

WHEREAS, on January 2, 2008, by Resolution No. 2008-10, the City Council authorized the Purchasing Manager to formally issue a Request for Proposal (RFP) for a managed competition process for custodial services within City-owned buildings currently maintained by the Parks, Recreation and Neighborhoods Department, Building Services Division, and

WHEREAS, on February 29, 2008, the Purchasing Division issued RFP No. 0708-18 for the furnishing of custodial services for City-owned buildings to 28 prospective proposers, 9 of them local businesses, posted the RFP on the City's website and formally advertised as required by law, and

WHEREAS, on April 15, 2008, RFP's were formally opened in the City Clerk's Office. Of the 28 prospective proposers, 8 companies chose to respond. Of the 8 proposals received, 6 were considered responsive and responsible, and

WHEREAS, on May 21, 2008, an evaluation committee comprised of 5 City staff members was formed to formally review and evaluate the proposals, and

WHEREAS, on July 23, 2008, the evaluation committee completed the evaluation process and came to a consensus for award, and

WHEREAS, based on being ranked highest in total evaluation criteria, the evaluation committee recommended the award of proposal and contract for the furnishing of Citywide custodial services, with the exception of custodial services to the Police Department as stated in option 2 of the agenda report to PRIDE Industries, Roseville, CA, and authorizing the City Manager to execute an annual 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 $308,064, and

WHEREAS, for public safety purposes, the custodial services at the Public Safety Building will continue to be provided by city employees, who have gone through an extensive background check and security clearance, 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 furnishing of Citywide custodial services to PRIDE Industries, Roseville, CA, conforms to the Modesto Municipal Code, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal and contract for the furnishing of custodial services for certain City-owned facilities to PRIDE Industries, Roseville, CA.

BE IT FURTHER RESOLVED that staff is hereby authorized to negotiate an agreement with PRIDE Industries.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute an annual 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 $308,064.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 25th day of November, 2008, 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. 2008-648

A RESOLUTION APPROVING AN AMENDMENT TO THE DEPARTMENT OF HOUSING & URBAN DEVELOPMENT (HUD) ANNUAL ACTION PLAN FOR FISCAL YEAR 2008-2009 ALLOCATING THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) NEIGHBORHOOD STABILIZATION PROGRAM (NSP) FUNDING, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE TO EXECUTE ALL RELATED DOCUMENTS; AND AUTHORIZING STAFF TO SUBMIT THE DOCUMENTS TO HUD

WHEREAS, on July 30, 2008, the President signed Title III of Division B of the Housing and Economic Recovery Act, 2008 (HERA), and

WHEREAS, 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, 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 allocation must be spent to serve households that are at or below 50% of the Median Area Income, funds must be obligated within 18 months after the execution of the grant agreement, and amendments are due to HUD by December 1, 2008, and

WHEREAS, NSP funds may only be used to establish financing mechanisms for 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 such 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 funding be allocated to partner with the Housing Authority of the County of Stanislaus for an Incentive Transfer Program

with $2,025,000; provide $1,467,500 in Down Payment Assistance funding specifically for residents purchasing abandoned or foreclosed properties; issue an RFQ for $2,000,000 in funding to be used to purchase and rehabilitate foreclosures within the focus areas, including the Airport Neighborhood, the Weed and Seed area and designated target areas; issue an RFQ for $2,000,000 in funding to be used to purchase and rehabilitate foreclosures throughout the City of Modesto, and allocate $607,500 to be used for administration of the program, including property inspections, abatement of issues such as lead based paint, and review and monitoring of grants and loans issued under the program, and

WHEREAS, the Citizens Housing and Community Development Committee met on November 12, 2008, and supported approval of the Amendment to the Annual Action Plan, and

WHEREAS, a report dated November 13, 2008, 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 November 25, 2008, 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,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the Department of Housing & Urban Development (HUD) Annual Action Plan for Fiscal Year 2008-2009 allocating the

Community Development Block Grant (CDBG) Neighborhood Stabilization Program (NSP) funding.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-649

A RESOLUTION AMENDING THE FY 08-09 OPERATING BUDGET TO ESTIMATE AND APPROPRIATE $8.1 MILLION IN ENTITLEMENT REVENUE FROM THE FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT NEIGHBORHOOD STABILIZATION PROGRAM

WHEREAS, on July 30, 2008, the President signed Title III of Division B of the Housing and Economic Recovery Act, 2008 (HERA), and

WHEREAS, 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, 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 allocation must be spent to serve households that are at or below 50% of the Median Area Income, funds must be obligated within 18 months after the execution of the grant agreement, and amendments are due to HUD by December 1, 2008, and

WHEREAS, NSP funds may only be used to establish financing mechanisms for 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 such 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 funding be allocated to partner with the Housing Authority of the County of Stanislaus for an Incentive Transfer Program with $2,025,000; provide $1,467,500 in Down Payment Assistance funding specifically

for residents purchasing abandoned or foreclosed properties; issue an RFQ for $2,000,000 in funding to be used to purchase and rehabilitate foreclosures within the focus areas, including the Airport Neighborhood, the Weed and Seed area and designated target areas; issue an RFQ for $2,000,000 in funding to be used to purchase and rehabilitate foreclosures throughout the City of Modesto, and allocate $607,500 to be used for administration of the program, including property inspections, abatement of issues such as lead based paint, and review and monitoring of grants and loans issued under the program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 08-09 operating budget to create five multi year organizations in new fund 1131 CDBG NSP Entitlement and estimate and appropriate $8.1 million in entitlement revenue from the federal Community Development Block Grant Neighborhood Stabilization Program as more fully described on **Exhibits 1** through **5, attached** hereto and incorporated herein.

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 regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Carolyn Eubank
Telephone No.: 577-5349
Department: Parks, Recreation and Neighborhoods
Council Action Date: November 25, 2008
Resolution Number:
FY: MY
Fund Title: CDBG NSP Entitlement
Transfer No.

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO					
1131-320-3281-3515			$607,500	$607,500	CDBG NSP Entitlement
APPROPRIATIONS					
FROM					
TO					
1131-320-3281-0235			$138,327	$138,327	Service Professional & Other
1131-320-3281-0255			$437,173	$437,173	Service City Forces - Interfund
1131-320-3281-0230			$2,000	$2,000	Advertising
1131-320-3281-0207			$5,000	$5,000	Conference Expenses
1131-320-3281-0208			$10,000	$10,000	Business Expenses
1131-320-3281-0209			$10,000	$10,000	Training
1131-320-3281-0301			$5,000	$5,000	Office Supplies
			$607,500	$607,500	

COMMENTS/JUSTIFICATION

This action will appropriate $607,500 in federal Community Development Block Grants Neighborhood Stabilization Program entitlement funding to org 3281, CDBG NSP Admin. This 18 month program is part of the Housing and Economic Recovery Act, 2008 and is slated to begin on February, 2009. 10% of the $8.1 million allocated to the City of Modesto, provides administrative support to the emergency assistance for the redevelopment of abandoned and forclosed homes.

AUTHORIZATION (check if required)	SIGNATURE	DATE
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)		
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		

Exhibit 2

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Carolyn Eubank
Telephone No.: 577-5349
Department: Parks, Recreation and Neighborhoods
Fund Title: CDBG NSP Entitlement

Council Action Date: November 25, 2008
Resolution Number:
FY: MY
Transfer No.

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO 1131-320-3282-3515			$2,025,000	$2,025,000	CDBG NSP Entitlement
APPROPRIATIONS					
FROM					
TO 1131-320-3282-0496			$2,025,000	$2,025,000	Direct Grants

COMMENTS/JUSTIFICATION

This action will appropriate $2,025,000 in federal Community Development Block Grants Neighborhood Stabilization Program entitlement funding to org 3282, CDBG NSP Incentive Transfer Program. This program assists qualified participants to become self sustainable in a singe-famly home.

AUTHORIZATION (check if required)	SIGNATURE	DATE
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)		
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		

Exhibit 3

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Carolyn Eubank
Telephone No.: 577-5349
Department: Parks, Recreation and Neighborhoods
Fund Title: CDBG NSP Entitlement

Council Action Date: November 25, 2008
Resolution Number:
FY: MY
Transfer No.

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO					
1131-320-3283-3515			$2,000,000	$2,000,000	CDBG NSP Entitlement
APPROPRIATIONS					
FROM					
TO					
1131-320-3283-0235			$100,000	$100,000	Service Professional & Other
1131-320-3283-0493			$240,000	$240,000	Housing Demo
1131-320-3283-0497			$1,600,000	$1,600,000	Direct Loan
1131-320-3283-0502			$10,000	$10,000	Lead Based Paint -Testing
1131-320-3283-0503			$25,000	$25,000	Lead Based Paint - Clearance
1131-320-3283-0504			$25,000	$25,000	Lead Based Paint - Abatement

COMMENTS/JUSTIFICATION

This action will appropriate $2,000,000 in federal Community Development Block Grants Neighborhood Stabilization Program entitlement funding to org 3283, CDBG NSP Target Area Focus. This program funds qualified candidates with the ability to purchase and rehabilitate foreclosed homes within the Airport Neighborhood, Weed & Seed and other targeted areas

AUTHORIZATION (check if required)	SIGNATURE	DATE
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)		
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		

Exhibit 4

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Carolyn Eubank
Telephone No.: 577-5349
Department: Parks, Recreation and Neighborhoods
Fund Title: CDBG NSP Entitlement

Council Action Date: November 25, 2008
Resolution Number:
FY: MY
Transfer No.

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO					
1131-320-3284-3515			$2,000,000	$2,000,000	CDBG NSP Entitlement
APPROPRIATIONS					
FROM					
TO					
1131-320-3284-0235			$100,000	$100,000	Service Professional & Other
1131-320-3284-0493			$240,000	$240,000	Housing Demo
1131-320-3284-0497			$1,600,000	$1,600,000	Direct Loan
1131-320-3284-0502			$10,000	$10,000	Lead Based Paint -Testing
1131-320-3284-0503			$25,000	$25,000	Lead Based Paint - Clearance
1131-320-3284-0504			$25,000	$25,000	Lead Based Paint - Abatement

COMMENTS/JUSTIFICATION

This action will appropriate $2,000,000 in federal Community Development Block Grants Neighborhood Stabilization Program entitlement funding to org 3284, CDBG NSP Scattered Focus Areas. This program funds qualified candidates with the ability to purchase and rehabilitate foreclosed homes.

AUTHORIZATION (check if required)	SIGNATURE	DATE
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)		
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		

Exhibit 5

REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Carolyn Eubank
Telephone No.: 577-5349
Department: Parks, Recreation and Neighborhoods
Fund Title: CDBG NSP Entitlement

Council Action Date: November 25, 2008
Resolution Number:
FY: MY
Transfer No.

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
DEPARTMENTAL REVENUES					
FROM					
TO					
1131-320-3285-3515			$1,467,500	$1,467,500	CDBG NSP Down Payment Assistance
APPROPRIATIONS					
FROM					
TO					
1131-320-3285-0235			$67,500	$67,500	Service Professional & Other
1131-320-3285-0497			$1,400,000	$1,400,000	Direct Loans

COMMENTS/JUSTIFICATION

This action will appropriate $1,400,000 in federal Community Development Block Grants Neighborhood Stabilization Program entitlement funding to org 3285, CDBG NSP Down Payment Assistance. This program funds qualified candidates to purchase abandoned or foreclosed properties. New home buyers will be required to participante in Housing Counseling.

AUTHORIZATION (check if required)	SIGNATURE	DATE
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)		
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		

RESCINDED
MAR 2 4 2009
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2009-144 121

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-650

A RESOLUTION APPROVING ADJUSTMENTS TO THE MAXIMUM RATE SCHEDULE FOR CITY RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL SOLID WASTE COLLECTION SERVICES, TO BECOME EFFECTIVE JANUARY 1, 2009, INCLUDING FUEL COST AND AN AB 939 GREEN WASTE DIVERSION FEE, CREATING A NEW AB 939 GREEN WASTE DIVERSION FUND WITHIN THE SOLID WASTE FUND, AND RESCINDING RESOLUTION NO. 2008-484

Print

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 November 13, 2008, 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 November 25, 2008, 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, and

WHEREAS, Section 41901 of the Public Resources Code allows cities to assess fees for AB 939 program implementation to meet the diversion mandates and Section 41902 allows cities to have these fees collected by the solid waste haulers, and

WHEREAS, fees are typically charged on a per-ton basis, and are built into the maximum rate structure, and

WHEREAS, the AB 939 Fee can be incorporated as part of the cost structure of maximum rates for solid waste collection services, to become effective January 1, 2009,

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 January 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 a new AB 939 Green Waste Diversion Fund is hereby created in the Solid Waste Fund.

BE IT FURTHER RESOLVED that Resolution No. 2008-484 is hereby rescinded, effective January 1, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, 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

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
- Blue bag recycling
- Countertop container for kitchen scraps
- Drop-off of old TV and computer tubes
- Two bulky item collections per year by appointment

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 **$23.82 per month** regardless of size of container. A fuel component of $1.47 per month is included in the maximum rate for the two quarters beginning April 1, 2008 and ending September 30, 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 **$20.04 per month**. A fuel component of $1.47 per month is included in the maximum rate for the two quarters beginning April 1, 2008 and ending September 30, 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
Number of Collections Per Week

Container Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
1 CY	$ 39.74	$ 68.99	$ 98.21	$ 127.45	$ 156.69	$ 185.93
2 CY	$ 68.99	$ 127.45	$ 185.93	$ 244.40	$ 302.86	$ 361.33
3 CY	$ 98.21	$ 185.93	$ 273.63	$ 361.33	$ 449.05	$ 536.75
4 CY	$127.45	$ 244.40	$ 361.33	$ 478.28	$ 595.22	$ 712.17
5 CY	$156.69	$ 302.86	$ 449.05	$ 595.22	$ 744.41	$ 887.58
6 CY	$185.93	$ 361.33	$ 536.75	$ 712.17	$ 887.58	$1,063.00

* A detachable container rental rate of $10.00 per month is included in the above schedule.

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 $0.29 per cubic yard ($1.29 per month for a 1 cubic yard container collected once a week) is included in the maximum rate for the two quarters beginning April 1, 2008 and ending September 30, 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

Maximum Monthly Rates

Front Loader Type:

Container Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
3 CY	$294.63	$ 557.79	$ 820.89	$1,083.99	$1,347.15	$1,610.25
4 CY	$382.35	$ 733.20	$1,083.99	$1,434.84	$1,785.66	$2,136.51
6 CY	$557.79	$1,083.99	$1,610.25	$2,136.51	$2,662.74	$3,189.00

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 per household recycling fee, a $0.05 per cubic yard commercial recycling fee, and a $5.00 per pull ($0.25 per ton) industrial recycling fee, payable to the City by the garbage company.
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.

Print

MODESTO CITY COUNCIL
RESOLUTION NO.2008-651

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH UNITED CEREBRAL PALSY ASSOCIATION OF STANISLAUS COUNTY (UCPA) TO PLACE ADVERTISING INSIDE MODESTO AREA EXPRESS (MAX) BUSES FOR A FIVE-YEAR PERIOD, COMMENCING JANUARY 1, 2009

WHEREAS, the current bus bench franchise and interior bus advertising lease expire December 31, 2008, and

WHEREAS, included with the bench franchise is an exclusive lease agreement to sell advertising in the card rack space inside the City's buses, and

WHEREAS, on September 23, 2008, the City Council, by Resolution No. 2008-556, authorized staff to issue Request for Proposals (RFP) for firms interested in operating the bus bench franchise, and

WHEREAS, the RFP also requested proposals to place and maintain advertising in the card rack space inside the City buses, and

WHEREAS, United Cerebral Palsy Association (UCPA) was the only firm submitting a proposal for the franchise, and

WHEREAS, the City's evaluation panel recommended award of the franchise and the lease to UCPA,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager to enter into a Lease Agreement with United Cerebral Palsy Association of Stanislaus County to place advertising inside Modesto Area Express (MAX) buses for a five-year period, commencing January 1, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of November, 2008, 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

RESCINDED
Print
DEC - 7 2010
THIS RESOLUTION WAS RESCINDED BY MODESTO CITY COUNCIL RESOLUTION NO. 2010-487

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-652

RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING AN AMENDED CONFLICT OF INTEREST CODE FOR THE FOLLOWING DEPARTMENTS OF THE CITY OF MODESTO: OFFICE OF THE CITY ATTORNEY, AND RESCINDING RESOLUTION 2006-589; OFFICE OF THE CITY CLERK, AND RESCINDING RESOLUTION 2002-449; OFFICE OF THE CITY MANAGER AND RESCINDING RESOLUTION 2006-590; COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT, AND RESCINDING RESOLUTION 2006-591; FINANCE DEPARTMENT, AND RESCINDING RESOLUTION 2006-592; FIRE DEPARTMENT, AND RESCINDING RESOLUTION 2006-593; INFORMATION & TECHNOLOGY DEPARTMENT, AND RESCINDING RESOLUTION 2006-594; PARKS, RECREATION & NEIGHBORHOODS DEPARTMENT, AND RESCINDING RESOLUTION 2006-595; PERSONNEL DEPARTMENT, AND RESCINDING RESOLUTION 2006-596; POLICE DEPARTMENT AND RESCINDING RESOLUTION 2006-597; PUBLIC WORKS DEPARTMENT, AND RESCINDING RESOLUTION 2006-598; AND CREATING A CONFLICT OF INTEREST CODE FOR THE OFFICE OF THE CITY AUDITOR

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a Conflict of Interest Code, and

WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted the Conflict of Interest Code, and

WHEREAS, pursuant to Government Code Section 82011, this Council is the Code reviewing body for agencies of the City of Modesto, and

WHEREAS, the Council, at its meeting of December 2, 2008, considered the adoption of the Amended Conflict of Interest Code for various City Departments, and creation of a Conflict of Interest Code for the newly established Office of the City Auditor.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts an amended Conflict of Interest Code for the City of Modesto as submitted, a copy of said Code is **attached** hereto.

BE IT FURTHER RESOLVED that Resolutions 2006-589, 2002-449, 2005-590, 2006-591, 2006-592, 2006-593, 2006-594, 2006-595, 2006-596, 2006-597, and 2006-598, adopted by the City Council are hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of December, 2008, 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

CONFLICT OF INTEREST CODE
FOR THE CITY OF MODESTO

The Political Reform Act (Government Code Section 8100, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act.

Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the City of Modesto.

Designated employees shall file their statements with the Office of the City Clerk which will make the statements available for public inspection and reproduction. (Gov. Code Section 81008.) Statements for all designated employees will be retained by the Office of the City Clerk.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-653

A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS FOR THE BRIGGSMORE PLAZA SLIP RAMP PROJECT, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND TO RELEASE SECURITIES UPON EXPIRATION OF STATUTORY PERIODS

WHEREAS, California Equity Management Group Inc ("DEVELOPER"), is the developer of the Briggsmore Plaza Slip Ramp project ("DEVELOPMENT"), and

WHEREAS, DEVELOPER constructed approximately 1000 feet of roadway improvements on the south side of Briggsmore Avenue starting at Prescott Avenue going east, and installed landscaping, a slip ramp, and parking ("PUBLIC IMPROVEMENTS"), located within the DEVELOPMENT, and

WHEREAS, said PUBLIC IMPROVEMENTS 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 on those items outlined in an agreement approved by the City Council on October 23, 2007, by Resolution No. 2007-622, including, but not limited to, maintenance of the storm drainage basin, part of the landscaping and the slip ramp, and

WHEREAS, DEVELOPER has filed bonds to secure faithful performance and payment for labor and materials each in the amount of $215,195.11 for said PUBLIC IMPROVEMENTS, and

WHEREAS, DEVELOPER has filed a warranty bond in the amount of $21,520.00 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 security for faithful performance in the amount of $215,195.11 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 $215,195.11 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 $21,520.00 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of December, 2008, 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. 2008-654

A RESOLUTION CREATING TWO NEW FUNDS AND TWO BUDGET ORGANIZATIONS FOR THE MANAGEMENT OF REVENUES AND EXPENSES FOR LANDSCAPE ASSESSMENT DISTRICTS 1 AND 2, AND APPROPRIATE REVENUE, RESERVES AND EXPENSES

WHEREAS, Landscape Assessment District No. 1 was formed December 12, 1988, to administer the maintenance of the 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, Landscape Assessment District No. 2 was formed on April 4, 1989, to administer the maintenance of the landscaping on the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Units 1 & 2, and

WHEREAS, these assessment districts were formed in accordance with "The Landscape and Lighting Act of 1972", and

WHEREAS, since their formation, revenues and expenses for Landscape Assessment Districts No. 1 and 2 have been located in the Parks, Recreation and Neighborhoods general fund operating budget, and

WHEREAS, this has created difficulty in calculating reserve monies at the end of each year in addition to identifying those expenses attributable to the Landscape Districts, and

WHEREAS, creation of a separate fund and budget for each assessment district will allow more efficient and accurate record keeping of the assessments collected for each of these districts as shown in **Attachment A**, which is incorporated by reference

herein,

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL that two new funds and two budget organizations will be created for management of revenues and expenses associated with Landscape Assessment Districts 1 and 2.

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 City Council of the City of Modesto held on the 2nd day of December, 2008, 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

Reduce amounts in the Parks, Recreation & Neighborhoods Budget within the General Fund:

Revenue		
LMAD Assessment	0100-350-3522-5100	($31,000)
Expense		
Landscape Maint. Exp.	0100-350-3522-0231	($12,488)
Grover Contract	0100-350-3522-0235	($18,456)
From the General Fund Reserves:		
	0100-800-8000-8003	($56)

Increasing amounts in the following accounts to create Landscape Assessment District 1:

Revenue		
LMAD 1 Revenue	0480-140-1470-5101	$19,500
Transfer: GF Reserves	0100-800-8000-8003	$16,090
Total:		$35,590
Expenses		
Grover Landscape Contract	0480-140-1470-0235	$18,005
One-Time Repairs	0480-140-1470-0231	$ 6,400
Staff Charges	0480-140-1470-0255	$ 2,200
Utilities	0480-140-1470-0210	$ 3,400
Total:		$30,005

Increasing amounts in the following accounts to create Landscape Assessment District 2:

Revenue		
LMAD 2 Revenue	0490-140-1470-5101	$16,658
Transfer: GF Reserves	0100-800-8000-8003	$ 9,687
Total:		$26,345

Expenses		
Grover Landscape Contract	0490-140-1480-0235	$10,246
One-Time Repairs	0490-140-1480-0231	$ 1,500
Staff Charges	0490-140-1480-0255	$ 2,100
Utilities	0490-140-1480-0210	$ 3,200
Total:		$17,046

Print

MODESTO CITY COUNCIL
RESOLUTION NUMBER 2008-655

A RESOLUTION AMENDING THE FISCAL YEAR 2008/2009 GENERAL FUND OPERATING BUDGET, ESTIMATING REVENUE OF $18,900 FROM ASSET FORFEITURES TO POLICE OPERATIONS FOR THE PURCHASE OF CANINE (K9) EQUIPMENT; AND AUTHORIZING THE FINANCE DIRECTOR, OR HIS DESIGNEE, TO IMPLEMENT THE PROVISIONS OF THIS RESOLUTION

WHEREAS, members of the Modesto Police Canine Unit have been conducting reviews and evaluations of the current condition of the police vehicles utilized by the Canine Unit for patrol operations, and

WHEREAS, there are 14 canine unit members who share seven canine vehicles, and

WHEREAS, the cars are used all day, every day, and

WHEREAS, the heat sensors and alarms no longer meet the industry standard and the new technology available exceeds the current protection we provide these canine partners, and

WHEREAS, sufficient resources exist within the Asset Forfeiture Trust Account to pay for the purchase of Canine (K9) unit cages for vehicles, heat sensors with fans, collapsible dog crates and heat only alarm, and

WHEREAS, the equipment is universal and can be transferred to new vehicles when ordered, and

WHEREAS, this equipment is needed to ensure the department canines will be kept safe while in police vehicles from heat-related injury, and

WHEREAS, the Fiscal Year 2008/2009 General Fund Operating Budget will be amended as shown in **Exhibit A**, **attached** to this resolution, and incorporated by reference, and

WHEREAS, on November 3, 2008, the Safety & Communities Committee unanimously recommended approval to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2008-2009 General Fund Operating Budget to make adjustments as shown in **Exhibit A**.

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 regular meeting of the Council of the City of Modesto held on the 2nd day of December, 2008, 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 0100 – General Fund

	Revenue	Increase/(Decrease)	Description
To:	0100-190-1961-7202	$ 18,900	Seized Forfeiture Revenue
	Expense		
To:	0100-190-1961-5000	$ 18,900	K9 Equipment

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-656

A RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS, P.C. FOR THE PREPARATION OF A PRELIMINARY DESIGN REPORT FOR PHASE 2 BIOLOGICAL NUTRIENT REMOVAL (BNR)/TERTIARY TREATMENT FACILITY FOR AN AMOUNT NOT TO EXCEED $1,564,400 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $156,440 FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $1,720,840, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the scope of services to be provided under this agreement include completing the 35% design for the Phase 2 BNR/Tertiary Treatment Facility and summarizing the project scope and cost estimates in a Preliminary Design Report, and

WHEREAS, the proposed services are less than 2% of the approximately $90 million construction cost of this project which is considered reasonable for this size of project, and

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, the new permit includes unprecedented limits for seasonal secondary effluent discharges into the San Joaquin River, and

WHEREAS, on April 1, 2008, the City Council, by Resolution 2008-187, approved an Agreement with Carollo Engineers, P.C. (Carollo) to prepare a WWMP Supplement to update the 2007 WWMP, and

WHEREAS, the WWMP Supplement revised the City's strategic plan to meet these new discharge requirements and accommodate revised growth projections,

reprioritize the capital improvement program, and revise the projected cash flow curve, to be used by others, to update future wastewater rates, and

WHEREAS, on September 9, 2008, the City Council, by Resolution 2008-511, accepted the WWMP Supplement and its recommendations, and

WHEREAS, based on the analysis in the WWMP Supplement, 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, 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 35% preliminary design report stage if the projected cost estimate is expected to exceed the approved project budget by more than 10%, and

WHEREAS, immediately following Council approval of the WWMP Supplement and under Director's approval, staff issued an expedited Request for Proposal (RFP), in accordance with Administrative Directive 3.1 Selection Procedures for Professional Consultants Who Provide Architectural and Engineering Services for Capital Projects, in order to meet the compliance period by June 2013, and

WHEREAS, a Selection Committee was formed consisting of Public Works Engineering staff, Wastewater Operations staff and Councilmember Hawn, however, Councilmember Hawn had to excuse himself from the Selection Committee due to a conflict of interest with a potential subconsultant, and

WHEREAS, five RFPs were sent to design firms that were familiar with the City's current treatment processes, and

WHEREAS, two proposals were submitted and subsequently reviewed by the Selection Committee, and

WHEREAS, following the consultant interviews, the Selection Committee determined that Carollo Engineers, P.C. of Walnut Creek is the most qualified to prepare the PDR of the Phase 2 BNR/Tertiary Treatment Facility, and

WHEREAS, Carollo's project team has the best working knowledge of the City of Modesto secondary wastewater treatment site, completed the design of the Phase 1A Tertiary Wastewater Treatment project and has highly qualified staff to bring a new facility online, and

WHEREAS, Carollo has chosen local firms Kleinfelder, Inc., Associated Engineering, and L Street Architects as sub-consultants to provide Geotechnical Engineering, Site/Civil & Surveying, and architectural design, respectively, which will perform over 13.8% of the work on the Phase 2 PDR, and

WHEREAS, in addition, City staff is currently in the process of issuing an RFP to provide Value Engineering (VE) of the Phase 2 BNR/Tertiary Treatment Facility PDR, and

WHEREAS, the VE consultant will provide the City with an independent review of the Phase 2 facility design and construction approach, and the outcome would in efficient and cost effective recommendations to the Phase 2 design, and

WHEREAS, the proposal will also include optional, as-needed tasks to assist the City to meet all SRF loan funding eligibility requirements, if needed, 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 the consulting firm of Carollo Engineers, P.C. as the City does not have the staffing level or subject matter expertise to complete the Preliminary Design Report 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 the preparation of a Preliminary Design Report for Phase 2 Biological Nutrient Removal (BNR)/Tertiary Treatment Facility for an amount not to exceed $1,564,400 for the identified scope of services, plus $156,440 for additional services (if needed), for a maximum total amount of $1,720,840.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of December, 2008, 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. 2008-657

A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PREZONED PLANNED DEVELOPMENT ZONE P-P-D(588), PROPERTY LOCATED NORTH OF THE NORTH CORNER OF NORTH NINTH STREET AND CARVER ROAD (EAH)

WHEREAS, EAH represents the owners of approximately 8.3 acres of real property, located north of the intersection of North Ninth Street and Carver Road, and

WHEREAS, a verified application for an amendment to Section 19-3-9 of the Zoning Map was filed by EAH, on January 10, 2008, to prezone from Prezone Highway Commercial Zone, P-C-3, and Prezone Light Industrial Zone, P-M-1, to Prezone Planned Development Zone, P-P-D(588), to allow for the development of a two story 150-unit affordable housing project on property located on the north corner of North Ninth Street and Carver Road, as described in **Exhibit "A" attached** hereto ("Property"), and

WHEREAS, after a public hearing held on December 2, 2008, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, the Planning Commission of the City of Modesto recommended by its Resolution No. 2008-45 that the City Council find and determine as follows:

1. The requested prezoning of the Property is required by public convenience or necessity for the following reasons:
    a. The proposed 150-unit affordable housing development is consistent with the Redevelopment Master Plan, which calls for housing to be developed in this area, among other things; and
    b. The proposed project helps further General Plan Goal ID.4, which calls for Modesto to contain a diversity of housing types to enable citizens from a wide range of economic levels and age groups to live within its boundaries; and
    c. The proposed prezoning will result in orderly planned use of land resources, because it will provide for infill development that is consistent with City Standards.

2. The proposed prezone is consistent with the Modesto Urban Area General Plan, because:

   a. The project site lies within the redevelopment planning district, and the proposed 150-unit affordable housing development is consistent with the Redevelopment Master Plan, which in incorporated into the General Plan by reference; and

   b. The location of the Property immediately adjacent to the existing City limits and within the Sphere of Influence is consistent with Urban Growth Policy II.C.1.b., which states "Urban development should be kept as contiguous as possible in order to avoid premature urbanization of valuable farm land, foster resident convenience, and provide for economy in City services."

3. The type of project is described in Chapter II of the Master Urban Area General Plan Master EIR (MEIR).

4. 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.

5. 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.

6. 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 beyond that which was identified in the MEIR.

   b. No new or additional mitigation measures or alternatives are required.

7. The Initial Study, Environmental Assessment No EA/C&ED 2008-42, provides the substantial evidence to support findings 3-6, noted above.

WHEREAS, said matter was set for a public hearing of the City Council to be held on December 2, 2008, 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 EAH, for a prezone to Prezone Planned Development Zone, P-P-D(588), should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2008-XX and quoted above.

WHEREAS, the Council has introduced Ordinance No. 3498-C.S. on the 2nd day of December, 2008, reclassifying the above-described property to prezone from Prezone Highway Commercial Zone, P-C-3, and Prezone Light Industrial Zone, P-M-1, to Prezone Planned Development Zone, P-P-D(588),

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

SECTION 1. DEVELOPMENT PLAN. The development plan for the Prezoned Planned Development Zone, P-P-D(588), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan titled "Archway Commons (File No. PRZ-08-001)" stamped approved by the City Council".
2. Fences or walls shall be constructed prior to occupancy and shall be as follows:

   An eight-foot-high concrete-masonry wall along the northern, eastern and southern property lines, except where the project fronts onto Carver Road;

   Six-foot-high wrought iron fencing with decorative masonry pilasters with cap at 16-feet-on-center alternating between the buildings along the North 9th Street and Carver Road frontages;

   A six-foot-tall decorative sound-wall surrounding the community center, except in the area where the eight-stall parking aisle extends perpendicularly adjacent to the pool, as shown on the stamped approved plan. This area shall be fenced in with wrought iron with masonry pilasters matching the design of the fencing along the 9th Street and Carver Road frontages.

3. Prior to the issuance of a building permit, the applicant shall submit a landscaping and irrigation plan conforming to current City of Modesto specifications and standards for review and approval by the Parks, Recreation and Neighborhood Director or designee. The trees planted along North 9th Street and Carver Road adjacent to the project site shall be 24" box. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

4. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.

5. Prior to the issuance of a building permit, the developer shall dedicate and improve the North 9th Street and Carver Road frontages to City Standards, as required by the City Engineer or designee.

6. All private streets and parking areas shall be constructed in accordance with the standard structural section for residential streets as contained in the City of Modesto Standard Specifications.

7. All-weather, hard-surfaced roadways shall be constructed and maintained free of obstructions prior to and at all times during construction.

8. Prior to certificate of occupancy, the West Tank transmission pipelines shall be constructed and accepted by the City Engineer or designee and the project shall connect to the eight-inch water line in Carver Road in accordance with City Standards.

9. The development shall connect to the existing six-inch sewer line in the easement north of the property in accordance with City Standards.

10. The storm drain system shall be constructed in accordance with the design and calculations provided to Public Works staff by George Luk and Associated, dated September, 2008, demonstrating that with a combination rockwell and horizontal drain design, the system could accommodate the 100-year, six-day event with incremental infiltration, as required by the City Engineer or designee.

11. Improvement plans for required improvements shall be prepared by a Registered Civil Engineer and approved by the City Engineer or designee. Improvements shall be constructed in accordance with the approved plans.

12. Prior to certificate of occupancy, the developer shall execute an agreement providing the terms for affordable housing in exchange for use of Redevelopment Set Aside and Home Funds to the satisfaction of the Parks, Recreation and Neighborhoods Director.

13. 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.

14. Electric facilities and overhead lines shall be removed, relocated, or protected as required by the Modesto Irrigation District and the City Engineer or designee. Appropriate easements for electrical facilities shall

be granted as required. Relocation or installation of electric facilities shall conform to the District's Electric Service Rules. Costs for relocation and/or undergrounding the District's facilities at the request of others will be borne by the requesting party.

15. Trash bins shall be kept in enclosures in accordance with the approved plan and in accordance with plans approved by the Public Works Director or designee. Enclosures shall be constructed of building materials consistent with those used in the major buildings as approved by the Community and Economic Development Department Director or designee.

16. Trash enclosures shall be of a size and design to permit the storage and removal of required recyclable material receptacles, or a separate enclosure of the collection for recyclable materials shall be provided as approved by the Public Works Director or designee.

17. Trash enclosures for the project shall be bermed to prevent storm water run-on and graded to drain to adjacent landscape areas.

18. The developer shall provide permanent, post-construction treatment (grass swale, vegetative strip, or other approved proprietary device) to remove pollutants from the first ½" of stormwater run-off from site.

19. Prior to the issuance of a building permit, the developer shall submit a plan to provide on-site treatment of storm water, as approved by the City Engineer or designee. Storm drain improvements shall be constructed in accordance with the approved plans.

20. Prior to issuance of a building permit, the property owner shall provide owner-signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Development Services, Stormwater for recording.

21. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building & Development Services all fire hydrants as required by the Fire Chief. All hydrants required by the Fire Chief shall be installed and operable prior to construction of any structures.

22. The applicant shall install fire sprinkler systems as required by the California Fire Code (CFC) and the California Building Code (CBC).

23. Fire Department Connections (FDC) shall be accessible to the Fire Department and within 90 feet of a fire hydrant.

24. Prior to the issuance of a building permit, the developer shall submit plans for all vehicle access gates for approval by the Fire Marshall. The gates shall be constructed in accordance with the approved plans.

25. 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.

26. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at time of issuance of the building permit.

27. All ground mounted utility structures such as transformers, HVAC equipment and back flow prevention valves shall be located out of view from a public street or adequately screened though the use of landscape screening or masonry walls.

In addition, the following Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report:

28. 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.

29. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and 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. 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.

32. 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.

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

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

35. The City's Noise Ordinance (Modesto Municipal Code Section 49.101) 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."

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

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

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

    c. A hand-powered saw.

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

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

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

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

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

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

37. 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.

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

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Prezone Planned Development Zone, P-P-D(588):

The entire construction program be accomplished in one phase, construction to begin on or before December 2, 2010, and completion to be not later than December 2, 2011.

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 Ordinance No. 3498-C.S. prezoning the above-described property to Prezoned Planned Development P-P-D(588) becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of December, 2008, 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

APPROVED AS TO LEGAL DESCRIPTION

By _____
Community & Economic Development Department
Planning Division

Exhibit "A"

LEGAL DESCRIPTION

ALL that certain real property situate in the County of Stanislaus, State of California, lying within the Southwest Quarter of Section 19, Township 3 South, Range 9 East, Mount Diablo Meridian, described as follows:

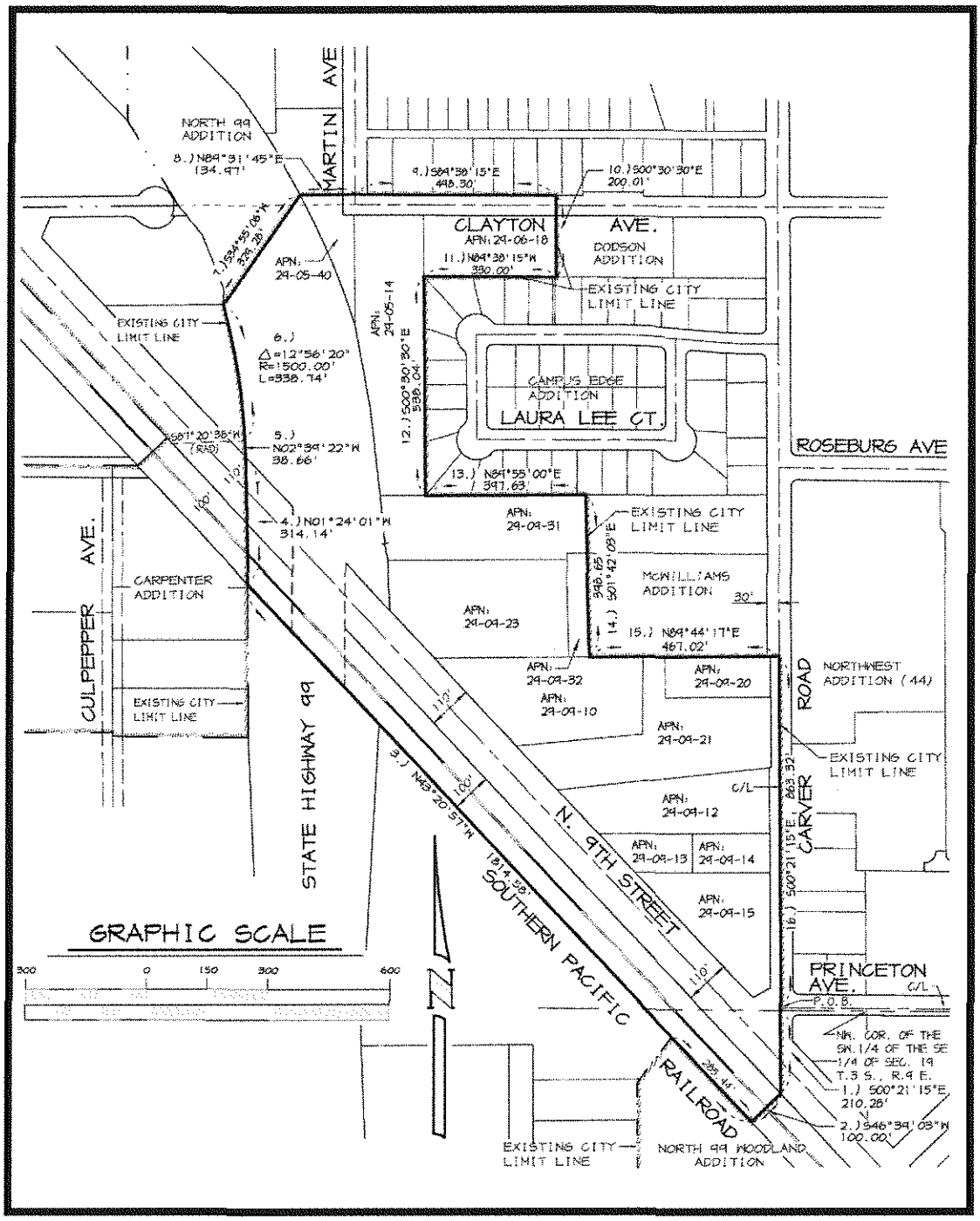
BEGINNING at the center line intersection point of Carver Road and Princeton Avenue, said point lying on the City limits line as described in the Northwest Addition (44) as filed in the Office of the Recorder of the County of Stanislaus on December 10, 1951 as Instrument No. 28460; thence 1.) South 00°21'15" East along last said line also being the center line of Carver Road and the Southerly extension thereof, a distance of 210.28 feet to a point on the Northeasterly right-of-way line of the Southern Pacific Railroad and being an angle point on the Northerly line of that Reorganization to the City of Modesto entitled "North 99/Woodland"; thence 2.) South 46°39'03" West along last said line, a distance of 100.00 feet to a point on the Southwesterly right-of-way line of the Southern Pacific Railroad; thence 3.) North 43°20'57" West along last said line, a distance of 1814.58 feet to a point on the Westerly right-of-way line of State Highway 99 and a point on the existing City limit line as shown on that Reorganization to the City of Modesto entitled "Carpenter Addition", filed in the Office of the Recorder of the County of Stanislaus on July 7, 1969 as Instrument No. 23266; thence 4.) North 01°24'01" West along last said lines, a distance of 314.14 feet to a point on the Northeasterly right-of-way line of North Ninth Street and being an angle point in the existing City limit line as shown on that Reorganization to the City of Modesto entitled "North 99 Addition" filed in the Office of the Recorder of the County of Stanislaus on June 28, 1966 as Instrument No. 23028; thence 5.) North 02°39'22" West along last said Westerly right-of-way line, and the Easterly line of said North 99 addition Reorganization, a distance of 38.66 feet to a point of curvature of a non-tangent curve, concave Westerly, having a radius of 1500.00 feet; thence 6.) Northerly along the arc of said curve and said Westerly right-of-way line of State Highway 99 and the Easterly line of last said Reorganization, through a central angle of 12°56'20", an arc distance of 338.74 feet to an angle point in said Easterly line of the North 99 addition Reorganization; thence 7.) Continuing along last said line North 34°55'06" East, a distance of 329.28 feet to an angle point in last said line and being the intersection point of the Northeasterly right-of-way line of State Highway 99 and the North right-of-way line of Clayton Avenue (now abandoned); thence 8.) North 89°31'45" East along last said line and the Easterly line of said North 99 addition Reorganization, a distance of 134.97 feet to a point on the center line of Martin Avenue; thence 9.) South 89°38'15" East along last said line and the North right-of-way line of Clayton Avenue, a distance of 498.30 feet to a point on the West line of that Reorganization to the City of Modesto entitled "Dodson" addition filed in the Office of the Recorder of the County of Stanislaus on December 13, 1962 as Instrument No. 46564; thence 10.) South 00°30'30" East along last said West line, a distance of 200.01 feet to a point on the North line of that Reorganization to the City of Modesto entitled "Campus Edge" filed in the County of Stanislaus on July 24, 1956 as Instrument No. 20020; thence 11.) North 89°38'15" West along last said North line, a distance of 330.00 feet to the Northwest corner of said Campus Edge Reorganization; thence 12.) South 00°30'30" East along the West line of said Campus Edge Reorganization, a distance of 538.04 feet to the Southwest corner of

last said Reorganization; thence 13.) North 89°55'00" East along the South line of last said Reorganization, a distance of 397.63 feet to the Northwest corner of that Reorganization to the City of Modesto entitled "McWilliams Addition" filed in the Office of the Recorder of the County of Stanislaus on July 11, 1967 as Instrument No. 21431; thence 14.) South 01°42'03" East along the West line of last said Reorganization, a distance of 398.65 feet to the Southwest corner of last said Reorganization; thence 15.) North 89°44'17" East along the South line of last said Reorganization, a distance of 467.02 feet to the Southeast corner of last said Reorganization and being a point on the Westerly line of said Northwest addition (44) Reorganization and the center line of Carver Road; thence 16.) South 00°21'15" East along last said line, a distance of 863.32 feet to the point of beginning.

CONTAINING 32.08 acres more or less.

Exhibit "B"

ANNEXATION PROPOSAL MAP



PROPOSED CARVER-9TH
CHANGE OF ORGANIZATION
ANX-08-001

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-658

RESOLUTION APPROVING THE FILING OF AN APPLICATION WITH THE STANISLAUS LOCAL AGENCY FORMATION COMMISSION TO ANNEX APPROXIMATELY 32.2 ACRES OF PROPERTY LOCATED NORTH OF THE INTERSECTION OF NORTH 9TH STREET AND CARVER ROAD TO THE CITY OF MODESTO, AND TO DETACH THE PROPERTY FROM THE WOODLAND FIRE PROTECTION DISTRICT (OWNER INITIATED – UNINHABITED) (EAH)

WHEREAS, EAH ("Applicant") represents some of the owners of approximately 32.2 acres of real property, located north of the intersection of North 9th Street and Carver Road ("Property"), and

WHEREAS, the City has received a written request from the Applicant to initiate reorganization of the Property to the City of Modesto under the Cortese-Knox-Hertzberg Local Reorganization Act of 2000, California Government Code Section 56000, et seq, and

WHEREAS, the Resolution of Application is proposed pursuant to California Government Code Sections 56654 and 56700, and

WHEREAS, the Property proposed for reorganization is uninhabited, and a description of the boundaries of the subject Property is set forth in **Exhibit "A", attached** hereto and by this reference incorporated herein, and

WHEREAS, the subject Property proposed for reorganization is within Stanislaus County, contiguous to the existing City limits and within the current Sphere of Influence of the City of Modesto, as adopted by Stanislaus Local Agency Formation Commission, Resolution No. 97-11, on December 19, 1994, and

WHEREAS, before an annexation application may be heard by LAFCO, there must be an agreement with the County providing for the sharing of property taxes following an annexation, and

WHEREAS, the proposed reorganization area is covered by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170, on April 9, 1996, and

WHEREAS, the proposed Property is not subject to a Williamson Act contract, pursuant to Government Code Section 51200, et seq, and

WHEREAS, it is desired that the proposed reorganization be subject to the following terms and conditions:

1. The annexation of said Property, as set forth on **Exhibits** "**A**" and "**B**" **attached** hereto, to the City of Modesto.
2. The detachment of said Property from the Woodland Fire Protection District.

WHEREAS, the reasons for this proposed reorganization to the City of Modesto are as follows:

1. Staff has received a written request from the Applicant, to annex the Property to the City of Modesto.
2. The proposed annexation is consistent with the Urban Area General Plan and can be served by City services.
3. The proposed annexation will result in planned, orderly and efficient development of the area, and provision of services; and

WHEREAS, pursuant to Government Code Section 56653, a plan for providing services is set forth in **Exhibit** "**C**", **attached** hereto and by this reference incorporated herein, and

WHEREAS, on November 17, 2008, City of Modesto Planning Commission held a duly noticed public hearing in the Chambers, Tenth Street Place, 1010 Tenth Street,

Modesto, California, at which time both oral and documentary evidence were received and considered, and

WHEREAS, after said public hearing, the City of Modesto Planning Commission adopted Resolution No. 2008-46, recommending to the City Council that they adopt the Resolution of Application for an annexation of the Property to the City of Modesto, and detachment of the Property from the Woodland Fire Protection District, and

WHEREAS, said matter was set for public hearing of the City Council to be held on December 2, 2008, 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 reorganization, and

WHEREAS, an Initial Study (Environmental Assessment No. EA/C&ED 2008-42) 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

NOW, THEREFORE, the Council of the City of Modesto hereby finds and determines as follows:

1. That the proposed reorganization is consistent with the Modesto Urban Area General Plan, because it is consistent with General Plan Urban Growth Policy II.C.1.b., which states "Urban development should be kept as contiguous as possible in order to avoid premature urbanization of valuable farm land, foster resident convenience, and provide for economy in City services" and because the development resulting from the proposed and annexation is consistent with the General Plan as amended.

2. The type of project is described in Chapter II of the Master Urban Area General Plan Master EIR (MEIR).

3. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made Conditions of Approval of the project.

4. 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.

5. 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 beyond that which was identified in the MEIR.

   b. No new or additional mitigation measures or alternatives are required.

6. The Initial Study, Environmental Assessment No. EA/C&ED 2008-42, provides the substantial evidence to support findings 2-5 above.

7. An agreement for the sharing of property taxes for the Property was approved by the Master Property Tax Agreement entered into between the County of Stanislaus and City of Modesto which was approved by Council Resolution No. 96-170 on April 9, 1996.

8. As determined by the Department of Public Works, there is reasonable certainty that the City will have adequate wastewater capacity to serve the proposed annexation based on the following findings:

   a. The necessary capital improvements are in place, because the annexation area is predominantly developed and, with the exception of the 150-unit affordable housing development, is not anticipated to generate additional sewer demand. The 150-unit affordable housing project contributes approximately one percent to the existing sewer demand for the area, which is considered insignificant, and can be served by the existing system. In addition, the City is planning to rehabilitate the old Emerald Trunk as well as provide additional capacity through the Carpenter Road Relief Sewer project.

   b. The rehabilitation of the Emerald Trunk is funded by the current FY 2008/09 Capital Improvement Program (CIP). The Carpenter Road Relief Sewer project is scheduled for design in FY 2008/09 and anticipated to be completed during FY 2010/11. These improvements are included in the Wastewater Master Plan, and the necessary sewer rates and capacity charges to implement the plan were adopted by the City Council and established in August 2007.

   c. The necessary regulatory approvals for wastewater treatment capacity needed to serve the annexation area are available as the City has completed its Dissolved Air Flotation (DAF) facility. The

City has also received its NPDES permit from the Regional Water Quality Control Board for its wastewater treatment plant. The City is on schedule with the design of its Phases I tertiary treatment facilities, which will provide additional treatment capacity beyond the DAF facilities.

d. As mentioned under item "8a", the annexation area can be served by the existing system, even after intensification of the area by the 150-unit affordable housing development. Furthermore, development of the proposed 150-unit affordable housing project is anticipated to coincide with the improvement schedule listed above under item "8b". Therefore, following annexation, the City's facilities will remain within acceptable design parameters.

9. The Property is not subject to a Williamson Act Contract pursuant to Government Code Section 51200, et seq.

10. The Property is located within Stanislaus County, and is within the City's existing Sphere of Influence, is contiguous to the existing City limits and can be most efficiently served with City services.

11. The Property proposed to be annexed to the City of Modesto is uninhabited, and a description of the boundaries of the subject Property is set forth in **Exhibits** "**A**" and "**B**," **attached** hereto and by this reference incorporated herein.

12. In accordance with Section 56663(c) of the Cortese-Knox-Hertzberg Act, the City hereby consents to a waiver of conducting authority proceedings

13. The property owners and developers 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 Conditions of Approval are mitigation measures from the Modesto Urban Area General Plan Master Environmental Impact Report that shall apply to the project.

14. 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.

15. All land clearing, grubbing, scraping, excavation, land leveling, grading, cut and fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

16. 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.

17. 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.

18. 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.

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

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

21. The City's Noise Ordinance (Modesto Municipal Code Section 49.101) 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."

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

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

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

    c. A hand-powered saw.

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

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

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

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

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

23. 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.

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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the filing of an Application with the Stanislaus Local Agency Formation Commission to annex 32.2 acres of property located north of the intersection of North 9th Street and Carver Road to the City of Modesto, and to detach the Property from the Woodland Fire Protection District.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that pursuant to Government Code Section 56653, the City Council submit the plan for providing services as set forth in **Exhibit "C"**, **attached** hereto and by this reference incorporated herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of December, 2008, 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"

LEGAL DESCRIPTION

ALL that certain real property situate in the County of Stanislaus, State of California, lying within the Southwest Quarter of Section 19, Township 3 South, Range 9 East, Mount Diablo Meridian, described as follows:

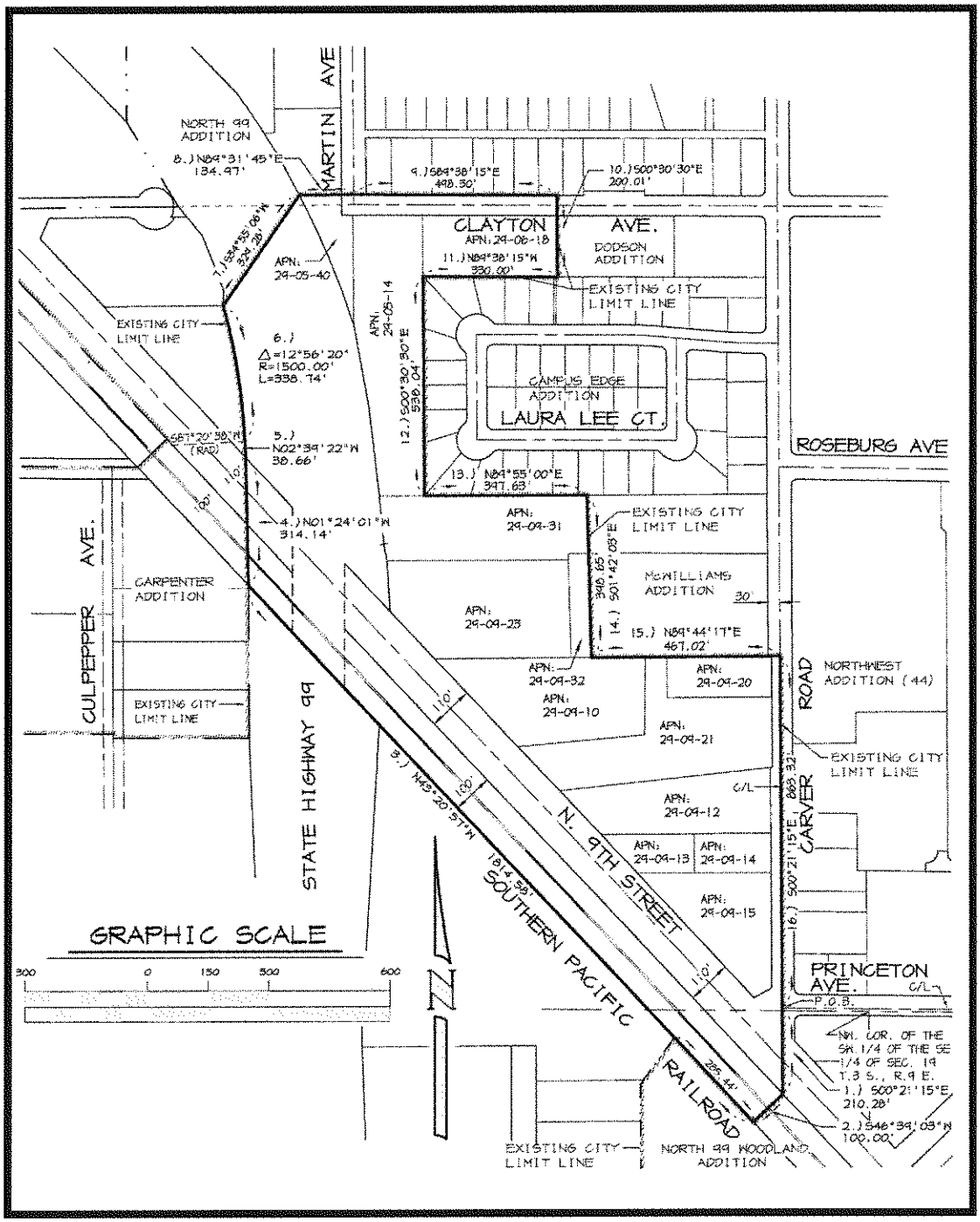
BEGINNING at the center line intersection point of Carver Road and Princeton Avenue, said point lying on the City limits line as described in the Northwest Addition (44) as filed in the Office of the Recorder of the County of Stanislaus on December 10, 1951 as Instrument No. 28460; thence 1.) South 00°21'15" East along last said line also being the center line of Carver Road and the Southerly extension thereof, a distance of 210.28 feet to a point on the Northeasterly right-of-way line of the Southern Pacific Railroad and being an angle point on the Northerly line of that Reorganization to the City of Modesto entitled "North 99/Woodland"; thence 2.) South 46°39'03" West along last said line, a distance of 100.00 feet to a point on the Southwesterly right-of-way line of the Southern Pacific Railroad; thence 3.) North 43°20'57" West along last said line, a distance of 1814.58 feet to a point on the Westerly right-of-way line of State Highway 99 and a point on the existing City limit line as shown on that Reorganization to the City of Modesto entitled "Carpenter Addition", filed in the Office of the Recorder of the County of Stanislaus on July 7, 1969 as Instrument No. 23266; thence 4.) North 01°24'01" West along last said lines, a distance of 314.14 feet to a point on the Northeasterly right-of-way line of North Ninth Street and being an angle point in the existing City limit line as shown on that Reorganization to the City of Modesto entitled "North 99 Addition" filed in the Office of the Recorder of the County of Stanislaus on June 28, 1966 as Instrument No. 23028; thence 5.) North 02°39'22" West along last said Westerly right-of-way line, and the Easterly line of said North 99 addition Reorganization, a distance of 38.66 feet to a point of curvature of a non-tangent curve, concave Westerly, having a radius of 1500.00 feet; thence 6.) Northerly along the arc of said curve and said Westerly right-of-way line of State Highway 99 and the Easterly line of last said Reorganization, through a central angle of 12°56'20", an arc distance of 338.74 feet to an angle point in said Easterly line of the North 99 addition Reorganization; thence 7.) Continuing along last said line North 34°55'06" East, a distance of 329.28 feet to an angle point in last said line and being the intersection point of the Northeasterly right-of-way line of State Highway 99 and the North right-of-way line of Clayton Avenue (now abandoned); thence 8.) North 89°31'45" East along last said line and the Easterly line of said North 99 addition Reorganization, a distance of 134.97 feet to a point on the center line of Martin Avenue; thence 9.) South 89°38'15" East along last said line and the North right-of-way line of Clayton Avenue, a distance of 498.30 feet to a point on the West line of that Reorganization to the City of Modesto entitled "Dodson" addition filed in the Office of the Recorder of the County of Stanislaus on December 13, 1962 as Instrument No. 46564; thence 10.) South 00°30'30" East along last said West line, a distance of 200.01 feet to a point on the North line of that Reorganization to the City of Modesto entitled "Campus Edge" filed in the County of

Stanislaus on July 24, 1956 as Instrument No. 20020; thence 11.) North 89°38'15" West along last said North line, a distance of 330.00 feet to the Northwest corner of said Campus Edge Reorganization; thence 12.) South 00°30'30" East along the West line of said Campus Edge Reorganization, a distance of 538.04 feet to the Southwest corner of last said Reorganization; thence 13.) North 89°55'00" East along the South line of last said Reorganization, a distance of 397.63 feet to the Northwest corner of that Reorganization to the City of Modesto entitled "McWilliams Addition" filed in the Office of the Recorder of the County of Stanislaus on July 11, 1967 as Instrument No. 21431; thence 14.) South 01°42'03" East along the West line of last said Reorganization, a distance of 398.65 feet to the Southwest corner of last said Reorganization; thence 15.) North 89°44'17" East along the South line of last said Reorganization, a distance of 467.02 feet to the Southeast corner of last said Reorganization and being a point on the Westerly line of said Northwest addition (44) Reorganization and the center line of Carver Road; thence 16.) South 00°21'15" East along last said line, a distance of 863.32 feet to the point of beginning.

CONTAINING 32.08 acres more or less.

Exhibit "B"

ANNEXATION PROPOSAL MAP



PROPOSED CARVER-9TH
CHANGE OF ORGANIZATION
ANX-08-001

Exhibit "C"

PLAN FOR SERVICE

NORTH 9TH STREET REORGANIZATION
PLAN FOR PROVIDING SERVICES

Pursuant to Government Code Section 56653, the following Plan for Services to be extended to the affected territory has been prepared for the North 9th Street Reorganization.

The project site is part of the Redevelopment Area, as described in the Modesto Urban Area General Plan, adopted August 15, 1999, amended March 4, 2003 and October 14, 2008. As part of the approval, community facilities and services were analyzed in detail in Initial Study Environmental Checklist (C&ED No. 2008-42). These services include traffic and circulation, waste water collection, water delivery, storm water drainage, solid waste disposal, schools, parks, fire protection, and police protection. The City of Modesto is a full service city that intends to provide the following services.

1. Traffic and Circulation: The bulk of the external roadway network is already constructed. The applicant or developer must provide minor dedication and construct roadway improvements along the project frontages to City standards.

2. Waste Water Collection: Upon reorganization, the site will annex to Modesto's Sewer District No. 1. Sewer service will be provided to the subject site from an existing six-inch line the easement north of the property. Service will be extended upon development of the site at no cost to the City, as existing City fees will cover the cost.

3. Water Delivery: The City is currently working on improvements to the west tank transmission lines, which will be necessary to provide sufficient water service to the project area once the proposed 150-unit affordable housing project is developed. The west tank project is scheduled to be complete before the project would be constructed and ready for occupancy. The site will be served from an existing eight-inch water line in Carver Road.

4. Storm Water Drainage: Storm water drainage for this project will be collected through a combination of horizontal drains and rock wells near the project site. Through this combination system, adequate storm drainage capacity can be accommodated by the City.

5. Solid Waste Disposal: Weekly pickup will be extended to the annexation area upon the effective date of annexation.

6. Fire Protection: Upon reorganization, the annexation area will be detached from the Woodland Fire Protection District. The

Modesto Fire Department has indicated that it can provide adequate service to the subject site following annexation.

7. Police Protection: The Modesto Police Department has indicated that it is able to provide adequate service to the subject site following annexation.

Level and range of services

The City of Modesto is a full service provider of municipal services and intends to provide the complete service for those areas identified above.

When can services be provided?

The above-described services can be provided upon the effective date of annexation.

Improvements required as a condition of reorganization

Roadway Dedication and Improvements along the North 9th Street and Carver Road frontages of the 150-unit affordable housing development.

How will services be financed?

Services will be financed through City fees.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-659

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 19-3-9 OF THE ZONING MAP TO PREZONE FROM PREZONE HIGHWAY COMMERCIAL ZONE (P-C-3) AND PREZONE LIGHT INDUSTRIAL ZONE (P-M-1) TO PREZONE PLANNED DEVELOPMENT ZONE (P-P-D), APPROXIMATELY 8.3 ACRES OF PROPERTY LOCATED NORTH OF THE CORNER INTERSECTION OF NORTH 9TH STREET AND CARVER ROAD AND ANNEX 32.2 ACRES LOCATED ON THE NORTH CORNER OF NORTH 9TH STREET AND CARVER ROAD TO THE CITY, AND DETACH THE PROPERTY FROM THE WOODLAND FIRE PROTECTION DISTRICT (OWNER INITIATED – UNINHABITED)

WHEREAS, on August 15, 1995, by Resolution No. 95-409, the City Council of the City of Modesto certified the Master Environmental Impact Report ("EIR") for the Modesto Urban Area General Plan (SCH No. 1999082041), and

WHEREAS, on March 4, 2003, by Resolution No. 2003-122, the City Council of the City of Modesto certified amendments to the Master EIR for the Modesto Urban Area General Plan (SCH No. 1999082041), and

WHEREAS, on October 14, 2008, by Resolution No. 2008-583, the City Council of the City of Modesto certified amendments to the Master EIR for the Modesto Urban Area General Plan (SCH No. 2007072023), and

WHEREAS, EAH, has filed an application requesting that 8.3 acres of property located north of the north corner of North Ninth Street and Carver Road ("Property") be prezoned from Prezone Highway Commercial Zone (P-C-3) and Prezone Light Industrial Zone (P-M-1) to Prezone Planned Development Zone (P-P-D) , and

WHEREAS, the City of Modesto proposes to prezone the Property as requested and adopt a Resolution of Application to the Stanislaus County Local Agency Formation Commission for a proposed reorganization to annex 32.2 acres on the north corner of North 9th Street and Carver Road to the City of Modesto, and to detach the Property from the Woodland Fire Protection District, and

WHEREAS, the proposed prezoning designation and the Resolution of Application are hereafter collectively referred to as "the Project", and

WHEREAS, Section 21157.1 of the Public Resources Code, relating to reviewing subsequent projects for a Master EIR, states that the lead agency shall prepare an Initial Study on any proposed subsequent project to analyze whether the subsequent project may cause any significant effect on the environment that was not examined in the Master EIR and whether the subsequent project was described in the Master EIR 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 2008-42 reviewed the proposed amendment to the Zoning Map to prezone from Prezone Highway Commercial Zone (P-C-3) and Prezone Light Industrial Zone (P-M-1) to Prezone Planned Development Zone (P-P-D) 8.3 acres and annex 32.2 acres located on the north corner of North 9th Street and Carver Road to determine whether the Project is within the scope of the project covered by the Modesto Urban Area General Plan Master EIR, and made the determination that the 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 28, 2008, 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 December 2, 2008, 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 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 Project under consideration is described in Chapter II of the Master EIR.

2. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the Project or have otherwise been made conditions of approval of the Project.

3. An Initial Study was prepared by the City of Modesto that analyzed whether the 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. 2007072023), which analyzed the potential impacts of build out of the Baseline Developed Area.

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

    a. That the Project will have no additional significant effect as defined in CEQA Section 21158 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/C&ED 2008-42, 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 Community and Economic Development Director is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk, pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of December, 2008, 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"

INITIAL STUDY
EA/C&ED 2008-42

City of Modesto

Finding of Conformance to General Plan Master EIR:

Initial Study Environmental Checklist C&ED No. 2008-42

For the proposed

North 9th Street Prezoning and Reorganization (EAH, Applicant)

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

October 21, 2008

City of Modesto
Master EIR Initial Study Checklist

I. PURPOSE

CEQA allows for the limited environmental review of subsequent projects under the City's Master EIR. This Initial Study Checklist is used in determining whether the North 9th Street Reorganization 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 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 MEIR (SCH# 2007072023) was also consulted which lists both General Plan policies and mitigation measures for each area of environmental study.

II. PROJECT DESCRIPTION

A. Title: North Ninth Street Prezoning and Annexation

B. Address or Location: North corner of North 9th Street and Carver Avenue in a County "island" within the City of Modesto's Sphere of Influence

C. Applicant: EAH
2169 East Francisco Boulevard, Suite B
San Rafael, CA 94901

D. Application Contact Person: Felix AuYeung

City Project Manager: Josh Bridegroom, Senior Planner
Department: Community & Economic Development Department

Phone Number: (209) 577-5267
E-mail address: jbridegroom@modestogov.com

E. Current General Plan Designation(s): RPD, Redevelopment Planning District

F. Current Zoning Classification(s): The property is prezoned C-3 (Regional Commercial) and M-1 (Light Industrial)

G. Surrounding Land Uses: West: North 9th Street, Union Pacific Railroad, SR99
North: Residential, Light industrial
East: Neighborhood Commercial
South: Light industrial,

H. Project Description, including the project type listed in Section II.C (Anticipated Future Projects) of the Master EIR:

This is an application to prezone 8.3 acres from P-C-3 (Regional Commercial) and P-M-1 (Light Industrial) to P-P-D (Planned Development) for a 150-unit afforable housing development, and annex 32.2 acres located north of the intersection of North 9th St and Carver Rd to the City of Modesto, Modesto Municipal Sewer District #1, and Modesto Fire District, and detach from the Woodland Fire Protection District. The annexation area is comprised of the 8.3-acre project site in addition to 23.9 acres necessary to facilitate the logical extension of City boudary lines by including the entire County island on the east side of North 9th St./SR99.

The development plans meet all City Standards in terms of parking requirements, building setbacks, building height, roadway dedication and improvements, utility design, etc.

I. Other Public Agencies Whose Approval is Required:

Local Agency Formation Commission (LAFCO)

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.

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.

Original Signed Copy on file at 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. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

		YES	NO
(1)	The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.	X	
(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 this document.	X	
(3)	Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).	X	
(4)	No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.	X	
(5)	The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.	X	
(6)	Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.	X	

Discussion:

(1) The City of Modesto is the Lead Agency for processing the requested land use entitlements (i.e.: prezoning and annexation).

(2) All City policies from the 2008 UAGP MEIR continue to remain in full effect and will be applied to this project where appropriate.

(3) The Master EIR was last updated in October 2008. Since that update, there have been no changes to Federal, State, Regional and County regulations that have not resulted in less restrictive regulations.

(4) The subject site, 32.2 acres designated in the Urban Area General Plan as RPD (Redevelopment Planning District), is proposed to be annexed to the City of Modesto. After the application proposals were referred to Trustee Agencies, no significant resources are identified in this proposal

(5) The subject area is located within the Modesto Urban Area General Plan in the Redevelopment Area, as shown on Figure II-1 on page II-8 in the General Plan. All

appropriate mitigation measures as listed in the Master EIR and attached to this document are incorporated into the project.

(6) A Global list of General Plan Policies and Mitigation Measures was reviewed and appropriate Mitigation Measures will be required as part of the project's approval.

IV. ENVIRONMENTAL ANALYSIS

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

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

All environmental effects cited reflect 2025 build out of the Urban Area General Plan as identified in the MEIR.

The Master EIR for the General Plan organizes its analysis of environmental impacts into eighteen subject areas. The following analysis is based on the impact analyses contained in Chapter V of the Master EIR. For ease of cross-reference, the sections are numbered in the same order as the analyses in Chapter V.

In addition to the 18 Master EIR subject areas, the Initial Study checklist addresses the issues of land use/planning and aesthetics. The reason for including these additional issues is to ensure that consideration is being given to the full range of subjects of importance contained in Appendix G of the CEQA Guidelines. The format for the land use/planning and aesthetics sections differs from that of the other 18 subject areas since these two subjects were not addressed as distinct subjects in the Master EIR.

1. TRAFFIC AND CIRCULATION

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable traffic and circulation impacts:

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-1-6 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

The Master EIR for the Urban Area General Plan included the subject site. The annexation of property designated for industrial uses is consistent with the Master EIR. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

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:

Where a project exceeds an additional 100 ADT contribution, as compared to the analysis in the Master EIR, a site access study will be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study will recommend new, project-specific mitigation measures. Where the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering and Transportation staff, a comprehensive traffic study will be required that will include off-site traffic impact analysis.

		YES	NO
(1)	The project would contribute more than 100 peak hour trips than was assumed under the General Plan land use category in the Master EIR. City Engineering & Transportation Staff will review the project to determine whether the project contributes more than 100 Peak Hour Trips beyond that which was identified in the GP MEIR.		X
(2)	Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).		X
(3)	Result in inadequate emergency access.		X
(4)	Result in inadequate parking capacity.		X

Discussion:

(1) The project was referred to the Engineering and Transportation Division of the Public Works Department. The City Transportation Engineer determined that the project would result in a generation of less than 100 peak hour trips beyond that which was assumed by the GP MEIR.

(2) The project was referred to the Engineering and Transportation Department and the Transportation Division requested dedication and improvements along the frontages of the 8.3 acre affordable housing site in accordance with City Standards, as well as some on-site modifications to accommodate safer ingress/egress and circulation. The applicant has modified the site plan as requested by City Transportation staff.

(3) The project was referred to the City of Modesto Police and Fire Departments. The City Fire Marshal and the Police Department indicated that they are able to provide adequate service to the site. When development is approved, specific conditions will be applied to that future development to ensure compliance with City development standards.

(4) The only portion of this application that has the potential to affect parking is the 8.3 acre area proposed to be developed with affordable housing. This area is designed in accordance with City Standards in terms of stall width and length, driveway/drive-aisle design and number of parking stalls.

2. AIR QUALITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to air quality:

Effect: Projected 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 NO_X 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 in 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 IV, Mitigation Measures Applied to Project.

Discussion:

Construction impacts would be less than significant with implementation of Mitigation Measure Air-1 (page V-2-24 in the MEIR). No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

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.		X
(2)	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.		X
(3)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.		X
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.		X
(5)	The project would create objectionable odors affecting a substantial number of people.		X

Discussion:

(1-3) The project will comply with all local and regional air quality standards and policies. It will not exceed emissions thresholds established for CO and NOx by the SJVAPCD, because the development associated with the project is relatively small (150-unit). The affordable housing development will be made to incorporate the best management practices for PM10 reduction and comply with City air quality policies, as the associated mitigation will be drawn down from the MIER and applied to the project, as appropriate.

(4) The project would not expose sensitive receptors to substantial pollution. While development of the 8.3 acre multi-family site may result in residential uses being located next to light industrial uses, an-eight foot high wall will be erected between the light industrial sites and the residential project, thereby reducing any ambient particular matter that might be generated on the industrial properties. In addition, the Redevelopment Master Plan anticipates the redevelopment of the industrial area with employment-intensive, mixed use. As a result, the light industrial operations are considered an interim use.

(5) The site is designated for Residential, Commercial and Light-Industrial uses. Although, the site is anticipated to be developed with predominantly residential and employment intensive, mixed-use development in the future. While some limited objectionable odors may be produced by some of the light-industrial operations, they wouldn't be expected to be beyond that which is anticipated by the MEIR. Furthermore, as these sites redevelop into the uses assumed by the Redevelopment Master Plan, the potential for objectionable odor will decrease.

3. NOISE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant and unavoidable environmental impacts relative to noise:

Effect: Traffic noise levels for future conditions in the plan area have the potential to result in exceedances of the City's Noise Significance Standards (see Table 3-3 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-3-9 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 IV, Mitigation Applied to Project.

Discussion:

The 150-unit affordable housing project is proposed along North 9th Street and SR99, within the 65 dBA noise contour, which is considered unacceptable noise exposure for common open-space areas at residential uses. However, the project has designed some noise attenuation elements into its layout, include orienting the units in clusters around the common open-space areas and shielding the community center from noise with the community building and a wall. A noise study that was commissioned for the project (attached) shows that the development is in compliance with City Standards for outdoor activity areas. The only significant noise that would occur as a result of the development on the site would be the temporary increase in noise levels as a result of construction activities. However, the MEIR provides mitigation measures N-4, N-5 and N-6 to address this impact. These will be carried down as conditions of approval on the affordable housing development and any subsequent application to develop the annexation area.

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.		X
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.		X

(3) The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? X

(4) The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. X

Discussion:

(1) As mentioned above, the proposed 150-unit affordable housing project is proposed along North 9th St and SR99, within the 65 dBA noise contour, which is considered unacceptable noise exposure for common open-space areas at residential uses. However, the project has designed some noise attenuation elements into its layout, include orienting the units in clusters around the common open-space areas and shielding the community center from noise with the community building and a wall. A noise study that was commissioned for the project (Exhibit "A") shows that the development is in compliance with City Standards for outdoor activity areas.

(2-3) The proposed 150-unit affordable housing project is proposed along North 9th St and SR99, within the 65 dBA noise contour, which is considered unacceptable noise exposure for common open-space areas at residential uses. However, the project has designed some noise attenuation elements into its layout, include orienting the units in clusters around the common open-space areas and shielding the community center from noise with the community building and a wall. A noise study that was commissioned for the project (Exhibit "A") shows that the development is in compliance with City Standards for outdoor activity areas. Residential developments are not generally considered producers of high noise levels.

(4) The only temporary increase associated with this project would be that which occurs during construction of the buildings. The project will be required to adhere to General Plan MEIR Policies during construction. There is no impact.

4. AGRICULTURAL LANDS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts related 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-4-4 through V-4-8 in the MEIR.

Discussion:

The subject property is designated for urban uses and is not in agricultural production. The project site is also shown as lying within the Redevelopment Area, as shown on page II-8 in the Urban Area General Plan. Policy AL-17 (MEIR, page V-4-7) states that if a subsequent project is within the Redevelopment Area, the project is considered to have a minimal effect on the conversion of agricultural land and no mitigation is required. Thus, no new or additional mitigation measures or alternatives are required for the project.

c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.		X
(2)	The project will directly result in the development of land outside the October 2008 planning area boundaries.		X
(3)	The project will conflict with existing zoning for agricultural use, or a Williamson Act contract.		X
(4)	The project will Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland to non-agricultural use.		X

Discussion:

(1) The General Plan designation for the site is Redevelopment Area. Of the 32.2-acre site, 23.9 are proposed to remain unchanged in terms of land-use or intensity from their status during production of the 2008 General Plan. The 8.3-acre property that is proposed to be prezoned is designated RPD (Redevelopment Planning District) in the General Plan. The Redevelopment Master Plan calls for the property to be developed with housing, among other things. The proposed prezoning to the property is P-D (Planned Development) for a 150-unit affordable housing development. This is consistent with the Redevelopment Master Plan, which is incorporated into the 2008 General Plan by reference. Therefore, the proposed prezoning of this site is consistent with the recently adopted General Plan.

(2) The subject site is within the October 2008, planning area boundary. It is an infill development

(3) The site is not zoned for agriculture, nor is there a Williamson Act contract on the property.

(4) The site is in the Redevelopment Area, and, thus, is considered to have a minimal effect on the conversion of agricultural land.

5. WATER SUPPLY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to water supply:

Effect: Urban Area General Plan policies are established to limit groundwater extractions to the safe yield of the aquifer and thereby avoid aquifer overdraft. 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 any 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 2020. Modesto will have 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 IV, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts on 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.		X
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.		X

Discussion:

(1) The General Plan designation for the site is Redevelopment Area. Of the 32.2-acre site, 23.9 are proposed to remain unchanged in terms of land-use or intensity from their status during production of the 2008 General Plan. The 8.3-acre property that is proposed to be prezoned is designated RPD (Redevelopment Planning District) in the General Plan. The Redevelopment Master Plan calls for the property to be developed with housing, among other things. The proposed prezoning to the property is P-D (Planned Development) for a 150-unit affordable housing development. This is consistent with the Redevelopment Master Plan, which is incorporated into the 2008 General Plan by reference. Therefore, the proposed prezoning of this site is consistent with the recently adopted General Plan.

(2) While the water system in the project area is currently burdened, there are CIP improvements anticipated for completion in fall of 2009. The improvements are part of the upgrades anticipated by the General Plan and City Standards and will be in the ground before the project is constructed and occupied. A water study and qualitative memos prepared for this project find that the City is capable of providing this project with an adequate water supply, based on these projects anticipated by the General Plan and City Standards (see Exhibit B).

6. SANITARY SEWER SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a) (MEIR mitigation SS-1, page V-6-2). Implementing the WMP, requiring the implementation of Best Management Practices for post-construction activities, and Urban Area General Plan policy V-D.2(a), 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 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 the Wastewater Master Plan MEIR 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-6-2 through V-6-7 of the MEIR. All feasible measures appropriate to the project are listed in Section IV, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

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.		X
(2)	The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.		X

Discussion:

(1) The General Plan designation for the site is Redevelopment Area. Of the 32.2-acre site, 23.9 are proposed to remain unchanged in terms of land-use or intensity from their status during production of the 2008 General Plan. The 8.3-acre property that is proposed to be prezoned is designated RPD (Redevelopment Planning District) in the General Plan. The Redevelopment Master Plan calls for the property to be developed with housing, among other things. The proposed prezoning to the property is P-D (Planned Development) for a 150-unit affordable housing development. This is consistent with the Redevelopment Master Plan, which is incorporated into the 2008 General Plan by reference. Therefore, the proposed prezoning of this site is consistent with the recently adopted General Plan.

(2) The City's sewer system in the area immediately adjacent to the project site is antiquated and in need of repair. Plans to repair the system are underway, but are not anticipated to be completed early enough to serve this project. However, Public Works staff have determined that the real impact to the system occurs during wet weather months, as rainfall infiltrates into the pipes. The system is capable of serving the project in addition to existing development during dry weather months. To resolve the wet-weather impact, the applicant has proposed to detain storm water for the 100-year, 6-day event on site with incremental infiltration into the ground. Public Works staff have determined that this is an acceptable solution (Exhibit "B"). The City has adequate capacity to provide sewer service to this development.

7. SENSITIVE WILDLIFE AND PLANT HABITAT

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less than significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to 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-7-15 through V-7-21 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 IV, Mitigation Measures Applied to Project.

Discussion:

The project site lies outside the Biological Resource Study Area, shown on Figure V-7-1a in the MEIR. Therefore, no mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project.

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.		X

(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	X
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	X

Discussion:

(1) The General Plan designation for the site is Redevelopment Area. Of the 32.2-acre site, 23.9 are proposed to remain unchanged in terms of land-use or intensity from their status during production of the 2008 General Plan. The 8.3-acre property that is proposed to be prezoned is designated RPD (Redevelopment Planning District) in the General Plan. The Redevelopment Master Plan calls for the property to be developed with housing, among other things. The proposed prezoning to the property is P-D (Planned Development) for a 150-unit affordable housing development. This is consistent with the Redevelopment Master Plan, which is incorporated into the 2008 General Plan by reference. Therefore, the proposed prezoning of this site is consistent with the recently adopted General Plan.

(2) The site lies outside the Biological Resource Study Area and there is no specific information known that would suggest the possible presence of significant plant or animal species on or near the project site.

(3) The City has no policies or ordinances to protect biological resources that would apply to the project site, which lies well within the Modesto urbanized area and outside the Biological Resource Study Area.

8. ARCHAEOLOGICAL OR HISTORICAL SITES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. No impact would be expected to occur,

since the buildings to be removed or demolished are not considered to have historical significance.

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 pages V-8-9 through V-8-14 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 IV, Mitigation Applied to Project.

Discussion:

The site proposed for annexation into the City of Modesto is currently occupied by modular units and some miscellaneous structures, but is otherwise vacant. It is not within any of the archeological resource areas identified by the MEIR. However, any new construction that may occur on the site, including the expansion or reconstruction of the existing structure or future application to subdivide the site for residential development, will be required to incorporate mitigation measure AH-8 from the General Plan. Compliance with this mitigation measure will ensure that the project is consistent with the analysis in the MEIR regarding archeological resources. This will be carried down as a condition of approval on this project.

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.		X
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.		X

Discussion:

(1) The General Plan designation for the site is Redevelopment Area. Of the 32.2-acre site, 23.9 are proposed to remain unchanged in terms of land-use or intensity from their status during production of the 2008 General Plan. The 8.3-acre property that is proposed to be prezoned is designated RPD (Redevelopment Planning District) in the General Plan. The Redevelopment Master Plan calls for the property to be developed with housing, among other things. The proposed prezoning to the property is P-D (Planned Development) for a 150-unit affordable housing development. This is consistent with the Redevelopment Master Plan, which is incorporated into the 2008 General Plan by reference. Therefore, the proposed prezoning of this site is consistent with the recently adopted General Plan.

(2) None of the buildings on the site are identified as a local landmark or other historic resource, thus no impacts are expected to occur.

9. STORM DRAINAGE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less than significant.

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

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

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-3 through V-9-8 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 IV, Mitigation Measures Applied to Project.

Discussion:

Development of the 8.3-acre Affordable Housing site and future development of the remaining portion of the annexation area will create additional storm drainage demands. The City's standards and existing drainage system are sufficient to accommodate any storm drainage that may occur. The 8.3-acre site is proposed to be served with a combination of turf, horizontal drains and dry wells. PW staff have determined that this design will appropriately accommodate City Standards. In order to ensure that all future development within the project site complies with the City's General Plan Storm Drainage Standards, Mitigation Measure SD-7, requiring the

prevention of water pollution from urban runoff as established by the Central Valley Regional Water Quality Control Board, shall be applied to all future projects.

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.		X
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on or off site.		X
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.		X

Discussion:

(1) The General Plan designation for the site is Redevelopment Area. Of the 32.2-acre site, 23.9 are proposed to remain unchanged in terms of land-use or intensity from their status during production of the 2008 General Plan. The 8.3-acre property that is proposed to be prezoned is designated RPD (Redevelopment Planning District) in the General Plan. The Redevelopment Master Plan calls for the property to be developed with housing, among other things. The proposed prezoning to the property is P-D (Planned Development) for a 150-unit affordable housing development. This is consistent with the Redevelopment Master Plan, which is incorporated into the 2008 General Plan by reference. Therefore, the proposed prezoning of this site is consistent with the recently adopted General Plan.

(2-3) While the site would increase the amount of impervious surface, it is proposed to be served with a combination of horizontal drains and rockwells, which Public Works staff have determined will meet the City's Standard of the 100-year, 6-day event (Exhibit "B"). Therefore, the project would not substantially increase the rate or amount of surface runoff in a manner that would result in flooding on of off-site. The project will be required to comply with mitigation measure SD-7 through a combination of turf and other natural and artificial pollution removal systems.

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-10-4 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 IV, Mitigation Applied to Project.

Discussion:

As shown on Figure V-10-1b in the MEIR, the project site does not lie in an area having a potential for flooding. However, it is subject to water quality problems if not properly designed. In order to ensure that all future development within the project site complies with the City's General Plan Storm Drainage Standards, Mitigation Measure SD-7, requiring the prevention of water pollution from urban runoff as established by the Central Valley Regional Water Quality Control Board, shall be applied to all future projects.

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.		X
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.		X
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm Water Quality Control Measures.		X
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.		X

Discussion:

(1) The General Plan designation for the site is Redevelopment Area. Of the 32.2-acre site, 23.9 are proposed to remain unchanged in terms of land-use or intensity from their status during production of the 2008 General Plan. The 8.3-acre property that is proposed to be prezoned is designated RPD (Redevelopment Planning District) in the General Plan. The Redevelopment Master Plan calls for the property to be developed with housing, among other things. The proposed prezoning to the property is P-D (Planned Development) for a 150-unit affordable housing development. This is consistent with the Redevelopment Master Plan, which is incorporated into the 2008 General Plan by reference. Therefore, the proposed prezoning of this site is consistent with the recently adopted General Plan.

(2) Development on the site will be required to comply with the Clean Water Act and the Porter-Cologne Act. The City will require adherence to any Clean Water Act requirements it deems appropriate.

(3) Future development on the site must comply with the City's Guidance Manual for New Development Storm Water Quality Control Measures. Compliance is ensured through review of building plans and building inspection. In addition, the project will be required to comply with mitigation measure SD-7 through a combination of turf and other natural and artificial pollution removal systems..

(4) The 8.3 acre affordable housing site will be developed to City standards with full street improvements along the project's North 9th Street and Carver Avenue frontages. While the site would increase the amount of impervious surface, it is proposed to be served with a combination of horizontal drains and rockwells, which Public Works staff have determined will meet the City's Standard of the 100-year, 6-day event (Exhibit "B"). Therefore, the project would not substantially increase the rate or amount of surface runoff in a manner that would result in flooding on of off-site. The project will be required to comply with mitigation measure SD-7 through a combination of turf and other natural and artificial pollution removal systems..

11. PARKS AND OPEN SPACE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to parks and open space:

Effect: Within the Baseline Developed and Redevelopment Areas, the Urban Area General Plan does not propose any elimination of existing park and/or open space land. Impacts on parks and open space will be less than significant.

Effect: The projected population of the Planned Urbanizing Area is 148,600, requiring 149 acres of neighborhood parks and 298 acres of community parks. The required minimum acreages can be met through the application of existing policies and regulations, including Government Code Section 66474, which require developers to pay Parks Capital Facilities Fees to fund the acquisition of appropriate parkland acreage. This impact is less than significant.

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

Parks and Open Space Mitigation Measure(s) pertinent to the proposed project are found on pages V-11-3 through V-11-9 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. All feasible measures appropriate to the project that will be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

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.		X

Discussion:

The General Plan designation for the site is Redevelopment Area. Of the 32.2-acre site, 23.9 are proposed to remain unchanged in terms of land-use or intensity from their status during production of the 2008 General Plan. The 8.3-acre property that is proposed to be prezoned is designated RPD (Redevelopment Planning District) in the General Plan. The Redevelopment Master Plan calls for the property to be developed with housing, among other things. The proposed prezoning to the property is P-D (Planned Development) for a 150-unit affordable housing development. This is consistent with the Redevelopment Master Plan, which is

incorporated into the 2008 General Plan by reference. Therefore, the proposed prezoning of this site is consistent with the recently adopted General Plan. The affordable housing development will include common open space areas with tot lots, in addition to a community center.

12. SCHOOLS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to schools:

Effect: The estimated increase in population over 1994/1995 would generate an additional 29,200 elementary school students, 7,330 middle school students, and 14,640 high school students above those enrollments. Assuming that existing facilities cannot sufficiently accommodate this increase and that all of the new students would require new school facilities, build out of the General Plan would result in the need for approximately 37 elementary schools, eight middle schools, and seven high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that increased enrollment 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-12-3 through V-12-7 in 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 IV, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

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.		X
(2)	The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.		X

Discussion:

(1) The General Plan designation for the site is Redevelopment Area. Of the 32.2-acre site, 23.9 are proposed to remain unchanged in terms of land-use or intensity from their status during production of the 2008 General Plan. The 8.3-acre property that is proposed to be prezoned is designated RPD (Redevelopment Planning District) in the General Plan. The Redevelopment Master Plan calls for the property to be developed with housing, among other things. The proposed prezoning to the property is P-D (Planned Development) for a 150-unit affordable housing development. This is consistent with the Redevelopment Master Plan, which is incorporated into the 2008 General Plan by reference. Therefore, the proposed prezoning of this site is consistent with the recently adopted General Plan.

(2) Future development on the site will be required to comply with the provisions of SB 50/Proposition 1A and must pay schools fees in effect at the time of issuance of a building permit or when a vesting tentative subdivision map is approved.

13. POLICE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. The impact is less than significant.

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. These policies reduce the impact to a less-than-significant level.

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

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-2 through V-13-4 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 IV, Mitigation Measures Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

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.		X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.		X

Discussion:

(1) The General Plan designation for the site is Redevelopment Area. Of the 32.2-acre site, 23.9 are proposed to remain unchanged in terms of land-use or intensity from their status during production of the 2008 General Plan. The 8.3-acre property that is proposed to be prezoned is designated RPD (Redevelopment Planning District) in the General Plan. The Redevelopment Master Plan calls for the property to be developed with housing, among other things. The proposed prezoning to the property is P-D (Planned Development) for a 150-unit affordable housing development. This is consistent with the Redevelopment Master Plan, which is incorporated into the 2008 General Plan by reference. Therefore, the proposed prezoning of this site is consistent with the recently adopted General Plan.

(2) The proposed prezoning and annexation was referred to the Police Department. The Police Department did not indicated that any new or altered facilities would be required to serve the project or possible subdivision that may occur as a result thereof.

14. FIRE SERVICES

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to fire services:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. Impacts on fire services of development in these areas will be less than significant.

Effect: In the Planned Urbanizing Area, the Urban Area General Plan would result in the need for additional fire protection services due to increases in the number of employees, permanent population, and associated improvements. City policy requires that fire protection be in place concurrent with construction in the Planned Urbanizing Area. This policy will be implemented with the adoption of future Comprehensive Plans in the Planned Urbanizing Area. This impact would be less than significant.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study.

Fire Services mitigation measure(s) pertinent to the proposed project are found on pages V-14-2 through V-14-5 of the MEIR. All feasible measures appropriate to the project that will 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 from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

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.		X
(2)	The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.		X

Discussion:

(1) The General Plan designation for the site is Redevelopment Area. Of the 32.2-acre site, 23.9 are proposed to remain unchanged in terms of land-use or intensity from their status during production of the 2008 General Plan. The 8.3-acre property that is proposed to be prezoned is designated RPD (Redevelopment Planning District) in the General Plan. The Redevelopment Master Plan calls for the property to be developed

with housing, among other things. The proposed prezoning to the property is P-D (Planned Development) for a 150-unit affordable housing development. This is consistent with the Redevelopment Master Plan, which is incorporated into the 2008 General Plan by reference. Therefore, the proposed prezoning of this site is consistent with the recently adopted General Plan..

(2) The Woodland Fire Protection District currently provides fire protection to the project site. The site must detach from the Woodland Fire Protection District and attach to the City of Modesto Fire Department service area as part of annexation, which will result in a reduction in revenue to the Woodland Fire Protection District (WFPD). The Local Agency Formation Commission has requested a financial analysis be included as part of the environmental review, however, the project site lies within the City of Modesto's Sphere of Influence and is anticipated in the City's General Plan and Master EIR to eventually annex to the City of Modesto and the City's service areas. Although the Woodland Fire Protection District would lose the revenue produced by these 32.2 acres, the WFPD can replace that revenue by increasing the assessment on the properties in its remaining service area. Additionally, the City of Modesto responds to emergency calls in this County island, providing redundancy and improving overall fire protection service to the island, therefore, no physical environmental impact on fire protection service would result from detachment from the WFPD and attachment to the Modesto Fire Department's service area. Further, reducing or eliminating the services provided by the WFPD to isolated pockets would be more cost-effective and efficient than providing services to disparate areas. The Modesto Fire Department has indicated that it can provide adequate service to the subject site. Future development on the site will be required to meet all City Fire safety requirements. Financial impacts on the Woodland Fire Protection District are not a CEQA concern.

15. SOLID WASTE

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to solid waste:

Effect: Since the project would exceed available landfill capacity, it is identified as a significant impact. The Fink Road Landfill may be closed by the time the City reaches build out, unless an expansion is approved by the County and the Integrated Waste Management Board. As the waste stream generated increases with population, additional landfills and methods for diversion would have to be utilized. The project will also generate the need for additional collection and transfer facilities. This impact is significant and unavoidable. The impact would be less than significant at such time as the Fink Road Landfill expansion is approved.

Effect: The project makes a considerable contribution to the cumulative impact on landfill capacity of development in Stanislaus County. This impact is significant and unavoidable.

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

Solid Waste Mitigation Measure(s) pertinent to the proposed project are found on pages V-15-3 through 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 IV, Mitigation Applied to Project.

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

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.		X
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.		X

Discussion:

(1) The General Plan designation for the site is Redevelopment Area. Of the 32.2-acre site, 23.9 are proposed to remain unchanged in terms of land-use or intensity from their status during production of the 2008 General Plan. The 8.3-acre property that is proposed to be prezoned is designated RPD (Redevelopment Planning District) in the General Plan. The Redevelopment Master Plan calls for the property to be developed with housing, among other things. The proposed prezoning to the property is P-D (Planned Development) for a 150-unit affordable housing development. This is consistent with the Redevelopment Master Plan, which is incorporated into the 2008 General Plan by reference. Therefore, the proposed prezoning of this site is consistent with the recently adopted General Plan.

(2) This project was referred to the Solid Waste Division of the City's Department of Public Works, which had no comment regarding this project's impact on solid waste disposal capacity.

16. HAZARDOUS MATERIALS

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to hazardous materials:

Effect: The impacts of the project relative to hazardous materials are less than significant, based on the existing regulatory framework. New development will be required to comply with regulations monitoring and controlling the handling and use of hazardous and toxic materials.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under Federal, State, and County policies and regulations and the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to this document.

Hazardous Materials Mitigation Measures pertinent to the project being analyzed in this Initial Study are found on pages V-16-5 through V-16-12 in the MEIR. Because the property is planned for industrial uses, it is possible that future property owners or building tenants may have hazardous materials on site. Mitigation measures from the MEIR will be applied to the Vesting Tentative Subdivision Map to ensure compliance will all appropriate regulations. 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:

The only development associated with this project is a 150-unit affordable housing development. Residential uses are not typically considered to be significant producers of hazardous materials. No mitigation is required.

c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts due to 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.		X
(2)	The project does not comply with all applicable Federal, State, and County standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.		X
(3)	The project contains a contaminated site not identified as of March 2003.		X
(4)	The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.		X
(5)	The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.		X

Discussion:

(1) The General Plan designation for the site is Redevelopment Area. Of the 32.2-acre site, 23.9 are proposed to remain unchanged in terms of land-use or intensity from their status during production of the 2008 General Plan. The 8.3-acre property that is proposed to be prezoned is designated RPD (Redevelopment Planning District) in the General Plan. The Redevelopment Master Plan calls for the property to be developed with housing, among other things. The proposed prezoning to the property is P-D (Planned Development) for a 150-unit affordable housing development. This is consistent with the Redevelopment Master Plan, which is incorporated into the 2008 General Plan by reference. Therefore, the proposed prezoning of this site is consistent with the recently adopted General Plan.

(2) Any future development on the site would be made to comply with all Federal, State, and County standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.

(3-5) The City's Final Master Environmental Impact Report lists hazardous materials sites and this project is not on or near any of those sites. Additionally, the property lies more than ¼ mile from the nearest school. Furthermore, the applicant conducted a phase I and phase II site assessments on the site, which revealed no hazardous materials.

17. LANDSLIDES AND SEISMIC ACTIVITY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to landslides and seismic activity:

Effect: There are areas of known sand and gravel resources within the Baseline Developed Area and Redevelopment Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

Effect: There are areas of known sand and gravel resources within the Planned Urbanizing Area. Future development will be subject to SMARA requirements, therefore, the project impact will be less than significant.

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

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. These are identified and described in the list of policies in place and MEIR mitigation measures attached to the Initial Study template.

Landslide and Seismic Activity Mitigation Measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-17-5 through V-17-7 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 IV, Mitigation Measures Applied to Project:

Discussion:

Mitigation measures pertinent to the project are found on pages V-17-5 through V-16-12 in the MEIR. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

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.		X
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.		X

Discussion:

(1) The General Plan designation for the site is Redevelopment Area. Of the 32.2-acre site, 23.9 are proposed to remain unchanged in terms of land-use or intensity from their status during production of the 2008 General Plan. The 8.3-acre property that is proposed to be prezoned is designated RPD (Redevelopment Planning District) in the General Plan. The Redevelopment Master Plan calls for the property to be developed with housing, among other things. The proposed prezoning to the property is P-D (Planned Development) for a 150-unit affordable housing development. This is consistent with the Redevelopment Master Plan, which is incorporated into the 2008 General Plan by reference. Therefore, the proposed prezoning of this site is consistent with the recently adopted General Plan.

(2) According to the MEIR's physical description of the General Plan study area, the site is not located in area subject to landslide, lateral spreading, subsidence, liquefaction or collapse.

18. ENERGY

a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less than significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kiloWatt hours (kWh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less than significant.

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

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards

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.		X

Discussion:

The General Plan designation for the site is Redevelopment Area. Of the 32.2-acre site, 23.9 are proposed to remain unchanged in terms of land-use or intensity from their status during production of the 2008 General Plan. The 8.3-acre property that is proposed to be prezoned is designated RPD (Redevelopment Planning District) in the General Plan. The Redevelopment Master Plan calls for the property to be developed with housing, among other things. The proposed prezoning to the property is P-D (Planned Development) for a 150-unit affordable housing development. This is consistent with the Redevelopment Master Plan, which is incorporated into the 2008 General Plan by reference. Therefore, the proposed prezoning of this site is consistent with the recently adopted General Plan.

19. EFFECTS ON VISUAL RESOURCES

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

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 project is inconsistent with the Modesto Urban Area General Plan.		X
(2)	The project would have a substantial adverse effect on a scenic vista.		X
(3)	The project would substantially degrade the existing visual character or quality of the project site and its surroundings.		X

(4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area. X

Discussion:

(1) The General Plan designation for the site is Redevelopment Area. Of the 32.2-acre site, 23.9 are proposed to remain unchanged in terms of land-use or intensity from their status during production of the 2008 General Plan. The 8.3-acre property that is proposed to be prezoned is designated RPD (Redevelopment Planning District) in the General Plan. The Redevelopment Master Plan calls for the property to be developed with housing, among other things. The proposed prezoning to the property is P-D (Planned Development) for a 150-unit affordable housing development. This is consistent with the Redevelopment Master Plan, which is incorporated into the 2008 General Plan by reference. Therefore, the proposed prezoning of this site is consistent with the recently adopted General Plan.

(2) The project is located within an urban area that does not provide for any scenic vistas.

(3) The project area does not have any coherent visual quality. It is surrounded by a variety of uses that would benefit from the project's architecture.

(4) The project will not create a new source of substantial light and glare. The buildings will be two-story, conventional residential construction. Any light and glare would not be beyond that which was already anticipated by the GP and MEIR.

20. LAND USE AND PLANNING

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

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 project is inconsistent with the Modesto Urban Area General Plan.		X
(2)	The project includes a substantive amendment to the Modesto Urban Area General Plan.		X
(3)	The project would physically divide an established community.		X

Discussion:

(1) The General Plan designation for the site is Redevelopment Area. Of the 32.2-acre site, 23.9 are proposed to remain unchanged in terms of land-use or intensity from their status during production of the 2008 General Plan. The 8.3-acre property that is proposed to be prezoned is designated RPD (Redevelopment Planning District) in the General Plan. The Redevelopment Master Plan calls for the property to be developed with housing, among other things. The proposed prezoning to the property is P-D (Planned Development) for a 150-unit affordable housing development. This is consistent with the Redevelopment Master Plan, which is incorporated into the 2008 General Plan by reference. Therefore, the proposed prezoning of this site is consistent with the recently adopted General Plan.

(2) The project involves prezoning and annexation to the City consistent with that which is anticipated in the General Plan. See discussion item no. 1. No amendment to the Modesto Urban Area General Plan is proposed.

(3) The project will not physically divide an established community. It abut single family residences on one side, but is otherwise surrounded by other uses.

21. CLIMATE CHANGE

a. Significant Effects Identified in the Master EIR

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

Direct Impacts

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

Cumulative Impacts

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

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

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

Discussion:

No mitigation measures from the MEIR are required to be applied to the project. No new or additional mitigation measures or alternatives are required for the project. The project will incorporate appropriate conditions of approval that satisfy City development standards.

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 General Plan designation for the site is Redevelopment Area. Of the 32.2-acre site, 23.9 are proposed to remain unchanged in terms of land-use or intensity from their status during production of the 2008 General Plan. The 8.3-acre property that is proposed to be prezoned is designated RPD (Redevelopment Planning District) in the General Plan. The Redevelopment Master Plan calls for the property to be developed with housing, among other things. The proposed prezoning to the property is P-D (Planned Development) for a 150-unit affordable housing development. This is

consistent with the Redevelopment Master Plan, which is incorporated into the 2008 General Plan by reference. Therefore, the proposed prezoning of this site is consistent with the recently adopted General Plan.

(2) The primary source of CO_2 emissions generated from the project would be related to automobile trips. Since, as identified under the traffic and circulation discussion, traffic engineering staff have determined that the project will be in substantial conformance with the GP MEIR assumptions for traffic generation, the CO_2 emissions generated from the project would also be in substantial conformance with that which was assumed under the GP MEIR analysis.

(3) A Sustainable Communities Strategy has not yet been implemented by the ARB. Future development will be required to comply with the provisions of the Sustainable Communities Strategy once it is established.

V. MITIGATION MEASURES APPLIED TO THE PROJECT

A. Master EIR Mitigation Measures Applied to the Project

Pursuant to CEQA Section 21157.1 (c), in order for a Finding of Conformance to be made, all feasible measures from the Master EIR appropriate to the project shall be incorporated into the project. The following adopted General Plan Policies and Master EIR Mitigation Measures shall be made part of the project prior to approval by means of conditions of project approval or incorporation into the appropriate document or plan:

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

Traffic and Circulation Measures:

None.

Air Quality Measures:

Mitigation Measure Air-1: PM10 Control Measures (page V-2-24 of the MEIR)

1. SJVUAPCD Regulation VIII Control Measures for Construction Emissions of PM-10. The following controls are required to be implemented at all construction sites:

    a. 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

    b. All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

    c. 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.

d. With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

e. 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.

f. 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.)

g. 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.

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

i. Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.

Noise Measures:

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

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

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

B. An impact wrench, or other tool or equipment powered by compressed air.

C. A hand-powered saw.

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

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

F. Any of the following: heavy equipment (such as but not limited to bulldozer, steam shovel, road grader, back hoe), ground drilling and boring equipment (such as but not limited to derrick or dredge), hydraulic crane and boom equipment, portable power generator or pump, pavement equipment (such as but not limited to pneumatic hammer, pavement breaker, tamper, compacting

equipment), pile-driving equipment, vibrating roller, sand blaster, gunite machine, trencher, concrete truck, and hot kettle pump.

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

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

Agricultural Land Measures:

None

Water Supply Measures:

None

Sanitary Sewer Service Measures:

None

Sensitive Wildlife and Plant Habitat Measures:

None

Archaeological or Historic Sites Measures:

Mitigation Measure AH-8 (page V-8-13 of the MEIR)

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

Storm Drainage Measures:

Mitigation Measure SD-7 (page V-9-4 of the MEIR)

The City of Modesto shall prevent water pollution from urban storm runoff as established by the Central Valley Regional Water Quality Control Board for surface discharges and Environmental Protection Agency for underground injection. (General Plan Policy V-E.2[c])

Flooding and Water Quality Measures:

None

Parks and Open Space Measures:

None

Schools Measures:

None

Police Services:

None

Fire Services:

None

Generation of Solid Waste

None

Generation of Hazardous Materials

None

Potential for Landslides and Seismic Activity

None

Energy

None

Visual Resources

None

Land Use and Planning

None

Climate Change

None

Exhibit "A"

EDWARD L. PACK ASSOCIATES, INC.

1975 HAMILTON AVENUE
SUITE 26
SAN JOSE, CA 95125

Acoustical Consultants

TEL 408-371-1195
FAX 408-371-1196
www packassociates com

November 10, 2008
Project No. 40-024-2

Mr. Felix AuYeung
EAH, Inc.
2169 Francisco Boulevard
Suite B
San Rafael, CA 94901

Subject: Common Area Noise Control Barrier Approval, Archway Commons, Modesto

Dear Felix:

The recent partial site plan forwarded to me via email from Chris Lamen reveals that the noise control barrier at the common area/swimming pool is acceptable and will result in noise exposures in the common area that will comply with the City of Modesto Noise Element standards. A copy of the partial site plan is attached for reference.

As per the recommendation section of the *Noise Assessment Study*, clear materials may be incorporated into the noise control barrier to provide for light and views. These materials shall be a minimum of 3/16" thick to meet the minimum surface weight requirement. Glass is preferable over plastic materials, such as Lexan, as glass has a greater longevity, is easier to clean and is not susceptible to yellowing or cracking with temperature changes, provided that it is installed correctly.

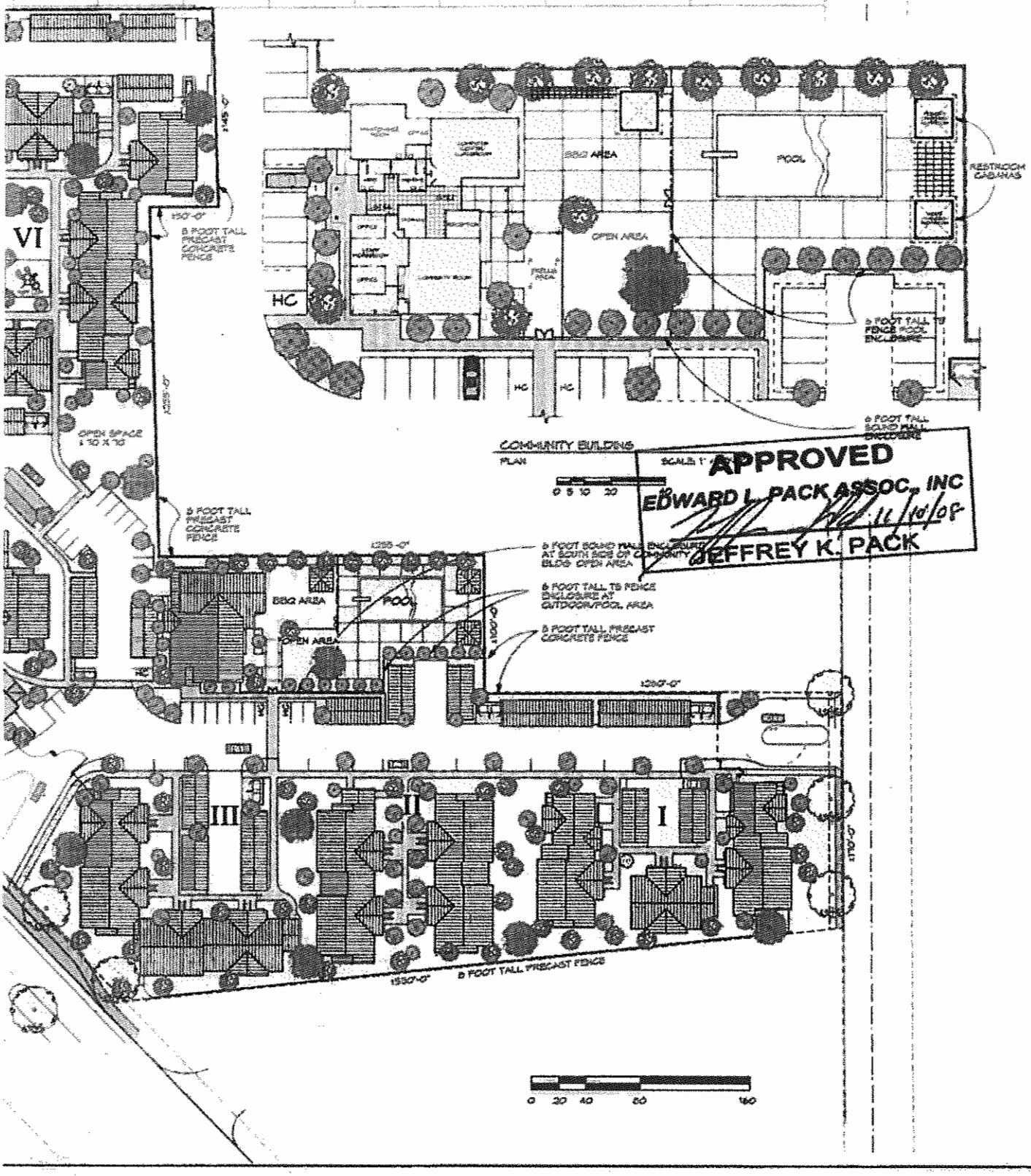
If you have any questions, please call me.

Sincerely,

EDWARD L. PACK ASSOC., INC.

Jeffrey K. Pack
President

Attachment: Site Plan



APPROVED
EDWARD L. PACK ASSOC., INC
11/10/08
JEFFREY K. PACK

EDWARD L. PACK ASSOCIATES, INC.

1975 HAMILTON AVENUE
SUITE 26
SAN JOSE, CA 95125

Acoustical Consultants

TEL: 408-371-1195
FAX: 408-371-1196
www.packassociates.com

August 19, 2008
Project No. 40-024-1

RECEIVED
AUG 21 2008
C & ED PLANNING

Mr. Felix AuYeung
EAH, Inc.
2169 Francisco Boulevard
Suite B
San Rafael, CA 94901

Subject: Revised Noise Assessment Study for the Planned "Archway Commons" Apartments, North 9th Street, Modesto

Dear Mr. AuYeung:

This report presents the results of a revised noise assessment study for the planned "Archway Commons" apartments along North 9th Street in Modesto, as shown on the Site Plan, Ref. (a), which also includes noise mitigation measures recommended in the original noise study, Ref. (b). The noise exposures at the site were evaluated against the standards of the City of Modesto Noise Element, Ref. (c), and the State of California Code of Regulations, Title 24, Ref. (d), which is applicable to all new multi-family development. The analysis of the on-site sound level measurements indicates the existing noise environment is due primarily to traffic sources on Highway 99 and North 9th Street and operations on the nearby Union Pacific Railroad line. The results of the study indicate that noise exposure excesses will occur at interior living spaces and mitigation measures will be required. The noise exposures at the exterior living areas will be in compliance with the standards.

Sections I and II of this report contain a summary of our findings and recommendations, respectively. Subsequent sections contain the site, traffic, railroad and project descriptions, analyses and evaluations. Attached hereto are Appendices A, B, and C, which include the list of references, descriptions of the applicable standards, definitions of the terminology, descriptions of the acoustical instrumentation used for the field survey, ventilation requirements, general building shell controls, and the on-site measurement data and calculation tables.

I. Summary of Findings

The noise assessment results presented in the findings were evaluated against the standards of the City of Modesto Noise Element, which utilizes the Day-Night Level (DNL) descriptor. The DNL is a 24-hour time weighted average noise exposure that penalizes noise created during the nighttime period, and is commonly used to describe community noise environments. The Noise Element standards specify an exterior limit of 65 dB DNL for multi-family residential exterior areas such as balconies, patios and common recreation areas.

The Noise Element specifies a limit of 45 dB DNL is specified for interior living spaces.

The Title 24 standards also use the DNL descriptor and specify that when the exterior noise exposures exceed 60 dB DNL at planned multi-family dwelling units an acoustical analysis must be performed to limit interior noise exposures to 45 dB DNL or less. The Title 24 standards also specify minimum sound insulation ratings for common partitions separating different dwelling units and dwelling units from interior common spaces. The standards specify that common walls and floor/ceiling assemblies must have a design Sound Transmission Class (STC) rating of 50 or higher. In addition, common floor/ceiling assemblies must have a minimum STC rating 50 and a minimum design Impact Insulation Class (IIC) rating of 50. As design details for the interior partitions of the project were not available at the time of this study, an evaluation of the interior partitions has not been made.

The noise exposures shown below include noise control measures identified in the original noise study. The exterior noise exposures at the building setbacks and facades are provided to evaluations against the criteria of Title 24 and for the purpose of calculating the interior noise exposures.

A. Exterior Noise Exposures

Table I, below, provides the existing and future noise exposures at the most impacted planned building setbacks, in the building common areas, at the most impacted patios, balconies and in the swimming pool/common area.

TABLE I

Exterior Noise Exposures, dB DNL

Location	Source	Distance, ft. from centerline	Existing	Future
Southwest Corner Building V	Highway 99	230	74	77
	UPRR	198	68	68
	N. 9th St.	94	62	64
	TOTAL		**75**	**78**
Northwest Corner Building V	Highway 99	225	74	77
	UPRR	280	65	65
	N. 9th St.	175	58	60
	TOTAL		**75**	**78**
Southwest Corner Building III	Highway 99	640	68	71
	UPRR	75	63	65
	N. 9th St.	170	69	69
	TOTAL		**72**	**74**
East Façade, Building I	**Carver Rd.**	**60**	**62**	**64**
Swimming Pool/ Common Area	Highway 99	835	61	64
	UPRR	460	54	54
	N. 9th St.	350	46	48
	TOTAL		**62**	**65**
Building I				
Common Area	**All**	**Varies**	**48-54**	**48-54**
Patios	**All**	**Varies**	**48-54**	**48-54**
Balconies	**All**	**Varies**	**55-56**	**57-58**

TABLE I (cont'd)				
Location	Source	Dist., ft. from Centerline	Existing	Future
Building II				
Common Area	All	Varies	61	63
Patios	All	Varies	61	63
Balconies	All	Varies	63	65
Building III				
Common Area	All	Varies	59-61	61-63
Patios	All	Varies	59-61	61-63
Balconies	All	Varies	61-63	63-65
Building IV				
Common Area	All	Varies	58-61	60-63
Patios	All	Varies	58-62	60-64
Balconies	All	Varies	60-63	62-65
Building V				
Common Area	All	Varies	59-61	63-64
Patios	All	Varies	59-61	63-64
Balconies	All	Varies	60-62	64-65
Building VI				
Common Area	All	Varies	60-62	63-65
Patios	All	Varies	59-62	62-65
Balconies	All	Varies	61-62	64-65

Additional findings revealed that the Wood Colony company to the west of the UPRR tracks has a baghouse (sawdust collector) fan that generates a constant sound level of 58 dBA at the site. Although this source of noise is not readily audible during traffic passbys on North 9th Street, it is slightly noticeable during lulls in Highway 99 traffic. It is unknown if the baghouse operates at night.

There are no railroad crossings in the immediate area, therefore, noise from horn blasts or crossing bells are not distinct at the project site.

There are dips and unevenness in the surface of North 9th Street along the project site frontage that produce loud "bangs" and noticeable vibration when large trucks drive by. Although these sources of noise do not significantly affect the overall Day-Night Level, they could be a source of annoyance, particularly at night, due to their startling effect.

As shown above, the noise exposures at the most impacted planned building setbacks will be up to 75 and 78 dB DNL under existing and future traffic conditions, respectively. Thus, the noise exposures will be up to 18 dB in excess of the Title 24 criterion.

The noise exposures in the most impacted building common areas, patios and balconies will be up to 63 and 65 dB DNL under existing and future traffic conditions, respectively. Thus, the noise exposures in the building common areas, patios and balconies will be within the limits of the City of Modesto Noise Element standards. Mitigation measures will not be required.

The noise exposures in the swimming pool/common open space will be up to 62 and 65 dB DNL under existing and future traffic conditions, respectively. Thus, the noise exposures will be within the limits of the City of Modesto Noise Element standards. Mitigation measures will not be required.

B. Interior Noise Exposure

Table II, below, provides the noise exposures in the most impacted planned living spaces.

TABLE II

Interior Noise Exposures, dB DNL

Location	Source	Existing	Future
Southwest Corner Building V	Highway 99	59	62
	UPRR	53	53
	N. 9th St.	47	49
	TOTAL	**60**	**63**
Northwest Corner Building V	Highway 99	59	62
	UPRR	50	50
	N. 9th St.	43	45
	TOTAL	**60**	**63**
Southwest Corner Building III	Highway 99	53	56
	N. 9th St.	54	54
	UPRR	48	50
	TOTAL	**57**	**59**
East Façade Build. I	**Carver Rd.**	**47**	**49**

As shown above, the noise exposures in the most impacted planned living spaces will be up to 60 and 63 dB DNL under existing and future traffic conditions, respectively. Thus, the noise exposures will be up to 18 dB in excess of the City of Modesto Noise Element and Title 24 standards.

Interior noise exposure excesses will occur at the project and mitigation measures will be required to comply with the standards of the City of Modesto Noise Element and Title 24. The recommended measures are described in Section II, below.

II. Recommendations

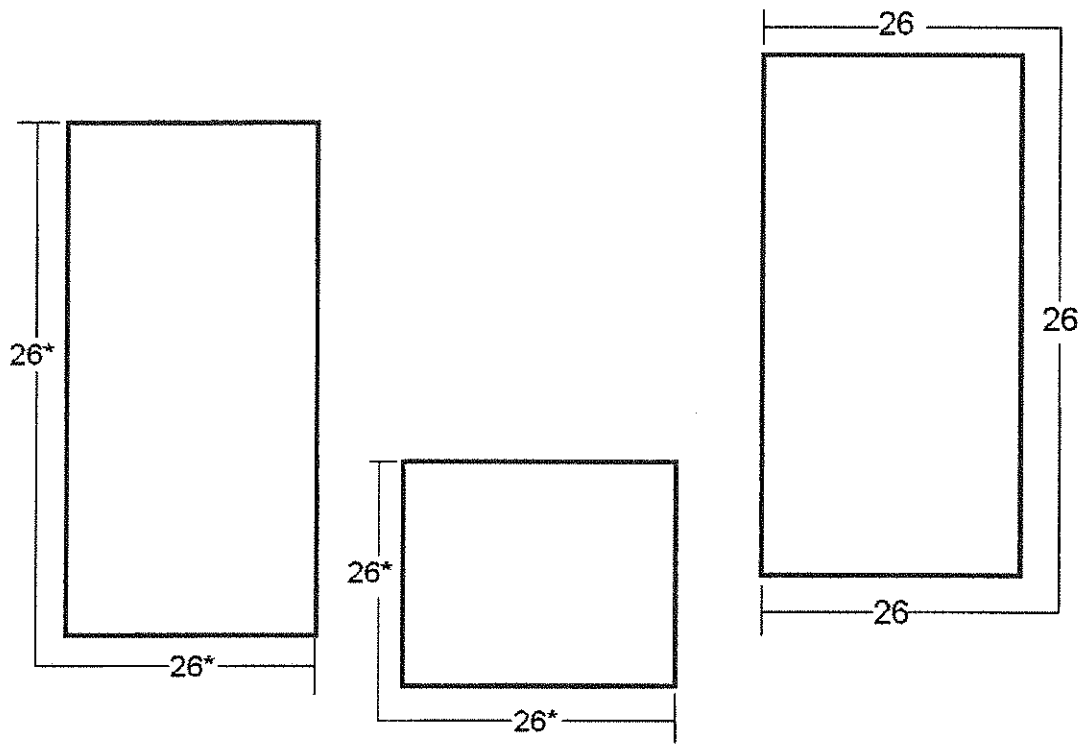
A. Interior Noise Controls

In order to achieve acceptable interior noise exposures in project living spaces, windows in the designated facades shall be maintained closed and shall be fitted with windows with the minimum Sound Transmission Class (STC) ratings shown on the following diagrams. Windows in the facades shown without an STC designation are not noise impacted and do no require controls.

When windows are maintained closed for noise control, some form of mechanical ventilation which brings in fresh air from the outside of the unit must be provided. The ventilation requirements of the UBC are provided in Appendix B. The windows specified above to be maintained closed are to be operable as the requirement does not imply a "fixed" condition.

To insure that the sound insulation features of project windows will be maintained, the window frames at impacted living spaces must be caulked to the wall opening around their entire perimeter with an acoustical sealant. The sliding window panels must form an air-tight seal with the frame when in the closed position. All other windows of the development and all bathroom windows may use any type of glazing and may be kept open as desired with the exception of bathroom windows that are an integral part of a living space and not separated by a closeable door.

Please be aware that many dual-pane window assemblies have inherent noise reduction problems in the traffic and railroad noise frequency spectra due to resonance that occurs within the air space between the window lites, and the noise reduction capabilities vary from manufacturer to manufacturer. Therefore, the acoustical test report of all sound rated windows should be reviewed by a qualified acoustician to ensure that the chosen windows will adequately reduce traffic and railroad noise to acceptable levels.

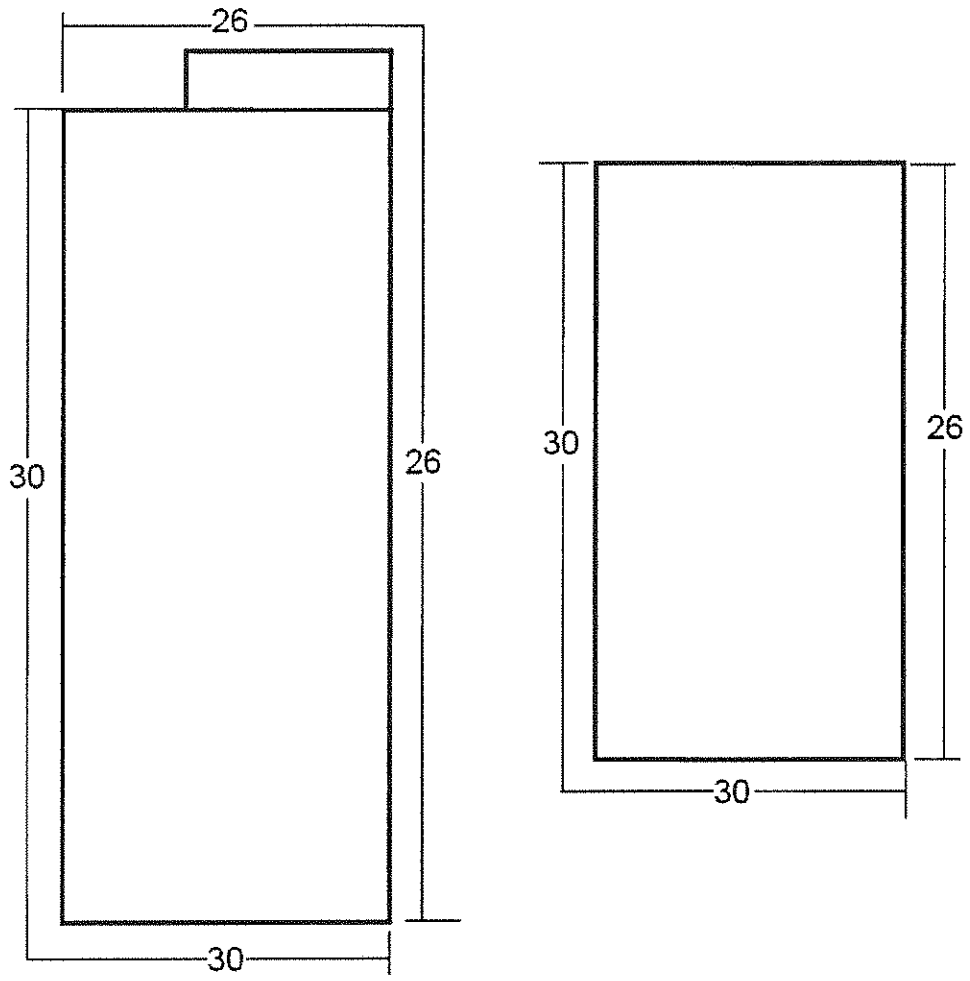


NTS

N

* SECOND FLOOR ONLY

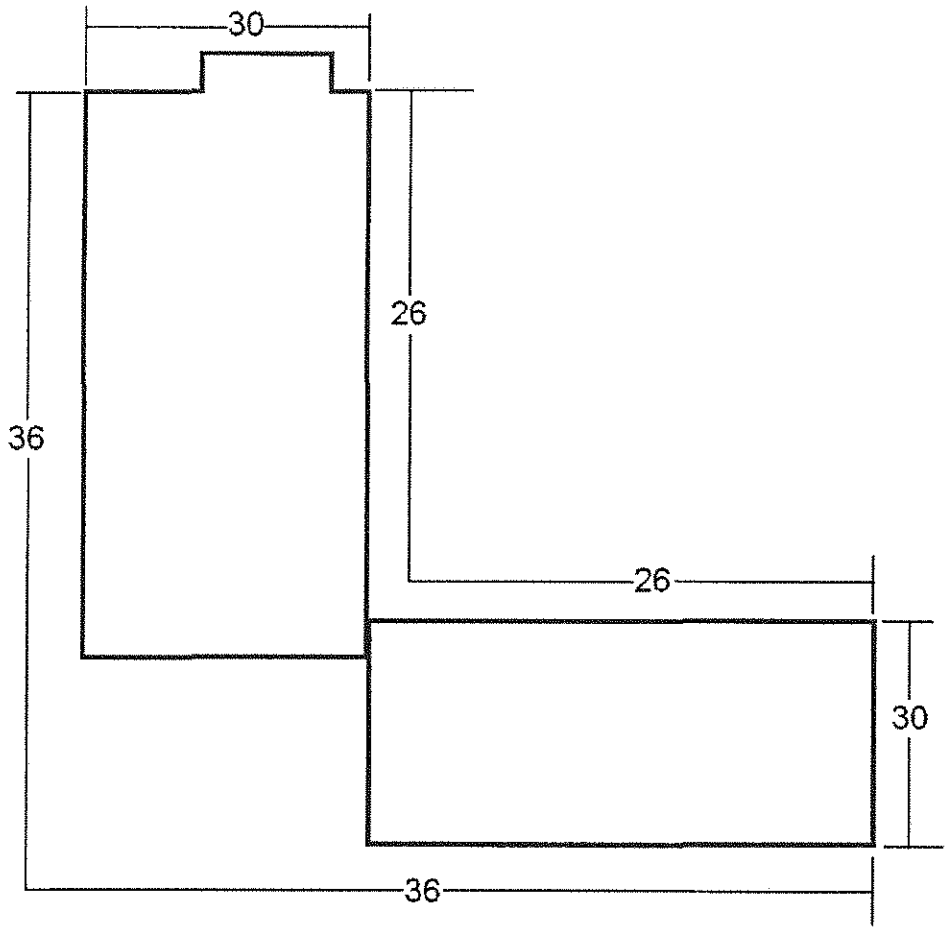
STC I	MODESTO ARCHWAY BUILDING I STC RATINGS	EDWARD L. PACK ASSOCIATES, INC. *Acoustical Consultants* 1975 Hamilton Ave. Suite 26 San Jose, CA 95125 T. 408-371-1195 F. 408 371-1196 Drawn by: JKP Date: 8/13/08



NTS

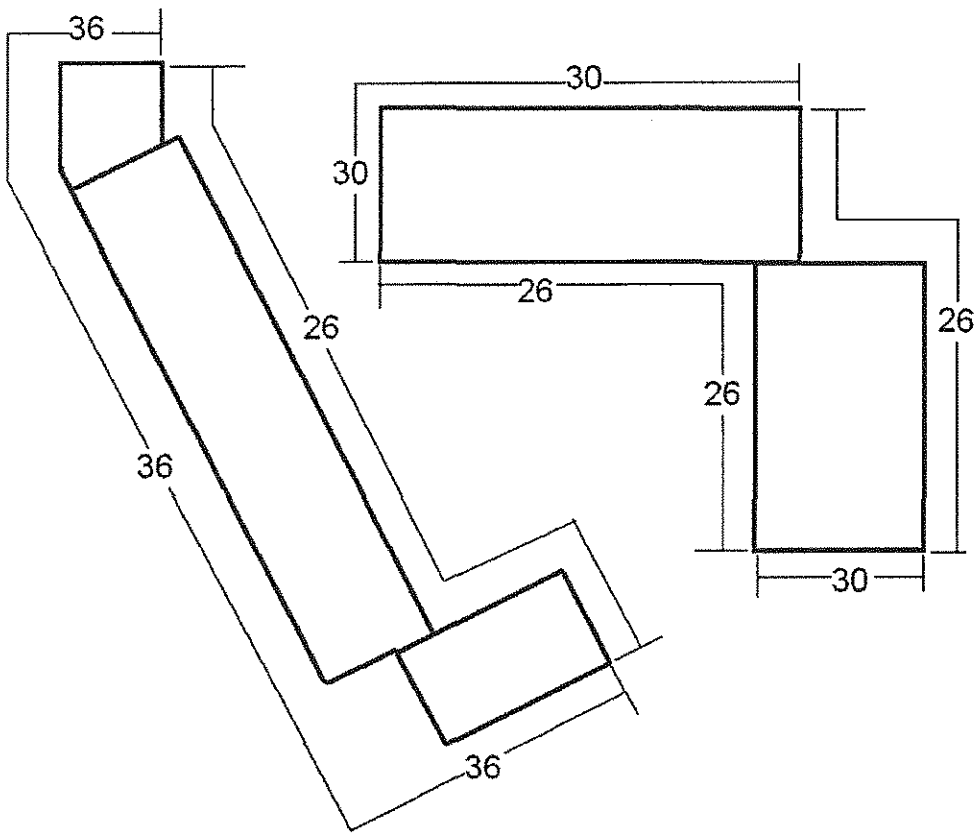
N

STC II	MODESTO ARCHWAY BUILDING II STC RATINGS	*EDWARD L. PACK ASSOCIATES, INC.* *Acoustical Consultants* 1975 Hamilton Ave. Suite 26 San Jose, CA 95125 T. 408-371-1195 F. 408 371-1196 Drawn by: JKP Date: 6/23/2008



NTS

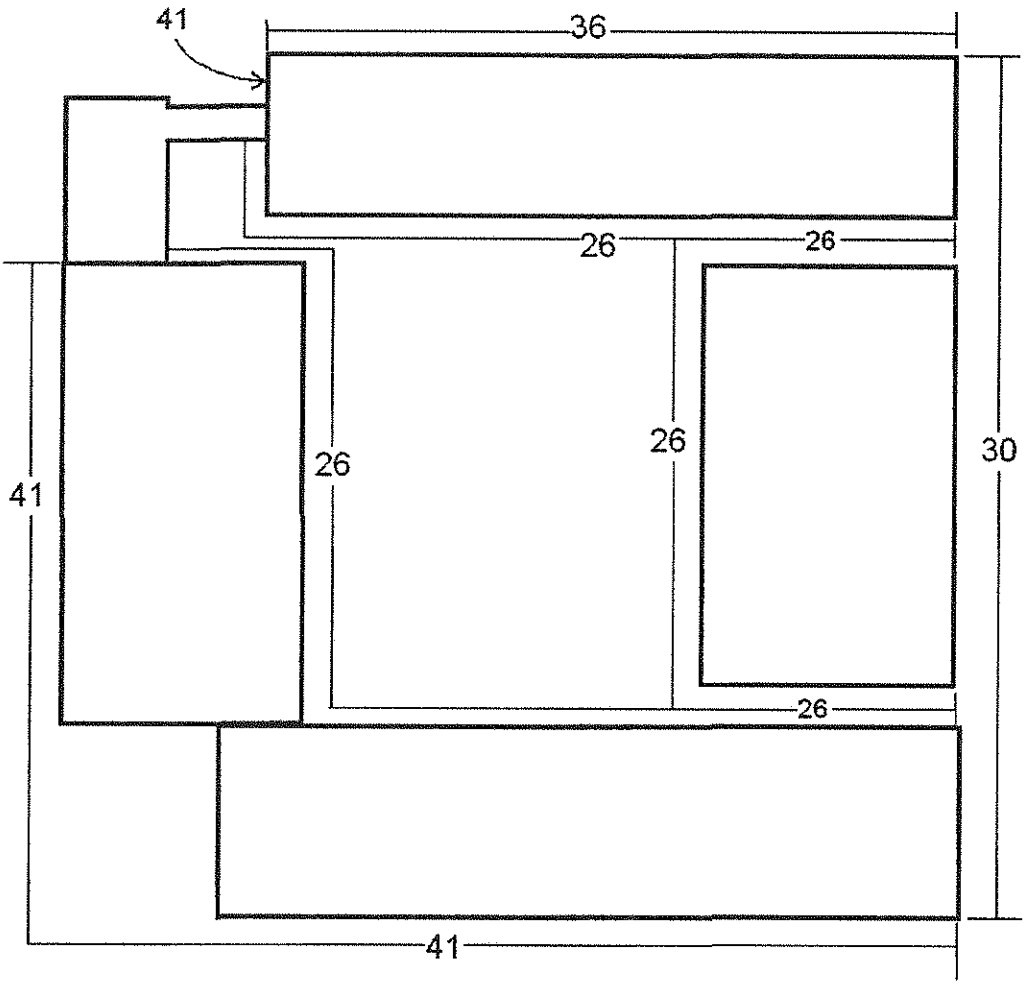
STC III	MODESTO ARCHWAY BUILDING III STC RATINGS	EDWARD L. PACK ASSOCIATES, INC. Acoustical Consultants 1975 Hamilton Ave. Suite 26 San Jose, CA 95125 T. 408-371-1195 F. 408 371-1196 Drawn by: JKP Date: 6/23/2008



NTS

N

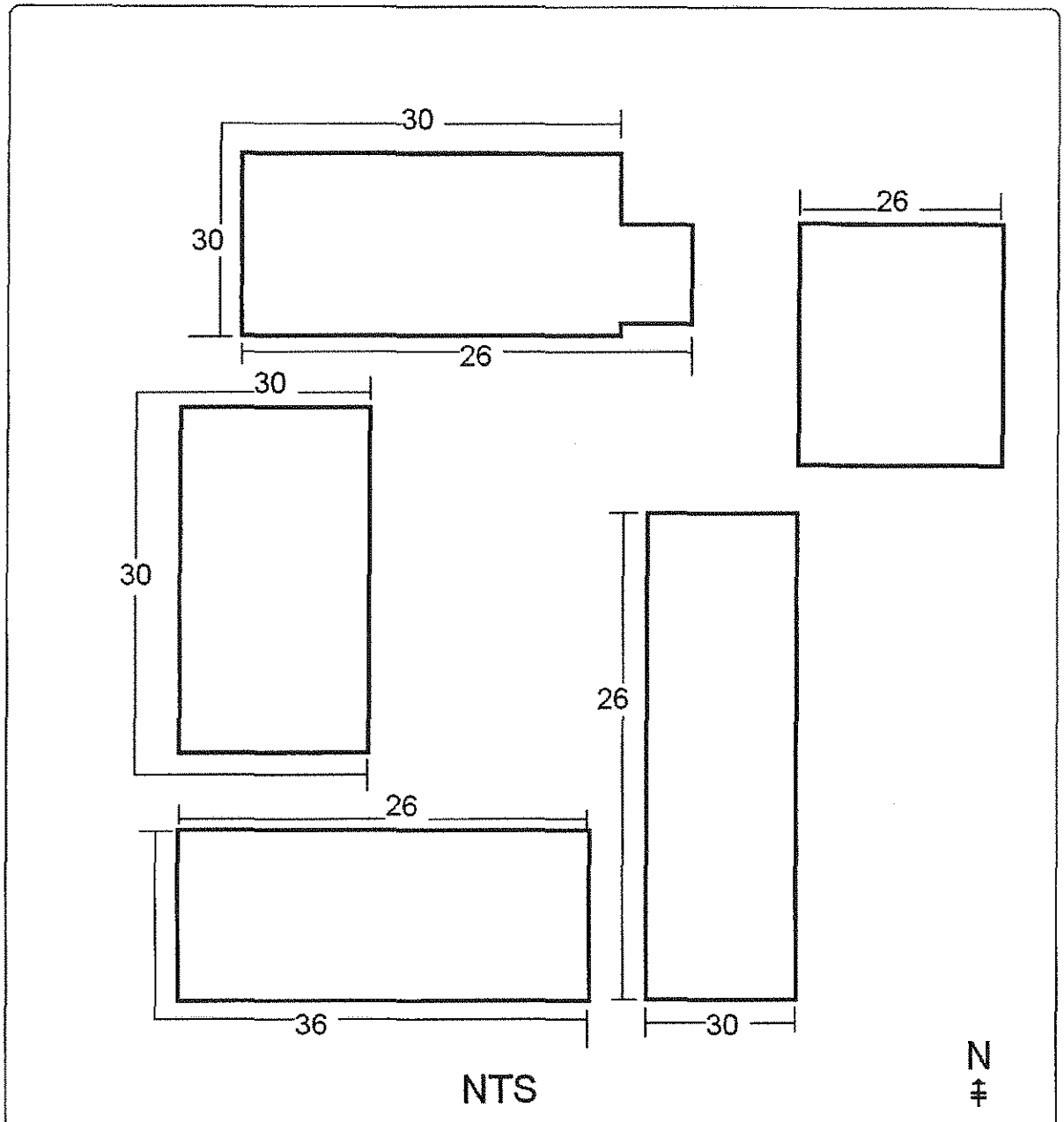
STC IV	MODESTO ARCHWAY BUILDING IV STC RATINGS	*EDWARD L. PACK ASSOCIATES, INC.* *Acoustical Consultants* 1975 Hamilton Ave. Suite 26 San Jose, CA 95125 T. 408-371-1195 F. 408 371-1196 Drawn by: JKP Date: 6/23/2008



NTS

N

STC V	MODESTO ARCHWAY BUILDING V STC RATINGS	EDWARD L. PACK ASSOCIATES, INC. *Acoustical Consultants* 1975 Hamilton Ave. Suite 26 San Jose, CA 95125 T. 408-371-1195 F. 408 371-1196 Drawn by: JKP Date: 8/20/2008



STC VI	MODESTO ARCHWAY BUILDING VI STC RATINGS	*EDWARD L. PACK ASSOCIATES, INC.* *Acoustical Consultants* 1975 Hamilton Ave. Suite 26 San Jose, CA 95125 T. 408-371-1195 F. 408 371-1196 Drawn by: JKP Date: 6/23/2008

III. Site, Traffic, Railroad and Project Descriptions

The planned development site is located in an area of mixed commercial/industrial and residential uses in Modesto between North 9th Street and Carver Road, east of the Union Pacific Railroad line and Highway 99. The site is presently occupied by Pacific Mobile portable building company and also contains a vacant parcel along Carver Road. The site is relatively flat and approximately at-grade with North 9th Street and Carver Road. The UPRR tracks are on a gravel berm approximately 3 ft. above the site elevation. Highway 99 is elevated over the railroad tracks and North 9th Street and is approximately 28 ft. above the site as is crosses over the railroad tracks and North 9th Street. Surrounding land uses include single-family residential adjacent to the north, the Normac company adjacent to the east and Miracle Auto Painting adjacent to the south. Highway 99, the UPRR and North 9th Street are to the southwest and west.

The on-site noise environment is controlled primarily by traffic sources on Highway 99, North 9th Street and Carver Road and operations on the UPRR line. Highway 99 carries an existing Average Daily Traffic (ADT) volume of 132,000 vehicles with a 19% truck mix, as reported by CalTrans, Ref. (e). North 9th Street carries an ADT of 10,400 vehicles and Carver Road carries an ADT of 7,100, as reported by the City of Modesto, Ref. (f). The Union Pacific Railroad operated 9 trains on the first day of measurements and 12 trains on the second day, as determined from the on-site noise measurement data.

The planned project includes the construction of 150 apartments units in seven 2-story building clusters. A swimming pool, basketball court and community building will be located near the center of the site with a 6 ft. high acoustically-effective barrier around the noise impacted portion of the common area. In addition, a utility/maintenance building with an 18 ft. high roof peak will be located at Building V to seal the opening between housing clusters to shield the common area, patios and balconies. Eight foot high barriers will be situated on the north, south and east property boundaries. Ingress and egress to the development will be by way of driveways off of North 9th Street and Carver Road.

IV. Analysis of the Noise Levels

A. Existing Noise Levels

To determine the existing noise environment at the site, continuous recordings of the sound levels were made at three locations. Location 1 was along the southwesterly property line at the westerly corner, 260 ft. from the centerline of Highway 99, 65 ft. from the centerline of North 9th Street and 170 ft. from the UPRR tracks. The sound meter placed on top of a portable building to replicate the planned second floor elevation of the proposed buildings. This location was near the southwesterly corner of Building V. Location 2 was near the southwesterly corner of the site, 675 ft. from the centerline of Highway 99, 95 ft. from the centerline of North 9th Street and 200 ft. from the UPRR tracks. This location was near the planned driveway approximately mid-way between Buildings III and IV. Location 3 was 30 ft. from the centerline of Carver Road.

The sound level measurements were made on May 28-30, 2008 and were recorded and processed for continuous 48 hour periods using Larson-Davis Model 812 Precision Integrating Sound Level Meters. The meters yield, by direct read-out, a series of descriptors of the sound levels versus time, as described in Appendix B. The measured descriptors include the L_1, L_{10}, L_{50}, and L_{90}, i.e., those levels exceeded for 1%, 10%, 50%, and 90% of the time. Also measured were the maximum and minimum levels and the continuous equivalent-energy levels (L_{eq}), which are used to calculate the DNL. The results of the sound measurements are shown in Appendix C.

The results of the measurements reveal that the L_{eq}'s at measurement Location 1 on the first day ranged from 68.6 to 73.1 dBA during the daytime and from 64.0 to 71.4 dBA at night. On the second measurement day, the L_{eq}'s ranged from 69.5 to 73.3 dBA during the daytime and from 65.1 to 70.2 dBA at night.

The L_{eq}'s on the first day at measurement Location 2, ranged from 60.5 to 70.2 dBA during the daytime and from 54.9 to 63.4 dBA at night. On the second measurement day, the L_{eq}'s ranged from 60.6 to 69.9 dBA during the daytime and from 55.8 to 60.6 dBA at night.

The L_{eq}'s on the first day at measurement Location 3, ranged from 57.9 to 66.7 dBA during the daytime and from 51.8 to 62.1 dBA at night. On the second measurement day, the L_{eq}'s ranged from 61.2 to 69.5 dBA during the daytime and from 53.8 to 61.9 dBA at night. Table III, below, provides the railroad sound levels at Location 1, the train passby times, average sound level (L_{eq}) and the maximum (L_{max}) sound level.

TABLE III

Railroad Passby Times and Sound Levels, dBA, 170 ft. from UPRR Tracks

	Time	Passby Leq	Passby Lmax
Day 1	2:27 p.m.	83.9	86.3
	3:56 p.m.	81.9	90.2
	4:19 p.m.	84.4	88.4
	4:53 p.m.	82.2	87.0
	10:45 p.m.	84.5	86.1
	11:48 p.m.	84.5	86.0
	12:20 a.m.	76.0	81.3
	5:40 a.m.	85.7	88.8
	12:30 p.m.	83.4	87.5
Day 2			
	3:47 p.m.	82.0	85.3
	4:25 p.m.	84.0	84.6
	4:56 p.m.	84.5	87.9
	6:16 p.m.	85.2	86.8
	8:52 p.m.	85.9	86.6
	12:28 a.m.	81.4	86.1
	1:26 a.m.	77.3	82.8
	2:23 a.m.	82.1	87.4
	3:20 a.m.	83.1	84.9
	3:54 a.m.	78.0	81.8
	12:10 p.m.	84.2	85.4
	12:42 p.m.	85.7	86.4

The railroad noise levels at measurement Location 1, 170 ft. from the railroad tracks ranged from 76.0 to 85.9 dBA L_{eq} and from 81.3 to 90.2 dBA L_{max}. The passby L_{eq} for each train was also averaged for 1-hour periods for the calculation of the DNL, as shown in Appendix C.

Traffic and railroad noise dissipates at the rate of 3-9 dB for each doubling of distance from the source to the receiver. Other locations on the site at greater distances from the roadways or railroad tracks will have lower noise levels. Additional noise reduction will be provided by interposed buildings of the project. The elevation of Highway 99 also provides partial shielding as the elevated shoulder and the barrier along the edge of the roadway interrupt the line-of-sight to the roadway, particularly the southbound lanes.

Vehicular traffic and railroad noise contain wide spectra of frequency components (from 100 to 10,000 Hz), which is associated with engine, tire, wheel-rail interaction, exhaust, horns, bells and other sources. These frequency components are centered primarily in the 125, 250 and 500 octave bands, and were used in determining the noise control measures recommended for this project.

B. Future Noise Levels

The future traffic volume data for Highway 99 were not available from CalTrans. Thus, reference was made to the 1987 traffic volume, Ref. (g), which was 59,000 ADT. The reported 2007 traffic volume was 132,000 ADT. Over that 20 year span, the annual average growth rate was calculated to be 4.1% per year. Applying that growth rate to the future 20 years yields a 2027 traffic volume of 294,841 ADT. This increase in traffic volume corresponds to a 3 dB increase in the traffic noise levels.

Future traffic volume information was not available from the City of Modesto. Therefore, for the purposes of this study, we are estimating an annual average growth rate of 2% per year for North 9th Street and Carver Road. The future traffic volume for North 9th Street is estimated to increase from the existing 10,400 ADT to 15,454 ADT for year 2027. The future traffic volume for Carver Road is estimated to increase from the existing 7,100 ADT to 10,550 ADT. These increases in traffic volume yield 2 dB increases in the traffic noise levels.

There is no information available regarding future rail operations. Therefore, we estimate that future rail operations will be similar to present levels.

V. Evaluation of the Noise Exposures

A. Exterior Noise Exposures

To evaluate the on-site noise exposures against the City of Modesto standards and the Title 24 criterion, the DNL's for the survey locations were calculated by decibel averaging of the L_{eq}'s as they apply to the daily time periods of the DNL index. A 10 dB penalty was added to noise created at night to account for the increased human sensitivity to noise during nighttime hours. The DNL is a 24-hour noise descriptor that uses the measured L_{eq} values to calculate a 24-hour time-weighted average noise exposure. Adjustments were made to the measured traffic and railroad noise levels to account for the various setback distances from the measurement locations to the receptor locations using methods established by the Highway Research Board, Ref. (h), and Wyle Laboratories, Ref. (i). The formula used to calculate the DNL is described in Appendix B.

The results of the calculations indicate that the exterior noise exposures at measurement Location 1, 260 ft. from the centerline of Highway 99, 65 ft. from the centerline of North 9th Street and 170 ft. from the centerline of the UPRR tracks were measured to be 75 dB DNL on each of the two days. The 1-minute time history data revealed the noise levels of each train passby, which allowed segregation of rail noise from the overall measured sound levels. The train passby L_{eq}'s were averaged over 1-hour period to obtain hourly L_{eq}'s. The railroad L_{eq}'s were used to calculate the railroad DNL's, as shown in the data tables in Appendix C. The railroad DNL on the first day of measurements was 69 dB and the DNL on the second day of measurements was 68 dB. Traffic noise computer modeling was then used to segregate North 9th Street noise from Highway 99 noise. The computer model revealed that Highway 99 generates a DNL of 74 dB and North 9th Street generates a DNL of 64 dB.

At the most impacted (Building V) planned minimum building setback of 230 ft. from Highway 99, 94 ft. from North 9th Street and 198 ft. from the UPRR tracks, the noise exposures were calculated to be 74, 62 and 68 dB DNL, respectively, with a total of 75 dB DNL. Under future conditions, the noise exposures were calculated to be 77, 64 and 68 dB DNL from Highway 99, North 9th Street traffic and UPRR operations, respectively. The total future noise exposure was calculated to be 78 dB DNL. Thus, the noise exposures will be up to 18 dB in excess of the Title 24 criterion.

At measurement Location 2 (between Buildings III and IV), 675 ft. from centerline of Highway 99, 95 ft. from the centerline of North 9th Street and 200 ft. from the centerline of the UPRR tracks, the noise exposures were measured to be 69 and 67 dB DNL on the first and second days of measurements, respectively. Of this 67-69 dB DNL, 62 dB is due to North 9th Street traffic, 66 dB is due to Highway 99 traffic and 62-63 dB is due to the railroad. Under future traffic conditions, the noise exposures are estimated to increase to 64 dB DNL from North 9th Street traffic, 69 dB DNL from Highway 99 traffic and 62-63 dB DNL from UPRR operations.

At measurement Location 3, 30 ft. from centerline of Carver Road, the noise exposures were measured to be 65 and 67 dB DNL on the first and second days of measurements, respectively. At the planned minimum setback of 60 ft. from the centerline of the road, the noise exposures reduce to 60-62 dB DNL. Under future traffic conditions, the noise exposures are expected to increase to 62-64 dB DNL. Thus, the noise exposures will be up to 4 dB in excess of the Title 24 criterion.

In the common area and patios of **Building I**, the noise exposures were calculated to be 48-54 dB DNL under existing traffic conditions. Under future traffic conditions, the noise exposures were calculated to be 50-56 dB DNL. In the balconies of the units, the noise exposures were calculated to be 55-56 dB DNL under existing traffic conditions and 57-58 dB DNL under future traffic conditions. Thus, the noise exposures in the exterior living areas of Building I will be within the limits of the standards of the City of Modesto Noise Element.

In the common area and patios of **Building II**, the noise exposures were calculated to be 61 dB DNL under existing traffic conditions. Under future traffic conditions, the noise exposures were calculated to be 63 dB DNL. In the balconies of the units, the noise exposures were calculated to be 63 dB DNL under existing traffic conditions and up to 65 dB DNL under future traffic conditions. Thus, the noise exposures in the exterior living areas of Building II will be within the limits of the standards of the City of Modesto Noise Element.

In the common area and patios of **Building III**, the noise exposures were calculated to be 59-61 dB DNL under existing traffic conditions. Under future traffic conditions, the noise exposures were calculated to be 61-63 dB DNL. In the balconies of the units, the noise exposures were calculated to be 61-63 dB DNL under existing traffic conditions and 63-65 dB DNL under future traffic conditions. Thus, the noise exposures in the exterior living areas of Building III will be within the limits of the standards of the City of Modesto Noise Element.

In the common area of **Building IV**, the noise exposures were calculated to be 58-61 dB DNL under existing traffic conditions. Under future traffic conditions, the noise exposures were calculated to be 60-63 dB DNL. In the first floor patios of the units, the noise exposures were calculated to be 58-62 dB DNL under existing conditions and 60-64 dB DNL under future traffic conditions. In the balconies of the units, the noise exposures were calculated to be 60-63 dB DNL under existing traffic conditions and 62-65 dB DNL under future traffic conditions. Thus, the noise exposures in the exterior living areas of Building IV will be within the limits of the standards of the City of Modesto Noise Element.

In the common area and patios of **Building V**, the noise exposures were calculated to be 59-61 dB DNL under existing traffic conditions. Under future traffic conditions, the noise exposures were calculated to be 63-64 dB DNL. In the balconies of the units, the noise exposures were calculated to be 60-62 dB DNL under existing traffic conditions and 64-65 dB DNL under future traffic conditions. Thus, the noise exposures in the exterior living areas of Building V will be within the limits of the standards of the City of Modesto Noise Element.

In the common area of **Building VI**, the noise exposures were calculated to be 60-62 dB DNL under existing traffic conditions. Under future traffic conditions, the noise exposures were calculated to be 63-65 dB DNL. In the first floor patios of the units, the noise exposures were calculated to be 59-62 dB DNL under existing conditions and 62-65 dB DNL under future traffic conditions. In the balconies of the units, the noise exposures were calculated to be 61-62 dB DNL under existing traffic conditions and 64-65 dB DNL under future traffic conditions. Thus, the noise exposures in the exterior living areas of Building VI will be within the limits of the standards of the City of Modesto Noise Element.

The noise exposures in the swimming pool and barbeque area were calculated to be 59-62 dB DNL under existing traffic conditions. Under future traffic conditions, the noise exposures were calculated to be 62-65 dB DNL. These noise exposures include the noise reduction provided by the property line barriers and the 6 ft. high noise barrier along the project driveway shown on the plans. Thus, the noise exposures will be within the limits of the standards of the City of Modesto Noise Element.

B. Interior Noise Exposures

To evaluate the interior noise exposures in project living spaces, a 15 dB reduction was applied to the exterior noise exposures at the building setbacks to represents the attenuation provided by the building shell under *annual-average* conditions. The *annual-average* condition assumes that windows have single-strength (3/32") glass and are kept open up to 50 % of the time for ventilation.

The interior noise exposures in the most impacted living spaces closest to Highway 99, North 9th Street and the UPRR (southwest corner of Building V) will be 60 and 63 dB DNL under existing and future traffic conditions, respectively. Thus, the noise exposures will be up to 18 dB in excess of the City of Modesto Noise Element and Title 24 standards.

The interior noise exposures in the most impacted living spaces closest to Carver Road will be up to 47 and 49 dB DNL under existing and future traffic conditions, respectively. Thus, the noise exposures will be up to 4 dB in excess of the City of Modesto Noise Element and Title 24 standards.

As shown by the above evaluations, exterior and interior noise exposure excesses will occur and mitigation measures will be required. The recommended mitigation measures are described in Section II.

This report presents the results of a revised noise assessment study for the planned "Archway Commons" apartments along North 9th Street, Highway 99, Carver Road and the Union Pacific Railroad in Modesto. The study findings and recommendations for present conditions are based on field measurements and other data and are correct to the best of our knowledge. Future noise exposures were estimated from information provided by CalTrans and estimates made by Edward L. Pack Associates, Inc. Significant changes in future traffic or rail volumes, or changes motor vehicle or railroad technology, speed limits, noise regulations, or other future changes beyond our control may produce long-range noise results different from our estimates.

If you have any questions or would like an elaboration on this report, please call me.

Sincerely,

EDWARD L. PACK ASSOC., INC.

Jeffrey K. Pack
President

Attachments: Appendices A, B, and C

APPENDIX A

References:

(a) "Noise Assessment Study for the Planned 'Archway Commons' Apartments, North 9th Street, Modesto", by Edward L. Pack Associates, Inc., Project No. 40-024, June 25, 2008

(b) Site Plan, "Archway Commons", by Chris Lamen & Associates, July 24, 2008

(c) Urban Area General Plan, Chapter G. "Noise", as Amended by Resolution 2003-122, March 4, 2003

(d) California Code of Regulations, Title 24, Part II, "Sound Transmission Control", Revised 1989

(e) http://www.dot.ca.gov/hq/traffops/saferesr/trafdata/2007all/r099i.htm, State of California Department of Transportation, Division of Traffic Operations

(f) Modesto Traffic Flow Map 2007 Counts, City of Modesto Public Works Department, January 2007

(g) 1987 Traffic Volumes on the California State Highway System, State of California Department of Transportation, Division of Traffic Operations, Sacramento, California, 1988

(h) Highway Research Board, "Highway Noise - A Design Guide for Highway Engineers", Report 117, 1971

(i) Wyle Laboratories Report WCR 73-5, "Assessment of Noise Environments Around Railroad Operations", July, 1973

APPENDIX B

Noise Standards, Terminology, Instrumentation
Ventilation Requirements and Building Shell Controls

1. Noise Standards

A. City of Modesto Element Standards

The City of Modesto General Plan, adopted August 15, 1995 and Amended March 4, 2003, specifies the following "Normally Acceptable" noise exposure limits for various land uses. The noise exposures are in terms of dB Day-Night Level (DNL).

Land Use	Exterior DNL	Interior DNL
Residential – Single-Family		
Duplex, Mobile Home	60	45
Multi-Family	65	45
Transient Lodging	60	45
Hospitals, Nursing Homes	70	45
Theaters, Auditoriums	70	
Office Buildings	70	
Schools, Libraries, Churches	60	
Playgrounds, Parks	70	

B. Title 24 Noise Standards

The California Code of Regulations, "Sound Transmission Control", Title 24, Part II, applies to all new multi-family dwellings including condominiums, townhouses, apartments, hotels and motels. The standards, which utilize the Day-Night Level (DNL) descriptor, establish an exterior reference or criterion level of 60 dB DNL, and specify that multi-family buildings to be located within an annual DNL zone of 60 dB or greater require an acoustical analysis. The analysis report must show that the planned buildings provide adequate attenuation to limit intruding noise from exterior sources to an annual DNL of 45 dB or less in any habitable space. The Community Noise Equivalent Level (CNEL) descriptor, which is similar to the DNL, may also be used, as the DNL and CNEL are considered to be equivalent.

The Title 24 standards also establish minimum sound insulation requirements for interior partitions separating different dwelling units from each other and dwelling units from common spaces such as garages, corridors, equipment rooms, etc. The common interior walls and floor/ceiling assemblies must achieve a minimum Sound Transmission Class (STC) rating of 50 for airborne noise. Common floor/ceiling assemblies must achieve an Impact Insulation Class (IIC) rating of 50 for impact noise. These ratings are based on laboratory tested partitions. Field tested partitions must achieve ratings of NIC and FIIC 45.

2. Terminology

A. Statistical Noise Levels

Due to the fluctuating character of urban traffic noise, statistical procedures are needed to provide an adequate description of the environment. A series of statistical descriptors have been developed which represent the noise levels exceeded a given percentage of the time. These descriptors are obtained by direct readout of the Community Noise Analyzer. Some of the statistical levels used to describe community noise are defined as follows:

L_1 - A noise level exceeded for 1% of the time.

L_{10} - A noise level exceeded for 10% of the time, considered to be an "intrusive" level.

L_{50} - The noise level exceeded 50% of the time representing an "average" sound level.

L_{90} - The noise level exceeded 90 % of the time, designated as a "background" noise level.

L_{eq} - The continuous equivalent-energy level is that level of a steady noise having the same sound energy as a given time-varying noise. The L_{eq} represents the decibel level of the time-averaged value of sound energy or sound pressure squared and is the descriptor used to calculate the DNL and CNEL.

B. Day-Night Level (DNL)

Noise levels utilized in the standards are described in terms of the Day-Night Level (DNL). The DNL rating is determined by the cumulative noise exposures occurring over a 24-hour day in terms of A-Weighted sound energy. The 24-hour day is divided into two subperiods for the DNL index, i.e., the daytime period from 7:00 a.m. to 10:00 p.m., and the nighttime period from 10:00 p.m. to 7:00 a.m. A 10 dB weighting factor is applied (added) to the noise levels occurring during the nighttime period to account for the greater sensitivity of people to noise during these hours. The DNL is calculated from the measured L_{eq} in accordance with the following mathematical formula:

$$DNL = [(L_d+10\log_{10}15) \,\&\, (L_n+10+10\log_{10}9)] - 10\log_{10}24$$

Where:

L_d = L_{eq} for the daytime (7:00 a.m. to 10:00 p.m.)

L_n = L_{eq} for the nighttime (10:00 p.m. to 7:00 a.m.)

24 - indicates the 24-hour period

& - denotes decibel addition.

C. A-Weighted Sound Level

The decibel measure of the sound level utilizing the "A" weighted network of a sound level meter is referred to as "dBA". The "A" weighting is the accepted standard weighting system used when noise is measured and recorded for the purpose of determining total noise levels and conducting statistical analyses of the environment so that the output correlates well with the response of the human ear.

3. Instrumentation

The on-site field measurement data were acquired by the use of one of the instruments specified below, which provides a direct readout of the L exceedance statistical levels including the equivalent-energy level (L_{eq}). Input to the instrument was provided by a microphone extended to a height of 5 ft. above the ground on using a tripod or mast. The "A" weighting network and the "Fast" response setting of the instruments were used in conformance with the applicable standards. The instruments conform to American National Standards Institute (ANSI) standard S1.4 for Type I instruments, and all instrumentation was acoustically calibrated before and after field tests to assure accuracy.

Instruments used for field surveys:
Larson-Davis Model 812 Integrating Sound Level Meter
Bruel & Kjaer Model 2231 Precision Sound Level Meter
Larson-Davis Model 9900 Real Time Analyzer

4. Ventilation Requirements

Ventilation requirements to be applied when windows are maintained closed for noise control are specified in the Uniform Building Code (UBC), 2007 edition, Section 12.03.3 as follows:

- "In lieu of required exterior openings for natural ventilation, a mechanical ventilating system may be provided. Such system shall be capable of providing two air changes per hour in guest rooms, dormitories, habitable rooms, and in public corridors with a minimum of 15 cubic feet per minute (7L/s) of outside air per occupant during such time as the building is occupied."

Based on our previous experience, a "summer switch" on the furnace fan is normally considered acceptable as a ventilation system by FHA and other agencies. Air-conditioning is also an acceptable system.

5. Building Shell Controls

The following additional precautionary measures are required to assure the greatest potential for exterior-to-interior noise attenuation by the recommended mitigation measures. These measures apply at those units where closed windows are required:

- Unshielded entry doors having a direct or side orientation toward the primary noise source must be 1-5/8" or 1-3/4" thick, insulated metal or solid-core wood construction with effective weather seals around the full perimeter. Mail slots should not be used in these doors or in the wall of a living space, as a significant noise leakage can occur through them.

- If any penetrations in the building shell are required for vents, piping, conduit, etc., sound leakage around these penetrations can be controlled by sealing all cracks and clearance spaces with a non-hardening caulking compound.

- Fireplaces should be provided with tight-fitting dampers.

APPENDIX C

On-Site Measurement Data and Calculation Tables

DNL CALCULATIONS

CLIENT: EAH, INC.
FILE: 40-024
PROJECT: MODESTO ARCHWAY
DATE: 5/28-30/2008
SOURCE: UPRR, HWY 99, 9th ST., CARVER RD.

LOCATION 1	UPRR, Hwy 99, 9th St.			
Dist. To Source	170 ft., 260 ft., 65 ft.			
	Wed - Thurs			
TIME	Leq	10^Leq/10		
7:00 AM	71.4	13803842.6		
8:00 AM	71.4	13803842.6		
9:00 AM	70.9	12302687.7		
10:00 AM	72.2	16595869.1		
11:00 AM	71.6	14454397.7		
12:00 PM	71.7	14791083.9		
1:00 PM	70.5	11220184.5		
2:00 PM	73.1	20417379.4		
3:00 PM	72.1	16218101.0		
4:00 PM	73.2	20892961.3		
5:00 PM	71.1	12882495.5		
6:00 PM	70.9	12302687.7		
7:00 PM	69.6	9120108.4		
8:00 PM	69.2	8317637.7		
9:00 PM	68.6	7244359.6	SUM=	204367639
10:00 PM	70.6	11481536.2	Ld=	71.3
11:00 PM	69.2	8317637.7		
12:00 AM	65.0	3162277.7		
1:00 AM	64.0	2511886.4		
2:00 AM	64.5	2818382.9		
3:00 AM	64.7	2951209.2		
4:00 AM	67.5	5623413.3		
5:00 AM	71.4	13803842.6		
6:00 AM	70.4	10964782.0	SUM=	61634968
		1.0	Ld=	68.4
		1.0		
	Daytime Level=	83.1		
	Nighttime Level=	87.9		
	DNL=	**75**		
	24-Hour Leq=	70.4		

LOCATION 1	UPRR, Hwy 99, 9th St.			
Dist. To Source	170 ft., 260 ft., 65 ft.			
	Thurs - Fri			
TIME	Leq	10^Leq/10		
7:00 AM	71.1	12882495.5		
8:00 AM	72.1	16218101.0		
9:00 AM	71.3	13489628.8		
10:00 AM	71.6	14454397.7		
11:00 AM	71.2	13182567.4		
12:00 PM	73.3	21379620.9		
1:00 PM	70.7	11748975.5		
2:00 PM	71.2	13182567.4		
3:00 PM	71.5	14125375.4		
4:00 PM	73.1	20417379.4		
5:00 PM	71.3	13489628.8		
6:00 PM	72.0	15848931.9		
7:00 PM	69.9	9772372.2		
8:00 PM	72.1	16218101.0		
9:00 PM	69.5	8912509.4	SUM=	215322652
10:00 PM	68.5	7079457.8	Ld=	71.6
11:00 PM	65.8	3801894.0		
12:00 AM	66.9	4897788.2		
1:00 AM	65.1	3235936.6		
2:00 AM	67.6	5794287.0		
3:00 AM	69.1	8128305.2		
4:00 AM	68.8	7585775.8		
5:00 AM	69.1	8128305.2		
6:00 AM	70.2	10471285.5	SUM=	59123035
		1.0	Ld=	68.2
	Daytime Level=	83.4		
	Nighttime Level=	87.7		
	DNL=	**75**		
	24-Hour Leq=	70.6		

LOCATION 1	UPRR	Railroad Only		
Dist. To Source	170 ft.			
	Wed - Thurs			
TIME	Leq	10^Leq/10		
7:00 AM		1.0		
8:00 AM		1.0		
9:00 AM		1.0		
10:00 AM		1.0		
11:00 AM		1.0		
12:00 PM	65.6	3630780.5		
1:00 PM		1.0		
2:00 PM	66.1	4073802.8		
3:00 PM	64.1	2570395.8		
4:00 PM	68.7	7413102.4		
5:00 PM		1.0		
6:00 PM		1.0		
7:00 PM		1.0		
8:00 PM		1.0		
9:00 PM		1.0	SUM=	17688093
10:00 PM	66.7	4677351.4	Ld=	60.7
11:00 PM	66.2	4168693.8		
12:00 AM	58.2	660693.4		
1:00 AM		1.0		
2:00 AM		1.0		
3:00 AM		1.0		
4:00 AM		1.0		
5:00 AM	67.9	6165950.0		
6:00 AM		1.0	SUM=	15672694
			Ld=	62.4
	Daytime Level=	72.5		
	Nighttime Level=	81.9		
	DNL=	**69**		
	24-Hour Leq=	61.4		

LOCATION 1	UPPR	Railroad Only		
Dist. To Source	170 ft			
	Thurs - Fri			
TIME	Leq	10^Leq/10		
7:00 AM		1.0		
8:00 AM		1.0		
9:00 AM		1.0		
10:00 AM		1.0		
11:00 AM		1.0		
12:00 PM	70.3	10715193.1		
1:00 PM		1.0		
2:00 PM		1.0		
3:00 PM	64.2	2630268.0		
4:00 PM	69.5	8912509.4		
5:00 AM		1.0		
6:00 AM	67.5	5623413.3		
7:00 PM		1.0		
8:00 PM	68.2	6606934.5		
9:00 PM		1.0	SUM=	34488328
10:00 PM		1.0	Ld=	63.6
11:00 PM		1.0		
12:00 AM	63.6	2290867.7		
1:00 AM	59.5	891250.9		
2:00 AM	64.4	2754228.7		
3:00 AM	66.5	4466835.9		
4:00 AM		1.0		
5:00 AM		1.0		
6:00 AM		1.0	SUM=	10403188
			Ld=	60.6
	Daytime Level=	75.4		
	Nighttime Level=	80.1		
	DNL=	**68**		
	24-Hour Leq=	62.7		

DNL CALCULATIONS

CLIENT: EAH, INC.
FILE: 40-024
PROJECT: MODESTO ARCHWAY
DATE: 5/28-30/2008
SOURCE: UPRR, HWY 99, 9th ST., CARVER RD.

LOCATION 2	UPRR, Hwy 99, 9th St.			
Dist. To Source	200 ft., 675 ft., 95 ft.			
	Wed - Thurs			
TIME	Leq	10^Leq/10		
7:00 AM	61.0	1258925.4		
8:00 AM	60.5	1122018.5		
9:00 AM	60.3	1071519.3		
10:00 AM	65.5	3548133.9		
11:00 AM	66.0	3981071.7		
12:00 PM	67.1	5128613.8		
1:00 PM	66.5	4466835.9		
2:00 PM	68.4	6918309.7		
3:00 PM	66.4	4365158.3		
4:00 PM	70.2	10471285.5		
5:00 PM	66.0	3981071.7		
6:00 PM	65.6	3630780.5		
7:00 PM	62.6	1819700.9		
8:00 PM	60.9	1230268.8		
9:00 PM	60.5	1122018.5	SUM=	54115712
10:00 PM	63.4	2187761.6	Ld=	65.6
11:00 PM	61.9	1548816.6		
12:00 AM	56.7	467735.1		
1:00 AM	55.1	323593.7		
2:00 AM	54.9	309029.5		
3:00 AM	65.4	3467368.5		
4:00 AM	56.1	407380.3		
5:00 AM	62.9	1949844.6		
6:00 AM	60.0	1000000.0	SUM=	11661530
			Ld=	61.1
	Daytime Level=	77.4		
	Nighttime Level=	80.6		
	DNL=	**69**		
	24-Hour Leq=	64.4		

LOCATION 2	UPRR, Hwy 99, 9th St.			
Dist. To Source	200 ft., 675 ft., 95 ft.			
	Thurs - Fri			
TIME	Leq	10^Leq/10		
7:00 AM	60.6	1148153.6		
8:00 AM	62.1	1621810.1		
9:00 AM	61.1	1288249.6		
10:00 AM	67.2	5248074.6		
11:00 AM	65.5	3548133.9		
12:00 PM	69.0	7943282.3		
1:00 PM	64.2	2630268.0		
2:00 PM	64.9	3090295.4		
3:00 PM	67.0	5011872.3		
4:00 PM	69.9	9772372.2		
5:00 PM	65.7	3715352.3		
6:00 PM	68.1	6456542.3		
7:00 PM	67.0	5011872.3		
8:00 PM	64.8	3019951.7		
9:00 PM	61.0	1258925.4	SUM=	60765156
10:00 PM	60.3	1071519.3	Ld=	66.1
11:00 PM	56.6	457088.2		
12:00 AM	58.7	741310.2		
1:00 AM	55.8	380189.4		
2:00 AM	59.1	812830.5		
3:00 AM	60.6	1148153.6		
4:00 AM	58.2	660693.4		
5:00 AM	58.2	660693.4		
6:00 AM	59.7	933254.3	SUM=	6865732
			Ld=	58.8
	Daytime Level=	77.9		
	Nighttime Level=	78.3		
	DNL=	**67**		
	24-Hour Leq=	64.5		

LOCATION 2	UPRR	Railroad Only		
Dist. To Source	200 ft.			
	Wed - Thurs			
TIME	Leq	10^Leq/10		
7:00 AM		1.0		
8:00 AM		1.0		
9:00 AM		1.0		
10:00 AM		1.0		
11:00 AM		1.0		
12:00 PM	63.4	2187761.6		
1:00 PM		1.0		
2:00 PM	63.7	2344228.8		
3:00 PM	60.7	1174897.6		
4:00 PM	67.5	5623413.3		
5:00 AM		1.0		
6:00 AM		1.0		
7:00 PM		1.0		
8:00 PM		1.0		
9:00 PM		1.0	SUM=	11330312
10:00 PM	60.4	1096478.2	Ld=	58.8
11:00 PM	59.9	977237.2		
12:00 AM	51.4	138038.4		
1:00 AM		1.0		
2:00 AM		1.0		
3:00 AM		1.0		
4:00 AM		1.0		
5:00 AM	60.9	1230268.8		
6:00 AM		1.0	SUM=	3442028
			Ld=	55.8
	Daytime Level=	70.6		
	Nighttime Level=	75.3		
	DNL=	**63**		
	24-Hour Leq=	57.9		

LOCATION 2	UPPR	Railroad Only		
Dist. To Source	200 ft.			
	Thurs - Fri			
TIME	Leq	10^Leq/10		
7:00 AM		1.0		
8:00 AM		1.0		
9:00 AM		1.0		
10:00 AM		1.0		
11:00 AM		1.0		
12:00 PM	67.1	5128613.8		
1:00 PM		1.0		
2:00 PM		1.0		
3:00 PM	62.4	1737800.8		
4:00 PM	67.6	5754399.4		
5:00 AM		1.0		
6:00 AM	65.9	3890451.4		
7:00 PM		1.0		
8:00 PM	62.0	1584893.2		
9:00 PM		1.0	SUM=	18096169
10:00 PM		1.0	Ld=	60.8
11:00 PM		1.0		
12:00 AM	56.7	467735.1		
1:00 AM	51.6	144544.0		
2:00 AM	57.4	549540.9		
3:00 AM	59.2	831763.8		
4:00 AM		1.0		
5:00 AM		1.0		
6:00 AM		1.0	SUM=	1993589
			Ld=	53.5
	Daytime Level=	72.6		
	Nighttime Level=	73.0		
	DNL=	**62**		
	24-Hour Leq=	59.2		

DNL CALCULATIONS

CLIENT: EAH, INC.
FILE: 40-024
PROJECT: MODESTO ARCHWAY
DATE: 5/28-30/2008
SOURCE: UPRR, HWY 99, 9th ST., CARVER RD.

LOCATION 3	Carver Rd			
Dist. To Source	30 ft.			
	Wed - Thurs			
TIME	Leq	10^Leq/10		
7:00 AM	66.7	4677351.4		
8:00 AM	65.2	3311311.2		
9:00 AM	63.1	2041737.9		
10:00 AM	64.1	2570395.8		
11:00 AM	62.9	1949844.6		
12:00 PM	63.9	2454708.9		
1:00 PM	65.4	3467368.5		
2:00 PM	64.4	2754228.7		
3:00 PM	64.0	2511886.4		
4:00 PM	64.6	2884031.5		
5:00 PM	64.7	2951209.2		
6:00 PM	64.3	2691534.8		
7:00 PM	62.4	1737800.8		
8:00 PM	63.8	2398832.9		
9:00 PM	57.9	616595.0	SUM=	39018838
10:00 PM	55.4	346736.9	Ld=	64.2
11:00 PM	52.7	186208.7		
12:00 AM	51.8	151356.1		
1:00 AM	52.7	186208.7		
2:00 AM	51.8	151356.1		
3:00 AM	54.0	251188.6		
4:00 AM	54.8	301995.2		
5:00 AM	59.5	891250.9		
6:00 AM	62.1	1621810.1	SUM=	4088111
			Ld=	56.6
	Daytime Level=	76.0		
	Nighttime Level=	76.1		
	DNL=	**65**		
	24-Hour Leq=	62.5		

LOCATION 3	Carver Rd			
Dist. To Source	30 ft.			
	Thurs - Fri			
TIME	Leq	10^Leq/10		
7:00 AM	64.8	3019951.7		
8:00 AM	66.0	3981071.7		
9:00 AM	64.6	2884031.5		
10:00 AM	64.3	2691534.8		
11:00 AM	63.5	2238721.1		
12:00 PM	64.5	2818382.9		
1:00 PM	65.6	3630780.5		
2:00 PM	64.6	2884031.5		
3:00 PM	67.2	5248074.6		
4:00 PM	65.1	3235936.6		
5:00 PM	69.5	8912509.4		
6:00 PM	64.4	2754228.7		
7:00 PM	63.3	2137962.1		
8:00 PM	62.9	1949844.6		
9:00 PM	61.2	1318256.7	SUM=	49705319
10:00 PM	60.7	1174897.6	Ld=	65.2
11:00 PM	56.3	426579.5		
12:00 AM	55.8	380189.4		
1:00 AM	57.2	524807.5		
2:00 AM	53.8	239883.3		
3:00 AM	55.1	323593.7		
4:00 AM	56.8	478630.1		
5:00 AM	59.0	794328.2		
6:00 AM	61.9	1548816.6	SUM=	5891726
			Ld=	58.2
	Daytime Level=	77.0		
	Nighttime Level=	77.7		
	DNL=	**67**		
	24-Hour Leq=	63.6		

City of Modesto
Public Works Department

Memorandum

Date: November 10, 2008

To: Development Engineering, (Melinda Evans)

From: Eva Dankha-Kelly, Assistant Civil Engineer

Subject: **P-PRZ-08-001 & P-ANZ-08-001 – Archway Commons. (Revised)**

Current Facilities Planning has reviewed the above project Archway Commons-150-unit affordable housing development, and has the following comments:

Water:

- There is an existing 8-inch water line available for connection in Carver Road. However, due to a lack of water pressure in the Blue Gum area, the Technical Memorandum that was prepared by West Yost Engineering in 2007 had identified extensive improvements to the water system (project specific, localized system and system wide improvements totaling over $ 13 million- please refer to the Memorandum for the developer's responsibility for the water main improvements for this site. Recently, the City's CIP project recommended making the West Tank a priority project which will supersede the Technical Memorandum suggested improvements to the water system. Currently, the City has finished the 90% design plans for the West Tank transmission pipelines and the construction is estimated to be in fall of 2009. The building permit shall not be issued for this project until the construction of the West Tank is complete and accepted.

Sewer:

- There is an existing 6-inch sewer line available for connection within an easement north of the property. An in- house study of the sewer system shows that without recommended capital improvements identified in the City of Modesto Wastewater Master plan for the Emerald Trunk and for reducing the direct impacts of storm runoff on the wastewater system of Tributary Area 2, there will continue to be Peak Wet Weather Flow capacity constrains on the associated sewer trunks. However, the sewer discharge generated from this site will not have a significant impact on the Emerald trunk existing capacity.

Storm Drain:

- The proposed conceptual storm drain design solution has been reviewed and accepted.
  The storm Drain water has to be kept on site since this site has no off-site (Positive Storm Drain) system. The storm water is collected and infiltrated to the ground water Via a combination system of on site Rockwells and horizontal drain pipes. The System has been designed to handle a 100-year 6-day storm event as required by City standards.

C: Bill Sandhu, C&EDD

City of Modesto
Community & Economic Development Department

Memorandum

Date: 7 March 2008

To: Josh Bridegroom, Senior Planner

From: Jim Alves, Associate Civil Engineer

Subject: **Archway Commons - Clarification to Hydraulic Impacts TM**

As requested, provided here is a clarification to the Technical Memorandum (aka TM) produced by West Yost Associates on the Hydraulic Impacts to the City's Existing Water System (October 2007) from the proposed Archway Commons Project (aka Ninth & Carver annexation area).

The Archway Commons Project description which is part of the larger annexation study area has been revised to consist of 150 dwelling units (du) on 8.3 acres versus 130 du on 6.5 acres. The annexation area has also been revised from 16.6 to 32.2 acres to account for associated rights-of-way. This memo will clarify from Staff's perspective any change in impacts associated with the revised project description.

Expanded Annexation Area:

The expanded annexation area includes an additional 15.6 acres of existing right-of-way for HWY-99, existing Ninth Street and possibly parts of Carver Rd and Clayton Rd. Since these areas have no associated water demands and therefore will not increase the amount of water demanding uses and water demands studied in the TM, the Project impacts and recommendations in the TM remain unchanged under the revised description.

Dwelling Unit Increase:

The increase in dwelling units from 130 over 6.51 ac to 150 over 8.3 acres – a density decrease from 20 to 18 du/ac - amounts to a slight decrease in water demand per acre for the multi-family residential land use area. Applying the water use factor for multi-family as depicted in the study over the additional acreage to be developed would support an additional 22 du. Since the revised project description is increasing the number of dwelling units by 20, the revised description remains within the water demand estimated for that use and for the overall water demand estimated for the annexation area. However, this slightly decreased demand is statistically insignificant (<1%) and therefore would not change the impacts or recommendations of the study.

CC Violet Jakab, CFP Senior Engineer

WEST YOST ASSOCIATES
Consulting Engineers



FINAL

TECHNICAL MEMORANDUM

DATE: October 24, 2007 Project No.: 431-02-07-02.001

TO: Margaret James, Modesto Redevelopment Agency

CC: Jim Alves, City of Modesto

FROM: Gerry Nakano, Project Manager
Carman Ng, Staff Engineer

SUBJECT: Evaluation of the Archway Commons Project's Hydraulic Impacts on the City's Existing Water System

This Technical Memorandum (TM) summarizes West Yost Associates' (WYA) technical evaluation of the potential hydraulic impacts of the proposed 16.6 acre Archway Commons Project (Project) on the City of Modesto's (City) existing water system. This evaluation addresses concerns regarding water supply availability and the recommended size and location of backbone water system infrastructure which is required to provide the Project with adequate pressures, flow and system reliability under a variety of water demand conditions, without hydraulically impacting other, existing City water customers. WYA's analysis also estimates the costs associated with these required water system facility improvements, and discusses whether or not these costs for the required water system improvements are included in an existing City Program, such as the City's *Connection Fee Program*, or the City's *Ongoing Strengthening and Repairing Water Pipelines Program*.

SUMMARY

WYA updated the City's existing water system hydraulic model (model) to include the Project's estimated water demands and proposed connections into the City's water system. The model was then used to determine system pressures during various demand conditions. The analysis showed that the City's existing water system could not maintain pressures above the minimum City requirements with the increased Project demands, under peak hour and maximum day plus concurrent fire flow demand conditions.

To mitigate these water system infrastructure deficiencies, and be able to meet the City's minimum pressure criteria, numerous water system facility improvements will be required, which can be categorized into the following three system improvement groupings:

1. Project Specific Improvements - includes on-site Project backbone water system infrastructure, defined for this Project as pipelines 10-inch in diameter or larger, (all smaller pipelines are also the financial responsibility of the Project Proponents but not accounted for in the technical analysis), and required to be funded by the Project Proponents. (As illustrated on Figure 2, all of these 10-inch diameter pipelines will be

required to be installed to provide adequate and reliable water service to the Project. Whether any of these required pipelines can be installed at some latter date, based on a specifically proposed Phase 1 development plan must be evaluated in a separate, Phase 1 specific water system hydraulic analysis, which is outside the scope of this current work effort);

2. Localized System Improvements - water system improvements required to mitigate existing water system deficiencies (these deficiencies are not due to the Project, but must be fixed prior to the Project being built), funded by the City's *Ongoing Strengthening and Repairing Water Pipelines Program;* and
3. System-wide Improvements - water system improvements required to serve future developments and new customers, funded by the City's *Connection Fee Program.*

Based on our hydraulic evaluation of the Project's impact to the City's existing water system, there are Project Specific Improvements, which include 10-inch diameter pipeline infrastructure, required to provide adequate water service to the Project at an estimated cost of $708,000. In addition, localized system improvements of $3.7 million and system-wide improvements of $14.0 million are required to be in place and operational prior to the Project coming on-line. The funding for design and construction of these local and system-wide improvements is provided through existing City funding programs.

It should be noted that if any of the planning criteria or Project assumptions used in this analysis, including, but not limited to land use designations or pipeline configurations or diameters, and/or City wells assumed to be operating are changed, the recommendations contained in this technical memorandum should be re-evaluated to determine the hydraulic impact to the City's water system.

OVERVIEW OF PROJECT

The Project is located in the area of the City enclosed by Clayton Avenue to the north, North 9th Street to the south, Carver Road to the east, and Highway 99 to the west (see Figures 1 and 2). The 16.6 acre Project was assumed to be constructed in a single phase. Within the Project area, the Project Proponents have specified two land uses: 9.8 acres of multi-family residential and 6.8 acres of commercial. These land uses and associated acreages, shown on Figure 2, are associated with specific parcels and were used to calculate Project water demands.

There are several existing water system facilities near the Project location illustrated on Figure 2. There are distribution pipelines ranging from 6-inch to 10-inch in diameter surrounding the Project, and the closest existing well is Well 44, which is currently offline due to water quality issues.

Since there is no currently proposed water system pipeline configuration for the Project, for planning purposes, WYA assumed that approximately 4,140 lineal feet of 10-inch diameter pipelines would be constructed essentially along the western perimeter of the Project boundary, and through the center of the Project, as illustrated on Figure 2. This configuration would result in 4 connections into the existing water system: two along Carver Road, one on Clayton Avenue, and one on Ninth Street near Blue Gum Avenue.

FINAL

HYDRAULIC MODEL AND ASSUMPTIONS

The updated 2006 calibrated City water system hydraulic model was used for this analysis. It should be noted that since June 2006 (system condition used to calibrate and update the hydraulic model), the City has had to cease operation of five (5) additional wells (status as of March 2007) due to water quality issues. The wells that had to be taken out of service were Wells 3, 49, 50, 226, and 285. The loss of these five wells decreased the available groundwater pumping capacity of the City's system by approximately 4,300 gallons per minute (gpm), which further limits the amount of groundwater the existing water system can provide for this Project. Work by the City is on-going to bring Wells 49 and 50 back into service, therefore, as directed by City staff, it has been assumed that Wells 49 and 50 will be available to provide potable water service. Wells 3, 226, and 285 were assumed to remain out of service due to water quality issues, and unavailable for this hydraulic analysis.

In addition to efforts to bring Wells 49 and 50 back into service, City staff is currently seeking Council approval to construct blending pipelines for Wells 236 and 283, so that these supplies can be brought back online. As requested by City staff, it was assumed that these two additional wells were available to provide potable supply for this hydraulic analysis.

HYDRAULIC ANALYSIS

The City's existing water system hydraulic model was modified to include the water system and associated demands proposed for the Project. Maximum day and peak hour demand conditions were simulated to evaluate the hydraulic impacts of the proposed Project on the City's existing water system. A maximum day plus concurrent fire flow demand condition was also simulated to assess the ability of the City's existing water system to supply fire flows to the Project site.

WYA performed several different hydraulic analyses to develop a water system configuration that addressed system deficiencies and provided operational flexibility and system redundancy.

A discussion of our analyses and findings is presented below.

Water Demands

Based on information provided to WYA by the City, the total Project will increase the City's water demands by approximately 35 gpm, 61 gpm, and 88 gpm under average day, maximum day, and peak hour conditions, respectively (or 56 acre-feet annually), as detailed in Table 1. These demands were calculated based on land use provided by the City, and previously determined water duty factors as presented in the Water Demand Evaluation TM dated March 19, 2003 by WYA.

Table 1. Calculated Project Demand

Land Use	Acreage, ac	Units	WUF	Demand, afa	Demand, gpm		
					Average Day	Maximum Day	Peak Hour
Commercial	6.81	--	2 afa/ac	13.6	8	15	21
Multi-Family Residential[a]	6.51	130 du	225 gpd/du	32.8	20	35	51
Multi-Family Residential	3.34	--	3 afa/ac	10.0	6	11	16
Total	16.66			56.4	35	61	88

[a] Specific dwelling unit information provided by City for this acreage.

Based on the City's performance and design criteria, the fire flow requirements for the Project are 2,500 gpm for 2 hours (high density residential land use) and 4,000 gpm for 4 hours (commercial land use). These hydrant fire flow requirements are based on the assumption that all buildings will be constructed with automatic sprinklers for fire suppression.

Project's Water Supply Source

The City's March 2007 Daily Operations Report was used to determine the City's operating groundwater wells at that time. In addition to the wells still in service on the report, City staff has directed WYA to assume Wells 49, 50, 236, and 283 are available to provide potable supply to the water system (as of March 2007, these wells were not operational due to water quality issues).

It is assumed for the hydraulic analysis that initially, additional supplies for the Project could be provided by the existing MID 30 million gallon (MG) treated surface water supply and nearby, existing wells.

Storage Capacity Evaluation

The City defines the minimum storage capacity required for a Project to consist of the sum of emergency storage (100 percent of the Project's average day demand), plus operational storage (25 percent of the maximum day demand), and fire flow storage (the required fire flow times the duration of the fire). Therefore, the minimum total required storage capacity for the entire Project, as calculated on Table 2, is 1.03 MG for the operational, fire flow, and emergency components.

Table 2. Tivoli Project Storage Requirements

Storage Component	Criteria[a]	Storage Required, MG
Operational	0.25 x max day demand	0.02
Fire Flow	4,000 gpm for 4 hours	0.96
Emergency	1.00 x average day demand	0.05
Project Storage Requirement		1.03

[a] Based on City's design and performance criteria.

This additional required storage capacity is already incorporated in the City's system-wide water facilities improvements, and associated costs have already been accounted for within the City's *Connection Fee Program* calculation. The Project's connection fee must be paid by the Project Proponents and will be calculated based on the total number and size of actual service connections required by the Project.

Project Infrastructure

Since no information was provided on the proposed water system infrastructure for the proposed Project, WYA assumed that approximately 4,100 lineal feet of 10-inch diameter pipeline be constructed based on the alignment shown on Figure 2.

Hydraulic Analysis

The City's existing water distribution system model was modified to reflect the proposed infrastructure and demands for the Project. The system configuration was then hydraulically evaluated by WYA; our technical findings and recommendations are provided in the following section of this TM. WYA evaluated the Project's water distribution system and its ability to meet City adopted water system performance and planning criteria under the following demand conditions:

- Average Day Demand
- Maximum Day Demand
- Peak Hour Demand
- Maximum Day Demand plus concurrent Fire Flow

The various simulated conditions and the resultant hydraulic impact of the Project on the existing water system are discussed in the sections that follow.

Existing Distribution System Evaluation

A steady state water system analysis was conducted under various demand conditions to identify areas of the City's water system where the service pressure might decrease to below the City's minimum level, after adding the Project's water demands. Water system pressure differentials (after the addition of the Project water demands) were examined to assess the Project's impact on the City's existing water distribution system under average day, maximum day, peak hour, and maximum day with concurrent fire flow demand conditions.

Average Day Demand

The existing average day water demand condition was simulated with and without the Project. The hydraulic analysis showed that the addition of the Project demands somewhat decreases system pressures. However, even with these system pressure drops, the City's existing system is capable of maintaining the minimum 40 psi City requirement with the addition of the Project's demands without any system improvements. The results from the hydraulic model indicate that the increased demands of the Project are mainly supplied by an increase in flow from existing groundwater wells.

Maximum Day Demand

The existing maximum day water demand condition was simulated with and without the Project. With the Project, most of the City experienced pressure drops of less than 1 psi, including the regions directly around the Project site. However, this decrease did not cause system pressures to drop below the City's minimum of 40 psi pressure requirement anywhere in the water system. Similar to the results under average day demand conditions, the increased Project demand was mainly supplied by groundwater wells.

Peak Hour Demand

The existing peak hour demand condition was simulated with and without the Project. As shown in Figure 3, without the Project, the City's existing water system infrastructure is not currently capable of meeting the City's minimum 40 psi system pressure requirements in three main locations: in the Blue Gum area, around Tank 6, and west of the Beard Industrial Tract. Due to the Project's close proximity to the Blue Gum area, the water system is not capable of supplying the Project with sufficient system pressure under this peak demand condition, as shown on Figure 4.

These pressure deficiencies can be remedied with a combination of additional supply sources, and backbone system and distribution system facility improvements, as illustrated on Figure 5. To be able to fully mitigate these pressure deficiencies, both localized and system-wide improvements will be required to ensure adequate service to all customers (see Figure 6). The recommended system-wide facility improvements are part of the MID Downstream Tier 1 Improvements currently being planned by the City, which are included in the *Connection Fee Program* cost. The facilities specifically required to maintain adequate system pressures with the addition of the Project's demands are the control valves at 15 existing MID turnout locations, and the Orangeburg Avenue transmission main.

Additional, localized system recommendations involve pipeline upsizing and constructing new pipelines to create additional system looping and redundancy. The specific localized system improvements, which are not associated with the projects included as part of the City's *Connection Fee Program*, but funded by the City's *Ongoing Strengthening and Replacing Water Lines Program*, are listed in Table 3.

Also listed on Table 3 are pipelines that reflect the required internal, on-site Project infrastructure and associated estimated costs to be borne by the Project Proponent. With these recommended improvements, the water system will be capable of meeting the City's minimum 40 psi system pressure requirement throughout the service area with the Project, as shown on Figure 6 under all hydraulic system conditions. Similar to the previously analyzed demand condition, the Project demand was mainly supplied by an increase in flow at nearby groundwater wells.

Maximum Day Demand Plus Concurrent Fire Flow

WYA evaluated the Project infrastructure's ability to supply the required fire flow to the fire hydrants within the Project site. As previously mentioned in the demand section, fire flows of 2,500 and 4,000 gpm are required to be provided at hydrant locations within the Project area, while maintaining a minimum system residual pressure of 20 psi.

Table 3. Estimated Improvement Costs for Ninth Street Development Project[a]

Project ID	Item	Unit	Quantity	Unit Cost, $[b]	Cost, $
	Project Specific Pipeline Recommendations[c]				
A	Project Infrastructure				
	10-inch	lf	4,140	114	471,960
				Project Specific Cost Subtotal	471,960
				Other Related Project Costs @ 50% [d]	235,980
				Total Project Specific Improvements Costs	707,940
	Localized System Pipeline Recommendations[e]				
B	Clayton Avenue between Carver Road and North 9th Street				
	12-inch	lf	1,890	127 [e,f]	240,030
B	North 9th Street between Clayton Avenue and Culpepper Avenue				
	12-inch	lf	890	127 [e,f]	113,030
C	Blue Gum Avenue between Culpepper Avenue and Carpenter Road				
	12-inch	lf	970	127 [e,f]	123,190
D	Carpenter Road from Blue Gum Avenue to south of Moccasin Drive				
	12-inch	lf	7,100	127	901,700
E	Woodland Avenue between Carpenter Road and North 9th Street				
	12-inch	lf	4,160	127	528,320
F	Beverly Drive between alley west of Normandy Drive and west of Ritsch Lane				
	8-inch	lf	1,080	94	101,520
G	Alley between Ridge Road and Robertson Road from west of Dunning Lane to east of Hilltop Lane				
	8-inch	lf	970	94	91,180
H	Paradise Road near intersection with Vernon Avenue				
	8-inch	lf	130	94	12,220
I	Paradise Avenue between Martin Luther King Drive and Madison Street				
	8-inch	lf	510	94	47,940
J	Santa Rosa Avenue between Mono Drive and Oregon Drive				
	8-inch	lf	1,670	94	156,980
J	Oregon Drive between Santa Rosa Avenue and Santa Rita Avenue				
	8-inch	lf	510	94	47,940
K	Santa Rita Avenue between Mono Drive and Tenaya Drive				
	8-inch	lf	850	94	79,900
				Localized Improvements Cost Subtotal	2,443,950
				Other Related Project Costs @ 50% [d]	1,221,975
				Total Recommended Localized System Improvements Costs	3,665,925
	System-Wide Improvements[g]				
	Orangeburg Avenue Transmission Pipeline				
	24-inch	lf	12,300	425 [h]	5,227,500
	Control Valves at MID Turnout Locations	valve	15	273,333 [h,i]	4,100,000
				Systemwide Improvement Cost Subtotal	9,327,500
				Other Related Project Costs @ 50% [d]	4,664,000
				Total Recommended Systemwide Improvement Costs	13,991,500

[a] Does not include site specific facilities.

[b] All unit prices presented in SF August 2007 dollars (ENR Construction Index = 9071.91). Unit prices based on combination of cost curves, construction cost guidelines and similar construction projects.

[c] Project specific infrastructure costs, as well as other on-site facilities not listed but required will be the responsibility of the Project Proponent.

[d] Other related Project cost of 50% based on a total of the following individual cost components: construction contingency at 20%, design and planning at 10%, construction management at 10%, and program implementation at 10%.

[e] Project paid for using City funding reserved for ongoing CIPs related to strengthening and replacing water lines.

[f] Projects planned for construction in City's 2007-2008 Capital Improvement Program per email communication dated 09/26/07 from City Staff.

[g] Projects and corresponding costs included in the City's Connection Fee Program.

[h] Does not include costs for contract administration, construction management, project implementation, or contingency to changes during construction.

[i] Estimated cost includes provision for new vault, PRV, flow meter, SCADA equipment and installation. Actual cost depends on size of control valve.

Hydraulic modeling results indicated that the system was capable of maintaining minimum system pressures of 20 psi with a fire flow demand of 2,500 or 4,000 gpm if the previously recommended localized system fixes, which include pipeline upsizing and looping, or the proposed MID Phase 2 Tier 1 Downstream facilities (both illustrated on Figure 5) are constructed and operational.

FINDINGS AND RECOMMENDATIONS

The updated hydraulic model indicated that the City's existing water system infrastructure is not currently capable of providing adequate pressure or flow to the Project during a peak hour or maximum day plus concurrent fire flow demand condition without impacting other areas of the City's existing water service area.

To remedy this situation, there are Project-specific, local system, and system-wide water facility improvements that are required to be designed and constructed (as detailed on Table 3 and illustrated on Figure 5). As detailed above, these three categories of recommendations and estimated costs, specific to this Project, are:

1. Project Specific Improvements, not including required development infrastructure, estimated at $708,000 funded by the Project Proponents,
2. Localized System Improvements estimated at $3.7 million funded by City's *Ongoing Strengthening and Repairing Water Pipelines Program*, and
3. System-wide Improvements estimated at $14.0 million funded by the City's *Connection Fee Program*.

Included in these proposed costs detailed on Table 3, are additional cost considerations to account for additional requirements associated with administrative, management, and design work, as well as contingencies. These additional costs are considered to fall into the following four categories:

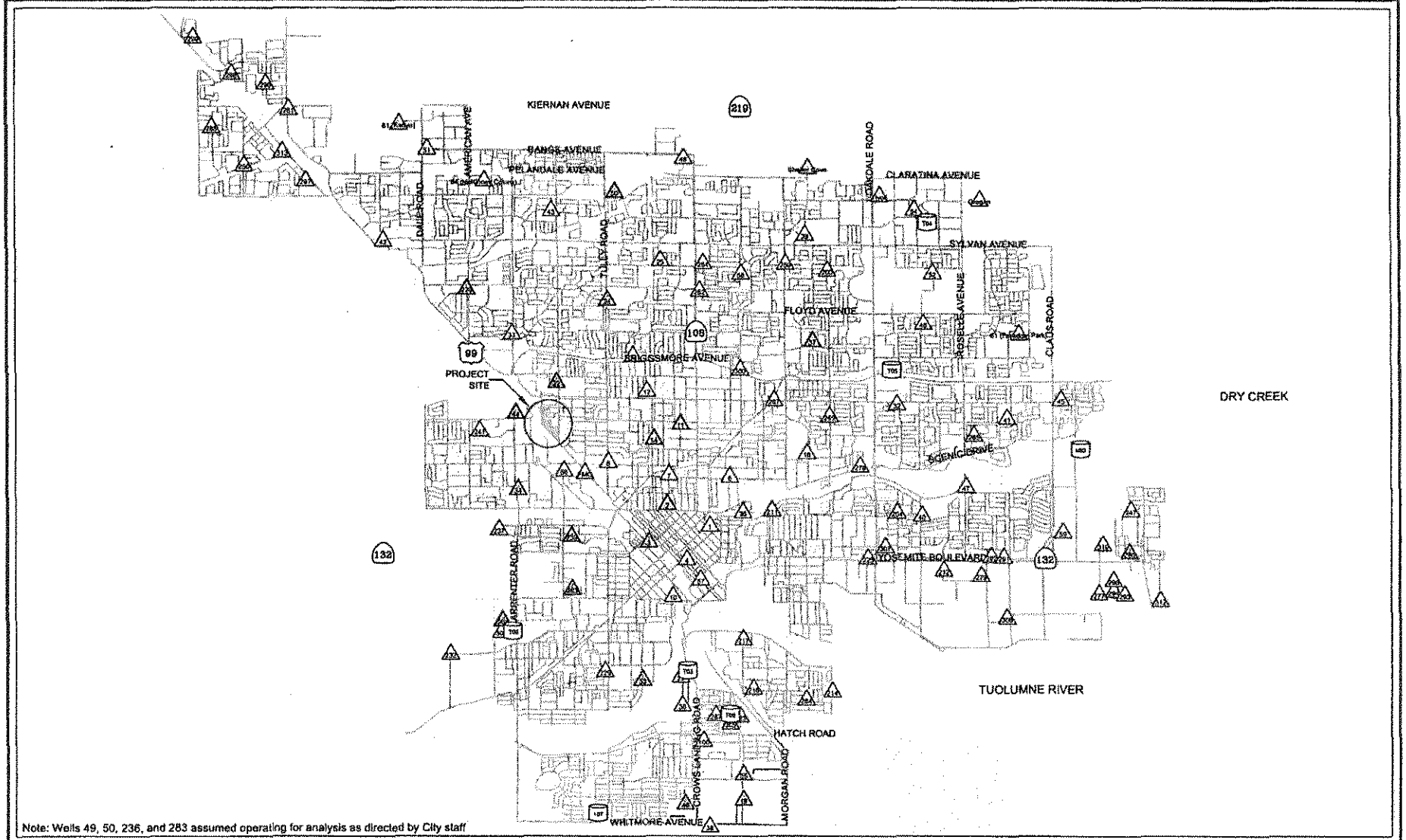
- Construction Contingency – Due to the fact that there are many unknowns related to a given project at the planning level (i.e., site conditions, unforeseen constraints, details of design alternatives, construction schedule uncertainty, etc.), a 20 percent construction contingency is added to the construction estimate cost.
- Design and Planning – These services typically include management of consultant agreements, preliminary site investigations, feasibility studies, plans and specifications, surveying and staking, and geotechnical reports. The cost of this work is estimated to be 10 percent of the estimated construction cost.
- Construction Management – This category primarily covers management of the construction contract, sampling and testing of materials, and site inspections during construction. This work is estimated to be 10 percent of the estimated construction cost.
- Program Implementation – Among other things, this category includes management and administrative costs, environmental review, permits, regulatory compliance, financing expenses, and legal review. This work is also estimated to be 10 percent of the estimated construction cost.

FINAL

The Project will be required to pay a water service connection fee, based on the number and size of the individual water service connections contained within the Project. Because this level of Project detail is not currently available and cannot be provided to WYA, this connection fee calculation cannot be performed at this time.

It should be noted that if any of the planning assumptions used in this analysis, including, but not limited to land use designations, pipeline configurations, diameters, and/or City wells assumed to be operating are changed, the recommendations contained in this technical memorandum should be re-evaluated to determine the hydraulic impact to the City's water system.

O:\Clients\431 Redevelopment Agency of Modesto\02-07-02 N. 9th Street Affordable\CAD\Figures\431020702-NC-FIG01.dwg 10/16/2007 7:09 PM cng



Note: Wells 49, 50, 236, and 283 assumed operating for analysis as directed by City staff

LEGEND

- EXISTING STORAGE TANK
- OPERATING WELL AS OF MARCH 2007
- NON-OPERATING WELL AS OF MARCH 2007
- BLENDING WELL
- PLANNED FUTURE WELL
- DISTRIBUTION PIPELINE
- MID TRANSMISSION LINE
- PROJECT SITE LOCATION

N

0 4000 8000

SCALE IN FEET

Figure 1

Redevelopment Agency of Modesto

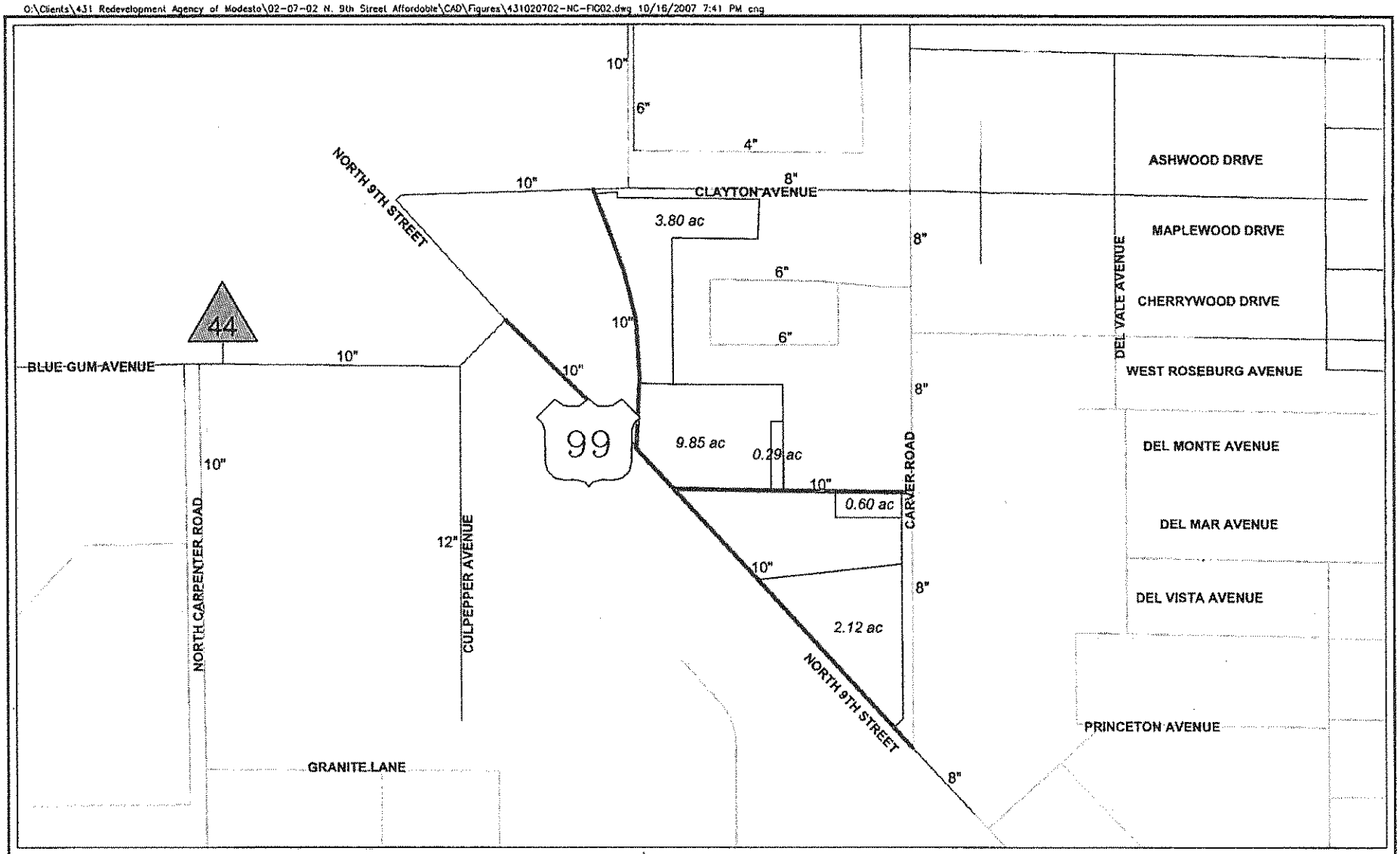
ARCHWAY COMMONS DEVELOPMENT

PROJECT SITE LOCATION

WEST YOST ASSOCIATES

Consulting Engineers

O:\Clients\431 Redevelopment Agency of Modesto\02-07-02 N. 9th Street Affordable\CAD\Figures\431020702-NC-FIG02.dwg 10/16/2007 7:41 PM cng



LEGEND

- OPERATING WELL AS OF MARCH 2007
- NON-OPERATING WELL AS OF MARCH 2007
- COMMERCIAL LAND USE
- MULTI-FAMILY RESIDENTIAL LAND USE (9.85 AC)
- EXISTING DISTRIBUTION PIPELINE
- PROPOSED PROJECT PIPELINE
- MID TRANSMISSION LINE

N

0 250 500

SCALE IN FEET

Figure 2

Redevelopment Agency of Modesto
ARCHWAY COMMONS DEVELOPMENT
DETAILED PROJECT SITE, LAND USE,
AND NEARBY INFRASTRUCTURE

WEST YOST ASSOCIATES
Consulting Engineers

O:\Clients\431 Redevelopment Agency of Modesto\07-07-02 N. 9th Street Affordable\CAD\Figures\431020702-NC-FIG03.dwg 10/16/2007 7:49 PM cng

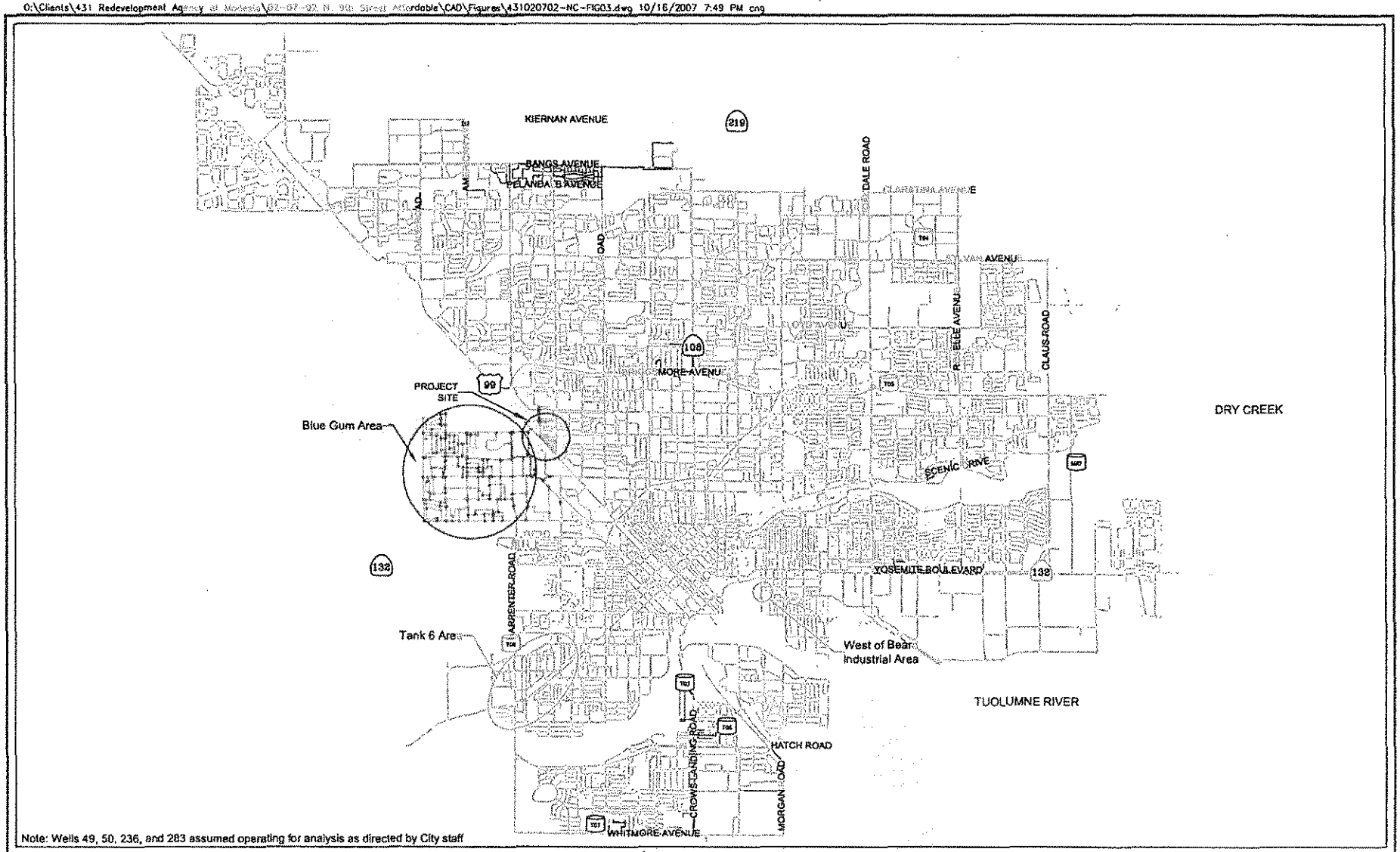
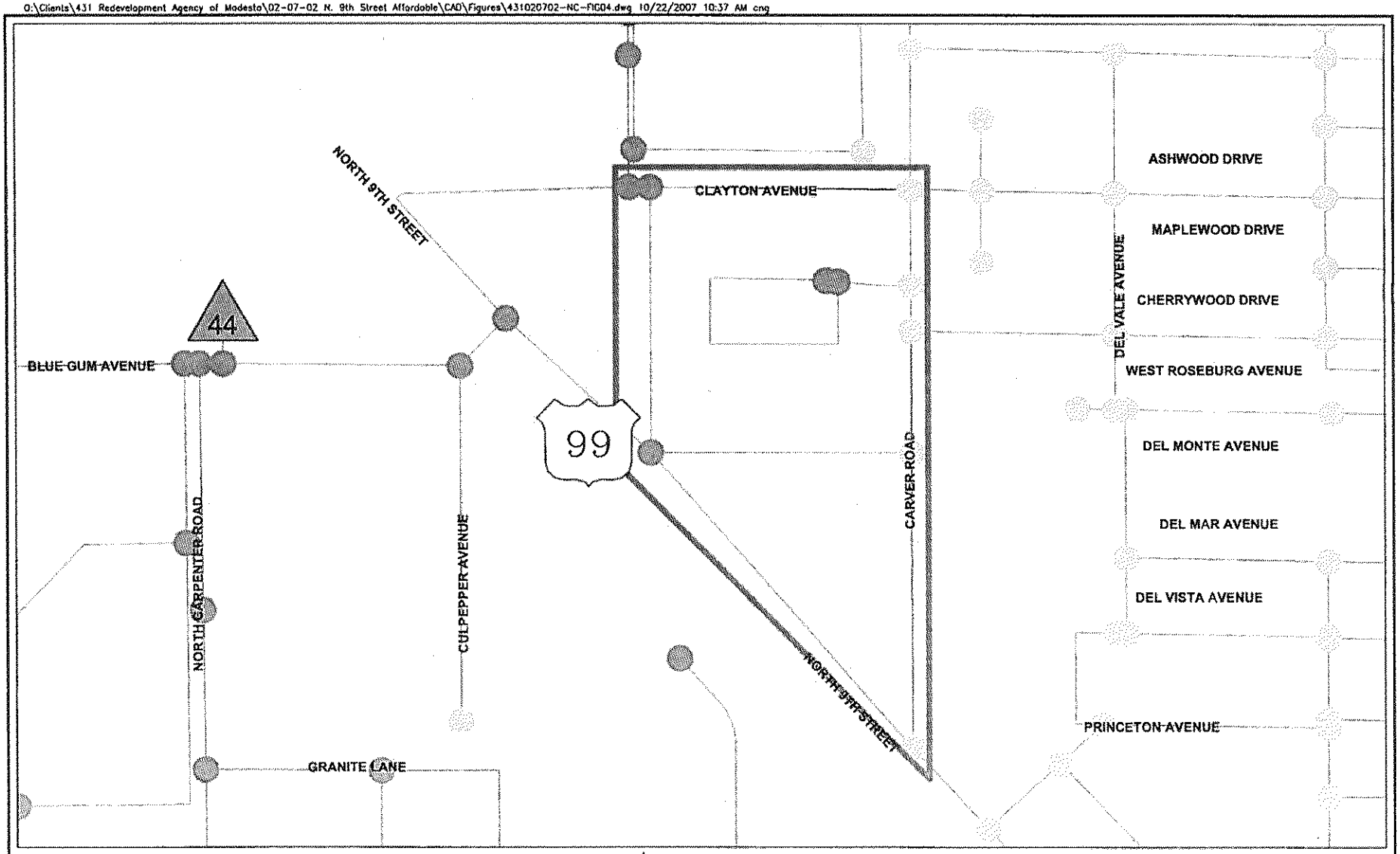


Figure 3

Redevelopment Agency of Modesto
ARCHWAY COMMONS DEVELOPMENT
EXISTING PEAK HOUR SYSTEM
PRESSURES WITHOUT PROJECT

WEST YOST ASSOCIATES
Consulting Engineers

O:\Clients\431 Redevelopment Agency of Modesto\02-07-02 N. 9th Street Affordable\CAD\Figures\431020702-NC-FIG04.dwg 10/22/2007 10:37 AM cng



LEGEND

- OPERATING WELL AS OF MARCH 2007
- NON-OPERATING WELL AS OF MARCH 2007
- PROJECT BOUNDARY
- WATER DISTRIBUTION PIPELINE
- PRESSURE BELOW 40 PSI
- PRESSURE BETWEEN 40 AND 50 PSI
- PRESSURE BETWEEN 50 AND 60 PSI
- PRESSURE BETWEEN 60 AND 70 PSI
- PRESSURE ABOVE 70 PSI

N

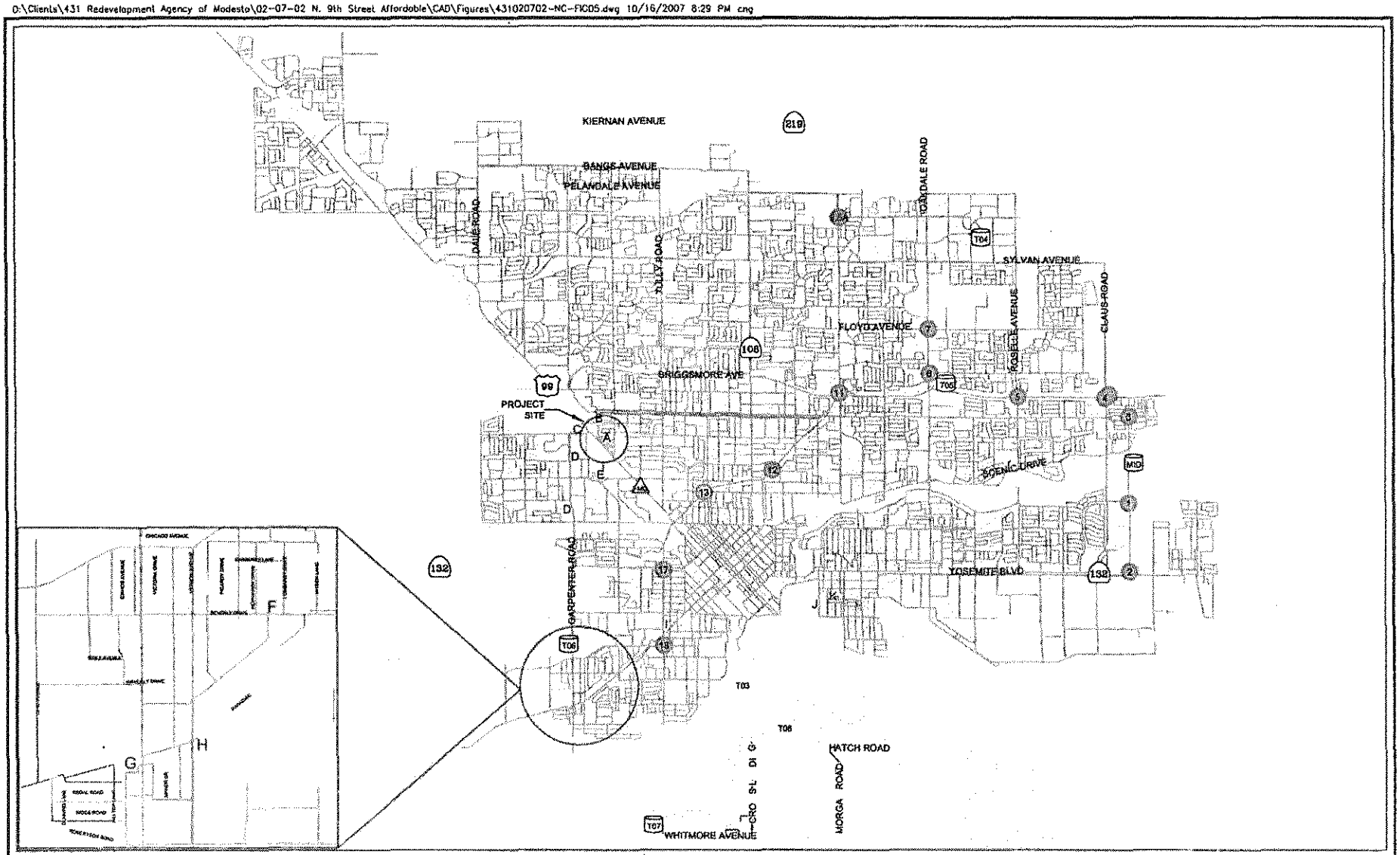
0 250 500
SCALE IN FEET

Figure 4

Redevelopment Agency of Modesto
ARCHWAY COMMONS DEVELOPMENT
PEAK HOUR SYSTEM PRESSURES
WITH DEVELOPMENT

WEST YOST ASSOCIATES
Consulting Engineers

O:\Clients\431 Redevelopment Agency of Modesto\02-07-02 N. 9th Street Affordable\CAD\Figures\431020702-NC-FIG05.dwg 10/16/2007 8:29 PM cng



LEGEND

- EXISTING STORAGE TANK
- DISTRIBUTION PIPELINE
- MID TRANSMISSION LINE
- RECOMMENDED WELL (SUPPLY SOURCE)
- RECOMMENDED IMPROVEMENT
- MID PHASE 2 DOWNSTREAM IMPROVEMENTS
- MID PHASE 2 DOWNSTREAM IMPROVEMENT VALVES

N

0 4000 8000

SCALE IN FEET

Figure 5

Redevelopment Agency of Modesto

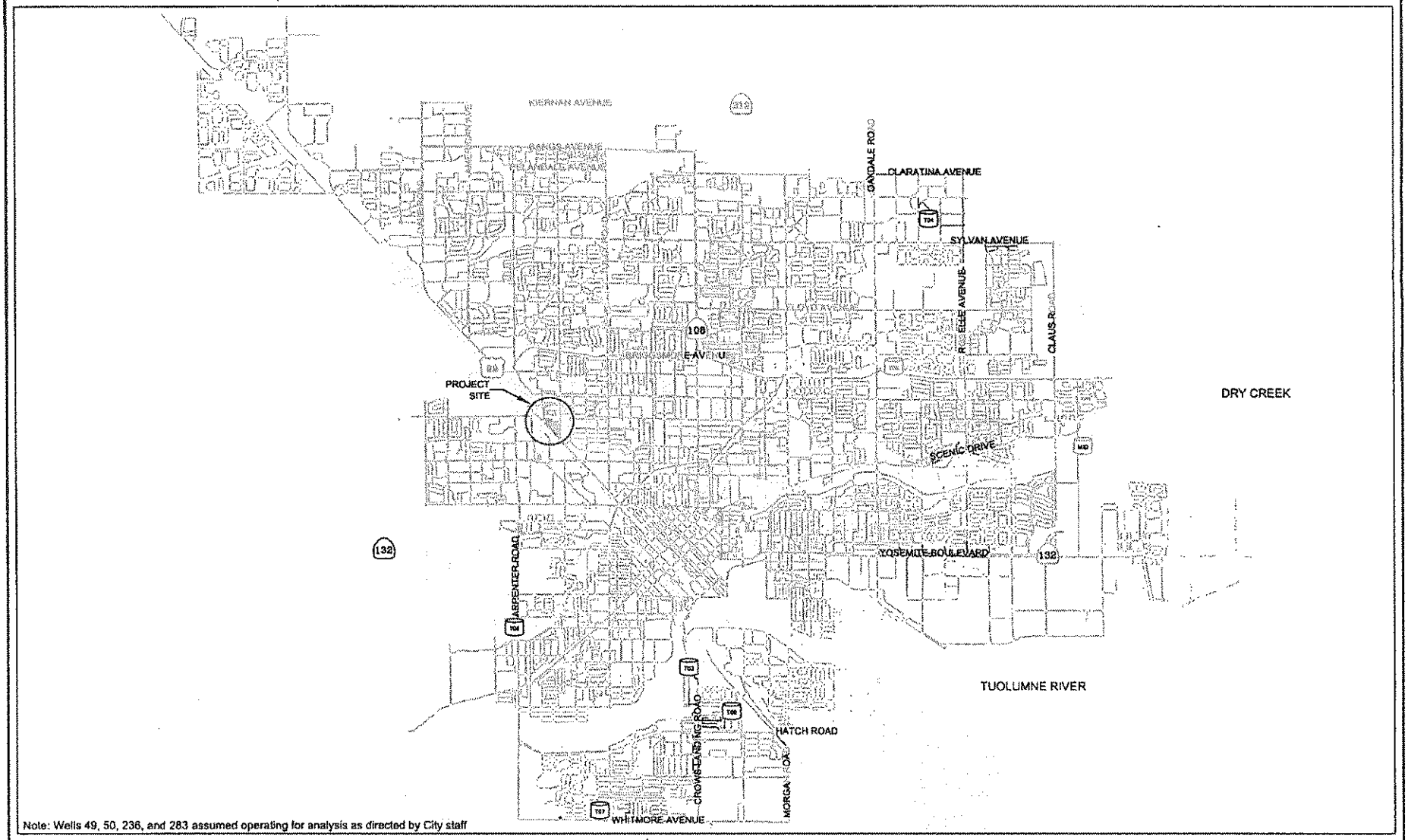
ARCHWAY COMMONS DEVELOPMENT

RECOMMENDED SYSTEM IMPROVEMENTS

WEST YOST ASSOCIATES

Consulting Engineers

D:\Clients\431 Redevelopment Agency of Modesto\02-07-02 N. 9th Street Affordable\CAD\Figures\431020702-NC-FIG06.dwg 9/17/2007 1:46 PM cng



LEGEND

- EXISTING STORAGE TANK
- WATER DISTRIBUTION LINE
- PROJECT SITE LOCATION
- PRESSURE BELOW 40 PSI
- PRESSURE BETWEEN 40 AND 50 PSI
- PRESSURE BETWEEN 50 AND 60 PSI
- PRESSURE BETWEEN 60 AND 70 PSI
- PRESSURE ABOVE 70 PSI

N

0 4000 8000

SCALE IN FEET

Figure 6

Redevelopment Agency of Modesto
ARCHWAY COMMONS DEVELOPMENT
PEAK HOUR SYSTEM PRESSURES W/
RECOMMENDED IMPROVEMENTS

WEST YOST ASSOCIATES
Consulting Engineers

City of Modesto
Community & Economic Development Department

Memorandum

Date: 7 March 2008

To: Josh Bridegroom, Senior Planner

From: Jim Alves, Associate Civil Engineer

Subject: **Ninth & Carver Annexation Area - Amendment to Sewer Capacity Analysis**

As requested, provided here is an amendment to the Sewer Capacity Analysis work that was performed by in-house engineering staff in September 2007. The Archway Commons Project description which is part of the larger annexation study area has been revised to consist of 150 dwelling units (du) on 8.3 acres versus 130 du on 6.5 acres. This amendment will address any change in impacts associated with the revised project description. Also the total area expected to be annexed has been revised from 16.6 to 32.2 acres to account for required associated rights-of-way and this amendment will address any resulting impact changes attributed to the revised area.

Expanded Annexation Area:

The Archway Commons Project as originally proposed for the Sewer Capacity Analysis effort was depicted as 16.6 acres, which consisted of only the existing individual parcels within the county island area bordered by Ninth St., Carver Rd., Highway 99, and Clayton Ave. Potential existing right-of-ways were not considered because inclusion, although likely required as part of any potential annexation effort, would not have a contributing demand for sewer services.

The right-of-ways expected to be included in the annexation request amount to an additional 15.6 acres and include Ninth St. on the south, Hwy-99 area on the west, and possibly parts of Clayton Rd on the north and Carver Rd on the east. Since these additional areas are not to be developed with sewer demanding uses, their annexation as part of the Project area will have no impact on the sewer demand estimates calculated in the Archway Commons Sewer Capacity Analysis memorandum.

Dwelling Unit Increase:

The Archway Commons Sewer Capacity Analysis as originally crafted studied a project area consisting of 6.51 acres for 130 multi-family dwelling units (20 du/ac), 3.34

acres of additional multi-family zoning use and 6.81 acres of commercial/retail zoning use. Off-site right-of-way has been addressed above.

The analysis used the land-use density of 20 du/acre for all the acreage assumed to develop as multi-family residential based on the original 130 du on 6.51 acres. Thus a total of 197 possible dwelling units were considered in the sewer capacity analysis. The revised project consists of 150 du on 8.3 acres or a density of 18 du/ac for a difference of 16 fewer proposed dwelling units on the same amount of 8.3 acres of land. This would have a slightly reduced impact on the sewer system compared to the higher density studied for the entire annexation area and also for the 8.3 equivalent acre project-specific development area.

However, the reduction difference in contributing sewer flow due to fewer dwelling units results in a negligible change in impact (<1%) on the available pipe capacity. The existing Emerald Sewer Trunk is still undersized for existing peak wet-weather flows regardless of the reduction in contributing sewer flow that the revised project is estimated to produce.

CC Violet Jakab, CFP Senior Civil Engineer

City of Modesto
Community & Economic Development Department

Memorandum

Date: 4 September 2007

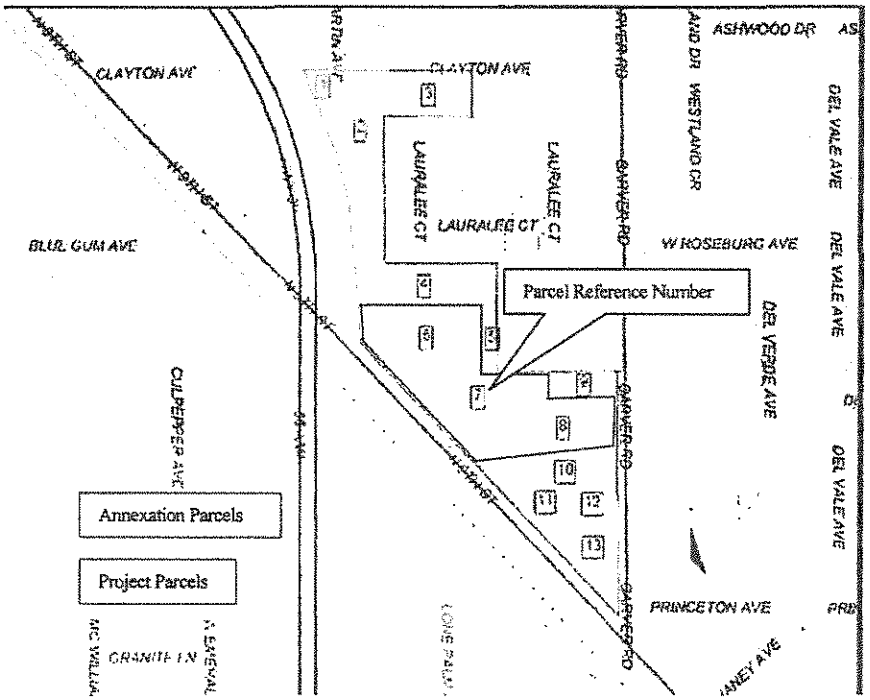
To: Linda Boston, Business Development Division Manager
Margaret James, Business Development Analyst

From: Jim Alves, PE – Associate Civil Engineer

Subject: **Sewer Capacity Analysis for 9th & Carver Annexation Area**

This sewer capacity analysis consists of two parts. One is the 6.5-acre affordable housing project (Project) and the second is the larger 16.6-acre county annexation area (Annexation), which includes the Project area that will be subject to LAFCO annexation approval. The Annexation area is located in Tributary (aka Basin) Area 2 of the 2007 Wastewater Master Plan (WWMP) to which effluent flows through the Emerald Trunk to the Sutter Treatment Plant. The purpose of this study is to address sewer capacity for both the Annexation and Project areas. This Annexation area is in the Modesto Sanitary Sewer District No.1. Figure 1 shows the location in relation to the City of Modesto.

Figure 1: Annexation and Project Area Location



The Annexation area consists of 13 parcels on 16.6 acres, which are generally undeveloped or underdeveloped. Table A provides a listing of these parcels and the representative proposed land uses (provided by the Planning Division). The Annexation area fronts Carver Rd to the east, Ninth Street and HWY-99 to the south and west and Clayton Rd to the north. Three of these parcels totaling 6.5 acres (Project) are proposed to be developed with 130 affordable multi-family dwellings which results in a density of 20 units per acre. The Project fronts Carver Rd and Ninth Street. Two parcels on the north (APN's 029-005-014 and 029-006-018) under Map Reference Numbers 2 & 3 appear to be fully developed with existing uses but at this time it has not been confirmed if these properties have sewer service.

Table A – Properties and Proposed Land Uses

APN	Fig. 1 Ref No. [1]	Size (ac)	Address	Expected PD Zoning [2]
29005040	1	0.37	Clayton Ave	Commercial
29005014	2	2.31	1830 Clayton Ave	Commercial
29006018	3	1.12	1800 Clayton Ave	Commercial
29009031	4	1.86	9th Street	Multi-family Residential [3]
29009032	5	0.29	Carver Rd	Commercial
29009023	6	2.33	1136 9th Street	Multi-family Residential [3]
29009010	7	1.99	1108 9th Street	Multi-family Residential [3]
29009021	8	2.19	1024 9th Street	Multi-family Residential [3]
29009020	9	0.60	1113 Carver Rd	Commercial
29009012	10	1.48	1016 9th Street	Multi-family Residential [3]
29009013	11	0.40	1000 9th Street	Commercial
29009014	12	0.43	1001 Carver Rd	Commercial
29009015	13	1.29	900 9th Street	Commercial
13 properties		16.66		

[1] Multifamily Dwelling Unit Project (6.5 acres) properties shown in blue font.

[2] Expected zoning under future PD per Planning Division. Current zoning is commercial/manufacturing.

[3] Proposed development at 20 du/ac.

Existing Sewer Utilities:

The main sewer trunk is an 18-inch in Carver. There is a smaller main on the north side of the Annexation area in Clayton Ave and two small mains onto the properties, which will be discussed more specifically later; however, Carver is the City sewer trunk to which this area will ultimately connect. The Carver trunk continues down 9th Street as an 18-inch to Woodland Ave where it increase to a 36-inch trunk flowing west and then south as a 36-inch trunk in Graphics Drive, which crosses under HWY-99 to North Emerald. From Emerald, this trunk generally heads south as a 36-inch to the Emerald Lift Station (LS#17), located at MID Lateral 4 just south of Laurel Ave and then continues south until just north of Robertson Rd where it increases to 42-inch and then larger to the Sutter Treatment Plant. Figure 2 shows the sewer trunk flow routing for this area's effluent.

As noted in the WWMP, the Emerald Trunk is generally in poor condition, with many segments of the reinforced concrete pipe (RCP) deteriorating or experiencing capacity problems. The Emerald

Trunk also experiences existing deficiencies in handling Peak Wet Weather Flow (PWWF) conditions and per the WWMP it is recommended that the stretch from Kansas to Robertson Rd be paralleled with a new relief trunk in Carpenter Rd to provide increased capacity and avoid surcharging of the pipe. The Emerald Lift Station is also deficient in firm capacity to handle existing PWWF conditions. Figure 3 shows the recommended improvements from the WWMP. Firm capacity is defined as the actual pumping capacity of a lift station with the largest pump out of service.

Figure 2: Sewer Trunk Flow Routing & Flow Monitoring Locations

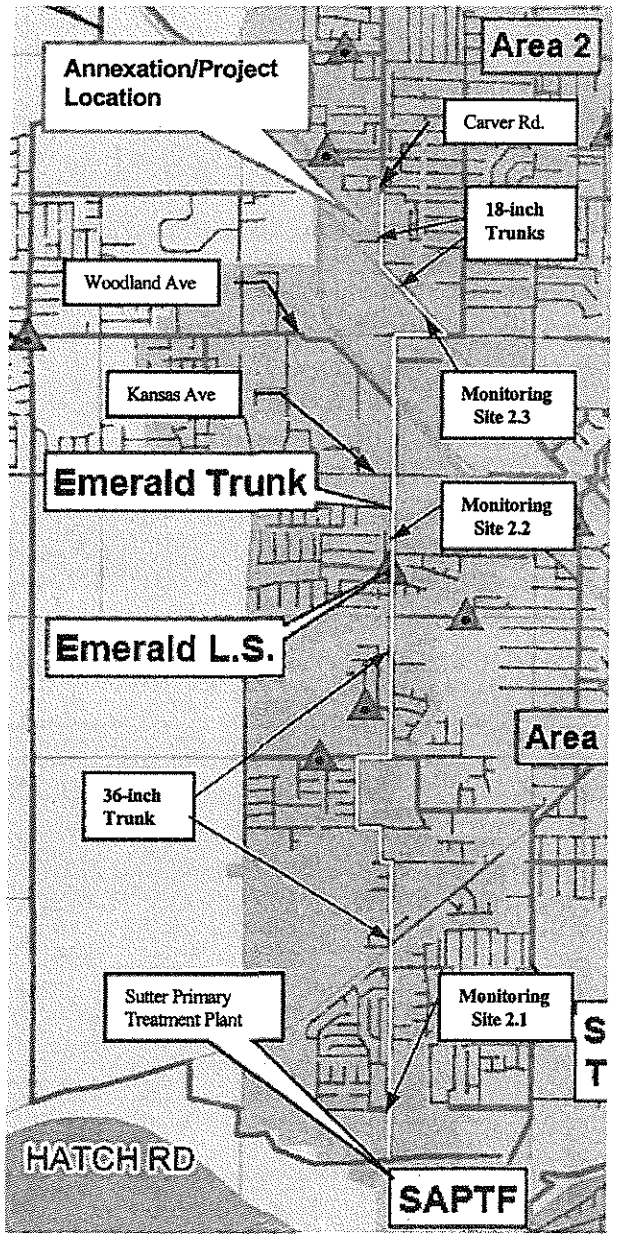
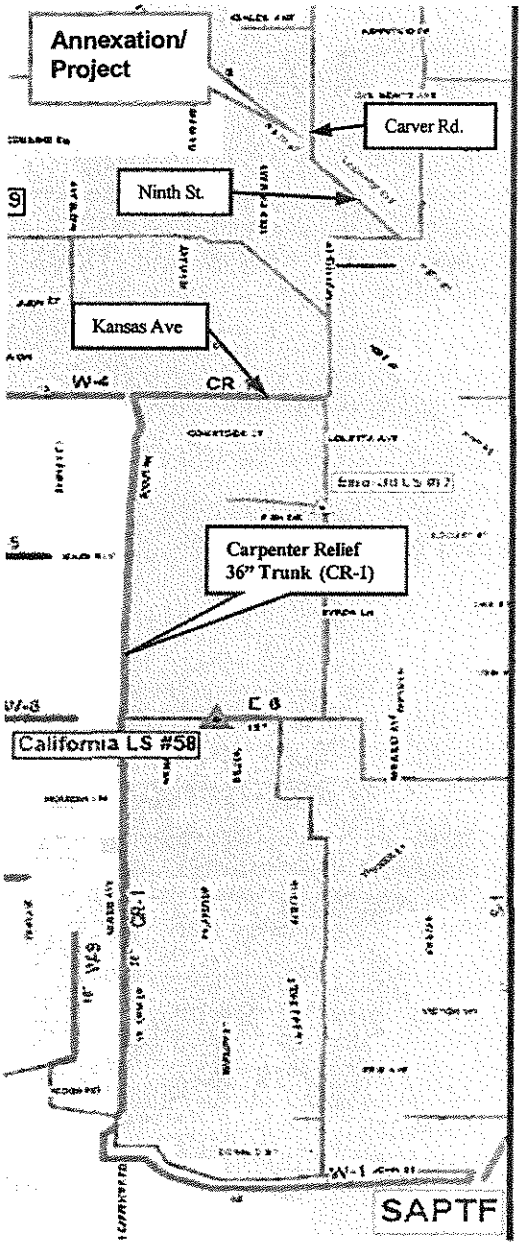


Figure 3: WWMP Recommended Improvements



Design Flow Criteria:

The City's standard for design pipe capacity is 70% full for new development and 85% full for existing build-out areas under PWWF conditions. For this part of Tributary Area 2, the 85% full standard can be used for the Carver 18-inch trunk because the upstream tributary area is nearly built-out. For the downstream 36-inch size trunk, there is still a considerable amount of land in Tributary Area 2 that remains undeveloped, underdeveloped, outside City limits or otherwise not yet connected to the City sewer system. Even under the 85% criteria, the WWMP Collection System as stated earlier recommends that a parallel relief trunk be constructed in Carpenter Rd (Carpenter Relief Trunk) south of Kansas Ave to increase available capacity on this stretch of the Emerald Trunk.

Annexation and Project Area Flows:

The Annexation area has an estimated average dry weather flow (ADWF) of 44,200 gpd (0.07 cfs) and peak dry weather flow (PDWF) of 132,600 gpd (0.21 cfs) using a peaking factor of 3 (from WWMP). The 130-du Project as stand-alone is estimated at 24,700 gpd (0.038 cfs) ADWF and 74,100 gpd (0.11 cfs) PDWF. The required Infiltration and Inflow (I&I) contribution for new development per City Standards results in an additional 16,600 gpd for the Annexation area and 6,500 gpd for the Project only area. This increases peak totals for the Annexation area and the Project area to 149,200 gpd (0.23 cfs) and 80,600 gpd (0.12 cfs), respectively. These are the estimated design flows per City Standards that are used to determine any impacts on the existing system. Table B is provided to show the estimated sewer flows for these properties based on the WWMP flow factors.

Table B: Annexation and Project Area Sewer Flows

Map Ref No. [1]	Expected PD Zoning [2]	Size (ac)	Flow Coefficient [4]	DU [3]	ADWF (gpd)	PDWF (gpd) [5]	I & I [6]	PWWF (gpd) [7]	EDU's
1	Commercial	0.37	1,000		368	1,103	368	1,470	1
2	Commercial	2.31	1,000		2,312	6,936	2,312	9,248	8
3	Commercial	1.12	1,000		1,120	3,361	1,120	4,482	4
4	Multi-family Residential [3]	1.86	190	37	7,078	21,234	1,863	23,097	19
5	Commercial	0.29	1,000		293	878	293	1,171	1
6	Multi-family Residential [3]	2.33					2,334		
7	Multi-family Residential [3]	1.99					1,991		
8	Multi-family Residential [3]	2.19	190	130	24,700	74,100	2,190	80,614	65
9	Commercial	0.60	1,000		597	1,791	597	2,388	2
10	Multi-family Residential [3]	1.48	190	30	5,618	16,853	1,478	18,331	15
11	Commercial	0.40	1,000		400	1,201	400	1,602	1
12	Commercial	0.43	1,000		427	1,282	427	1,710	1
13	Commercial	1.29	1,000		1,290	3,869	1,290	5,159	4
		16.66		**197**	**44,203**	**132,608**	**16,662**	**149,270**	122

[1] Multifamily Dwelling Unit Project (6.5 acres) properties shown in blue font. Refer to Fig 1 for parcel location.

[2] Expected zoning under PD as shown. Current zoning is commercial/manufacturing.

[3] High Density Residential (HDR) at 20 du/ac.

[4] From City WWMP, HDR flow coefficient is 190 gpd/du & Commercial/Retail flow coefficient is 1,000 gpdpa (gallons per day per acre).

[5] Peak hour factor is 3 per WWMP.

[6] I & I for new development is 1,000 gpdpa (City Standards).

[7] PWWF equals PDWF plus I & I per City Standards.

Sewer Flow Monitoring Report:

V&A Consulting conducted City-wide Sewer System Flow Monitoring in 2004 at various City locations. For this Project and Annexation area, Sites 2.1, 2.2 and 2.3 are referenced from the V&A Report and WWMP. The monitoring information was incorporated and calibrated into the WWMP. Data for these three monitoring points are provided in Table C. An important note is that during the V&A Monitoring effort, there was not a significant storm event from which to directly measure the impact of I & I. Inflow is the result of direct connections to the City's sewer system from storm water runoff and from directly or indirectly routing storm water into the sewer system in areas where flooding is a major issue. Infiltration is the seepage of ground water into the sewer system through joints, cracks and other pipe defects.

Because only minor storm events occurred during the monitoring periods, the WWMP used other available data and storm modeling techniques to predict and calibrate how much I&I would impact the various areas. This is more fully explained in the WWMP for the Collections System. For Sites 2.1, 2.2 and 2.3, PWWF peaking factors of 2.8, 2.7 and 2.4, respectively were developed to represent the I & I for these locations with a 10-yr, 24-hr storm event. Tributary Area 2 experiences significant increases in PWWF because of direct storm drain connections to the wastewater collection system.

Table C: PWWF Peaking Factors at Specific Monitoring Locations

Flow Monitoring ID	Flow Monitoring Location (Reference Figure 1)	Peaking Factor
2.3	North Ninth Street north of Coldwell Ave.	2.4
2.2	North Emerald Ave at Laurel Ave.	2.7
2.1	Hancock St. north of Donald Ave.	2.8

Source: City WWMP (V&A Consulting Sewer Flow Monitoring Report)

Carver and Ninth Street Trunks:

The capacity of the existing 18-inch Carver and Ninth Street sewer trunks is 1.80 mgd (2.78 cfs) at full capacity and 1.74 mgd (2.69 cfs) at 80% of full.

From the V&A Report and WWMP data, the Ninth Street trunk carries a measured 640,000 gpd (0.64 mgd) ADWF at monitoring location 2.3 or approx. 36% of full capacity. In 2004 V&A measured an absolute peak flow of 1.15 mgd and the WWMP modeled max-day PDWF is 0.81 mgd. Adding the Annexation area's estimated PDWF of 132,600 gpd to this segment of Ninth Street results in a flow of 0.94 mgd or approx 52% of full. Adding only the Project's PDWF contribution of 74,100 gpd, the estimated flow in the Ninth Street trunk would increase to 0.88 mgd or about 49% of full.

This, however, does not include a significant storm event on the existing system or I & I from the Annexation and Project areas. When the existing wet weather peaking factor of 2.4 for this location is applied, the estimated existing system flow increases to 1.51 mgd or 84% of full capacity (WWMP). Adding the anticipated Annexation area PWWF of 149,200 gpd results in a new total PWWF of 1.66

mgd (2.57 cfs) or 92% of full capacity for this trunk. The Project only would result in less flow at 1.59 mgd (2.46 cfs) or 88% of full.

Putting this in perspective, the Annexation area's calculated PWWF of 149,200 gpd is approx 8% of the full capacity of the Carver and Ninth Street trunks. However, under the estimated existing PWWF conditions, there is approximately only 16% (100% - 84%) existing total trunk capacity available. Applying the 85% design capacity criteria leaves roughly only 1% (85% - 84%) existing available capacity under PWWF conditions compared with the need for 8% additional capacity for the Annexation area. For the Project only, the calculated PWWF of 80,600 gpd is approx. 5% of the capacity of the Carver and Ninth Street trunks. Table D shows existing capacity and proposed Annexation and Project area sewer flows for the 18-inch size trunks in Carver and Ninth Street.

Table D: Existing and Proposed Sewer Flows in Carver & Ninth Street Trunks (18-inch)

Flow Condition	Area 2 Existing Flow (18-inch Trunk) [1]	Annexation Area (16.6 ac) [2]	Project Area only (6.5 ac) [2]
ADWF (gpd)	640,000	44,203	24,700
Full Pipe Capacity (gpd)	1,800,000	1,800,000	1,800,000
Allowed Capacity Criteria	85%	n/a	n/a
ADWF w/ new areas (gpd) [3]	640,000	684,203	664,700
ADWF as % of Full Pipe	36%	38%	37%
PDWF (gpd)	810,000	132,600	74,100
PDWF w/ new areas (gpd) [3]	810,000	942,600	884,100
PDWF as % of Full Pipe	45%	52%	49%
Inflow & Infiltration (gpd)	Peaking Factor = 2.4	16,600	6,500
PWWF (gpd)	1,510,000	149,200	80,600
PWWF w/ new areas (gpd) [3]	1,510,000	1,659,200	1,590,600
PWWF as % of Full Pipe	**84%**	**92%**	**88%**

[1] ADWF & PDWF are measured flows. PWWF is calculated from the calibrated Peaking Factor of 2.4.
[2] Flows for Annexation & Project areas calculated per City Standards.
[3] Annexation & Project Area flows are the existing system flows plus the respective new area flows.

South of Woodland Ave Sewer Trunk:

At Woodland Ave, the sewer trunk increases to 36 inches and turns south on Graphics Drive and on to North Emerald Ave and remains unchanged in material, size and slope south to Kansas Ave. The capacity of this 36-inch pipe is 9.34 mgd (14.46 cfs) at full capacity and 9.13 mgd (14.13 cfs) at 80% full. South of Kansas Ave, the trunk remains unchanged in slope, material and size to the Emerald Lift Station (L.S. #17), located at MID Lateral 4 just south of Laurel Ave.

Per the WWMP and the V&A Report for Site 2.2, just north of the Emerald Lift Station, the measured ADWF in this trunk was 3.65 mgd with a measured PDWF of 4.76 mgd or about 51% of full capacity. The absolute peak measured flow during the monitoring period was 6.46 mgd or about 69% of full capacity, however this did not include a 10-yr, 24-hr storm event. With a peaking factor of 2.7 for this location, the ADWF increases to a PWWF of 9.68 mgd, which is over the 9.34 mgd capacity of the pipe and considered a surcharge condition meaning there is no capacity left in the pipe. Adding any more new flow from this Project or the Annexation area under PWWF conditions will only contribute to the capacity deficiency situation. Table E shows existing capacity and proposed Annexation and Project area sewer flows for the 36-inch size Emerald Trunk.

Table E: Existing and Proposed Sewer Flows in Emerald Trunk (36-inch)

Flow Condition	Area 2 Existing Flow (36-inch Trunk) [1]	Annexation Area (16.6 ac) [2]	Project Area only (6.5 ac) [2]
ADWF (gpd)	3,650,000	44,203	24,700
Full Pipe Capacity (gpd)	9,340,000	9,340,000	9,340,000
Allowed Capacity Criteria	85%	n/a	n/a
ADWF w/ new flows (gpd) [3]	3,650,000	3,694,203	3,674,700
ADWF as % of Full Pipe	39%	40%	39%
PDWF (gpd)	4,760,000	132,600	74,100
PDWF w/ new flows (gpd) [3]	4,760,000	4,892,600	4,834,100
PDWF as % of Full Pipe	51%	52%	52%
Inflow & Infiltration (gpd)	Peaking Factor = 2.7	16,600	6,500
PWWF (gpd)	9,680,000	149,200	80,600
PWWF w/ new flows (gpd) [3]	9,680,000	9,829,200	9,760,600
PWWF as % of Full Pipe	**104%**	**105%**	**105%**

[1] ADWF & PDWF are measured flows. PWWF is calculated from the calibrated Peaking Factor of 2.7.
[2] Flows for annexation & Project areas calculated per City Standards.
[3] Annexation & Project Area flows are the existing system flows plus the respective new area flows.

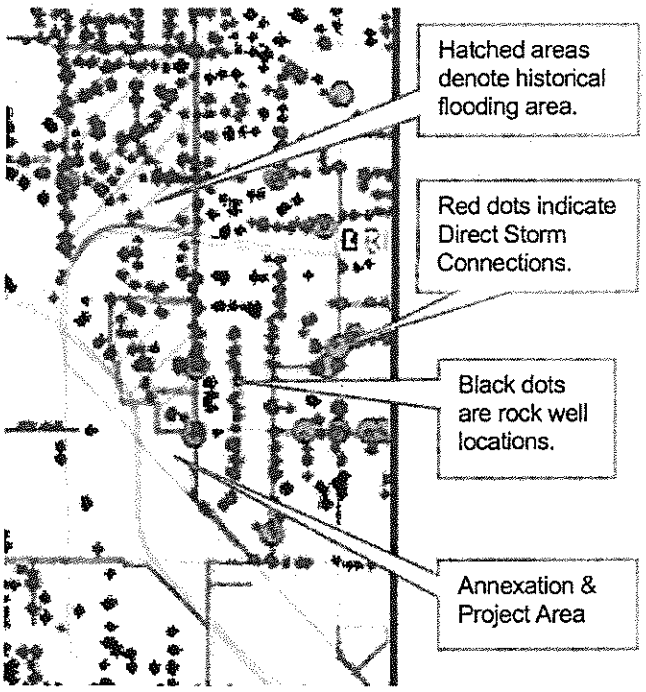
The Annexation area's estimated PWWF flow of 149,200 gpd is about 1.5% of the full pipe capacity and the 80,600 gpd Project only flow amounts to less than 1%.

Emerald Trunk South of Emerald Lift Station:

South of the Emerald Lift Station, this trunk remains at 36-inches in size until Chicago Ave where it reduces to 27-inches and then increases to 42-inches at Donald and increasing further in size to the Sutter Treatment Plant. However, capacity deficiency only increases to the south as more of Tributary Area 2 enters into the same 36-inch size pipe. The WWMP recommends a parallel relief trunk in Carpenter Rd to resolve this capacity issue (Fig. 3).

One of the major contributors to the existing capacity issues in Tributary Area 2 and specifically to the Carver, Ninth and, Emerald trunks is Inflow of storm water into the sewer system. This occurs as either direct connections or via indirect operational means. The storm drainage system within the Sewer Tributary Area 2 consists primarily of rock wells, which may become overwhelmed under large storm events and unable to discharge storm water runoff as fast as it accumulates in the streets. Some areas north of the Annexation area also have historical flooding problems (Fig 4), which may result in operational decisions to redirect storm water through the sewer system as a relief measure. The WWMP states that removing the direct connects and also the need for operational relief of storm water via the sewer system would result in reclaiming some PWWF capacity for sewer use, however, even with these improvements, the Emerald Trunk would still be undersized for build-out conditions.

Figure 4: Sewer Direct Connections and Historical Flooding Areas



Build-out of Tributary Area 2:

The WWMP looked at the infrastructure needs under a build-out scenario of Tributary Area 2. Under this scenario, it was assumed that direct connects would be removed from the sewer system. However, the Carpenter Relief trunk would still be required to provide the necessary build-out capacity for Area 2. Under the build-out scenario, the Annexation area was included in the WWMP under the Redevelopment Area wastewater flow coefficient of 1,100 gallons per day per acre (gpdpa).

Because the actual existing flows from the Annexation area parcels to the City Sewer System are not confirmed, based on the current developed level of these properties the existing flow contribution is considered minor and this area is only considered to be contributing flow under the build-out scenario.

Applying this WWMP flow factor (1,100 gpdpa) to the entire Annexation area would result in a base ADWF of 18,260 gpd (0.028 cfs) and a PWWF of 71,380 gpd (0.11 cfs) for the build-out condition. This is what was estimated in the WWMP model for the Annexation area parcels. However, the 6.5-acre Project area parcels are proposed at more intense development with a flow demand equivalent to 3,800 gpdpa (24,700 gpd / 6.5 acres) ADWF compared to 1,100 gpdpa, a difference of 2,700 gpdpa.

The increased flow difference for the Project only area due to higher intensity use is 17,550 gpd (0.03 cfs) ADWF and 52,650 gpd (0.08 cfs) PWWF, which was not accounted for in the WWMP build-out analysis. This PWWF difference requires about 2.9% more available capacity in the Carver and Ninth Street trunks and around 0.56% more capacity in the Emerald trunk than was modeled in the WWMP. Accounting for increased flows for the higher intensity uses in the entire Annexation area results in a difference of 25,870 gpd (0.04 cfs) ADWF and 77,600 gpd (0.12 cfs) PWWF. This PWWF difference requires about 4% more available capacity in the Carver and Ninth Street trunks and around 0.8% more available capacity in the Emerald trunk than was modeled in the WWMP.

Capital Improvement Projects:

The WWMP recommends a parallel sewer relief trunk (Carpenter Relief Trunk, a.k.a. CR-1) for the Emerald Trunk and removing the storm water impacts of direct connects along with conducting other rehabilitation projects on the Emerald Trunk. The Capital Improvement Program shows budgeting for the Carpenter Relief Trunk in Fiscal Years (FY) 07/08 and 08/09 with construction expected in FY 08/09. The Emerald Lift Station is also planned for a rehabilitation project with budgeting in FY 07/08 and 08/09 but it is anticipated that additional flows from the Annexation area will not impact this effort. The Emerald Trunk Rehabilitation Project is not related to the capacity issue and will also not be impacted by additional sewer flows from this Annexation area.

Another CIP anticipated over the next ten years is removing direct connections from the sewer system. At this time, I do not have a schedule on when those within Tributary Area 2 will be completed. This means that with build-out of the Project and Annexation area prior to removal of the direct connects and a resolution to flooding problems upstream, Carver and Ninth trunks could be subject to flows reaching 90% of pipe capacity; thus exceeding the 85% full pipe capacity criteria for built-out conditions under PWWF conditions.

On Site Sewer Facilities:

A 6-inch sewer fly-line off the Carver 18-inch trunk, per an improvement plan, is shown traversing two of the parcels (APN's 029-009-021 and 029-009-023) in the Project area and appearing to also route to APN 029-009-023 as well, however, specifics of actual existing sewer service are not addressed here. These three parcels constitute the Project area. A second 6-inch sewer fly-line also appears to enter along the property line between APN 029-009-012 and APN's 020-009-013 and 029-009-014.

Six-inch City sewer mains are no longer allowed for new development, although a 6-inch private sewer lateral might be acceptable if such a use required it. The question of whether or not the existing 6-inch main traversing the Project area has capacity for that flow demand has been raised. This sewer

pipe if in good condition and placed according to the improvement plan on file would have a full pipe capacity of 226,200 gpd (0.35 cfs). At 75% of full pipe, capacity is reduced to about 181,000 gpd (0.28 cfs). The Project's PWWF is estimated at 80,600 gpd (0.12 cfs), thus theoretically there would appear to be sufficient capacity in the existing 6-inch pipe. However, sizing of the pipe would require other considerations such as meeting all City Standards and a field verification would be required. The second 6-inch main, as shown on City information, is of little concern because those parcels have frontage or reasonable access to the Carver Trunk; however City Standards and field verification would still need to apply.

Because there are several properties in the Annexation area and it is unknown at this time how these will develop and in what manner, actual routing of sewer flows from these parcels to the Carver Trunk cannot be accurately predicted or analyzed at this time. Specifics would be addressed at time of Planned Development (P-D) formation or improvement plan review. However, if the proposed Project area parcels develop first, the entire 16.6-acre Annexation area would essentially be divided into upper and lower areas in terms of accessing the existing City sewer trunk in Carver. Parcels referenced as 1, 2, and 3 north of this Project area would only have access to City mains to the north, specifically the 6-inch main on Clayton and 8-inch main on Martin, which also flow to Carver. The parcel referenced as #4 in Figure 1 is landlocked between the other properties with no direct access to existing sewer facilities. Minor City sewer mains have not been analyzed with this effort thus any capacity or accessibility issues of these mains have not been studied. All other Annexation parcels, including the three proposed for the Project, would have reasonable access to the Carver main by means of frontage.

Conclusion:

What this report shows is that without the recommended capital improvements identified in the Wastewater Master Plan for the Emerald Trunk and for reducing the direct impacts of storm runoff on the wastewater system of Tributary Area 2, there will continue to be Peak Wet Weather Flow capacity constraints on the associated sewer trunks. New sewer demands on the Carver-Emerald Trunk Collection system from either the Annexation area or the stand-alone Project area will add to the problem during wet weather conditions.

The more intense sewer demands required of the high-density residential component of the Project and Annexation areas, which were not specifically modeled in the WWMP, do not appear to be significant once the recommended CIP's are completed. The stand-alone Project's capacity demand would exceed the City's 85% of full pipe criteria under Peak Wet Weather Flow conditions for the Carver Rd. and Ninth St. Trunks but is estimated to be lower than full pipe capacity. Existing flows already exceed the Emerald Trunk full pipe capacity under Peak Wet Weather Flow (PWWF) conditions, thus there is no available PWWF capacity for new development.

The present CIP shows funding for the Carpenter Relief Trunk over the next two to three years (FY 07/08 and 08/09); however actual completion of this major, nearly 3-mile long, trunk installation will not be known until a construction schedule is available. The removal of direct connections from the sewer system is a ten-year project and at this time it is not clear when Area 2 will be completed within that estimated time frame.

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-660

RESOLUTION APPROVING CLOSURE OF CITY OFFICES ON DECEMBER 26, 2008 AND JANUARY 2, 2009

WHEREAS, on August 25, 2008, the City Council Finance Committee received a report from the Personnel Director on the use of employee furloughs as a budget reduction, and

WHEREAS, the Finance Committee recommended implementing voluntary unpaid furloughs with mandatory furloughs on the table for further discussion, and

WHEREAS, since then, staff has promoted the use of unpaid furlough days with limited participation, and

WHEREAS, on November 24, 2008, the Finance Committee received a report from the City Manager amending his recommendation which called for mandatory work furloughs and the closure of non-essential City offices on December 26, 2008 and January 2, 2009, and

WHEREAS, the Finance Committee approved staff's amended recommendation to close City offices on Friday, December 26, 2008 and Friday, January 2, 2009, allowing employees to utilize accrued leave balances such as vacation, compensatory time off (CTO), or the use of negative vacation or voluntary furloughs, and

WHEREAS the Finance Committee approved staff's amended recommendation to defer the issue of mandatory furloughs until after second quarter revenue data is available,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the closure of all non-essential city offices on Friday, December 26, 2008 and Friday, January 2, 2009.

BE IT FURTHER RESOLVED that impacted employees may use accrued leave balances such as vacation, compensatory time off (CTO), or the use of negative vacation or voluntary furloughs, and

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of December, 2008, 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: 2008-661

A RESOLUTION ACCEPTING THE ANNUAL REPORT FOR THE FISCAL YEAR ENDING JUNE 30, 2008 FOR THE REDEVELOPMENT AGENCY OF THE CITY OF MODESTO

WHEREAS, pursuant to California Health & Safety Code Section 33080, the Redevelopment 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 California 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 California 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 9, 2008,

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, 2008, is hereby accepted.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto, held on the 9th day of December, 2008, 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

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

General Information

Fiscal Year 2008

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	Padilla	Wayne		(209) 577-5371
Secretary	Morris	Jean		(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

Achievement Information (Unaudited)

Fiscal Year 2008

Indicate Only Those Achievements Completed During the Fiscal Year of this Report as a Direct Result of the Activities of the Redevelopment Agency.

Please provide a description of the agency's activities/accomplishments during the past year.

(Please be specific, as this information will be the basis for possible inclusion in the publication.)

Activity Report

RDA Master Plan & EIR. The Master Plan and Environmental Impact Report (EIR) were updated during 2007-08 and provide policy guidelines and goals for land users and project concepts. The approval of the Master Plan and EIR update was adopted on October 9, 2007.

Gallo Center for the Arts: The center includes a 1,200 seat theatre, 400 seat theatre and art gallery. The project received RDA assistance by way of street, streetscape and traffic signal improvements. The center opened in September 2007.

Kansas Woodland Business Park: During 2007-08, the Agency approved proposed terms of a Purchase Agreement for the 45 acre property. The property transfer is expected to occur in 2009.

17th & G Tower Park Affordable Housing: The RDA negotiated a purchase agreement with the City for a decommissioned park for the development of an affordable housing project. The project is still being studied.

10th & H Mixed-Use: A mixed-use project including housing, parking, hotel and retail has an Exclusive Negotiating Agreement to construct the development on an RDA owned parking lot. An MOU was completed in 2007 and additional studies and analysis were undertaken in 2007-08. A DDA is expected to be entered into in 2009.

Affordable Housing: The Agency is working on several housing projects that could

Square Footage Completed

Enter the amount of square footage completed this year by building type and segregated by new or rehabilitated construction.

	New Construction	Rehabilitated
Commercial Buildings		
Industrial Buildings		
Public Buildings		
Other Buildings		
Total Square Footage	0	0

Enter the Number of Jobs Created from the Activities of the Agency

Types Completed

A=Utilities B=Recreation C=Landscaping D=Sewer/ Storm E=Streets/ Roads F=Bus/Transit

Achievement Information (Unaudited)

create up to 185 new units.

Renaissance Office Project: The Agency entered into an OPA on the Project in 2002 that is now completed, with a Certificate of Occupancy to be issued in January 2009.

Streetscape Plan: The Agency completed the design for a streetscape plan on 10th Street at I Street in 2006-07, and intends to assist in implementing this project.

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Audit Information

Fiscal Year 2008

Was the Report Prepared from Audited Financial Data, and Did You Submit a Copy of the Audit?	Yes
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?	

If compliance opinion includes exceptions, state the areas of non-compliance, and describe the agency's efforts to correct.

Modesto Redevelopment Agency
Redevelopment Agencies Financial Transactions Report

Project Area Report

Fiscal Year 2008 **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
A = Administrative Fund
L = Low and Moderate Income Housing Fund
M = Mortgage Revenue Bond Program
O = Other Miscellaneous Funds or Programs
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 **2008**

Project Area Name	Community Center Project Area
Frozen Base Assessed Valuation	561,273,363
Increment Assessed Valuation	555,900,545
Total Assessed Valuation	1,117,173,908

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Pass-Through / School District Assistance

Fiscal Year 2008

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	462,022			$462,022		
Cities				$0		
School Districts	570,323			$570,323		
Community College District	83,647			$83,647		
Special Districts				$0		
Total Paid to Taxing Agencies	$1,115,992	$0	$0	$1,115,992	$0	$0
Net Amount to Agency				$4,697,830		
Gross Tax Increment Generated				5,813,822		

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Summary of the Statement of Indebtedness - Project Area

Fiscal Year 2008

Project Area Name	Community Center Project Area
Tax Allocation Bond Debt	
Revenue Bonds	63,100,947
Other Long Term Debt	405,000
City/County Debt	67,450,637
Low and Moderate Income Housing Fund	59,485,577
Other	108,962,674
Total	$299,404,835
Available Revenues	1,977,050
Net Tax Increment Requirements	$297,427,785

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Agency Long-Term Debt

Fiscal Year 2008

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	$20,820,000
Adjustment Made During Year	
Adjustment Explanation	
Interest Added to Principal	
Principal Amount Issued During Fiscal Year	
Principal Amount Matured During Fiscal Year	885,000
Principal Amount Defeased During Fiscal Year	
Principal Amount Unmatured End of Fiscal Year	$19,935,000
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

Statement of Income and Expenditures - Revenues

Fiscal Year 2008

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)*	1,205,743	3,445,315	1,162,764		$5,813,822
Special Supplemental Subvention					$0
Property Assessments					$0
Sales and Use Tax					$0
Transient Occupancy Tax					$0
Interest Income	58,048	307,040	206,426		$571,514
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	89,110	39,531	169,092		$297,733
Total Revenues	$1,352,901	$3,791,886	$1,538,282	$0	$6,683,069

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Expenditures

Fiscal Year 2008

Project Area Name Community Center Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Administration Costs	434,599	91,598	100,373		$626,570
Professional Services	71,603		69,882		$141,485
Planning, Survey, and Design					$0
Real Estate Purchases					$0
Acquisition Expense					$0
Operation of Acquired Property					$0
Relocation Costs					$0
Relocation Payments					$0
Site Clearance Costs					$0
Project Improvement / Construction Costs	1,068,317				$1,068,317
Disposal Costs					$0
Loss on Disposition of Land Held for Resale					$0

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Expenditures

Fiscal Year 2008

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		3,160,095			$3,160,095
Fixed Asset Acquisitions					$0
Subsidies to Low and Moderate Income Housing					$0
Debt Issuance Costs					$0
Other Expenditures Including Pass-Through Payment(s)		1,115,992			$1,115,992
Debt Principal Payments:					
Tax Allocation Bonds and Notes					$0
Revenue Bonds, Certificates of Participation, Financing Authority Bonds		980,000			$980,000
City/County Advances and Loans					$0
All Other Long-Term Debt					$0
Total Expenditures	$1,574,519	$5,347,685	$170,255	$0	$7,092,459
Excess (Deficiency) Revenues over (under) Expenditures	($221,618)	($1,555,799)	$1,368,027	$0	($409,390)

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Other Financing Sources

Fiscal Year 2008

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		920,433			$920,433
Tax Increment Transfers In					$0
Operating Transfers Out	920,433				$920,433
Tax Increment Transfers Out					$0
(To the Low and Moderate Income Housing Fund)					
Total Other Financing Sources (Uses)	($920,433)	$920,433	$0	$0	$0

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Statement of Income and Expenditures - Other Financing Sources

Fiscal Year 2008

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	($1,142,051)	($635,366)	$1,368,027	$0	($409,390)
Equity, Beginning of Period	$2,720,925	$2,701,147	$7,097,276	$0	$12,519,348
Prior Period Adjustments					$0
Residual Equity Transfers					$0
Equity, End of Period	$1,578,874	$2,065,781	$8,465,303	$0	$12,109,958

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Balance Sheet - Assets and Other Debits

Fiscal Year 2008	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	1,615,030	474,441	6,728,586				$8,818,057
Cash with Fiscal Agent		1,982,086					$1,982,086
Tax Increments Receivable		246,329					$246,329
Accounts Receivable							$0
Accrued Interest Receivable	6,962	16,895	28,018				$51,875
Loans Receivable			1,757,483				$1,757,483
Contracts Receivable							$0
Lease Payments Receivable					38,560,000		$38,560,000
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 2008	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			780,000				$780,000
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	$1,621,992	$2,719,751	$9,294,087	$0	$38,560,000	$1,680,536	$53,876,366

(Must Equal Total Liabilities, Other Credits, and Equities)

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Balance Sheet - Liabilities and Other Credits

Fiscal Year 2008	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	42,118	653,970	703,784				$1,399,872
Interest Payable							$0
Tax Anticipation Notes Payable							$0
Loans Payable	1,000		125,000				$126,000
Other Liabilities							$0
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					38,155,000		$38,155,000
All Other Long-Term Debt					405,000		$405,000
Total Liabilities and Other Credits	$43,118	$653,970	$828,784	$0	$38,560,000		$40,085,872

Modesto Redevelopment Agency

Redevelopment Agencies Financial Transactions Report

Balance Sheet - Liabilities and Other Credits

Fiscal Year 2008	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	327,503	2,065,781	6,809,657				$9,202,941
Fund Balance Unreserved-Designated	1,251,371		1,655,646				$2,907,017
Fund Balance Unreserved-Undesignated							$0
Total Equities	$1,578,874	$2,065,781	$8,465,303	$0		$1,680,536	$13,790,494
Total Liabilities, Other Credits, and Equities	$1,621,992	$2,719,751	$9,294,087	$0	$38,560,000	$1,680,536	$53,876,366

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2009-662

A RESOLUTION AMENDING THE FISCAL YEAR 2007-2008 AND 2008-2009 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 Years 2007-2008 and 2008-2009,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the Fiscal Year 2007-2008 and 2008-2009 budgets 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 9th day of December, 2008, 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

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-663

A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND CONTRACT FOR THE PURCHASE AND INSTALLATION OF A DOWNTOWN VIDEO CAMERA MONITORING SYSTEM FOR THE MODESTO POLICE DEPARTMENT TO CELPLAN TECHNOLOGIES, INC., RESTON, VA, AND AUTHORIZING THE CITY MANAGER TO ISSUE AN AGREEMENT FOR A TOTAL COST OF $239,788.27

WHEREAS, on January 8, 2008, the City Council, by Resolution No. 2008-033, authorizing the Purchasing Manager to issue formal Request for Proposals (RFP) for the purchase and installation of a downtown video camera monitoring system for the Modesto Police Department, and

WHEREAS, on March 14, 2008, the Purchasing Division issued Request for Proposal No. 0708-23, for the purchase and installation of a downtown video camera monitoring system to forty-seven (47) prospective proposers, seven (7) of which were local companies, posted the proposal on the City's web site, and formally advertised as required by law, and

WHEREAS, on May 27, 2008, RFP's were formally opened in the City Clerk's office. Of the forty-seven (47) prospective proposers, three (3) companies chose to respond, none were local companies. All three (3) proposals received were considered responsive and responsible, and

WHEREAS, based on being ranked highest in total evaluation criteria the evaluation committee recommended the award of proposal and contract for the purchase and installation of a downtown video camera monitoring system for the Modesto Police Department to CelPlan Technologies, Inc., Reston, VA, for a total cost of $239,788.27, and

WHEREAS, funds are budgeted and available in account 0100-190-1961-5401, for the purchase and installation of a downtown video camera monitoring system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of proposal and contract for the purchase and installation of a downtown video camera monitoring system for the Police Department to CelPlan Technologies, Inc., Reston, VA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to issue an agreement, for a total cost of $239,788.27.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of December, 2008, 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. 2008-664

A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACTS FOR THE PURCHASE OF CONCRETE CEMENT FOR THE PUBLIC WORKS DEPARTMENT, TO ALLIED CONCRETE & SUPPLY CO., INC., MODESTO, CA, AS THE PRIMARY" CONTRACTOR, AND MODESTO THC., INC., MODESTO, CA, AS THE "SECONDARY" CONTRACTOR, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE PURCHASE AGREEMENTS FOR ONE YEAR, WITH FOUR (4) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST NOT TO EXCEED $250,000

WHEREAS, on August 6, 2008, the City Council, by Resolution No. 2008-447, authorized the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of concrete for Public Works Department, and

WHEREAS, on October 1, 2008, the Purchasing Division issued Request for Bid No. 0809-04 for the purchase of cement concrete to four (4) 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 cement concrete for the Public Works Department conforms to the Modesto Municipal Code, and

WHEREAS, funds are budgeted and available in various funds within the Public Works Department for the purchase of cement concrete,

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 cement concrete for the Public Works Department, to Allied Concrete & Supply Co., Inc., Modesto, CA, as the "primary" contractor, and Modesto THC., Inc., Modesto, CA, as the "secondary" contractor.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue annual purchase agreements for a period of one (1) year, with four (4) one-year extension options at the sole discretion of the City, for an estimated annual cost not to exceed $250,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of December, 2008, 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. 2008-665

A RESOLUTION AMENDING THE FISCAL YEAR 08-09 OPERATING BUDGET OF THE HOME FUND FOR THE PURPOSE OF APPROPRIATING RESOURCES TO PAY THE COSTS RELATED TO HOUSING DEVELOPMENT PROJECTS AT 421 LINCOLN AVENUE, 605 E. COOLIDGE AND 615 5TH STREET

WHEREAS, the City of Modesto receives annual entitlements from the U.S. Department of Housing and Urban Development (HUD) and 15% of the HOME Investment Partnership Program (HOME) entitlement may be allocated to Community Housing Development Organization (CHDO) which are required to be non-profit organizations that have been approved by the City of Modesto as CHDOs, are active in Modesto and operating in compliance with the HOME regulations, and

WHEREAS, on June 24, 2008, by Resolution No. 2008-363, the City Council approved an allocation of $608,000 in HOME Community Housing Development Organization (CHDO) Set-Aside funds and $332,427 in HOME funds for the purchase of real property and the development of 18 senior housing units at 421 Lincoln Avenue, Modesto, and

WHEREAS, on June 24, 2008, by Resolution No. 2008-364, the City Council approved an allocation of $713,162 in HOME funds to STANCO for the purchase of real property and the development of 32 housing units at 605 E. Coolidge Avenue, Modesto, for permanent supportive housing for individuals with mental health disabilities and their families, and

WHEREAS, on June 24, 2008, by Resolution No. 2008-365, the City Council approved an allocation of $42,000 in HOME Community Housing Development Organization (CHDO) Set-Aside funds and $42,000 in HOME funds to STANCO for the

acquisition of the 615 5th Street property to expand the Garden Gate Apartment Complex owned by STANCO located at 5th and F Streets, and

WHEREAS, these actions were intended to encumber funds budgeted in FY 07-08; however, since the Council has approved the above projects, these funds were returned to the HOME Fund reserve, and now need to be re-appropriated, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on April 30, 2008, and supported staff's recommendation to provide $650,000 in CHDO Set-Aside funds and $744,589 in HOME funds to STANCO for the development of the Lincoln Avenue Senior Housing Project, the Coolidge Avenue Project and acquisition of the 615 5th Street project, and

WHEREAS, the CH&CDC met on June 18, 2008, and supported allocation of an additional $343,000 in HOME funds to the Coolidge Avenue project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 08-09 operating budget of the HOME Fund 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 December, 2008, 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

Fund Name:
HOME Fund

Revenue Account Adjustments:

	Increase (Decrease)
1170-320-3259-3512	$1,737,589.00

Expense Account Adjustments:

1170-320-3259-0497	$1,087,589.00
1170-320-3259-0508	$ 650,000.00

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-666

A RESOLUTION ACCEPTING A GRANT AWARD OF $200,000 FROM THE STATE OF CALIFORNIA RESOURCES AGENCY HABITAT CONSERVATION FUND PROGRAM FOR THE TUOLUMNE RIVER REGIONAL PARK GATEWAY PARCEL, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE ALL GRANT RELATED DOCUMENTS

WHEREAS, staff has been notified by the State of California Resources Agency that the City has been awarded $200,000 in funding from the Habitat Conservation Fund under the California Wildlife Protection Act of 1990, and

WHEREAS, said funding will allow for the construction and installation of 1,550 lineal feet within the Tuolumne River Regional Park Gateway Parcel project, and

WHEREAS, in order to accept the funding the City Manager, or his designee, must be authorized to execute the grant contract,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts $200,000 in grant funding from the Habitat Conservation Fund under the California Wildlife Protection Act of 1990.

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 the Parks, Planning and Development Manager, or his designee, is authorized to act as the Project Manager on the project. The Council hereby delegates authority to the Project Manager to manage the Agreement, and to delegate authority to others to provide management and support services required for performance of the work and administration of the Agreement. The delegation of authority to submit invoices requires written consent by both grantees which will be provided to the Department of Water Resources.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of December, 2008, 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. 2008-667

A RESOLUTION AMENDING THE FISCAL YEAR 08-09 CIP BUDGET TO INCLUDE $200,000 IN REVENUE FROM THE STATE OF CALIFORNIA RESOURCES AGENCY HABITAT CONSERVATION FUND PROGRAM

WHEREAS, staff has been notified by the State of California Resources Agency that the City has been awarded $200,000 in funding from the Habitat Conservation Fund under the California Wildlife Protection Act of 1990, and

WHEREAS, said funding will allow for construction and installation of 1,550 lineal feet within the Tuolumne River Regional Park Gateway Parcel project,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 08-09 CIP budget to include $200,000 from the State of California Resources Agency Habitat Conservation Fund 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 regular meeting of the Council of the City of Modesto held on the 9th day of December, 2008 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. 2008-668

A RESOLUTION APPROVING THE EXPENDITURE OF THE CITY OF MODESTO'S FY 2008/2009 ALLOCATION IN THE AMOUNT OF $334,743 FROM THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND (SLESF) FOR 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 for 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 FY 2008/2009 is $334,743, to be made in four installments of $83,685.75, and

WHEREAS, the City Council is required to hold a public hearing to consider and approve the SLESF Expenditure Plan, and

WHEREAS, on November 19, 2008, the Citizens Advisory Committee unanimously approved the FY 2008/2009 SLESF proposed spending plan for overtime,

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 spending plan for the FY 2008/2009 State Supplemental Law Enforcement Services Fund (SLESF) allocation of $334,743 for 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 9th day of December, 2008, 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. 2008-669

A RESOLUTION AMENDING THE FY 2008/2009 MULTI-YEAR BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES FOR THE CITY OF MODESTO'S ALLOCATION FROM THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND (SLESF)

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 for 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 cannot be used to supplant existing budgeted funds, and

WHEREAS, a Supplemental Law Enforcement Services Fund (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 FY 2008/2009 is $334,743, to be made in four installments of $83,685.75, and

WHEREAS, the City Council is required to hold a public hearing to consider and approve the SLESF Expenditure Plan, and

WHEREAS, on November 19, 2008, the Citizens Advisory Committee unanimously approved the FY 2008/2009 SLESF proposed spending plan for overtime, and

WHEREAS, the adopted FY 2008/2009 Police SLESF allocation in the amount of $334,743 will be applied to account number 0400-190-2925-3188 as it is received,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby amends the FY 2008/2009 multi-year budget to appropriate revenues and expenditures to 0400-190-2925-3188 for overtime, in four installments of $83,685.75, in conjunction with cash receipts, and 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 9th day of December, 2008, 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

The SLESF allocation for 2008/2009 will be applied to:

	Revenue	Increase/(Decrease)	Description
To:	0400-190-2925-3188	$334,743	2008/09 SLESF Grant
	Expense		
To:	0400-190-2925-0130	$334,743	Overtime

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-670

A RESOLUTION APPROVING THE APPOINTMENTS OF BRAD HAWN (COUNCILMEMBER), TOM BERGLUND (PLANNING COMMISSION MEMBER), KEVIN YOUNG (AIRPORT ADVISORY COMMITTEE MEMBER), RON JESKE (CITIZEN MEMBER), MICHAEL BRINTON (CITIZEN MEMBER) AND THE FOLLOWING STAFF MEMBERS: JUDITH RAY, NICK PINHEY, BRENT SINCLAIR, WAYNE PADILLA, JIM MIGUEL, JULIE HANNON, RICH ULM, FIROZ VOHRA, AND AMY GEDNEY TO THE CAPITAL IMPROVEMENT PROGRAM TASK FORCE

WHEREAS a new process is being initiated to evaluate and prioritize capital improvement projects for the annual preparation of the Capital Improvement Program (CIP), and

WHEREAS, this new process will include 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, the goal of this 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 December 2008 through May 2009 when the CIP is presented to the Planning Commission and Finance Committee, and

WHEREAS, the proposed members for the CIP Task Force are:

Councilmember:	Brad Hawn
Planning Commission member:	Tom Berglund
Airport Advisory Committee member:	Kevin Young
Citizen members:	Ron Jeske, Michael Brinton

Staff members: Judith Ray, Nick Pinhey, Brent Sinclair, Wayne Padilla, Jim Miguel, Julie Hannon, Rich Ulm, Firoz Vohra, and Amy Gedney, and

WHEREAS, the new CIP process, format, and general make-up of the task force was reviewed and approved by the Finance Committee at its February 25, 2008 meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the appointments of Brad Hawn (Councilmember), Tom Berglund (Planning Commission member), Kevin Young (Airport Advisory Committee member), Ron Jeske (citizen member), Michael Brinton (citizen member), and the following staff members: Judith Ray, Nick Pinhey, Brent Sinclair, Wayne Padilla, Jim Miguel, Julie Hannon, Rich Ulm, Firoz Vohra, and Amy Gedney 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 9th day of December, 2008, 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. 2008-671

A RESOLUTION ACCEPTING THE PRELIMINARY DESIGN REPORT DATED NOVEMBER 2008 FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS, TIER 2 – PRESSURE REGULATING VALVES AS COMPLETE

WHEREAS, the City has determined that its existing water distribution system needs additional improvements, and

WHEREAS, construction of nineteen (19) pressure regulating valves is needed throughout the City, and

WHEREAS, the City Council on April 1, 2008, by Resolution No. 2008-183, approved an Agreement with HDR, Inc. to complete the 35% design effort and a Preliminary Design Report (PDR) for the Downstream Water System Improvements, Tier 2 – Pressure Regulating Valves, and

WHEREAS, the PDR summarizes existing facilities, details proposed project elements and rehabilitation method descriptions, 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 Tier 2 – Pressure Regulating Valves Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Preliminary Design Report dated November 2008 for the Downstream Water System Improvements, Tier 2 – Pressure Regulating Valves as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of December, 2008, 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. 2008-672

A RESOLUTION APPROVING AN AGREEMENT WITH HDR ENGINEERING, INC. FOR FINAL DESIGN SERVICES OF DOWNSTREAM WATER SYSTEM IMPROVEMENTS, TIER 2 – PRESSURE REGULATING VALVES IN AN AMOUNT NOT TO EXCEED $336,946 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $33,694 (10%) FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $370,640, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City has determined that its existing water distribution system needs additional improvements, and

WHEREAS, the installation of nineteen (19) pressure regulating valves throughout the City is included in the 2008-2009 Capital Improvement Budget approved by City Council on January 8, 2008, and

WHEREAS, the Preliminary Design Report (PDR) titled, "Downstream Water System Improvements, Tier 2 – Pressure Regulating Valves," summarizes existing facilities, proposed project elements and method of rehabilitation, and provides an estimated project construction cost of $3.53 million for nineteen pressure regulating valves, and

WHEREAS, HDR Engineering, Inc. successfully completed the PDR and is familiar with the Pressure Regulating Valves project, and

WHEREAS, staff recommends approving an Agreement with HDR Engineering, Inc. for final design services for the Downstream Water System Improvements, Tier 2 – Pressure Regulating Valves project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with HDR Engineering, Inc. for final design services of Downstream Water System Improvements, Tier 2 – Pressure Regulating

Valves in an amount not to exceed $336,946 for the identified scope of services, plus $33,694 (10%) for additional services (if needed), for a maximum total amount of $370,640.

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 December, 2008, 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. 2008-673

A RESOLUTION ACCEPTING THE PRELIMINARY DESIGN REPORT DATED NOVEMBER 2008 FOR THE DOWNSTREAM WATER SYSTEM IMPROVEMENTS – YOSEMITE TRANSMISSION MAIN AS COMPLETE

WHEREAS, the City has determined that its existing water distribution system needs additional improvements, and

WHEREAS, construction of approximately three (3) miles of domestic water transmission main are needed in the south and downtown section the City, and

WHEREAS, the City Council on April 1, 2008, by Resolution No. 2008-183, approved an Agreement with HDR Engineering, Inc. to complete the 35 percent design effort and a Preliminary Design Report (PDR) for the Downstream Water System Improvements – Yosemite Transmission Main, and

WHEREAS, the 35 percent PDR summarizes existing facilities, details proposed project elements and rehabilitation method descriptions, presents preliminary engineering drawings, and provides estimated cost and schedule projections for project implementation, and

WHEREAS, the 35 percent PDR has been successfully completed and will serve as the basis for the final design of the Yosemite Transmission Main Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Preliminary Design Report dated November 2008 for the Downstream Water System Improvements – Yosemite Transmission Main as complete.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of December, 2008, 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. 2008-674

A RESOLUTION APPROVING AN AGREEMENT WITH HDR ENGINEERING, INC. FOR FINAL DESIGN SERVICES OF DOWNSTREAM WATER SYSTEM IMPROVEMENTS – YOSEMITE TRANSMISSION MAIN IN AN AMOUNT NOT TO EXCEED $238,023 FOR THE IDENTIFIED SCOPE OF SERVICES, PLUS $23,802 (10%) FOR ADDITIONAL SERVICES (IF NEEDED), FOR A MAXIMUM TOTAL AMOUNT OF $261,825, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT

WHEREAS, the City has determined that its existing water distribution system needs additional improvements, and

WHEREAS, the installation of a new 16-inch waterline along South Morton Boulevard continuing on Yosemite Boulevard/State Route 132, Mono Drive, Lapham Drive and connecting at Mitchell Road is included in the 2008-2009 Capital Improvement Budget approved by City Council on January 8, 2008, and

WHEREAS, the Preliminary Design Report (PDR) titled "Downstream Water System Improvements – Yosemite Transmission Main" summarizes existing facilities, proposed project elements and method of rehabilitation, and provides an estimated project construction cost of $6.75 million for the transmission main, and

WHEREAS, HDR Engineering, Inc. successfully completed the PDR and is familiar with the Yosemite Transmission Main project, and

WHEREAS, staff recommends an Agreement with HDR Engineering, Inc. for final design services for the Downstream Water System Improvements – Yosemite Transmission Main project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with HDR Engineering, Inc. for final design services of Downstream Water System Improvements – Yosemite Transmission Main in

an amount not to exceed $238,023 for the identified scope of services, plus $23,802 (10%) for additional services (if needed), for a maximum total amount of $261,825,

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 December, 2008, 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. 2008-675

A RESOLUTION APPROVING AN AGREEMENT WITH GILLIG LLC FOR THE PURCHASE OF SEVEN (7) LOW FLOOR TRANSIT BUSES FOR A TOTAL PRICE NOT TO EXCEED $2,730,000, AND AUTHORIZING THE CITY MANGER TO EXECUTE THE AGREEMENT

WHEREAS, the City desires to purchase seven (7) transit buses to replace its fleet of 1983 model buses, and

WHEREAS, the City participated in a consortium of transit agencies led by the San Mateo County Transit District (SamTrans) for the purchase of buses, and

WHEREAS, SamTrans entered into an agreement with Gillig LLC for the purchase of buses, and

WHEREAS, the pricing included in the agreement between Gillig LLC and SamTrans is applicable to the other members of the purchase consortium, and

WHEREAS, Gillig LLC has provided the City of Modesto with pricing for seven (7) new buses based on the agreement between SamTrans and Gillig LLC, and

WHEREAS, a final price will be determined after pre-production meetings and negotiations between City of Modesto staff and Gillig LLC, and

WHEREAS Gillig LLC will furnish the seven buses at a price not to exceed the following total, F.O.B. Modesto, including state and local sales taxes: Two Million, Seven Hundred Thirty Thousand and No One-Hundredths Dollars ($2,730,000.00), and

WHEREAS, by an agenda report to the City Council dated November 20, 2008, from the Public Works Director, City staff recommended to the Council that said buses be purchased from Gillig LLC at a price not to exceed $2,730,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Gillig LLC for the purchase of seven (7) low floor transit buses for a total price not to exceed $2,730,000, and authorizing the City Manger, or his designee, to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of December, 2008, 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. 2008-676

A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE A REQUEST FOR PROPOSAL FOR AN ENTERPRISE RESOURCE PLANNING (ERP) SYSTEM AND IMPLEMENTATION SERVICES

WHEREAS, the City of Modesto worked with Gartner Consulting to conduct a Business Process Analysis in 2003 resulting in a blueprint for a multi-year business transformation initiative, and

WHEREAS, the business transformation initiative was adopted by City Council in 2004, and

WHEREAS, since adoption of the blueprint, the City of Modesto has been improving key business processes that did not require new systems and has updated and expanded specialty systems where practicable, and

WHEREAS, the blueprint recommended replacement of existing financial and human resource systems with an Enterprise Resource Planning (ERP) System that encompasses finance and human resource functions, and

WHEREAS, on May 2, 2006, the City Council, by Resolution No. 2006-263A, approved the request to authorize the issuance of a Request for Proposal and Specifications for Enterprise Resource Planning Independent Services and Gartner Consulting won the contract, and

WHEREAS, project teams made up of City staff working alongside Gartner Consulting have completed a comprehensive set of requirements that will meet the needs of the City for an ERP system and developed a Request for Proposal for an Enterprise Resource Planning System and Implementation Services specifically designed 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 Request for Proposal for an Enterprise Resource Planning System and Implementation Services.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of December, 2008, 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. 2008-677

A RESOLUTION APPROVING THE RECOMMENDED DISTRICTING PLAN ADOPTED BY THE CITIZENS' DISTRICTING COMMISSION

WHEREAS, the Citizens' Districting Commission was appointed by the City Council on April 8, 2008, in response to the overwhelming approval of Measure N by the electorate in the February 2008 Charter amendment election, and

WHEREAS, the Commission held a series of meetings and public hearings throughout the City from April 22, 2008 to October 21, 2008, and

WHEREAS, the Commission gathered testimony from all interested citizens during its meetings and public hearings, and

WHEREAS, the Commission, at its meeting of October 21, 2008, by unanimous vote, selected a Final Districting Map, a copy of which is **attached** hereto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Recommended Districting Plan adopted by the Citizens' Districting Commission as the Final Districting Plan.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of December, 2008, 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:

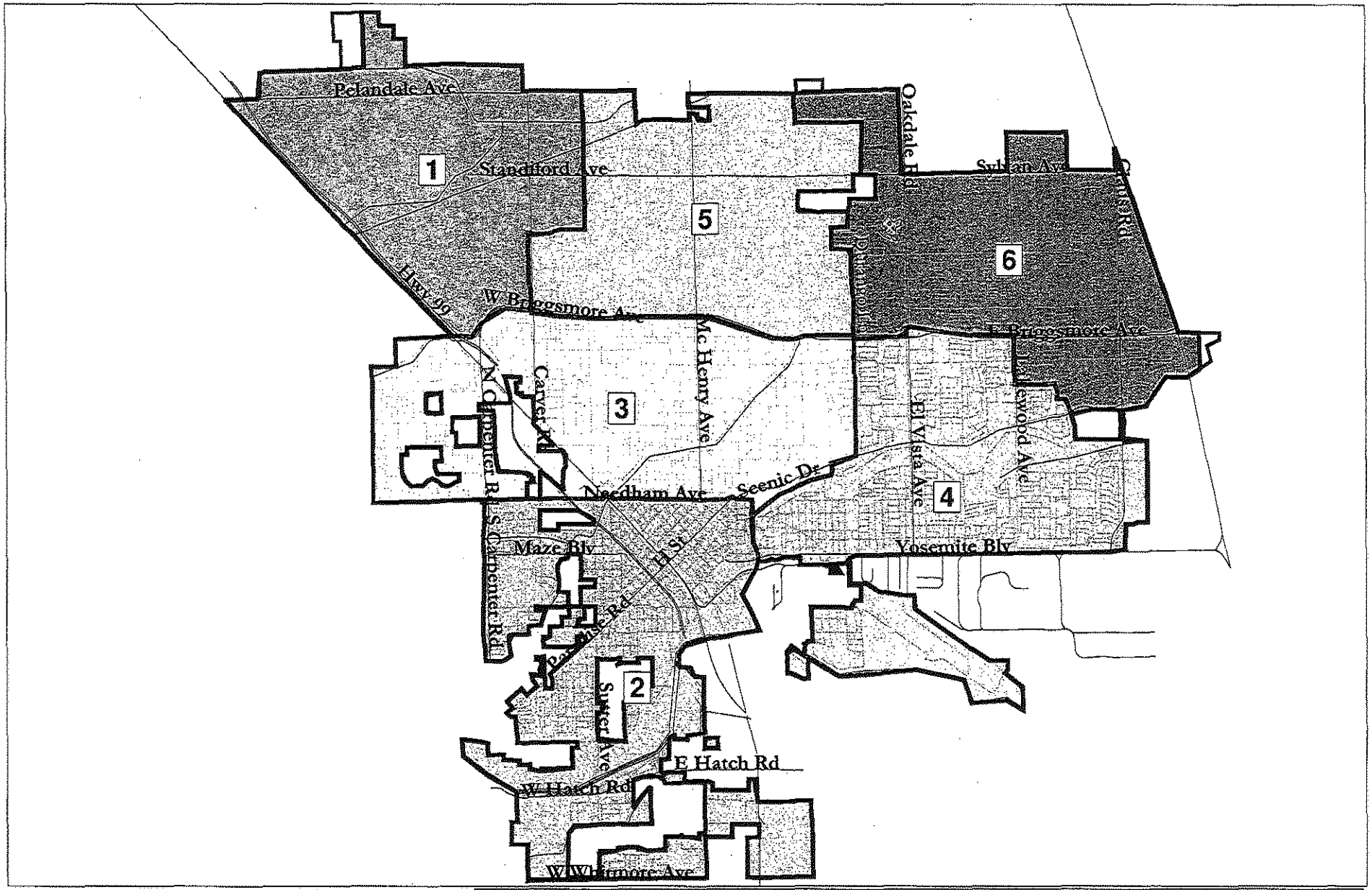
AYES:	Councilmembers:	Hawn, Keating, Lopez, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: _____
STEPHANIE LOPEZ, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: _____
SUSANA ALCALA WOOD, City Attorney



Adopted Plan - C1

2009 Elections: Districts 2, 4 and 5
2011 Elections: Districts 1, 3 and 6

District	Pop_2008	Deviation	Voters	% Deviation	% Hispanic Origin	% H18+_Pop	% HispReg
1	34,500	139	15,324	0.4%	20.0%	18.8%	19.3%
2	33,881	-480	10,220	-1.4%	50.4%	50.1%	45.7%
3	34,518	157	16,840	0.5%	19.2%	16.0%	16.5%
4	33,879	-482	15,633	-1.4%	23.3%	20.3%	18.9%
5	34,490	129	17,574	0.4%	16.4%	13.7%	14.0%
6	34,896	535	17,522	1.6%	12.0%	14.2%	17.7%

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-678

A RESOLUTION ACCEPTING THE ANNUAL CAPITAL FACILITIES FEE REPORT AND MAKING FINDINGS RELATING TO EACH OF THE FEE CATEGORIES

WHEREAS, Sections 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 requires 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, by Resolution 2006-055 the City Council 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 2008 Capital Facilities Fee Report has been completed and is on file with the City Clerk, 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 9, 2008 to enable the public to have the opportunity to comment on the CFF collected, and

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 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 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 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 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 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 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 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 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 2008 Capital Facilities Fees Report as described in **Exhibit "A"**, **attached** hereto and incorporated herein by reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of December, 2008, 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 ACALA WOOD, City Attorney

Exhibit "A"

City of Modesto

CAPITAL FACILITIES FEES
ANNUAL REPORT

2007-2008

Introduction

This report 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 reviews 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

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 2007-2008. Detailed expenditures are shown under each fund description. Once all maps that were vested prior to 1994 or that have an associated Development Agreement have been completed or expire, revenue for that program will no longer be generated at that rate. 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.

Refunds and Loans

There were a total of six CFF refunds:

Date	Applicant	Permit No.	Amount	Reason
2-14-08	Acme Construction	BLD2007-53508	$ 16,427.40	Appeal Granted (Res. 2008-092)
3-27-08	Habitat for Humanity	BLD207-54546	$ 12,678.00	Exempt (Res. 2008-070)
2-14-08	Duarte Texiera	BLD2006-40902	$ 12,504.00	Permit Expired
3-27-08	Sparkles Car Wash	BLD2006-45143	$ 33,574.67	Appeal Granted (Res. 2008-165)
6-25-08	Village One Town Ctr.	BLD2006-43877	$280,100.00	Exempt (Res. 2008-070)
10-16-08	Del Valle Homes	BLD2007-55196	$ 21,584.00	Permit Expired (2)
		Total	**$376,868.07**	

Table 1

Combining Statement of Revenues, Expenditures, and Changes in Fund Balances

Table 1

CITY OF MODESTO
CAPITAL FACILITY FUNDS
COMBINING STATEMENT OF REVENUES, EXPENDITURES AND CHANGES IN FUND BALANCES
Year ended June 30, 2008

	1310 Police Dept Cap fees	1320 Fire Dept Cap fees	1350 Parks Dept Cap fees	1380 City Hall Expansion Cap fees	1390 Cap Fees Admin	1410 Streets Cap Fees	1420 Public Trans Cap Fees	1430 Air Quality Cap fees	Total Capital Facilities
REVENUES:									
Intergovernmental			$ (10,904)			$ 452,710			$ 441,806
Charges for services	$ 257,671	$ 75,988	1,015,123	$ 143,128	$ 125,149	6,652,755	$ 74,566	$ 220,149	8,564,529
Interest and rent	62,044	(36,191)	241,928	84,927	21,931	1,401,645	18,629	23,707	1,818,620
Net change in fair value of investments	27,285	5,837	101,002	36,416	9,255	570,020	7,646	9,649	767,110
Miscellaneous									
Total revenues	347,000	45,634	1,347,149	264,471	156,335	9,077,130	100,841	253,505	11,592,065
EXPENDITURES:									
Current:									
General government					197,781				197,781
Highways and streets						3,634,276			3,634,276
Public works									
Parks and recreation			1,286,843						1,286,843
Public safety									
Capital outlay:									
Debt service:									
Principal retirement									
Interest									
Total expenditures			1,286,843		197,781	3,634,276			5,118,900
EXCESS (DEFICIENCY) OF REVENUES OVER (UNDER) EXPENDITURES	347,000	45,634	60,306	264,471	(41,446)	5,442,854	100,841	253,505	6,473,165
OTHER FINANCING SOURCES (USES):									
Transfers in			1,040,100						1,040,100
Transfers out	(1,058,566)		(721,476)	(855,980)		(8,990)	(461,000)	(104,974)	(3,210,986)
Sale of assets									
TOTAL OTHER FINANCING SOURCES (USES)	(1,058,566)		318,624	(855,980)		(8,990)	(461,000)	(104,974)	(2,170,886)
EXCESS (DEFICIENCY) OF REVENUES AND OTHER SOURCES OVER (UNDER) EXPENDITURES AND OTHER USES	(711,566)	45,634	378,930	(591,509)	(41,446)	5,433,864	(360,159)	148,531	4,302,279
FUND BALANCES, July 1	1,654,466	(1,072,858)	6,312,798	2,225,196	532,349	32,782,979	415,889	452,171	43,302,990
FUND BALANCES, June 30	$ 942,900	$ (1,027,224)	$ 6,691,728	$ 1,633,687	$ 490,903	$ 38,216,843	$ 55,730	$ 600,702	$ 47,605,269

CFF Areas of Impact and Fiscal Year 2007-2008 Expenses

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. A separate fund has 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.

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 the New 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 the 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 pro-formas for all eight sub-funds that make up the CFF pro-forma. 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 2 "Three Year Revenue History of CFF Funds" illustrates the revenue over a three 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 increased from the fiscal year 2007 to fiscal year 2008 by 2%.

Table 3. "2007-2008 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 2.

Capital Facilities Fees Revenue
Fiscal Years 2005/2006 through 2007/2008

Table 2. Capital Facilities Fees Revenue
Fiscal Years 2005-2006, 2006-2007 and 2007-2008

FUND	2006	2007	Difference between 2006 and 2007	2008	Difference between 2007 and 2008	Total
Fund 1310 - POLICE	637,907	418,848	-34%	347,000	-17%	1,403,755
FUND 1320 - FIRE	140,374	67,008	-52%	45,634	-32%	253,016
FUND 1350 - PARKS	2,659,996	1,981,690	-26%	1,347,151	-32%	5,988,837
FUND 1380 - GENERAL GOVERNMENT	483,154	337,016	-30%	264,469	-22%	1,084,639
FUND 1390 - CFF ADMINISTRATION	212,475	161,731	-24%	156,335	-3%	530,541
FUND 1410 - STREETS	8,610,286	7,927,736	-8%	9,077,130	14%	25,615,152
FUND 1420 - TRANSIT	131,400	100,906	-23%	100,841	0%	333,147
FUND 1430 - AIR MITIGATION	356,754	317,174	-11%	253,505	-20%	927,433
TOTAL ALL FUNDS/ALL PROGRAMS	13,232,346	11,312,109	-15%	11,592,065	2%	36,136,520

Table 3

Capital Facilities Fee Expenditures & Transfers by Fund for Fiscal Year 2007-2008

Table 3.
Capital Facilities Fees Expenditures and Transfers In/Out by Fund for 2008

POLICE			
FUND	ORG	DESCRIPTION	EXPENDITURES
1310	M483	(T-fer) CAD - Computer Aided Dispatch	$ 651,925.00
1310	M168	(T-fer) Police Tactical Training Center	$ 178,641.00
1310	7000	(T-fer out to 0100)	$ 228,000.00
		Total	**$ 1,058,566.00**
FIRE			
FUND	ORG	DESCRIPTION	EXPENDITURES
1320		No Expenditures	$ -
		Total	**$ -**
PARKS			
FUND	ORG	DESCRIPTION	EXPENDITURES
1350	P380	Phase I Lighting Playground	$ 208,760.28
1350	P402	Sanders Neighborhood Park	$ 889,687.55
1350	P406	Stoddard Coffee Shade Structure	$ 47,584.92
1350	P469	Sylvan & Marshall Park Spray	$ 86,623.84
1350	P501	Mary E. Grogan Community Park	$ 162.58
1350	P855	Sharp Park House Removal/Installation	$ 32,687.67
1350	P856	NE Community Services Center	$ 15,018.66
1350	A087	(T-fer) Virginia Corridor	$ 149,478.26
1350	M163	(T-fer) Neighborhood Center at Marshall Park	$ 571,998.00
1350	Q233	Freedom Neighborhood Park	$ (1,033,783.94)
		Total	**$ 968,217.82**
GENERAL GOVERNMENT			
FUND	ORG	DESCRIPTION	EXPENDITURES
1380	H028	(T-fer) Fleet Maintenance Facility	$ 202,820.72
1380	7000	(T-fer out to 0100)	$ 653,159.00
		Total	**$ 855,979.72**
CFF ADMINISTRATION			
FUND	ORG	DESCRIPTION	EXPENDITURES
1390	0260	CFF Adminisration	$ 141,131.32
1390	0266	CFF 5 Year Update	$ 56,648.60
		Total	**$ 197,779.92**
STREETS			
FUND	ORG	DESCRIPTION	EXPENDITURES
1410	A154	Woodland Intersection Improvements 9th & Carver	$ 224,394.07
1410	E305	Dale Road CCTV Cameras	$ 2,298.71
1410	E306	Right Turn Lanes - 4 Intersections	$ 1,740.89
1410	E332	New Traffic Signals - 2008	$ 9,004.29
1410	E635	Arterial Roundabouts (119)	$ 29,733.75
1410	E659	7th & B Street Signal Modification	$ 65,847.59

Table 3.

Capital Facilities Fees Expenditures and Transfers In/Out by Fund for 2008

1410	E669	Briggsmore/McHenry Left Turn Signal	$ 206,135.75
1410	E674	Claus/Sylvan/Floyd/Lincoln-Carpenter	$ 26,563.86
1410	E677	Upgrade Signals Briggsmore/Carpenter	$ 7,964.80
1410	E678	Roselle/Hillgeln Kodiak Signal	$ 2,506.27
1410	E689	Pelandale CCTV/Fiber Optics	$ 8,858.05
1410	E695	T/S Modification at Tully/Mt. Vernon & Tully/Coldwell	$ 297.37
1410	E740	Pelandale Interchange Preliminary Design and Environment	$ 392,379.46
1410	E996	Oakdale-Briggsmore	$ 17,135.45
1410	H001	Claratina-McHenry BN &SF Plan Line	$ 34,491.41
1410	H421	NWS1 - Bangs/Prescott Intersection Improvements	$ 2,798.96
1410	H422	NWS1 - Pelandale/Dale Intersection Improvements	$ 300.73
1410	H424	NWS1 - Pelandale/Sisk to SR99 Northbound On-Ramp	$ 270,085.84
1410	H455	Claratina - Oakdale to Roselle	$ 25,564.82
1410	H461	Pelandale - 6 Lanes Dale to McHenry	$ 718,159.60
1410	H465	Carpenter Road Bridge - Seismic Retrofit	$ 41,811.69
1410	H466	Carpenter Road Bridge Approaches	$ 774.81
1410	H476	Developer Reimbursement for Improvements/ROW	$ 907,830.77
1410	H694	Lincoln/Lakewood ROW Preservation	$ 577,137.28
1410	H716	PL-1 Claratina Plan Line - Secondary	$ 807.73
1410	N060	(T-fer) Scenic & Bodem Right Turn Lane	$ 5,397.13
1410	N061	(T-fer) Intersection Control - Prescott/Snyder	$ 3,593.07
1410	Q210	Claratina - Coffee to Oakdale	$ 59,660.29
		Total	**$ 3,643,274.44**
TRANSIT			
FUND	**ORG**	**DESCRIPTION**	**EXPENDITURES**
1420	J401	(T-fer) Bus Purchases	$ 461,000.00
		Total	**$ 461,000.00**
AIR MITIGATION			
FUND	**ORG**	**DESCRIPTION**	**EXPENDITURES**
1430	7000	T-fer out to 1400	$ 104,974.00
		Total	**$ 104,974.00**
		GRAND TOTAL	**$ 7,289,791.90**

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-679

A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO POLICE OFFICERS' ASSOCIATION FOR A TERM OF DECEMBER 23, 2008 THROUGH MARCH 28, 2011

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Police Officers' Association (MPOA) will expire on December 22, 2008, and

WHEREAS, representatives of the CITY and the MPOA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, pursuant to an Agenda Report dated November 19, 2008, a copy of which report is on file in the office of the City Clerk, the CITY and MPOA 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. SALARY INCREASES. The current salary schedule effective January 8, 2008 shall remain in full force and effect through June 22, 2009. Across-the-board salary increases shall be effective as follows:

3% effective June 23, 2009
2% effective February 2, 2010
2% effective August 31, 2010
3% effective February 1, 2011

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	7/20/10
Family	$957	$1050	$1125
Employee Only	535		
Opt Out	425		

The MOU provides that the CITY's contribution for Employee Only coverage effective July 21, 2009 will be 100% of the premium for the lowest cost HMO plan (including dental and vision) and the CITY's contribution for those who Opt Out of health coverage shall be 80% of the Employee Only contribution.

SECTION 3. HEALTH SAVINGS INCENTIVE. Effective July 21, 2009, active employees with dependent coverage who are enrolled in the City-sponsored High Deductible Health Plan shall be eligible to receive a health savings incentive in the amount of $25.00 bi-weekly ($50.00/month) for health plan year 2009-2010, increasing to $35.00 bi-weekly ($70.00/month) for plan year 2010-2011. This health saving incentive shall be available to active employees, only, and shall be directed to the employee's Health Saving Account.

SECTION 4. POST CERTIFICATION PAY. Effective February 1, 2011, Intermediate POST pay shall increase to 2.5% and Advanced POST pay shall increase to 5%. Effective January 6, 2009, Senior Officer/Senior Detective pay of 1% shall increase to 2% for those Senior Officers/Senior Detectives with 15 years of service, and an initial 1% Senior Officer/Senior Detective pay shall be extended to those employees with an Advanced POST certification and 10 years of service.

SECTION 5. SPECIAL ASSIGNMENT PAY. Effective January 6, 2009, Bilingual Pay shall be 2.75% and Acting Pay shall be $15 per day. Effective January 6, 2009, Equestrian Care authorized overtime shall be 3.4 hours per pay period. Effective

April 28, 2009, those employees authorized a take home vehicle and who reside more than 35 miles outside the City limits, shall reimburse the CITY for those miles in excess of the 35 mile radius, at the Fleet Services "fuel rate." Effective July 5, 2009, Field Training Officer Pay shall be $20 per day.

SECTION 6. ADDITIONAL CHANGES. Changes to the MOU also include reduced CTO caps for new hires, amended layoff procedures, extension of consecutive shift assignments, amended schedule adjustments for special units, recognition of motorcycle release time and the association president's assignment.

WHEREAS, the Council considered this matter at its meeting of December 9, 2008,

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 Police Officers' Association, which covers a term from December 23, 2008 through March 28, 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 9th day of December, 2008, 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

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-680

A RESOLUTION APPROVING THE CLASS RANGE TABLE FOR GENERAL POLICE CLASSES AS SET FORTH IN EXHIBIT "A" ATTACHED HERETO, EFFECTIVE DECEMBER 23, 2008, AND ADOPTED CONCURRENTLY WITH RESOLUTION NO. 2008-679 APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO POLICE OFFICERS' ASSOCIATION FOR A TERM OF DECEMBER 23, 2008 THROUGH MARCH 28, 2011

WHEREAS, on December 9, 2008, the City Council adopted Resolution No. 2008-679 approving a Memorandum of Understanding between the City of Modesto and the Modesto Police Officers' Association adopting salary and benefit changes for General Police Classes including salary schedules, and

WHEREAS, Computer Forensic Investigator is no longer a classification in use and is hereby deleted from the Class Range Table, and

WHEREAS, Council desires to establish a Class Range Table for General Police Classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Class Range Table for General Police Classes, entitled "City of Modesto Class Range Table General Police Classes Effective December 23, 2008" which is **attached** hereto as **Exhibit** "A" and made a part hereof as though set forth in full herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of December, 2008, 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

CITY OF MODESTO
CLASS RANGE TABLE
GENERAL POLICE CLASSES

Effective **December 23, 2008**

RANGE	TITLE
304	Police Officer Trainee
305	
306	
307	
308	Police Officer
309	
310	
311	
312	Police Detective
314	

EXHIBIT "A"

AMENDED on June 11, 2013 By Resolution 2013-219

Print

AMENDED on 10-27-09 By Resolution 2009-521

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-681

A RESOLUTION ADOPTING A NEW POSITION CLASSIFICATION PLAN FOR THE CITY OF MODESTO AND RESCINDING RESOLUTION NO. 88-338

WHEREAS, Section 2-5.06 of the Modesto Municipal Code provides that the City Council shall adopt, by resolution, personnel rules governing the preparation, installation, revision and maintenance of a position classification plan covering all appointive positions in the City service, and

WHEREAS, Rule 2.1 of the City of Modesto Personnel Rules, provides that the City Manager shall ascertain the duties and responsibilities of all positions in the City service, except positions filled by appointees of the City Council, and prepare a classification plan for such positions, and

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

WHEREAS, by Resolution No. 2007-029, adopted on January 2, 2007, the Council approved an agreement between the City of Modesto and Bryce Consulting, Incorporated, to conduct a classification study and internal salary relationship review of non-sworn positions within the City, and

WHEREAS, a review of the City of Modesto's classification plan has been conducted by Bryce Consulting, Incorporated, and staff has made recommendations to the City Manager for revising said plan, and

WHEREAS, said recommendations have been reviewed by the City Manager, and the City Manager has recommended adoption of a new position classification plan based on the

AMENDED on 6/27/17 By Resolution 2017-258

AMENDED on July 2, 2013 By Resolution 2013-240

AMENDED on March 6, 2012 By Resolution 2012-76

CERTIFIED COPY

classification study prepared by Bryce Consulting, Incorporated, and negotiated by Personnel Department staff with the impacted employee associations representing City employees, and

WHEREAS, the new classification plan includes classifications studied by Bryce Consulting, as well as classifications which were not included in the study, and said Position Classification Plan is on file in the Personnel Department of the City of Modesto, and

WHEREAS, Rule 2.2 of the City of Modesto Personnel Rules provides that the classification plan or revisions thereto shall be effective upon adoption by resolution of the City Council,

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

SECTION 1. ADOPTION OF PLAN. The classification plan consisting of the titles and job specifications on file in the Personnel Department is hereby adopted by reference as the Position Classification Plan of the City of Modesto, effective January 6, 2009. A list of classification titles entitled "Alphabetical Listing of Classification in City Service," 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. Any previous classifications not referenced herein, **Exhibit "A,"** are deemed deleted from the Position Classification Plan.

SECTION 2. THE CLASSIFICATION PLAN. The classification plan shall consist of the titles and job specifications identified in the foregoing section, and all subsequent amendments approved in accordance with the Modesto Municipal Code and Personnel Rules. The titles and specifications shall be interpreted and used as follows:

(A) The classification title shall be used in all official records of the City and for all classification and payroll purposes.

(B) The definition of a classification is a general description of the work and includes a brief, concise definition of the primary responsibilities assigned to positions in the classification.

(C) The essential and marginal function statements are illustrations of duties commonly performed in positions allocated to the classification. The inclusion of a task does not necessarily require each employee whose position is allocated to the classification to perform that duty; nor does the exclusion of any task, related to the duties of any such employee, release him/her from responsibility for performing that duty when assigned.

(D) Statements of distinguishing characteristics, where used, are merely for further explanation of the differences between classifications.

(E) Minimum qualifications and desirable qualifications indicate the training, experience, knowledge, skills, abilities, physical and mental requirements and working conditions which are indicative of the classification. The statements of experience and training are to be interpreted as general standards, and a reasonably equivalent combination may be accepted by the Personnel Director for admitting candidates to examinations. Minimum requirements may vary from these standards when, in the judgment of the Personnel Director, it is in the City's interest. In addition to standards specifically stated, general requirements of integrity, good judgment, good moral character, as well as requirements generally imposed by law, such as the possession of a valid driver's license, where required, are considered to be a part of any or all specifications.

SECTION 3. ALLOCATION OF POSITIONS. Upon the effective date hereof, or as soon thereafter as practicable, the City Manager shall allocate each position for which he is the appointing authority to one of the classifications established by this resolution.

SECTION 4. QUALIFICATIONS OF EMPLOYEES. An employee whose position is allocated to a different classification in accordance with this new classification plan is deemed to have met minimum requirements for appointment to the classification to which his/her position is allocated and shall be granted probationary or regular status in the new classification, based on the employee's current status. For classifications identified as "flexibly staffed," placement of the employee within the series will be based on job duties and minimum qualifications.

SECTION 5. TITLES IN RECORDS. The title of existing eligible lists and other appropriate records of the City shall be amended to conform to the new classification plan and allocation of positions.

SECTION 6. AMENDMENT. This Position Classification Plan may be amended as provided in the Personnel Rules.

SECTION 7. REPEALS. Resolution No. 88-338 and all amendments thereto are hereby rescinded, effective January 6, 2009.

SECTION 8. EFFECTIVE DATE. This resolution shall become effective on and after January 6, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of December, 2008, 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
ALPHABETICAL LISTING OF CLASSIFICATIONS IN CITY SERVICE
2008-2009
Effective January 6, 2009

Title of Classification	Title of Classification
Account Clerk I	Budget Analyst I
Account Clerk II	Budget Analyst II
Account Technician	Budget and Financial Analysis Administrator
Accountant I	Budget Officer
Accountant II	Building Inspection Program Coordinator
Administrative Analyst I	Building Inspection Supervisor
Administrative Analyst II	Building Inspector I
Administrative Office Assistant I	Building Inspector II
Administrative Office Assistant II	Building Maintenance Manager
Administrative Office Assistant III	Building Maintenance Technician
Administrative Services Officer	Business Analyst
Administrative Services Technician I	Business Development Manager
Administrative Services Technician II	Buyer
Airport Maintenance Crewleader	Central Stores Supervisor
Airport Maintenance Worker	Chief Building Official
Airport Manager	Chief Information Officer
Animal Control Supervisor	Chief of Police
Assistant Buyer	City Attorney
Assistant Chief Building Official	City Auditor
Assistant City Attorney	City Clerk
Assistant City Clerk	City Engineer
Assistant Engineer	City Manager
Assistant Land Surveyor	Code Enforcement Officer I – NPU
Assistant Planner	Code Enforcement Officer II – NPU
Assistant Transportation Planner	Community Development Program Specialist I
Associate Civil/Traffic Engineer	Community Development Program Specialist II
Associate Engineer	Compost Facility Supervisor
Associate Land Surveyor	Construction Inspection Supervisor
Associate Planner	Construction Inspector
Associate Transportation Planner	Cross Connection Specialist

Title of Classification	Title of Classification
Cultural Services Program Manager	Electrician Assistant III
Custodian I	Electrician - Traffic and Buildings
Custodian II	Electrician - Utilities
Custodian Crewleader	Emergency Medical Services Coordinator
Custodian Supervisor	Employee Benefits Coordinator
Customer Services Account Clerk I	Employee Relations Coordinator
Customer Services Account Clerk II	Engineering Assistant I
Customer Services Account Technician	Engineering Assistant II
Customer Service Supervisor	Engineering Assistant Trainee
Deputy Chief Information Officer	Engineering Project Coordinator
Deputy City Attorney I	Environmental and Water Quality Laboratory Supervisor
Deputy City Attorney II	Environmental Compliance Inspector I
Deputy City Attorney III	Environmental Compliance Inspector II
Deputy City Clerk	Environmental Compliance Technician
Deputy City Manager	Environmental Regulatory Compliance Administrator
Deputy Director of Community and Economic Development	Environmental Review Specialist
Deputy Director of Cultural & Enterprise Services	Equal Opportunity Analyst/Paralegal
Deputy Director of Finance	Equipment Mechanic
Deputy Director of Human Resources	Equipment Mechanic Crewleader
Deputy Director of Public Works-Engineering	Equipment Operator
Deputy Director of Public Works-Operations	Equipment Service Technician
Deputy Director of Recreation & Neighborhoods	Events Coordinator
Deputy Fire Marshal	Events Supervisor
Development Services Technician I	Executive Assistant
Development Services Technician II	Executive Assistant
Director of Community & Economic Development	Executive Assistant to the City Council
Director of Finance	Executive Assistant to the City Manager
Director of Human Resources	Exhibits Coordinator
Director of Parks, Recreation and Neighborhoods	Facility Supervisor
Director of Public Works	Fire Battalion Chief
Electrical Supervisor	Fire Captain
Electrician Assistant I	Fire Chief
Electrician Assistant II	Fire Division Chief

Title of Classification	Title of Classification
Fire Engineer	Neighborhood Preservation Supervisor
Fire Equipment Mechanic	Office Supervisor
Fire Fighter	Operations Crewleader
Fire Fighter Trainee	Operations Supervisor
Fire Prevention Inspector I	Organizational Development Coordinator
Fire Prevention Inspector II	Paralegal
Fleet Manager	Parking Adjudication Program Coordinator
Fleet Procurement Technician	Parking Facilities Crewleader
Groundskeeper	Parking Services Supervisor
Head Groundskeeper	Parks Maintenance Crewleader
Heavy Equipment Mechanic	Parks Maintenance Mechanic
Heavy Equipment Mechanic Crewleader	Parks Operations Manager
Housing and Urban Development Manager	Parks Planning and Development Manager
Housing Financial Specialist	Parks Project Coordinator
Housing Rehabilitation Specialist I	Planning Manager
Housing Rehabilitation Specialist II	Plans Examiner
Housing Rehabilitation Supervisor	Police Animal Control Officer I
Human Resources Analyst I	Police Animal Control Officer II
Human Resources Analyst II	Police Captain
Information Technology Manager	Police Civilian Supervisor
Infrastructure Financing Program Administrator	Police Clerk I
Instrumentation Technician	Police Clerk II
Integrated Waste Specialist	Police Community Service Officer I
Junior Engineer	Police Community Service Officer II
Laboratory Analyst I	Police Corporal
Laboratory Analyst II	Police Crime and Intelligence Analyst I
Laboratory Analyst III	Police Crime and Intelligence Analyst II
Legal Secretary I	Police Crime Scene Investigator I
Legal Secretary II	Police Crime Scene Investigator II
Legal Services Administrator	Police Detective
Maintenance Worker I	Police Evidence and Property Technician I
Maintenance Worker II	Police Evidence and Property Technician II
Management Analyst	Police Facilities Coordinator

Title of Classification	Title of Classification
Police Lieutenant	Senior Deputy City Attorney
Police Officer	Senior Environmental Compliance Inspector
Police Officer Recruit	Senior Equipment Operator
Police Officer Trainee	Senior Fire Equipment Mechanic
Police Sergeant	Senior Fire Prevention Inspector
Police Technician	Senior Human Resources Analyst
Principal Accountant	Senior Legal Secretary
Principal Planner	Senior Planner
Principal Software Analyst	Senior Software Analyst
Principal Systems Engineer	Senior Storeskeeper
Production Technician	Senior Systems Engineer
Property Agent	Senior Systems Technician
Public Information Analyst	Senior Transportation Planner
Public Safety Business Services Analyst	Senior Wastewater Treatment Plant Operator
Purchasing Manager	Senior Workers' Compensation Claims Examiner
Rate and Fee Analyst	Software Analyst I
Recreation Coordinator	Software Analyst II
Recreation Program Manager	Solid Waste Enforcement Officer
Recreation Supervisor	Solid Waste Program Manager
Recycling Program Coordinator	Storeskeeper
Risk and Loss Control Coordinator	Streets Manager
Risk Manager	Supervising Accountant
Senior Accountant	Systems Engineer I
Senior Administrative Office Assistant	Systems Engineer II
Senior Auditor	Systems Technician I
Senior Building Inspector	Systems Technician II
Senior Business Analyst	Technology Solutions Analyst I
Senior Buyer	Technology Solutions Analyst II
Senior Civil Engineer	Traffic Engineer
Senior Community Development Program Specialist	Traffic Operations Engineer
Senior Construction Inspector	Traffic Operations Technician
Senior Crime and Intelligence Analyst	Traffic Striping Crewleader
Senior Customer Services Account Clerk	Transit Analyst

Title of Classification

Transit Manager
Tree Trimmer
Tree Trimmer Crewleader
Urban Forestry Manager
Wastewater Collection System Crewleader
Wastewater Collection System Operator I
Wastewater Collection System Operator II
Wastewater Collection Systems Supervisor
Wastewater Collections Manager
Wastewater Treatment Plant Operator I
Wastewater Treatment Plant Operator II
Wastewater Treatment Plant Operator III
Water Conservation Specialist
Water Distribution and Production Supervisor
Water Distribution Operator I
Water Distribution Operator II
Water Distribution Operator III
Water Division Crewleader
Water Production Operator I
Water Production Operator II
Water Quality Control Operations Supervisor
Water Quality Control Plant Maintenance Supervisor
Water Quality Control Plant Manager
Water Quality Control Technician I
Water Quality Control Technician II
Water Resource Specialist
Water Resources Analyst
Water Services Equipment Operator I
Water Services Equipment Operator II
Water Systems Manager
Weed and Seed Program Coordinator
Welder/Fabricator
Workers' Compensation Claims Assistant

Title of Classification

Workers' Compensation Claims Examiner I
Workers' Compensation Claims Examiner II

TOTALS: 14 City Mgr., Deputy City Mgr., Dept. Directors
278 Other
292

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-682

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2008-585 TO REVISE THE CLASS RANGE TABLE FOR GENERAL NON-SWORN CLASSES AS SET FORTH IN THE AMENDED EXHIBIT "A", ATTACHED HERETO EFFECTIVE JANUARY 6, 2009

WHEREAS, The City Council desires to amend **Exhibit "A"** of Resolution No. 2008-585 which approved the Class Range Table for General Non-Sworn Classes,

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2008-585, **Exhibit "A"** entitled "City of Modesto Class Range Table General Non-Sworn Classes Effective October 14, 2008", is hereby amended as shown on **Exhibit "A"** entitled, "City of Modesto Class Range Table General Non-Sworn Classes Effective January 6, 2009," which is **attached** hereto and made a part hereof as though set forth in full herein.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 6, 2009.

AMENDED
on 3-22-2011
By Resolution 2011-089

AMENDED
on 6-1-2010
By Resolution 2010-234
Exhibit A

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of December, 2008, 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
GENERAL NON-SWORN CLASSES
Effective January 6, 2009

RANGE	TITLE
103	Administrative Office Assistant I
	Custodian I
107	Administrative Office Assistant II
	Custodian II
	Exhibits Coordinator
109	Account Clerk I
	Customer Services Account Clerk I
110	Maintenance Worker I
111	Account Clerk II
	Administrative Office Assistant III
	Custodian Crewleader
	Customer Services Account Clerk II
114	Electrician Assistant I
	Equipment Service Technician
	Maintenance Worker II
	Production Technician
	Storeskeeper
115	Administrative Services Technician I
	Senior Administrative Office Assistant
	Senior Customer Services Account Clerk
116	Account Technician
	Airport Maintenance Worker
	Equipment Operator
	Groundskeeper
	Traffic Operations Technician
	Wastewater Collection Systems Operator I
	Water Distribution Operator I

RANGE	TITLE
118	Electrician Assistant II Fleet Procurement Technician Parking Facilities Crewleader Parks Maintenance Crewleader Recreation Coordinator Senior Storeskeeper Tree Trimmer Water Distribution Operator II
119	Administrative Services Technician II Building Maintenance Technician Code Enforcement Officer I -Neighborhood Preservation Unit Customer Services Account Technician Parks Maintenance Mechanic
120	Assistant Buyer Environmental Compliance Technician Laboratory Analyst I Senior Equipment Operator Traffic Striping Crewleader Wastewater Collection Systems Operator II Wastewater Treatment Plant Operator I Water Quality Control Technician I Water Resource Specialist
121	Solid Waste Enforcement Officer
122	Accountant I Development Services Technician I Electrician Assistant III Equipment Mechanic Tree Trimmer Crewleader Welder/Fabricator
123	Code Enforcement Officer II -Neighborhood Preservation Unit Engineering Assistant Trainee

RANGE	TITLE
124	Airport Maintenance Crewleader
	Community Development Program Specialist I
	Cross Connection Specialist
	Development Services Technician II
	Environmental Compliance Inspector I
	Fire Equipment Mechanic
	Head Groundskeeper
	Heavy Equipment Mechanic
	Laboratory Analyst II
	Operations Crewleader
	Wastewater Treatment Plant Operator II
	Water Conservation Specialist
	Water Distribution Operator III
	Water Production Operator I
	Water Quality Control Technician II
	Water Services Equipment Operator I
125	Parking Adjudication Program Coordinator
126	Equipment Mechanic Crewleader
	Housing Financial Specialist
	Housing Rehabilitation Specialist I
	Wastewater Collection System Crewleader
	Wastewater Treatment Plant Operator III
127	Engineering Assistant I
128	Building Inspector I
	Community Development Program Specialist II
	Electrician - Traffic and Buildings
	Electrician - Utilities
	Environmental Compliance Inspector II
	Heavy Equipment Mechanic Crewleader
	Instrumentation Technician
	Senior Fire Equipment Mechanic
	Water Production Operator II
	Water Services Equipment Operator II

RANGE	TITLE
130	Construction Inspector Housing Rehabilitation Specialist II Laboratory Analyst III Senior Wastewater Treatment Plant Operator
131	Engineering Assistant II
132	Building Inspector II Environmental Review Specialist Senior Environmental Compliance Inspector Water Division Crewleader
133	Assistant Land Surveyor
134	Plans Examiner Senior Construction Inspector
135	Engineering Project Coordinator
136	Senior Building Inspector

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-683

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2008-504 TO REVISE THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES AS SET FORTH IN THE AMENDED EXHIBIT "A" ATTACHED HERETO EFFECTIVE JANUARY 6, 2009

WHEREAS, The City Council desires to amend **Exhibit "A"** of Resolution No. 2008-504 which approved the Class Range Table for Represented Management and Confidential Non-Sworn Classes,

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2008-504, **Exhibit "A"** entitled, "City of Modesto Class Range Table Represented Management and Confidential Non- Sworn Classes, Effective July 22, 2008" is hereby amended as shown on **Exhibit "A"** entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective January 6, 2009" which is **attached** hereto and made a part hereof as though set forth in full herein.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 6, 2009.

AMENDED on June 11, 2013 By Resolution 2013-220

AMENDED on June 12 2012 By Resolution 2012-235 2012-237

AMENDED on 3-22-2011 By Resolution 2011-090

AMENDED on 6-1-2010 By Resolution 2010-233

AMENDED exhibit A on 3-6-2012 By Resolution 2012-77

AMENDED exhibit A on 5-24-2011 By Resolution 2011-176

AMENDED on July 2, 2013 By Resolution 2013-241

AMENDED exhibit A on 2-12-2013 By Resolution 13-63

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of December, 2008, 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
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective **January 6, 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 Central Stores Supervisor
425	Police Facilities Coordinator Public Information Analyst
426	Assistant Planner Senior Systems Technician

RANGE	TITLE
427	Administrative Analyst I
	Animal Control Supervisor
	Human Resources Analyst I
	Police Civilian Supervisor
	Technology Solutions Analyst I
	Workers' Compensation Claims Examiner II
428	Accountant II
	Assistant City Clerk
	Senior Buyer
430	Associate Planner
	Budget Analyst I
	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

RANGE	TITLE
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
	Business Analyst
	Cultural Services 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
	Water Quality Control Operations Supervisor
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

RANGE	TITLE
440	Associate Engineer
	Environmental Regulatory Compliance Administrator
	Recreation Program Manager
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	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	Water Systems Manager
	Traffic Operations Engineer

RANGE	TITLE
450	Business Development Manager
	Chief Building Official
	Planning Manager
	Senior Civil Engineer
452	City Engineer
	Traffic Engineer

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-684

A RESOLUTION AMENDING EXHIBIT "C" OF RESOLUTION NO. 2007-384 TO REVISE THE CLASS RANGE TABLE FOR FIRE MANAGEMENT CLASSES AS SET FORTH IN THE AMENDED EXHIBIT "A" ATTACHED HERETO EFFECTIVE JANUARY 6, 2009

WHEREAS, Council desires to amend **Exhibit "C"** of Resolution No. 2007-384, which approved the Class Range Table for Fire Management 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. 2007-384, **Exhibit "C"** entitled, "City of Modesto Class Range Table Fire Management Classes, Effective June 26, 2007" is hereby amended as shown on **Exhibit "A"** entitled, "City of Modesto Class Range Table Fire Management Classes, Effective January 6, 2009" which is **attached** hereto and made part hereof as though set forth in full herein.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 6, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of December, 2008, 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
FIRE MANAGEMENT CLASSES
Effective **January 6, 2009**

RANGE	TITLE
518	Fire Division Chief
813	Fire Battalion Chief (112 hrs)
1813	Fire Battalion Chief (80 hrs)

Exhibit A

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-685

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2008-501 TO REVISE THE CLASS RANGE TABLE FOR PUBLIC SAFETY NON-SWORN CLASSES AS SET FORTH IN THE AMENDED EXHIBIT "A" ATTACHED HERETO EFFECTIVE JANUARY 6, 2009

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 January 6, 2009" which is **attached** hereto and made part hereof as though set forth in full herein.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 6, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of December, 2008, 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
PUBLIC SAFETY NON-SWORN CLASSES
Effective January 6, 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 Community Service Officer I Police Animal Control Officer
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 Crime Scene Investigator I
1125	Police Crime and Intelligence Analyst II
1126	Senior Fire Prevention Inspector
1127	Police Crime Scene Investigator II

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-686

A RESOLUTION AMENDING EXHIBIT "I" OF RESOLUTION NO. 2007-384 TO REVISE THE CLASS RANGE TABLE FOR EXECUTIVE MANAGEMENT AS SET FORTH IN THE AMENDED EXHIBIT "A" ATTACHED HERETO EFFECTIVE JANUARY 6, 2009

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 January 6, 2009," which is **attached** hereto and made a part hereof as though set forth in full herein.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 6, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on 9th day of December, 2008, 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 **January 6, 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
1427	Deputy City Manager
	Fire Chief
	Chief of Police
1428	City Attorney
1436	City Manager

Exhibit A

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-687

A RESOLUTION AMENDING EXHIBIT "D" OF RESOLUTION NO. 2007-384 TO REVISE THE CLASS RANGE TABLE FOR POLICE MANAGEMENT CLASSES UNREPRESENTED AS SET FORTH IN THE AMENDED EXHIBIT "A" ATTACHED HERETO EFFECTIVE JANUARY 6, 2009

WHEREAS, Council desires to amend **Exhibit "D"** of Resolution No. 2007-384, which approved the Class Range Table for Police Management Classes (Unrepresented),

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. 2007-384, **Exhibit "D"** entitled, "City of Modesto Class Range Table Police Management Classes (Unrepresented), Effective June 26, 2007" is hereby amended as shown on **Exhibit "A"** entitled, "City of Modesto Class Range Table Police Management Classes (Unrepresented), Effective January 6, 2009" which is **attached** hereto and made part hereof as though set forth in full herein.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 6, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of December, 2008, 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
POLICE MANAGEMENT CLASSES (Unrepresented)
Effective **January 6, 2009**

RANGE	TITLE
1623	Police Captain

Print

MODESTO CITY COUNCIL
RESOLUTION NO. 2008-688

A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2007-384 TO REVISE THE CLASS RANGE TABLE FOR UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES, AS SET FORTH IN EXHIBIT "A" ATTACHED HERETO EFFECTIVE JANUARY 6, 2009

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,

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

SECTION 1. ADOPTION OF CLASS RANGE TABLE FOR UNREPRESENTED MANAGEMENT AND NON-SWORN CLASSES. **Exhibit** "A" entitled, "City of Modesto Class Range Table, Unrepresented Management and Confidential Non-sworn Classes, Effective January 6, 2009," is hereby amended as shown on **Exhibit** "A" entitled, "City of Modesto Class Range Table Unrepresented Management and Confidential Non-Sworn Classes, Effective January 6, 2009," which is **attached** hereto and made part hereof as though set forth in full herein.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 6, 2009.

AMENDED Attachment A
on June 14, 2011
By Resolution 2011-207

AMENDED
on 6-1-2010
By Resolution 2010-232
Attachment A

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of December, 2008, 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
UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES
Effective **January 6, 2009**

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
2456	Senior Deputy City Attorney
2462	Assistant City Attorney