

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-001**

**A RESOLUTION REAPPOINTING TAMMY SPILLERS TO THE BOARD OF  
BUILDING APPEALS**

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

WHEREAS, the Economic Development Committee met on December 12, 2005, and recommends reappointment of TAMMY SPILLERS to the Board of Building Appeals.

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

SECTION 1. TAMMY SPILLERS is hereby reappointed to the Board of Building Appeals with a term expiration of January 1, 2010.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the 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 3<sup>rd</sup> day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zaher  
JEAN ZAHER, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-002**

**A RESOLUTION REAPPOINTING BART BARINGER, FRANK C. BOOTS,  
DAVID BORING AND TOM SLATER TO THE DOWNTOWN IMPROVEMENT  
DISRICT ADVISORY BOARD**

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

WHEREAS, the Economic Development Committee met on December 12, 2005, and recommends reappointment of BART BARINGER, FRANK C. BOOTS, DAVID BORING and TOM SLATER 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. BART BARINGER, FRANK C. BOOTS, DAVID BORING and TOM SLATER are hereby reappointed to the Downtown Improvement District Advisory Board with term expirations of January 1, 2010.

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 3<sup>rd</sup> day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:


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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-003**

**A RESOLUTION AMENDING THE  
FISCAL YEAR 2005-2006 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 2005-2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2005-2006 budget have been adjusted as shown in Schedule A.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following votes:

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

NOES: Councilmembers: None


ABSENT: Councilmembers: None

ATTEST: \_\_\_\_\_

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_

  
RICHARD RUDNANSKY, Interim City Attorney

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Glen Carrington  
 Telephone No.: \_\_\_\_\_  
 Department: \_\_\_\_\_  
 Fund Title: \_\_\_\_\_

Council Action Date: \_\_\_\_\_  
 Resolution Number: BT  
 FY: 05-06  
 Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL TRANSFERS**

<u>TO</u>					
1300-700-m168-9010			\$100,000	\$100,000	
<u>FROM</u>					
0100-700-m168-7130	1300G		\$100,000	\$100,000	

**APPROPRIATIONS**

<u>FROM</u>					
0100-190-1930-5763		\$124,012	(\$100,000)	\$24,012	
<u>TO</u>					
1300-190-M168-6040		\$1,671,430	\$100,000	\$1,771,430	

**COMMENTS/JUSTIFICATION**

On 11/1/2005, Council approved the purchase of a tractor for \$30,000 to continue construction progress at the Training site. The CIP was reduced by \$160,000 and \$30,000 was used for the purchase of the tractor and the difference established a PD Maintenance account. PD has determined that \$100,000 can be restored to the CIP to fund various projects at the Training Center.

AUTHORIZATION (check if required)	SIGNATURE	DATE
<b>DEPARTMENT DIRECTOR</b> or <b>AUTHORIZED ASSISTANT</b> (Allocation of Dept Appr to Line-Item Level)		
<b>FINANCE DIRECTOR</b> (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
<b>CITY MANAGER</b> (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Gail Clement  
 Telephone No.: 15538  
 Department: Public Works

Council Action Date: 1/3/06  
 Resolution Number: \_\_\_\_\_

Fund Title: Developer Fund

FY: 05-06  
 Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES**

<u>FROM</u>					
MY-6180-430-W708-4354		\$20,000	\$30,000	\$50,000	DEVELOPER CONTRIBUTION
<u>TO</u>					

**APPROPRIATIONS**

<u>FROM</u>					
<u>TO</u>					
TY-6180-430-W708-6010	W436	\$52,975	\$30,000	\$82,975	GALAS WATER CAPACITY STUDY

**COMMENTS/JUSTIFICATION**

This adjustment is to move funds paid by the developer, Modesto Rancho Encantado (a div of Del Valle Capital Corp.), for work to be done for a specific project: Galas Development Unit 2 Hydraulic Impacts Study (3rd Water Capacity Study).  
 AMEND THE FY06 CAPITAL IMPROVEMENT PROGRAM BUDGET

AUTHORIZATION (check if required)	SIGNATURE	DATE
ADMIN SVCS OFFICER/ADMIN ANALYST II	<i>[Signature]</i>	11-30-05
DEPUTY DIRECTOR (Public Works) Authorized up to threshold of \$50k w/o Director Approval	<i>[Signature]</i>	12-1-05
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)	<i>[Signature]</i>	12-1-05
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
CFF/CFD ADMINISTRATOR		
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Salary lines movement in or out)		

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Tracie Madison  
 Telephone No.: 1-5855  
 Department: Finance/City Manager

Council Action Date: December 15th  
 Resolution Number: \_\_\_\_\_

Fund Title: 0700 Streets, Traffic and Forestry

FY: 05-06  
 Transfer No. \_\_\_\_\_

*MONTHLY DEC ADJ*

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES**

<b>FROM</b>					
<b>TO</b>					

**APPROPRIATIONS**

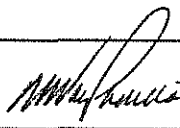
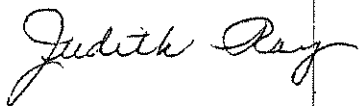
<b>FROM</b>					
<b>TO</b>					

**TRANSFERS BETWEEN FUNDS**

<b>FROM</b>					
06-0100-700-4712-7070	0100G	\$1,558,731	(\$774,442)	\$784,289	Transfer to Community Forestry
06-0100-700-4724-7070	0100G	\$912,733	(\$587,733)	\$325,000	Transfer to Curbs, Gutters and Sidewalks
06-0100-700-4612-7070	0100G		\$746,831	\$746,831	Transfer to Street Maintenance
06-0100-700-4380-7070	0100G		\$615,344	\$615,344	Transfer to Annual Slurry
<b>TO</b>					\$2,471,464
06-0700-700-4712-9010		\$1,558,731	(\$938,529)	\$620,202	Transfer to Community Forestry
06-0700-700-4724-9010		\$912,733	(\$587,733)	\$325,000	Transfer to Curbs, Gutters and Sidewalks
06-0700-700-4612-9010			\$746,831	\$746,831	Transfer to Street Maintenance
06-0700-700-4380-9010			\$615,344	\$615,344	Transfer to Annual Slurry

**COMMENTS/JUSTIFICATION**

To ensure compliance with the Maintenance of Effort on the Traffic Congestion Relief Funds regarding the Prop 42 funding the City of Modesto receives from the State of California, it is necessary that the General Fund transfer going to the Streets, Traffic And Forestry fund 0700 be reallocated. As part of the agreement governing the funds the state requires the City maintain a certain level of General Fund funding that is expended on eligible expenditures outlined in the *Guidelines Relating to Traffic Cogestion Relief Funds*. To ensure compliance it is necessary to reduce the General Fund transfer to Community Forestry and and Curbs increase the transfer to Streets Maintenance and Annual Slurry. The total amountnof the transfer remains the same

AUTHORIZATION (check if required)	SIGNATURE	DATE
ADMIN SVCS OFF/ADMIN ANALYST II		
DEPUTY DIRECTOR (Public Works Dept)		
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)		
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		12-8-05
CFF/CFD ADMINISTRATOR (When necessary for CIP)		
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into Personnel Services)		12-8-05

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Janice Stewart  
 Telephone No.: 577-5466  
 Department: Personnel

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_

Fund Title: General Fund 0100

FY: 05-06  
 Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES**

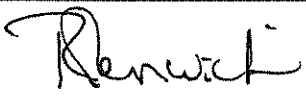
<u>FROM</u>					
				DEC - 6 2005	
<u>TO</u>					

**APPROPRIATIONS**

<u>FROM</u>					
0100-800-8000-8003	0100R		(\$6,330)	(\$6,330)	General Fund Reserve
<u>TO</u>					
0100-030-0301-0235	0300C	\$89,827	\$6,330	\$96,157	Services, Prof. & Other

**COMMENTS/JUSTIFICATION**

The City Council approved \$25,000 in funding for Citywide, mandatory harassment training for all supervisors. The actual amount of the training contract exceeded this amount by \$6,330.

AUTHORIZATION (check if required)	SIGNATURE	DATE
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)		12/5/05
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) (Salary lines movement in or out)		

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Bob Quintella  
 Telephone No.: 577-6444  
 Department: Parks, Recreation & Neighborhoods

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_

Fund Title: General Fund/Golf Fund

FY: 05-06  
 Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**APPROPRIATIONS**

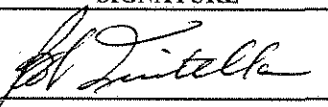
<b>FROM</b>					
0100-800-8000-8003	0100R		(\$38,000)	(\$38,000)	General Fund Reserve
<b>TO</b>					
6600-330-P391-6040	P391		\$38,000	\$38,000	Golf Primary CIP

**TRANSFERS**

<b>FROM</b>					
0100-700-P391-7660	P391G		\$38,000	\$38,000	transfer to the Golf CIP Fund
<b>TO</b>					
6600-330-P391-9660			\$38,000	\$38,000	transfer from the General Fund

**COMMENTS/JUSTIFICATION**

At the November 22, 2005 Council meeting, the City Council approved an increase of the \$50,000 supplemental budget request to \$88,000 (an increase of \$38,000) for funding of the City Golf Course primary CIP. Since Council wanted to restore the total allocation of \$100,000 for golf improvements that was revoked earlier in the calendar year and \$12,000 was previously approved for a Muni roof repair, the amount of \$88,000 was approved.

AUTHORIZATION (check if required)	SIGNATURE	DATE
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)		12/5/05
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 or out of Personnel Services)		

DEC - 5 2005

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Amy Gedney  
 Telephone No.: Ext. 15501  
 Department: Office of the City Manager

Council Action Date: 12-6-05  
 Resolution Number: N/A

Fund Title: CFF - Streets (Improvements/ROW)  
CFF - Air Quality (Improvements/ROW)

FY: 05-06  
 Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES**

<b>FROM</b>					
		<b>TOTAL</b>			
<b>TO</b>					
		<b>TOTAL</b>			

**APPROPRIATIONS**

<b>FROM</b>					
1410-800-8000-8003			(1,193,544)	(1,193,544)	
1430-800-8000-8003			\$132,823	\$132,823	
		<b>TOTAL</b>			
<b>TO</b>					
1410-430-H476-6030	H476		1,193,544	1,193,544	Developer Reimbursement
1430-430- H403-6030	H403		\$132,823	\$132,823	Developer Reimbursement
		<b>TOTAL</b>		<b>\$1,326,367</b>	

**COMMENTS/JUSTIFICATION**

Adjust budget for William Lyon Homes CFF ROW reimbursement (submitted to City Council on 12/6/05) \*

No General Fund impact. ← \$1,193,544 from reserves

\* 1410: appropriate from reserves

\* 1430: create a new CIP and appropriate \$132,823 from reserves

AUTHORIZATION (check if required)	SIGNATURE	DATE
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)	<i>Amy Gedney</i>	12/6/05
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)		



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-004**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACTS FOR THE PURCHASE OF REPLACEMENT PATROL URBAN RIFLES, SWAT RIFLES AND RIFLE ACCESSORIES FOR THE POLICE DEPARTMENT, CATEGORIZED IN TWO (2) EQUIPMENT GROUPS TO THE FOLLOWING COMPANIES, GROUP 1 – TACTICAL WEAPONS USA, APTOS, CA, FOR \$66,358 AND GROUP 2 – ADAMSON POLICE PRODUCTS, HAYWARD, CA, FOR \$5,264, FOR A TOTAL PRICE OF \$71,622**

WHEREAS, the rifles currently used in the Urban Rifle Program and SWAT are weapons that were obtained from the military give away program (with the exception of five (5) SWAT M16 rifles that were purchased in the late 1970's), and

WHEREAS, the department armory conducted safety inspections on all of the urban and SWAT rifles and found that fifty-percent (50%) failed the safety inspections, and

WHEREAS, the rifles that did pass inspection passed by a marginal amount indicating that they most likely will not pass at the next safety inspection (once several more rounds are fired through them), and

WHEREAS, the reason for the extremely high rate of failure is the age of the weapons and the wear from continual use, and

WHEREAS, after discussing the situation with the department armory, weapons experts and users, there was universal agreement that the most prudent course of action would be to replace the aging and failing weapons, rather than attempting to repair them, and

WHEREAS, although repair may be less expensive in the short term, it is not the most cost effective means in the long term, and

WHEREAS, this has been experienced over the years with the SWAT rifles, and

WHEREAS, the current Police Department weapons could have been replaced several times for the money spent on repairs over the years, and

WHEREAS, the full replacement package is recommended as a prudent fiscal response to the weapon failure situation, and

WHEREAS, there is clearly a demonstrated need for these weapons in modern law enforcement, and

WHEREAS, taking a posture of lower cost, short-term repairs, still leaves the Police Department with 25-35 year old weapons prone to failure and more expensive repairs in the future, and

WHEREAS, on September 27, 2005, by Resolution No. 2005-476 Council approved authorizing the Purchasing Supervisor to formally solicit bids for the purchase of patrol urban rifles, SWAT rifles and rifle accessories for the Police Department, and

WHEREAS, the Purchasing Division solicited Request for Bid (RFB) No. 0506-07 for the purchase of Colt brand (requested by the Police Department), patrol urban rifles, SWAT rifles and rifle accessories to seven (7) companies, (there are no wholesale distributors of Colt brand rifles in Modesto), posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, all seven (7) companies chose to respond, and

WHEREAS, per RFB specification language bidders are required to furnish two (2) signed original bid documents and that failure to do so will result in disqualification, and

WHEREAS, one (1) bidder submitted only one signed original bid document, and

WHEREAS, based on not submitting the required number of signed original bid documents their bid was deemed to be non-responsive and could not be selected for consideration, and

WHEREAS, based on being the lowest responsive and responsible bidders, City staff recommends the award of Bid No. 0506-07 and contracts for the purchase of replacement patrol rifles, SWAT rifles and rifle accessories for the Police Department, categorized in two (2) equipment groups to the following companies, Group 1 – Tactical Weapons USA, Aptos, CA, for \$66,358 and Group 2 – Adamson Police Products, Hayward, CA, for \$5,264, for a total price of \$71,622,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards Bid No. 0506-07 and contracts for the purchase of replacement patrol rifles, SWAT rifles and rifle accessories for the Police Department, categorized in two (2) equipment groups to the following companies, Group 1 – Tactical Weapons USA, Aptos, CA, for \$66,358 and Group 2 – Adamson Police Products, Hayward, CA, for \$5,264, for a total price of \$71,622.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue purchase orders for the purchase of replacement patrol rifles, SWAT rifles and rifle accessories for the Police Department, categorized in two (2) equipment groups to the following companies Group 1 – Tactical Weapons USA, Aptos, CA, for \$66,358 and Group 2 – Adamson Police Products, Hayward, CA, for \$5,264, for a total price of \$71,622.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3<sup>rd</sup> day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-005**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005-06 BUDGET TO  
PROVIDE LEGAL SERVICES TO THE CITY OF MODESTO**

WHEREAS, the City Council has approved a contract in the amount of \$210,000 with Meyers, Nave, Riback, Silver & Wilson to provide legal services to the City, and

WHEREAS, \$210,000 needs to be appropriated from the General Fund Reserve Acct #0100-800-8000-8003 to the City Attorney's Account #0100-040-0401-0235 for these services,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves the funding for the legal services contract as set forth in Attachment A, and directs that the necessary budgetary adjustments be made for FY2005-06.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3<sup>rd</sup> of January 2006, by Councilmember Hawn, moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

December 13, 2005

Mr. George Britton, City Manager  
City of Modesto  
1010 Tenth Street  
Modesto, CA 95353

Re: Engagement of Legal Services/City of Modesto

Dear Mr. Britton:

Thank you and the Council for retaining Meyers, Nave, Riback, Silver & Wilson to represent the City of Modesto. We appreciate the opportunity to serve as your lawyers and look forward to working with you.

This letter sets forth our agreement concerning the legal services we will provide and our fee arrangements for those services. Please read this entire agreement before signing and returning it to us.

- 1. Scope of Engagement.** We will provide the legal services reasonably required to represent and advise you in connection with Interim City Attorney services. Our work is limited to such services. Richard R. Rudnansky has been selected to serve as the designated Interim City Attorney. We will also provide legal services for additional matters that you request of us, provided we agree to perform that additional work. A letter confirming such additional work shall bring such work within the scope of this agreement.
- 2. Fees and Personnel.** As compensation for our services, our fees will be based on our current standard billing rate for the personnel performing services under this agreement at the time such services are rendered; or at the current rate of the client's insurance carrier, if the carrier is providing for the cost of the defense. Our standard billing rates for attorneys and paralegals are attached as Attachment 1. I will be the principal in charge of representing your interests. This agreement retains the legal services of our law firm in addition to the services to be provided by Mr. Rudnansky. Hourly rates are subject to reasonable change, usually at the beginning of each year.
- 3. Disbursements and Expenses.** In addition to hourly fees, we may incur out-of-pocket expenses related to your representation. Our Statement of Fee and Billing Information, which sets forth the details of our disbursement and expense policy, is attached Attachment 2.
- 4. Billing and Payment Responsibilities.** We will send monthly statements which are due within 30 days of receipt. If you have any questions about an invoice, please promptly telephone or write me so that we may discuss these matters. Our Statement of Fee and Billing Information sets forth the details of our fee and billing policy.
- 5. Termination of Services.** The City may terminate our services at any time by written notice. After receiving such notice, we will cease providing services. We will cooperate with you in the orderly transfer of all related files and records to your new counsel.

Mr. George Britton, City Manager, City of Modesto  
Re: Engagement of Legal Services/City of Modesto  
December 13, 2005  
Page 2

We may terminate our services at any time with your consent or for good cause. Good cause exists if (a) any statement is not paid within 60 days of its date; (b) you fail to meet any other obligation under this agreement and continue in that failure for 15 days after we send written notice to you; (c) you have misrepresented or failed to disclose material facts to us, refused to cooperate with us, refused to follow our advice on a material matter, or otherwise made our representation unreasonably difficult; or (d) any other circumstance exists in which ethical rules of the legal profession mandate or permit termination, including situations where a conflict of interest arises. If we terminate our services, you agree to execute a substitution of attorneys promptly and otherwise cooperate in effecting that termination.

Termination of our services, whether by the City or by us, will not relieve the obligation to pay for services rendered and costs incurred before our services formally ceased.

**6. Insurance.** During the term of this engagement, this law firm shall take out and maintain general liability and property damage insurance in the amount of \$1,000,000; professional errors and omissions insurance, in an amount of \$2,000,000 per occurrence; and \$4,000,000 aggregate, which insurance may not be canceled or reduced in required limits of liability unless at least ten days advance written notice be given to you.

**7. No Guarantee of Outcome.** Any comments made by us about the potential outcome of this matter are expressions of opinion only and are not guarantees or promises about any outcome or results.

**8. Entire Agreement; Full Understanding; Modifications in Writing.** This letter contains our entire agreement about our representation. Any modifications or additions to this letter agreement must be made in writing.

**9. Joint Representation.** Our firm maintains *of counsel* agreements with certain legal specialists. Because these individuals are deemed independent contractors under the applicable provisions of the tax laws and not employees of the firm, it is necessary that you consent to dual representation by the firm and the specialist in the event the matter which you have engaged us to handle requires the use of that specialist. This arrangement has no effect whatsoever on the cost of your legal services, rather it is an ethical requirement that we disclose this fact and that you consent. You are consenting by signing this letter.

**10. Conflicts.** Our firm represents many public agencies in California. Since 1986, we have represented over five hundred public clients, including numerous cities, redevelopment agencies, special districts, counties and other public entities, and we are accepting new engagements all the time. It is virtually inevitable that we will work on projects from other clients having different governmental or political objectives, beliefs or views from the City of Modesto.

In view of the fact that the City of Modesto is a city, this letter confirms that the services which we are rendering to you are limited in scope and for the benefit of the City of Modesto only. Meyers Nave performs a variety of professional services for its clients and it is possible that we will represent public agency clients which are adverse to you on other matters. To avoid potential problems, you agree that you expressly

Mr. George Britton, City Manager, City of Modesto  
Re: Engagement of Legal Services/City of Modesto  
December 13, 2005  
Page 3

waive any actual or potential conflicts that might arise from such representation, that you will not attempt to disqualify Meyers Nave on such matters, and that our firm is free to represent its clients on such matters.

By signing this letter and returning it to us, you acknowledge that we have discussed these matters and you confirm that the City of Modesto does not object to our representation of clients on matters where their legal, governmental or political objectives and/or positions may be different from or adverse to those of the City of Modesto, and that the City of Modesto waives any conflict of interests with respect to our representation of such clients with differing legal, governmental or political interests. You further confirm that the City of Modesto will not assert any conflict of interest concerning such representation or attempt to disqualify this firm from representing such clients notwithstanding such adversity. While you would certainly be free to terminate our relationship, you agree that this firm nonetheless would be free to represent such clients even on those matters which you consider adverse, and that you waive any conflict of interest in connection therewith.

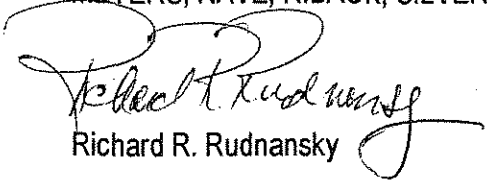
Needless to say, these acknowledgments do not permit our firm to represent another client in opposing the specific project for which you engage us without your specific written consent.

You may wish, and we encourage you, to consult legal counsel regarding the effect of this conflict waiver.

We would request that you review this letter carefully and, if it is consistent with your understanding of our respective responsibilities, please so indicate by returning a signed copy of this letter to me at your earliest convenience. Enclosed is an additional copy of this letter which you should retain for your records. Again, we thank you for allowing us the opportunity to serve as your lawyers.

Very truly yours,

MEYERS, NAVE, RIBACK, SILVER & WILSON

  
Richard R. Rudnansky

RRR/lh

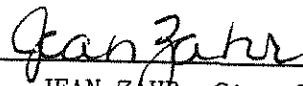
#796562

c: Billing Department

These terms are accepted and agreed to as of the date of this letter.

By:   
George Britton, City Manager, City of Modesto

ATTEST:

By:   
JEAN ZAHR, City Clerk



ATTACHMENT 1

**MEYERS, NAVE, RIBACK, SILVER & WILSON  
RATE SHEET**

**General Advice Services**

Attorneys	\$200
Paralegal	\$100
Legal Assistant	\$100
Law Clerk	\$95

**Litigation, Labor/Personnel, Redevelopment, Real Estate, Complex Environmental,  
Land Use & Development Matters, Telecommunications, Municipal Finance/Tax\***

Attorneys	\$250
Paralegal	\$100
Legal Assistant	\$100
Law Clerk	\$95

\*Cost recovery matters will be billed in accordance with the firm's current rate schedule at the designated rate for the attorney(s) assigned to the matter.

**Hourly rates set forth above are reviewed and amended annually  
in January of each year.**

## ATTACHMENT 2

### MEYERS, NAVE, RIBACK, SILVER & WILSON STATEMENT OF FEE AND BILLING INFORMATION

The following is a general description of our fee and billing policies. These general policies may be modified by the specific engagement letter or agreement to which this summary is attached.

**Professional Fees.** Our fees for professional services are based on the fair value of the services rendered. To help us determine the value of our services, our attorneys and paralegals maintain time records for each client and matter. Our attorneys and paralegals are assigned hourly rates which are based on years of experience, specialization, training and level of professional attainment. We adjust our rates periodically (usually at the beginning of each year) to take into account inflation and the increased experience of our professional personnel.

Before undertaking a particular assignment, we will, if requested, provide you with a fee estimate to the extent possible. Estimates are not possible for some matters, however, and cannot be relied on in many others because the scope of our work will not be clear at the outset. When a fee estimate is given, it is only an estimate; it is not a maximum or minimum fee quotation. The actual fee may be more or less than the quoted estimate.

**Retainer.** Our normal practice is to require a retainer to cover a portion of the anticipated attorneys' fees and costs. Any retainer will be placed in the firm's trust account. At the conclusion of our services, we will return to our client any unapplied retainer, after deducting payment for charges billed or to-be-billed for services and any remaining out-of-pocket expenses.

**Billing And Payment Procedures.** Unless other arrangements are made at the time of the engagement, invoices will be sent monthly. Invoices for outside services exceeding \$100 may be billed separately. Occasionally, however, we may defer billing for a given month or months if the accrued fees and costs do not warrant current billing or if other circumstances would make it appropriate to defer billing.

Our invoices contain a brief narrative description of the work performed; if requested, the initials of the attorney who performed the work will appear on the statement. The invoice will include a line item reflecting in-house administrative costs. The firm's in-house administrative costs include, but are not limited to, duplicating, facsimile charges, telephone charges, E-mail, postage, mileage and other administrative expenses. We have determined that the most effective method of accounting for these administrative costs is to charge a flat 8% of the professional fees incurred.

The firm will be reimbursed for all outside services incurred in the course of providing legal services to our client(s). Outside services will include, but are not limited to, all third-party expenses, delivery charges, travel expenses, outside research services, filing fees, expert witness and expert consultant fees. To defray the firm's costs for administering these services, there will be an additional cost advance charge of 2% for all outside services of \$100 or more.

If you have any questions regarding an invoice, the Finance Director or Executive Director are available to answer your questions. For any unresolved matters, the Bar Association has an arbitration mechanism that can be used to resolve such matters.

**Late Payments.** Statements for services are payable upon presentation and, in all events, within thirty (30) days after receipt. Occasionally a client has difficulty in making timely payments. To avoid burdening those clients who pay their statements promptly with the added costs we incur as a result of late payments, a late charge will be assessed on statements not paid within thirty (30) days. The maximum monthly late payment charge will be 1.5% per month. In the unlikely event we are required to institute legal proceedings to collect fees and costs, the prevailing party will be entitled to reasonable attorneys' fees and other costs of collection.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-006**

**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 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

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

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

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

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

**Weed and Seed Program Coordinator**

The job specification for this classification is being created to serve as a liaison to the community to support various areas of crime prevention and to manage the Weed and Seed Program. The job specification for the classification of Weed and Seed Program Coordinator as shown on the attached **Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 3, 2006.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 3<sup>rd</sup> day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

## WEED AND SEED PROGRAM COORDINATOR

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

### DEFINITION

To perform administrative management of the Weed and Seed Program including research, statistical and other technical work in complex areas involving grant funding, serving as a liaison to the community and supporting the Police Department in various areas of crime prevention.

### SUPERVISION RECEIVED AND EXERCISED

Receives general direction from an assigned Police Captain, the Assistant Police Chief and Police Chief.

May exercise direct supervision over professional, technical and clerical staff.

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

#### Essential Functions:

Plans, directs, and coordinates activities of the Weed and Seed Program and related neighborhood programs to ensure that objectives are accomplished according to federal, state and local regulations.

Prepares studies and reports related to resource allocation, revenue projections, funding source development, utilization of services and/or the review and administration of the Weed and Seed Program and related neighborhood programs.

Coordinates the preparation of status reports and conducts follow-up studies to review the impact of policy decisions, program development and revenue utilization; and makes related recommendations.

Reviews and analyzes crime patterns and statistics for designated areas.

Assists with grant applications and seeks funding opportunities for programs and services to serve the designated area.

Essential Functions: (Continued)

Provides administrative expertise on funding sources, contract development and grant application requirements.

Reviews, analyzes and tracks applicable State and Federal legislation; acts as legislative liaison to the police department; makes recommendations on departmental position on applicable topics.

Participates in recommending the appointment of personnel; provides or coordinates staff training; works with employees to improve performance, implements discipline procedures as necessary.

Acts as a liaison and provides technical assistance to community organizations in the Weed and Seed target areas to assist in finding resources and solutions for a variety of social issues.

Answers questions and provides information to citizens, outside agencies and City staff.

Prepares written and multimedia presentations and appears before the City Council, boards, commissions and other civic organizations representing the Police Department.

Attends various meetings and makes presentations to City Council, boards, and community groups on topics related to assigned area.

Reviews administrative practices and makes recommendations for improvements.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Funding sources and associated regulations and requirements related to grant administration.

Structure of City government and the legislative process.

Knowledge of: (Continued)

Principles and practices of organization, administration and personnel management.

Principles and practices of financial record keeping and reporting including budget preparation and administration.

Technical report writing procedures.

Basic business computer operations including the use of word processing software and other common desktop applications.

Ability to:

Formulate goals and objectives, prepare and evaluate research data.

Analyze problems; identify alternative solutions, project consequence and implement recommendations in support of goals.

Build and maintain positive relationships and respond appropriately to citizens, community organizations, and city staff on various issues and concerns.

Facilitate meetings, and negotiate solutions to community issues.

Communicate clearly and concisely, both orally and in writing.

Collect, organize and evaluate data and to develop logical conclusions.

Prioritize work assignments and meet deadlines.

Estimate and project revenues and expenditures.

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:

Three years of related program management experience involving the administration of grant funds for a public agency or non-profit organization, including supervisory responsibility.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major coursework in public administration, political science or a related field.

WORKING CONDITIONS:

Environmental Conditions:

Office environment, occasionally travel from site to site.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time; traveling to and from sites and attending meetings.

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-007

**A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION  
NO. 2005-494 TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED  
MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO ADD  
WEED AND SEED PROGRAM COORDINATOR AT RANGE 435**

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No.  
2005-494,

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2005-494. Resolution No.  
2005-494 effective October 4, 2005, 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 3, 2006", which is attached hereto and  
made a part hereof as though set forth in full herein. Said amended Exhibit "A" adds the  
classification of Weed and Seed Program Coordinator at Salary Range 435 (\$4,799 -  
\$5,847 per month).

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and  
after January 3, 2006.

The foregoing resolution was introduced in a regular meeting of the Council of  
the City of Modesto held on the 3rd Day of January, 2006, by Councilmember Hawn,  
who moved its adoption, which motion being duly seconded by Councilmember Dunbar,  
was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

CITY OF MODESTO  
CLASS RANGE TABLE  
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES  
Effective **January 3, 2006**

---

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	Senior Administrative Office Assistant (Confidential) Secretary
416	
417	
418	Legal Secretary Systems Technician I
419	Public Information Technician (Confidential)
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (Represented) Legal Services Technician
421	

Exhibit "A"

RANGE      TITLE

---

422    Office Supervisor  
      Utility Dispatch Supervisor  
      Workers' Compensation Claims Examiner I  
      Systems Technician II

423    Custodian Supervisor

424    Assistant Planner  
      Buyer  
      Police Facilities Coordinator

425    Administrative Analyst I

426    Police Civilian Supervisor  
      Stores Manager  
      Systems Technician III

427    Assistant City Clerk/Auditor  
      Legal Services Administrator  
      Workers' Compensation Claims Examiner II

428    Accountant II (Represented)  
      Senior Buyer

429

430    Associate Planner  
      Community Services Supervisor  
      Events Supervisor I  
      Junior Civil Engineer  
      Junior Traffic Engineer  
      Senior Crime Analyst  
      Software Analyst I

431    Administrative Analyst II  
      Assistant Risk Manager  
      Budget Analyst I  
      Personnel Analyst  
      Recycling Program Coordinator  
      Senior Community Development Program Specialist

Exhibit "A"

RANGE      TITLE

---

432    Communications Specialist  
Customer Services Supervisor  
Neighborhood Preservation Supervisor  
Operations and Maintenance Supervisor  
Recreation Supervisor II  
Senior Accountant  
Water Quality Control Maintenance Supervisor  
Water Quality Control Operations Supervisor

433    Organizational Development Specialist

434    Assistant Civil Engineer  
Assistant Traffic Engineer  
Budget Analyst II  
Events Supervisor II  
Environmental Laboratory Supervisor  
Operations Supervisor  
Regulatory Compliance Supervisor  
SCADA Supervisor  
Senior Housing Rehabilitation Specialist  
Software Analyst II  
Systems Engineer I

435    Business Analyst  
Cultural Services Manager  
Integrated Waste Specialist  
Management Analyst  
Senior Personnel Analyst  
**Weed and Seed Program Coordinator**

436    Electrical Supervisor  
Senior Planner

437

Exhibit "A"

RANGE      TITLE

---

- 438    Budget Officer  
      Housing Program Supervisor  
      Land Surveyor  
      Property Agent  
      Purchasing Supervisor  
      Senior Business Analyst  
      Software Analyst III  
      Systems Engineer II
  
- 439    Administrative Services Officer  
      Community Facilities Districts Administrative Officer
  
- 440    Associate Civil Engineer  
      Associate Traffic Engineer  
      Transportation Planner
  
- 441    Airport Manager  
      Building Maintenance Superintendent  
      Fire Marshal  
      Fleet Manager  
      Housing and Urban Development Manager  
      Parks Operations Superintendent  
      Parks Planning and Development Manager  
      Recreation Superintendent  
      Solid Waste Program Manager  
      Streets Superintendent  
      Transit Manager  
      Urban Forestry Superintendent  
      Wastewater Collections Superintendent  
      Water Superintendent
  
- 442    Customer Services Division Manager  
      Manager of Budget and Financial Analysis  
      Software Analyst IV  
      Supervising Building Inspector  
      Supervising Construction Inspector  
      Systems Engineer III
  
- 443
  
- 444    Deputy Chief Building Official  
      Principal Planner

Exhibit "A"

RANGE	TITLE
-------	-------

---

445	Accounting Division Manager
-----	-----------------------------

446	Water Quality Control Superintendent Information Technology Unit Manager
-----	---

447	Business Development Division Manager Chief Building Official Planning Division Manager Senior Civil Engineer Traffic Engineer
-----	--

448	
-----	--

449	
-----	--

450	
-----	--

451	
-----	--

452	
-----	--

453	
-----	--

455	
-----	--

Exhibit "A"

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-008**

**A RESOLUTION APPROVING AN AGREEMENT WITH MOTOR COACH INDUSTRIES, INC (MCI) FOR THE PURCHASE OF ONE (1) 40-FOOT, 47-PASSENGER COMMUTER BUS AT A COST OF \$466,253.50 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the City desires to purchase one (1) 40-foot, 47-passenger commuter bus to improve service on the Modesto Area Express BART Commuter Express route, and

WHEREAS, the City is utilizing Lowcountry Regional Transit Authority's competitive bid process to purchase said bus from Motor Coach Industries, Inc. (MCI), and

WHEREAS, MCI provided the City with a quote based on the bid price MCI submitted to the Lowcountry Regional Transit Authority, and

WHEREAS, MCI has quoted the following total price F.O.B. Modesto, including state and local sales taxes: Four Hundred Sixty-Six Thousand, Two Hundred Fifty-Three and Fifty One-hundredths Dollars (\$466,253.50), and

WHEREAS, by an agenda report to the City Council dated December 14, 2005 from the Acting Public Works Director, City staff recommended to the Council that said bus be purchased from MCI at the quoted price,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the purchase of one (1) 40-foot, 47-passenger commuter bus from MCI at a cost of \$466,253.50 is hereby approved.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute said purchase agreement.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3<sup>rd</sup> day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEANZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-009**

**A RESOLUTION APPROVING THE CONTINUATION OF COMPOSTING  
OPERATIONS WITH DISCOUNTED TIP FEES OF \$6.50/TON FOR PRUNED  
REFUSE AND FORESTRY MATERIALS, BEGINNING FISCAL YEAR 2006/07**

WHEREAS, in 1995 the City of Modesto began developing a compost facility to take waste materials from several different sources and divert them from disposal, and

WHEREAS, the Compost Facility (“Facility”) began operation in 1997, and

WHEREAS, the main materials targeted for diversion by the Facility were residential green waste, pruned refuse, forestry materials, and biosolids from wastewater treatment processes, and

WHEREAS, the primary goals of the Facility were to meet AB 939 waste diversion mandates, thus avoiding fines of up to \$10,000 per day, and to reuse the City’s wastewater biosolids, and

WHEREAS, compost facilities are regulated by several state agencies, and

WHEREAS, the primary permit is issued by the California Integrated Waste Management Board, and

WHEREAS, the regional offices of the State Water Resources Board and the State Air Resources Board also issue permits to compost facilities, and

WHEREAS, operations that are permitted to process biosolids must also meet the requirements of the Federal 40CFR Part 503 regulations, and

WHEREAS, the state considers the City’s compost facility to be a large-scale operation, and

WHEREAS, the lengthy permitting process that new facilities face, and the fact that the City's site can take many types of materials, including biosolids, make the City's facility a valuable asset, and

WHEREAS, the Facility was initially funded out of the Sewer Fund because it was originally set up to take biosolids, and

WHEREAS, biosolids compost markets have been limited in recent years and the Facility only processes small quantities for City applications, and

WHEREAS, in July, 2004, City Council adopted Resolution 2004-367 separating the Facility from the Sewer Fund and establishing Compost Operations as a separate Enterprise Fund due to the reduced tie between the Facility and the Sewer Fund, and

WHEREAS, as part of the action to set up the separate Compost Enterprise, the City Council authorized the facility to start charging an \$18.35/ton tip fee for green waste, pruned refuse, and forestry materials in Fiscal Year 2004/05, and

WHEREAS, with the tipping fee set at \$18.35/ton, the Compost Facility is currently operating in a "revenue positive" mode, and

WHEREAS, the tip fees for green waste became part of the monthly garbage rates and the Sewer Fund paid the tip fees for pruned refuse and forestry materials for Fiscal Year 2004/05 as budgets for those operations were already in place, and

WHEREAS, pruned refuse materials are viable for the Facility because the material is very clean and ideal for composting when mixed with green waste materials from the toters, and

WHEREAS, without tip fees and sales revenue from the pruned refuse materials, other tip fees must be adjusted to keep the Facility viable, and

WHEREAS, beginning in July, 2005, the City's Urban Forestry Division began taking its materials to local composting sites, due to savings in tipping fees, transportation and labor costs, and

WHEREAS, on November 22, 2005 by Resolution 2005-582, Council approved a supplemental request to fund Pruned Refuse operations and associated tip fees for the remainder of Fiscal Year 2005/06, as well as for Fiscal Year 2006/07 from the General Fund, and

WHEREAS, staff presented five (5) alternatives for Compost Operations to the Economic Development Committee on November 7, 2005 as follows:

1. Continuation of Composting Operations without Pruned Refuse Processing
2. Continuation of Composting Operations with Discounted Tip Fees for Pruned Refuse and Forestry
3. Continuation of Composting Operations without Discounted Tip Fees
4. Privatization of Compost Operations
5. Discontinuation of Compost Operations

WHEREAS, staff recommended Alternative #2 which continues Compost Operations and provides discounted tip fee of \$6.50/ton for Pruned Refuse and Forestry materials as these materials are much cleaner and make for a more marketable composting product, and

WHEREAS, Urban Forestry Division has agreed to sign a Memorandum of Understanding (MOU) indicating they will bring their pruned refuse product to the Facility for a period of five (5) years, and

WHEREAS, discounted tip fees will require an increase in tip fees to \$19/ton in Fiscal Year 2006/07 for all other customers to build up the contingency reserve, and

WHEREAS, the increased tip fee of \$19/ton is still below the market average of \$22.79/ton for the region, and

WHEREAS, this increased tip fee of \$19/ton equates to an increase of \$0.03 on the monthly garbage bills, and

WHEREAS, the Economic Development Committee considered this item at its November 7, 2005, meeting and recommended that the Council move forward with Alternative #2 Continuation of Composting Operations with Discounted Tip Fees for Pruned Refuse and Forestry Materials, beginning Fiscal Year 2006/07,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the continuation of Composting Operations with Discounted Tip Fees of \$6.50/ton for Pruned Refuse and Forestry Materials, beginning Fiscal Year 2006/07.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3<sup>rd</sup> day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-009A**

**A RESOLUTION APPROVING THE MOVEMENT OF COMPOST  
OPERATIONS FROM THE WASTEWATER DIVISION OF THE PUBLIC  
WORKS DEPARTMENT TO THE SOLID WASTE DIVISION OF THE PARKS,  
RECREATION AND NEIGHBORHOODS DEPARTMENT, EFFECTIVE  
JANUARY 1, 2006**

WHEREAS, in 1995 the City of Modesto began developing a compost facility to take waste materials from several different sources and divert them from disposal, and

WHEREAS, the Compost Facility (“Facility”) began operation in 1997, and

WHEREAS, the main materials targeted for diversion by the Facility were residential green waste, pruned refuse, forestry materials, and biosolids from wastewater treatment processes, and

WHEREAS, the primary goals of the Facility were to meet AB 939 waste diversion mandates, thus avoiding fines of up to \$10,000 per day, and to reuse the City’s wastewater biosolids, and

WHEREAS, compost facilities are regulated by several state agencies, and

WHEREAS, the primary permit is issued by the California Integrated Waste Management Board, and

WHEREAS, the regional offices of the State Water Resources Board and the State Air Resources Board also issue permits to compost facilities, and

WHEREAS, operations that are permitted to process biosolids must also meet the requirements of the Federal 40CFR Part 503 regulations, and

WHEREAS, the state considers the City’s compost facility to be a large-scale operation, and

WHEREAS, the lengthy permitting process that new facilities face, and the fact that the City's site can take many types of materials, including biosolids, make the City's facility a valuable asset, and

WHEREAS, the Facility was initially funded out of the Sewer Fund because it was originally set up to take biosolids, and

WHEREAS, biosolids compost markets have been limited in recent years and the Facility only processes small quantities for City applications, and

WHEREAS, in July, 2004, City Council adopted Resolution 2004-367 separating the Facility from the Sewer Fund and establishing Compost Operations as a separate Enterprise Fund due to the reduced tie between the Facility and the Sewer Fund, and

WHEREAS, the Economic Development Committee considered this item at its November 7, 2005, meeting and recommended the Compost Enterprise be moved from the Wastewater Division of the Public Works Department to the Solid Waste Division of the Parks, Recreation and Neighborhoods Department, effective January 1, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Compost Enterprise Fund move from the Wastewater Division of the Public Works Department to the Solid Waste Division of the Parks, Recreation and Neighborhoods Department, effective January 1, 2006.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 3<sup>rd</sup> day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-010

A RESOLUTION ACCEPTING THE WORK BY BDS CONSTRUCTION, INC., FOR THE PROJECT TITLED "SCENIC DRIVE BUS TURNOUT PROJECT," AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$64,865.75. TOTAL PROJECT COST IS \$99,333.87, WHICH INCLUDED CONSTRUCTION, CONSTRUCTION ADMINISTRATION, AND ENGINEERING DESIGN

WHEREAS, a report has been filed by the Acting Public Works Director that the project titled "Scenic Drive Bus Turnout Project" has been completed by BDS Construction, Inc., in accordance with the contract agreement dated June 28, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "Scenic Drive Bus Turnout Project" is hereby accepted from said contractor, BDS Construction, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$64,865.75, as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3<sup>rd</sup> day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-011

**A RESOLUTION ACCEPTING THE WORK BY RODGERS CONSTRUCTION & ENGINEERING CO., INC., FOR THE PROJECT TITLED "HATCH ROAD IMPROVEMENTS AT DALLAS STREET INTERSECTION," AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$273,952.78. TOTAL PROJECT COST IS \$308,695.81, WHICH INCLUDED CONSTRUCTION CONTINGENCY, AND CONSTRUCTION ADMINISTRATION**

WHEREAS, a report has been filed by the Acting Public Works Director that the project titled "Hatch Road Improvements at Dallas Street Intersection" has been completed by Rodgers Construction & Engineering Co., Inc., in accordance with the contract agreement dated May 4, 2004,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "Hatch Road Improvements at Dallas Street Intersection" project is hereby accepted from said contractor, by Rodgers Construction & Engineering Co., Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$273,952.78, as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3<sup>rd</sup> day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-012**

**A RESOLUTION AWARDED A CONTRACT TO CAROLLO ENGINEERS  
FOR ON-CALL ENGINEERING SERVICES FOR THE PUBLIC WORKS  
DEPARTMENT - WATER QUALITY CONTROL DIVISION FOR A ONE-YEAR  
AGREEMENT WITH THREE (3) ONE (1) YEAR EXTENSION OPTIONS IN AN  
AMOUNT NOT TO EXCEED \$44,000 ANNUALLY AND AUTHORIZING THE  
CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT**

WHEREAS, the Public Works Department, Water Quality Control Division performs a number of tasks requiring engineering services that, because of workload levels or staff experience, are beyond the ability of City's engineering staff to accomplish in a timely manner, and

WHEREAS, the Public Works Department, Water Quality Control Division has utilized the services of outside consultant engineers to perform targeted engineering services in the past, and

WHEREAS, consultant engineers assisted with the implementation of the Cannery Segregation Project and new pumping and pipeline facilities at Jennings Road, and

WHEREAS, in addition, consultant engineers assisted with mandated Regional Water Quality Control Board studies, ensured land application of bio-solids were in compliance and properly permitted, and provided guidance and troubleshooting for the ranch operation in civil and agronomic areas, and

WHEREAS, retaining on-call engineering services allows the Water Quality Control Division to have quick access to engineering services when needed, and

WHEREAS, on September 27, 2005, Council approved Resolution 2005-479 authorizing the Public Works Department to solicit Request for Proposals/Request for

Qualifications (RFP/RFQ) for On-Call Engineering Services for the Public Works  
Department - Water Quality Control Division, and

WHEREAS, staff solicited over 80 firms and formally advertised the RFP/RFQ,  
as required by law, and

WHEREAS, nine (9) proposals were received, however, two (2) proposals were  
rejected for not following RFP/RFQ guidelines, and

WHEREAS, proposals were evaluated using criteria established in the RFP/RFQ  
document, and.

WHEREAS, a committee consisting of four (4) City staff evaluated the proposals  
and interviewed the top four (4) firms, and

WHEREAS, it was determined that Carollo Engineers is the most-qualified firm  
based on the total RFP/RFQ evaluation score and interview results,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto  
that it hereby authorizes awarding a contract to Carollo Engineers for On-call  
Engineering Services for the Public Works Department - Water Quality Control Division  
for a one-year agreement, with three (3) one (1) year extension options, in an amount not  
to exceed \$44,000 per year.

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 3<sup>rd</sup> day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-013**

**A RESOLUTION DESIGNATING COUNCILMEMBER WILL O'BRYANT 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 Will O'Bryant 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 3<sup>rd</sup> day of January 2006, by Mayor Ridenour, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-014**

**A RESOLUTION APPROVING THE APPOINTMENTS  
TO COUNCIL COMMITTEES AND OTHER BOARDS, COMMISSION AND  
COMMITTEES**

WHEREAS, the City Councilmembers serve on Council Committees and various boards, commissions and committees and act as representative on behalf of the City of Modesto, and

WHEREAS, the recent election has created a vacancy on these committees,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that the Councilmembers are hereby appointed to the designated committees as shown in the Council report.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10<sup>th</sup> day of January 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO THE FORM

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-015**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "JAMES C. ENOCHS HIGH SCHOOL OFF SITE IMPROVEMENTS," APPROVING AN AGREEMENT BETWEEN CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) AND MODESTO CITY SCHOOL DISTRICT WITH A MAXIMUM REIMBURSEMENT AMOUNT OF \$1,027,183 FOR IMPROVEMENTS ON SYLVAN AVENUE (ROSELLE TO MILLBROOK), AUTHORIZING THE DISTRICT ADMINISTRATOR TO EXECUTE SAID AGREEMENT, AND FINDING THAT THE PROPOSED AGREEMENT 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 of Modesto desires to complete the core infrastructure needed to serve the Village One area, and

WHEREAS, Modesto City School District ("MCS") is constructing Enochs High School and is required to install certain improvements on the north side of Sylvan Avenue, between Roselle Avenue and Millbrook Avenue, certain improvements on Millbrook and the roundabout at Millbrook and Sylvan as part of its construction project, and

WHEREAS, MCS has agreed to install certain additional improvements on the south side of Sylvan Avenue, between Roselle Avenue and Millbrook Avenue, and

WHEREAS, the City Council has considered the proposed Acquisition & Shortfall Agreement ("Agreement") between City of Modesto Community Facilities District No. 2004-1 ("Village One #2") and MCS to acquire all such improvements to be installed by MCS and to reimburse MCS for the improvements on the south side of Sylvan Avenue, between Roselle Avenue and Millbrook Avenue, and



WHEREAS, said Agreement shall have a maximum reimbursement amount of \$1,027,183 plus contingency, and

WHEREAS, the bids received for “James C. Enochs High School Off Site Improvements” were opened at 2:00 p.m. on December 21, 2005 and later reviewed by City staff and MCS, and

WHEREAS, the MCS and the CFD Engineer have recommended that the bid of \$2,724,698.55 received from Top Grade Construction, Inc. be accepted as the lowest responsible bid, and

WHEREAS, MCS must award the contract to Top Grade Construction, Inc. in order for MCS to be eligible for reimbursement from Village One #2, and

WHEREAS, the City Council has received and considered the Written Checklist, Environmental Assessment No. EA/PW No. 2005-17, that concludes that MCS’s project entitled “James C. Enochs High School Offsite Improvements”, including the improvements for which MCS will be reimbursed under the proposed agreement, 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. The plans and specifications for said Project are hereby approved.

2. In order for Modesto City School District (“MCS”) to be eligible for CFD reimbursement, MCS must award the contract to Top Grade Construction, Inc.
3. The proposed Acquisition and Shortfall Agreement between City of Modesto Community Facilities District No. 2004-1 and MCS (“Project”) is consistent with the Village One Specific Plan and the Modesto Urban Area General Plan.
4. That the District Administrator, or his designee, is hereby authorized to execute the Agreement.
5. 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.
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 Program EIR, are required.
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 Program EIR, are required.

8. 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.

9. The City Council has received and considered the Written Checklist, Environmental Assessment EA/PW No. 2005-17, which provides the substantial evidence to support findings 5-8 above.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10<sup>th</sup> day of January 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-016**

**A RESOLUTION APPROVING A STANDARD AGREEMENT FOR  
CONSULTANT SERVICES WITH PRECISION INSPECTION COMPANY, INC.  
FOR BUILDING PERMIT INSPECTIONS AND PLAN CHECK SERVICES, IN  
AMOUNT NOT TO EXCEED \$75,000; AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the volume of plan checks and building inspections has continued to grow over the last several years, and

WHEREAS, staffing shortages exist in the plan review area, 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, the City currently sends commercial plans to Harris & Associates for plan review, and

WHEREAS, the increase in the plan review workload cannot be absorbed by Harris & Associates and meet the target time for plan reviews, and

WHEREAS, staff recommends the City enter into an Agreement with Precision Inspection Company, Inc. to assist in conducting building permit inspections and plan check services, and

WHEREAS, said Agreement includes a provision for building inspectors as may be required.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Standard Agreement for Consultant Services with Precision Inspection Company, to assist in conducting building permit inspections and plan check services for twelve (12) months in an amount not to exceed \$75,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10<sup>th</sup> day of January 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest:   
JEAN ZAHR City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-017**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO  
GIVING AUTHORIZATION TO DESIGNATED CITY STAFF TO APPROVE  
ELECTRONIC BANK TRANSACTIONS AND APPROVING THE CORPORATE  
RESOLUTION RECOGNIZING THE AUTHORITY BESTOWED UPON THESE  
STAFF MEMBERS**

WHEREAS, The Finance Department elects to take advantage of the electronic banking functions offered by the city's depository, Bank of the West; and

WHEREAS, In order to maintain sound internal controls over the cash management function, the Finance Department seeks Council's approval to authorize staff members to approve electronic banking transactions; and

WHEREAS, The city's depository, Bank of the West, requires approval of a corporate resolution evidencing the authority vested in these employees to approve electronic banking transactions.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the following staff members to approve electronic banking transactions on behalf of the city. Furthermore, the Corporate Resolution evidencing the authorization now bestowed upon these individuals is approved.

SECTION 1. The following staff are hereby authorized to approve electronic banking transactions: Wayne Padilla, Finance Director; Gregory Baird, Deputy Finance Director; Cheryl Detmar, Deputy Finance Director; Barry Newlin, Accounting Manager.

SECTION 2. The Finance Director is authorized to execute the documentation required to provide Bank of the West with the names of the staff authorized to approve electronic banking transactions.

SECTION 3. The Corporate Resolution provided by Bank of the West and evidencing the authorization now bestowed upon these individuals shall be signed by the City Clerk and forwarded to the bank.

SECTION 4. This resolution shall become effective on and after January 10, 2006.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10<sup>th</sup> day of January 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahir  
JEAN ZAHIR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-018**

**A RESOLUTION ACCEPTING THE RECOMMENDATION OF THE FINANCE  
COMMITTEE AND DIRECTING THE MAYOR'S OFFICE TO ISSUE A  
LETTER TO THE OFFICES OF THE STATE LEGISLATORS WHO  
REPRESENT THE CITY OF MODESTO REGARDING THE FUNDING  
INEQUITIES CREATED BY AB 8 AND ALSO AUTHORIZING THE MAYOR'S  
OFFICE TO SOLICIT INPUT AND SUPPORT FROM OTHER PUBLIC  
AGENCIES WITHIN STANISLAUS COUNTY**

WHEREAS, the Finance Committee reviewed staff's findings that property tax allocations to Stanislaus County public agencies were among the lowest in the state; and

WHEREAS, the Finance Committee made a finding that the City Council should consider contacting its state legislators and the other affected public agencies within Stanislaus County; and

WHEREAS, the City Council concurs that the level of property tax allocation made to the public agencies within Stanislaus County are among the lowest amounts distributed within the state; and

WHEREAS, the City Council wishes to address the funding inequity that has been created by Assembly Bill 8 by seeking a review of the state's property tax allocation policies through a written request directed to the state legislators who represent Stanislaus County in accordance with the direction given by the Finance Committee; and

WHEREAS, the City Council also seeks to garner support for this request from all other public agencies within Stanislaus County.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Mayor's office to issue letters to the city's state legislators pointing out the funding inequity that exists within Stanislaus County and requesting that

the property tax allocation formula and policy implemented under Assembly Bill 8 should be reviewed by the offices of the state Legislative Analyst and Department of Finance.

BE IT FURTHER RESOLVED that the Mayor's office is directed to solicit input and support from all public agencies within Stanislaus County to emphasize the urgency of this request.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10<sup>th</sup> day of January 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-019**

**A RESOLUTION APPROVING A FOUR AND FOUR TENTHS (4.4%)  
PERCENT INCREASE IN SALARY FOR THE CITY CLERK/AUDITOR**

WHEREAS, by Resolution No. 2005-602 effective December 27, 2005, the City Council approved and established a "City of Modesto Schedule of Salary Ranges in City Service For FY 05-06 Effective December 27, 2005," for Executive Management (Exhibit "O"), and

WHEREAS, salaries for Charter Officers appointed by the Council are subject to periodic review and adjustment, and

WHEREAS, the Council desires to approve a four and four tenths (4.4%) percent merit increase in salary to JEAN ZAHR, City Clerk/Auditor, effective January 10, 2006 which increase is within the range established in Exhibit "O" of Resolution No. 2005-602,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an increase in salary to JEAN ZAHR, City Clerk/Auditor, effective January 10, 2006, as follows:

<b>Title</b>	<b>Hourly</b>	<b>Bi-Weekly</b>	<b>Monthly</b>
City Clerk/Auditor	47.7823	3,822.58	8,314.11

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2006 by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-020**

**A RESOLUTION APPROVING A COOPERATIVE WORK AGREEMENT  
WITH THE STATE OF CALIFORNIA, ACTING BY, AND THROUGH THE  
DEPARTMENT OF TRANSPORTATION (CALTRANS) TO EXTEND THE  
DEADLINE FOR EXPENDITURE OF BICYCLE ACTION TRANSPORTATION  
FUNDING IN THE AMOUNT OF \$698,798 FOR THE VIRGINIA CORRIDOR  
TRAILWAY, PHASE III CONSTRUCTION, AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the Virginia Avenue Corridor Trail Project (“Project”) consists of conversion of the abandoned, 4.2 mile Union Pacific Railroad corridor – from City’s central business district at Needham Avenue to the northern City boundary at Bangs Avenue – to a premier linear park with Class I bikeway and pedestrian trail, and

WHEREAS, the City of Modesto was awarded a Bicycle Transportation Account (BTA) grant by the State of California in July 2003, in the amount of \$698,798 for Phase III, and

WHEREAS, the majority of these funds are to be allocated toward construction costs, with a current deadline of April 30, 2006, for submission of final request for payment to the state, and a June 30, 2006 deadline for expenditure of funds, and

WHEREAS, due to delays in Phase II construction, the Phase III construction start date has also been delayed, and the BTA funds will not be expended by the June 30, 2006, deadline, and

WHEREAS, a Cooperative Work Agreement with the State of California, acting by, and through the Department of Transportation (CalTrans), to extend the deadline for expenditure of these grant funds must be approved by the City Council, CalTrans, the

State Department of Finance and other State agencies, in order to extend the expenditure deadline to a maximum of eight years from date of appropriation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a Cooperative Work Agreement with the State of California, acting by, and through the Department of Transportation( CalTrans), to extend the deadline for expenditure of Bicycle Action Transportation Funding in the amount of \$698,798 for the Virginia Corridor Trailway, Phase III construction.

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 10<sup>th</sup> day of January 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-021**

**A RESOLUTION APPROVING THE INSTALLATION OF A TRAFFIC SIGNAL  
AT THE PRESCOTT ROAD AND BANGS AVENUE INTERSECTION**

WHEREAS, the Economic Development Committee (EDC) first considered this item on October 13, 2003, and

WHEREAS, at the request of the property owners, the item was pulled from the agenda and staff was instructed to return to EDC for their reconsideration, and

WHEREAS, staff met with the property owners to discuss the proposed intersection traffic control and they favored the installation of a traffic signal, but they could also see the value of a roundabout, and

WHEREAS, staff presented this item to EDC at their December 8, 2003, meeting and staff's recommendation was for a roundabout, and

WHEREAS, the installation of a roundabout was unanimously approved by EDC at the December 8, 2003, meeting, and

WHEREAS, the EDC at its December 12, 2005, meeting reviewed and recommended to install a traffic signal at the Prescott Road and Bangs Avenue intersection, and

WHEREAS, the cost for installing a traffic signal at this location is equivalent to that of a roundabout,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the installation of a traffic signal at the Prescott Road and Bangs Avenue intersection.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10<sup>th</sup> day of January 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-022

A RESOLUTION ESTABLISHING LOCAL LIMITS FOR COPPER,  
MERCURY, AMMONIA, TOTAL DISSOLVED SOLIDS (TDS),  
ELECTROCONDUCTIVITY (EC), ARSENIC AND MOLYBDENUM INTO THE  
CITY OF MODESTO'S WASTEWATER SYSTEM AND SUPERSEDING  
RESOLUTION NO. 2005-273

WHEREAS, a federally mandated National Pollutant Discharge Elimination  
System (NPDES) Permit governs the City of Modesto's discharge of treated wastewater  
to the San Joaquin River, and

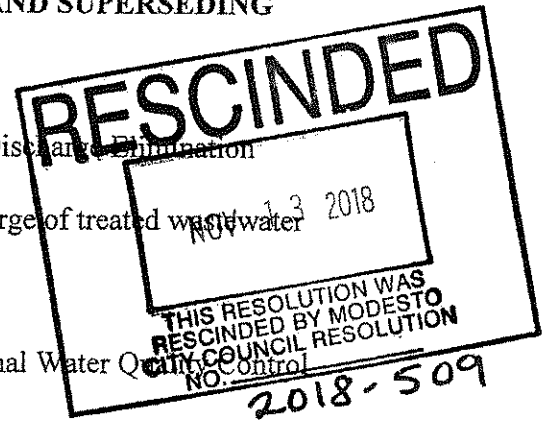
WHEREAS, the NPDES Permit is issued by the Regional Water Quality  
Board (RWQCB), which issues permits governing discharges by all Publicly Owned  
Treatment Works, "POTW", and

WHEREAS, the current NPDES Permit requires the City of Modesto to meet the  
established Maximum Allowable Headworks Loading (MAHL) for constituents identified  
as pollutants of concern, and

WHEREAS, the development and implementation of Local Limits is a  
requirement of the National Pretreatment Program and of the NPDES Permit for the City,  
RWQCB Order No. 5-01-120, and

WHEREAS, staff worked with representatives of the Central Valley  
Manufacturers' Council and industry to develop a resolution to establish a MAHL for  
molybdenum to meet both a requirement of the NPDES Permit and a Cease and Desist  
Order issued May 11, 2001, and

WHEREAS, on March 25, 2005, Resolution No. 2005-273 was approved by City  
Council, thereby setting the MAHL for molybdenum, and



WHEREAS, the City is now required under the NPDES Permit to establish additional MAHL limits for identified Pollutants of Concern, and

WHEREAS, the proposed resolution establishes a MAHL for molybdenum, copper, mercury, ammonia, arsenic, electroconductivity (EC) and Total Dissolved Solids (TDS), and

WHEREAS, the proposed Local Limits for flow into the City of Modesto Treatment Plant are as follows:

<b>Constituent Name</b>	<b>Local Limit (Not to Exceed)</b>
Ammonia	10,113 pounds/day
Arsenic	26 pounds/day
Copper	24.5 pounds/day
EC	1,597 micro ohms / centimeter
Mercury	0.0413 pounds/day
Molybdenum	1.31 pounds/day
TDS	184,646 pounds/day

, and

WHEREAS, any user that violates its local limit on copper, mercury, arsenic, ammonia, EC, TDS and molybdenum shall be subject to the penalties and enforcement procedures set forth in the City of Modesto Sewage Collection and Disposal Ordinance, and

WHEREAS, the Economic Development Committee heard this item at its December 12, 2005 meeting and recommended approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Publicly Owned Treatment Works owned by the City of Modesto, California shall issue discharge permits to all controllable sources of copper, mercury, arsenic, ammonia, EC, TDS and molybdenum which will establish a local limit for each user in a permit issued to that user.

BE IT FURTHER RESOLVED that these discharge permits shall contain limits on the discharge of copper, mercury, arsenic, ammonia, EC, TDS and molybdenum to the main treatment plant in amounts such that dischargers which comply with the permit limitations will not collectively discharge wastewater for treatment at the main treatment plant which will exceed the MAHL established for all Pollutants of Concern.

BE IT FURTHER RESOLVED that any permitted user which violates its local limit on copper, mercury, arsenic, ammonia, EC, TDS and molybdenum shall be subject to the penalties and enforcement procedures as set forth in the City of Modesto Sewage Collection and Disposal Ordinance.

BE IT FURTHER RESOLVED that Resolution No. 2005-273 is hereby superseded upon the effective date of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10<sup>th</sup> day of January, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-023**

**A RESOLUTION APPROVING AN AMENDMENT TO A PURCHASE  
AGREEMENT WITH KENNETH MOODY RELATING TO THE ACQUISITION  
OF PROPERTY LOCATED ON THE NORTHEAST CORNER OF SYLVAN  
AVENUE AND ROSELLE AVENUE, AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE AMENDMENT**

WHEREAS, the City Council of the City of Modesto directed staff to enter into negotiations with Kenneth Moody (APN: 084-002-041) to purchase the necessary real properties for the Sylvan-Roselle Roundabout Project, and

WHEREAS, on July 12, 2005, the City of Modesto and Kenneth Moody entered into a Purchase Agreement to convey a portion of Kenneth Moody's property in fee simple title to the City of Modesto for the total purchase price of \$49,000, and

WHEREAS, said purchase price of \$49,000 included a line item in the amount of \$19,500 for the cost of repairing and/or resurfacing a portion of Kenneth Moody's parking lot on Kenneth Moody's property, and

WHEREAS, subsequent to said property sale, the City and Kenneth Moody have determined that the cost of said parking lot repair and/or resurfacing has increased, and

WHEREAS, subsequent to the close of escrow, the City agrees to pay Kenneth Moody the sum of \$8,917, as payment in full for the City's share of the additional cost of parking lot repair and/or resurfacing construction on Kenneth Moody's property.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that an Amendment to a Purchase Agreement between City of Modesto and Kenneth Moody (APN: 084-002-041) for the Sylvan-Roselle Roundabout Project in the total amount of \$8,917 is hereby approved.

BE IT FURTHER RESOLVED that the execution of said Amendment by the City Manager on behalf of the City of Modesto is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-024**

**A RESOLUTION REJECTING THE PROPOSAL RECEIVED AND  
APPROVING THE RETENTION OF FORESTRY DIVISION STAFF TO  
PERFORM PRUNED REFUSE, LEAF AND FORESTRY MATERIALS  
COLLECTION SERVICES WITH PREVIOUSLY-APPROVED  
SUPPLEMENTAL FUNDING, THROUGH THE END OF FISCAL YEAR 06-07,  
AND DIRECTING STAFF TO RETURN TO COUNCIL WITH A  
RECOMMENDATION FOR A PERMANENT FUNDING SOURCE FOR  
PRUNED REFUSE COLLECTION SERVICES BY MAY 9, 2006**

WHEREAS, City crews currently perform three (3) different refuse collection services as follows:

- Pruned Refuse Collection -Curbside or alley collection of tree or shrub prunings generated by homeowners during the months of January through November
- Leaf Collection – during the month of December, these same crews collect leaves rather than pruned refuse
- Forestry Refuse Collection – Forestry Division’s Tree Trimming crews also collect and dispose of trimmings generated by City trimming crews

, and

WHEREAS, the annual cost for providing all three services is \$1.7 million and is funded from several sources, and

WHEREAS, leaf collection is funded by the Storm Drain Fund at a cost of \$320,000 in FY 2005/06 and this funding remains in place, and

WHEREAS, forestry refuse collection is funded by the Gas Tax Fund at a cost of \$210,000 in FY 2005/06 and this funding remains in place, and

WHEREAS, pruned refuse collection has been funded by the Wastewater Fund due to the practice of co-composting pruned refuse with biosolids, and

WHEREAS, Council, by Resolution No. 2004-367, on July 13, 2004 approved the cost of pruned refuse collection be removed from the Wastewater Fund as the Composting Facility was no longer processing biosolids, and

WHEREAS, Council, by Resolution No. 2004-368, also on July 13, 2004 directed staff to meet with licensed solid waster collection companies to collect informal estimates for the cost to provide pruned refuse, leaf, and forestry materials collection services, and

WHEREAS, the decision to include leaf and forestry materials in the estimates was due to the economy of using the same crews and equipment for collection and transportation of all the different materials, and

WHEREAS, based on meetings staff held with the licensed solid waste collection companies to familiarize them with the specific details of the collection program, staff received an estimate of \$3.40 to \$3.80 per household per month from one company and \$3.60 per household per month from another company, and

WHEREAS, the City's current cost to provide these same services is \$2.51 per household per month, and

WHEREAS, on April 26, 2005, Council, by Resolution No. 2005-224, authorized the Purchasing Supervisor to prepare and release a formal Request for Proposals for Pruned Refuse, Leaf, and Forestry Materials Collection Services for a five (5) year period with an option to renegotiate for an additional five (5) year period and an option to provide a quotation for composting services, and

WHEREAS, on April 26, 2005, Council, by motion, also directed staff to meet and confer with MCEA and MCMA related to the potential displacement of full-time employees that might occur as a result of contracting out these services, and

WHEREAS, MCEA and MCMA agreed the City's current cost of \$2.51 per household per month would be used to compare with the proposals, and

WHEREAS, on September 2, 2005, the Purchasing Division of the Finance Department solicited Request for Proposals RFP No. 0405-38 for Yard Trimmings, Leaf, and Forestry Materials Collection Services to the three (3) local licensed solid waste collection companies, and

WHEREAS, on September 4, 2005 an evaluation committee, comprised of four (4) staff members and the Purchasing Supervisor, was formed to oversee the evaluation process, and

WHEREAS, on September 9, 2005 a proposers conference was held and only one prospective proposer was in attendance, and

WHEREAS, on September 27, 2005 RFPs were formally opened and only Gilton Solid Waste Management Inc. chose to submit a proposal, and

WHEREAS, Gilton's proposal included a cost of \$5.60 per household per month, and

WHEREAS, Gilton chose not to submit a proposal to provide composting services, and

WHEREAS, Gilton's cost to perform the same services as City staff was approximately \$2.1 million more per year, and

WHEREAS, the Economic Development Committee, at its November 7, 2005 meeting recommended approval of continuing collection of pruned refuse by City staff, and



WHEREAS, pruned refuse collection has been funded through FY 2006/07 by the Supplemental Budget process, and

WHEREAS, a funding source will need to be identified for continuance of this program,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rejects the proposal received and approves the retention of Forestry Division staff to perform Pruned Refuse, Leaf and Forestry Materials Collection Services with previously-approved supplemental funding, through the end of Fiscal Year 2006/07.

BE IT FURTHER RESOLVED that the Council hereby directs staff to return to Council with a recommendation for a permanent funding source for Pruned Refuse Collection Services by May 9, 2006.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto, held on the 10<sup>th</sup> day of January 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-025**

**A RESOLUTION APPROVING AN AMENDMENT TO THE CITY OF  
MODESTO 2005-2006 HUD ANNUAL ACTION PLAN**

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

WHEREAS, the Modesto City Council, at its May 24, 2005, meeting, by Resolution No. 2005-279, approved the adoption of the 2005-2006 Annual Action Plan, and

WHEREAS, City staff has proposed amendments to the Annual Action Plan, and said proposed amendments are as set forth in Exhibit "A" attached hereto and incorporated herein by reference, and

WHEREAS, notice has been duly given to notify the community of proposed amendments to the Annual Action Plan, and to provide a 30-day comment period, which began December 11, 2005, and ended on January 10, 2006, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the Annual Action Plan at its December 9, 2005, meeting, and the Committee recommended that the City Council approve amendments to the Annual Action Plan as proposed by staff as well as budgetary adjustments as recommended by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on January 10, 2006, 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 2005-2006 Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Amendment to the 2005-2006 Annual Action Plan as presented to the Council is hereby approved, and a copy of said Amendment to the 2005-2006 Annual Action Plan is attached hereto as Exhibit "A" 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 any documents with respect to the Amendment to be submitted to the Regional HUD office.

BE IT FURTHER RESOLVED that any and all documents necessary to implement the Action Plan shall require further Council approval.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**CDBG Budget-Fiscal Year 2005-2006-Amendment**

	FY 05-06	Amendment	Total
<b>Housing Development, Preservation &amp; Home Ownership</b>	<b>1,118,366</b>	<b>570,000</b>	<b>1,688,366</b>
First-Time Homebuyers Classes	3,000		3,000
Down Payment Assistance Program	120,000		120,000
Housing Rehabilitation Loans	125,000	250,000	375,000
Property Enhancement	5,000		5,000
Paint/Insulation Rebate	8,000		8,000
Tool Bank Program	3,000		3,000
Emergency Home Repair / Disabled Access Assistance Programs	125,344	300,000	425,344
Building Code Enforcement	49,311		49,311
Lead-Based Paint Services	10,000	10,000	20,000
Housing Demolition & Clearance	6,000		6,000
Temporary Relocation	15,000		15,000
Minor Home Repair Grant Program		10,000	10,000
Rehabilitation Support	648,711		648,711
<b>Infrastructure &amp; Public Improvement</b>	<b>390,436</b>	<b>2,526,836</b>	<b>2,917,272</b>
Street Paving in Low-Income Areas	390,436		390,436
05-06 ADA Improvements-Curb Ramps		50,000	50,000
Neighborhood Based Projects		40,000	40,000
Property Acquisition		1,466,919	1,466,919
Neighborhood Center at Marshall Park		94,917	94,917
Maddux Youth Center		220,000	220,000
Public Improvements-Robertson Road		15,000	15,000
Homeless Day Facility Showers		40,000	40,000
1230 12th Street Retrofit		50,000	50,000
Public Improvements-Mellis Park Irrigation		150,000	150,000
Playground Equipment-M. Twain, Chrysler, Chrysler 99		220,000	220,000
Water Tower Removal-17th & G		150,000	150,000
King-Kennedy Memorial Center-Multipurpose/Kitchen		30,000	30,000
<b>Neighborhood Preservation &amp; Stabilization</b>	<b>238,149</b>	<b>13,270</b>	<b>251,419</b>
Neighborhood Clean-up Projects	20,000		20,000
Code Enforcement	218,149	13,270	231,419
<b>Economic Development</b>	<b>20,000</b>		<b>20,000</b>
Workforce Development Program	20,000		20,000
<b>Public Services</b>	<b>510,953</b>	<b>61,000</b>	<b>571,953</b>
Stanislaus Literacy Center "Adult Literacy"	15,497		15,497
Second Harvest Food Bank "Food Assistance Program"	40,000		40,000
Stanislaus Community Assistance "Nutritional Supplement & Education Program"	41,485		41,485
Victory Life Center "Commodity Supplement Food Program"	19,940		19,940
CHSS "Housing Services Case Management"	22,199		22,199
Interfaith Ministries "Santa Fe Emergency Shelter"	79,527	12,200	91,727
Healthy Aging Association "Young at Heart"	12,686		12,686
Children Crisis Center "Cricket's House Respite Child Care"	18,720		18,720
Children Crisis Center "Sawyer Respite Child Care"	18,720		18,720
Parents Resources Center "ABC's of Childcare"	21,747		21,747
CHS "Hutton House Runaway & Homeless Youth Shelter"	27,590		27,590
MPD "Crime Free Multi-Housing Project"	110,000		110,000
Children's Crisis Center "Sawyer House Children's Homeless Shelter"	14,040		14,040
Project Sentinel "Fair Housing"	22,000		22,000
Project Sentinel "Tenant Landlord Services"	24,000		24,000
CHS "Pathways Transitional Living"	22,802		22,802
Salvation Army "Winter Emergency Shelter"		36,600	36,600
CHSS "Emergency Shelter"		12,200	12,200

**Exhibit A**

<b>Program Administration &amp; Planning</b>	<b>629,271</b>		<b>629,271</b>
General Administration	510,623		510,623
Indirect Administration	83,648		83,648
Fair Housing Services	35,000		35,000
<b>Section 108 Loan Repayment</b>	<b>369,180</b>		<b>369,180</b>
Principal and Interest for Section 108 Loan	369,180		369,180
<b>Revolving Loan Fund (RLF) Interest Payment</b>	<b>50,000</b>		<b>50,000</b>
Interest Payment for RLF	50,000		50,000
<b>CDBG Grand Total</b>	<b>3,326,355</b>	<b>3,171,106</b>	<b>6,497,461</b>

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-026**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005-2006 ANNUAL  
OPERATING BUDGET TO REFLECT APPROVED CHANGES TO THE HUD  
ANNUAL ACTION PLAN**

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

WHEREAS, the City Council, at its May 24, 2005, meeting, by Resolution No. 2005-279, approved the adoption of the 2005-2006 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, these program changes require reallocation of operating budget funds, and

WHEREAS, reallocation of these funds is more fully described on Exhibit "A", attached hereto and incorporated by reference, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the Annual Action Plan at its December 9, 2005, meeting, and the Committee recommended that the City Council approve amendments to the Annual Action Plan as proposed by staff as well as budgetary adjustments as recommended by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on January 10, 2006, 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 2005-2006 Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2005-2006 Annual Operating Budget is hereby amended to reallocate the Community Development Block Grant (CDBG) as indicated on Exhibit "A" attached hereto and incorporated herein by reference.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY Interim City Attorney

**CDBG Budget-Fiscal Year 2005-2006-Amendment**

	FY 05-06	Amendment	Total
<b>Housing Development, Preservation &amp; Home Ownership</b>	<b>1,118,366</b>	<b>570,000</b>	<b>1,688,366</b>
First-Time Homebuyers Classes	3,000		3,000
Down Payment Assistance Program	120,000		120,000
Housing Rehabilitation Loans	125,000	250,000	375,000
Property Enhancement	5,000		5,000
Paint/Insulation Rebate	8,000		8,000
Tool Bank Program	3,000		3,000
Emergency Home Repair / Disabled Access Assistance Programs	125,344	300,000	425,344
Building Code Enforcement	49,311		49,311
Lead-Based Paint Services	10,000	10,000	20,000
Housing Demolition & Clearance	6,000		6,000
Temporary Relocation	15,000		15,000
Minor Home Repair Grant Program		10,000	10,000
Rehabilitation Support	648,711		648,711
<b>Infrastructure &amp; Public Improvement</b>	<b>390,436</b>	<b>2,526,836</b>	<b>2,917,272</b>
Street Paving in Low-Income Areas	390,436		390,436
05-06 ADA Improvements-Curb Ramps		50,000	50,000
Neighborhood Based Projects		40,000	40,000
Property Acquisition		1,466,919	1,466,919
Neighborhood Center at Marshall Park		94,917	94,917
Maddux Youth Center		220,000	220,000
Public Improvements-Robertson Road		15,000	15,000
Homeless Day Facility Showers		40,000	40,000
1230 12th Street Retrofit		50,000	50,000
Public Improvements-Mellis Park Irrigation		150,000	150,000
Playground Equipment-M. Twain, Chrysler, Chrysler 99		220,000	220,000
Water Tower Removal-17th & G		150,000	150,000
King-Kennedy Memorial Center-Multipurpose/Kitchen		30,000	30,000
<b>Neighborhood Preservation &amp; Stabilization</b>	<b>238,149</b>	<b>13,270</b>	<b>251,419</b>
Neighborhood Clean-up Projects	20,000		20,000
Code Enforcement	218,149	13,270	231,419
<b>Economic Development</b>	<b>20,000</b>		<b>20,000</b>
Workforce Development Program	20,000		20,000
<b>Public Services</b>	<b>510,953</b>	<b>61,000</b>	<b>571,953</b>
Stanislaus Literacy Center "Adult Literacy"	15,497		15,497
Second Harvest Food Bank "Food Assistance Program"	40,000		40,000
Stanislaus Community Assistance "Nutritional Supplement & Education Program"	41,485		41,485
Victory Life Center "Commodity Supplement Food Program"	19,940		19,940
CHSS "Housing Services Case Management"	22,199		22,199
Interfaith Ministries "Santa Fe Emergency Shelter"	79,527	12,200	91,727
Healthy Aging Association "Young at Heart"	12,686		12,686
Children Crisis Center "Cricket's House Respite Child Care"	18,720		18,720
Children Crisis Center "Sawyer Respite Child Care"	18,720		18,720
Parents Resources Center "ABC's of Childcare"	21,747		21,747
CHS "Hutton House Runaway & Homeless Youth Shelter"	27,590		27,590
MPD "Crime Free Multi-Housing Project"	110,000		110,000
Children's Crisis Center "Sawyer House Children's Homeless Shelter"	14,040		14,040
Project Sentinel "Fair Housing"	22,000		22,000
Project Sentinel "Tenant Landlord Services"	24,000		24,000
CHS "Pathways Transitional Living"	22,802		22,802
Salvation Army "Winter Emergency Shelter"		36,600	36,600
CHSS "Emergency Shelter"		12,200	12,200



**Exhibit A**

<b>Program Administration &amp; Planning</b>	<b>629,271</b>		<b>629,271</b>
General Administration	510,623		510,623
Indirect Administration	83,648		83,648
Fair Housing Services	35,000		35,000
<b>Section 108 Loan Repayment</b>	<b>369,180</b>		<b>369,180</b>
Principal and Interest for Section 108 Loan	369,180		369,180
<b>Revolving Loan Fund (RLF) Interest Payment</b>	<b>50,000</b>		<b>50,000</b>
Interest Payment for RLF	50,000		50,000
<b>CDBG Grand Total</b>	<b>3,326,355</b>	<b>3,171,106</b>	<b>6,497,461</b>

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis  
 Telephone No.: 577-5311  
 Department: Parks, Recr & Neighborhoods

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_

Fund Title: CDBG Direct Program

FY: 05-06

Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES**

<b>FROM</b>					
<b>TO</b> 1130-320-3214-3511	na		\$50,000	\$50,000	CDBG Carryover

**APPROPRIATIONS**

<b>FROM</b>					
<b>TO</b>					
1130-320-3214-6010	3214C		\$10,000	\$10,000	Engineering
1130-320-3214-6040	3214C		\$30,000	\$30,000	Construction
1130-320-3214-6050	3214C		\$5,000	\$5,000	Contingency
1130-320-3214-6060	3214C		\$5,000	\$5,000	Constr Admin

**COMMENTS/JUSTIFICATION**

Create a new multi-year org, 3214, for 05-06 Curb Ramps, funded from carryover as specified in the Amendment to the 05-06 Annual Action Plan.

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) (Salary lines movement in or out)		

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis  
 Telephone No.: 577-5311  
 Department: Parks, Recr & Neighborhoods

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_

Fund Title: CDBG Direct Program

**FY: 05-06**

Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES**

<b>FROM</b>					
<b>TO</b>					
1130-320-3232-3511	na		\$40,000	\$40,000	CDBG Carryover

**APPROPRIATIONS**

<b>FROM</b>					
<b>TO</b>					
1130-320-3232-0511	3232C		\$40,000	\$40,000	Homesless Day Facility Showers

**COMMENTS/JUSTIFICATION**

Create a new multi-year org, 3232, for the construction of showers at the Salvation Army Shelter at 9th and D. This is funded from carryover as specified in the Amendment to the 05-06 Annual Action Plan.

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) (Salary lines movement in or out)		

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis  
 Telephone No.: 577-5311  
 Department: Parks, Recr & Neighborhoods

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_

Fund Title: CDBG Direct Program

FY: 05-06

Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES**

<u>FROM</u>					
<u>TO</u>					
1130-320-3254-3511	na		\$303,270	\$303,270	CDBG Carryover
1130-320-3220-3511	na		\$15,000	\$15,000	CDBG Carryover
1130-320-3256-3511	na		\$10,000	\$10,000	CDBG Carryover
			\$328,270	\$328,270	

**APPROPRIATIONS**

<u>FROM</u>					
<u>TO</u>					
1130-320-3254-0255	3250C	\$231,841	\$13,270	\$245,111	City Svcs (Code Enforcement)
1130-320-3254-0505	3250C		\$40,000	\$40,000	Neighborhood Projects
1130-320-3254-NOBJ	3250C		\$30,000	\$30,000	KKMC Furnishings
1130-320-3220-6040	3250C	\$55,000	\$15,000	\$70,000	Robertson Road Shade Structure
1130-320-3256-0502	3250C	\$5,000	\$3,000	\$8,000	LBP Testing
1130-320-3256-0503	3250C	\$1,000	\$5,000	\$6,000	LBP Clearance
1130-320-3256-0504	3250C	\$4,000	\$2,000	\$6,000	LBP Abatement
1130-320-3254-NOBJ	3250C		\$220,000	\$220,000	Playground Equipment
			\$328,270	\$328,270	

**COMMENTS/JUSTIFICATION**

Adjustment to the 05-06 operating budget from carryover funds to reflect changes as specified in the Amendment to the 05-06 Annual Action Plan.

AUTHORIZATION (check if required)	SIGNATURE	DATE
<b>DEPARTMENT DIRECTOR</b> or <b>AUTHORIZED ASSISTANT</b> (Allocation of Dept Appr to Line-Item Level)		
<b>FINANCE DIRECTOR</b> (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
<b>CITY MANAGER</b> (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Salary lines movement in or out)		

### REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis  
 Telephone No.: 577-5311  
 Department: Parks, Recr & Neighborhoods

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_

Fund Title: Housing Loans

**FY: 05-06**  
 Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES**

<u>FROM</u>					
<u>TO</u>					

**APPROPRIATIONS**

<u>FROM</u> 1150-800-8000-8003	1150R		(\$560,000)		RLF Reserve
<u>TO</u> 1150-320-3266-0495 1150-320-3266-0497 1150-320-3266-0496	3266C 3266C 3266C	\$125,344 \$125,000	\$300,000 \$250,000 \$10,000 \$560,000	\$425,344 \$375,000 \$10,000	Emergency Home Repair Program Housing Maintenance Program Minor Home Repair Grant Program

**COMMENTS/JUSTIFICATION**

Appropriate from the RLF reserve to fund ongoing activities in the housing rehabilitation program, as specified in the Amendment to the 05-06 Annual Action Plan.

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) (Salary lines movement in or out)		

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis  
 Telephone No.: 577-5311  
 Department: Parks, Recr & Neighborhoods

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_

Fund Title: Infrastructure and Improvements

FY: 05-06

Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES**

<u>FROM</u>					
<u>TO</u>					

**APPROPRIATIONS**

<u>FROM</u>					
1151-800-8000-8003	1150R		\$1,466,919		RLF Reserve
<u>TO</u>					
1151-320-3271-0507	1151R		\$1,466,919	\$1,466,919	Property Acquisition

**COMMENTS/JUSTIFICATION**

Appropriate from the RLF reserve to fund property acquisition. This is a re-appropriation of \$1,097,950 from unspent commitment in 04-05, and additional funds of \$368,969, as specified in the Amendment to the 05-06 Annual Action Plan. This needs to be a multi-year org.

AUTHORIZATION (check if required)	SIGNATURE	DATE
<b>DEPARTMENT DIRECTOR</b> or <b>AUTHORIZED ASSISTANT</b> (Allocation of Dept Appr to Line-Item Level)		
<b>FINANCE DIRECTOR</b> (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
<b>CITY MANAGER</b> (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Salary lines movement in or out)		

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis  
 Telephone No.: 577-5311  
 Department: Parks, Recr & Neighborhoods

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_

Fund Title: Public Service

FY: 05-06

Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES**

<u>FROM</u>					
<u>TO</u>					

**APPROPRIATIONS**

<u>FROM</u>					
1152-800-8000-8003	1150R		\$61,000		RLF Reserve
<u>TO</u>					
1152-320-3270-0496	1152R		\$61,000	\$61,000	Direct Grants

**COMMENTS/JUSTIFICATION**

Appropriate from the RLF reserve to fund three additional public services for winter shelter programs, as specified in the Amendment to the 05-06 Annual Action Plan.

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) (Salary lines movement in or out)		

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-027**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005-2006 FUNDING FOR  
THE CAPITAL IMPROVEMENT BUDGET TO REFLECT APPROVED  
CHANGES TO THE HUD ANNUAL ACTION PLAN**

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

WHEREAS, the City Council, at its May 24, 2005, meeting, by Resolution No. 2005-279 approved the adoption of the 2005-2006 Annual Action Plan, and

WHEREAS, since adoption of the Annual Action Plan, staff has determined that additional revenue from prior years' carryover Community Development Block Grant (CDBG) program funds will be available for capital improvement projects, and

WHEREAS, staff recommends that the available funding be programmed for new and existing projects, and

WHEREAS, programming of these funds is more fully described on Exhibit "A", attached hereto and incorporated by reference, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the Annual Action Plan at its December 9, 2005, meeting, and the Committee recommended that the City Council approve the amendments to the Annual Action Plan as proposed by staff as well as budgetary adjustments as recommended by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on January 10, 2006, 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 2004-2005 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2005-2006 funding for the Capital Improvement Plan Budget is hereby amended to estimate new revenue, appropriate new expenses and reallocate HUD Funds as indicated on Exhibit "A" attached hereto and incorporated herein by reference.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**CDBG Budget-Fiscal Year 2005-2006-Amendment**

	FY 05-06	Amendment	Total
<b>Housing Development, Preservation &amp; Home Ownership</b>	<b>1,118,366</b>	<b>570,000</b>	<b>1,688,366</b>
First-Time Homebuyers Classes	3,000		3,000
Down Payment Assistance Program	120,000		120,000
Housing Rehabilitation Loans	125,000	250,000	375,000
Property Enhancement	5,000		5,000
Paint/Insulation Rebate	8,000		8,000
Tool Bank Program	3,000		3,000
Emergency Home Repair / Disabled Access Assistance Programs	125,344	300,000	425,344
Building Code Enforcement	49,311		49,311
Lead-Based Paint Services	10,000	10,000	20,000
Housing Demolition & Clearance	6,000		6,000
Temporary Relocation	15,000		15,000
Minor Home Repair Grant Program		10,000	10,000
Rehabilitation Support	648,711		648,711
<b>Infrastructure &amp; Public Improvement</b>	<b>390,436</b>	<b>2,526,836</b>	<b>2,917,272</b>
Street Paving in Low-Income Areas	390,436		390,436
05-06 ADA Improvements-Curb Ramps		50,000	50,000
Neighborhood Based Projects		40,000	40,000
Property Acquisition		1,466,919	1,466,919
Neighborhood Center at Marshall Park		94,917	94,917
Maddux Youth Center		220,000	220,000
Public Improvements-Robertson Road		15,000	15,000
Homeless Day Facility Showers		40,000	40,000
1230 12th Street Retrofit		50,000	50,000
Public Improvements-Mellis Park Irrigation		150,000	150,000
Playground Equipment-M. Twain, Chrysler, Chrysler 99		220,000	220,000
Water Tower Removal-17th & G		150,000	150,000
King-Kennedy Memorial Center-Multipurpose/Kitchen		30,000	30,000
<b>Neighborhood Preservation &amp; Stabilization</b>	<b>238,149</b>	<b>13,270</b>	<b>251,419</b>
Neighborhood Clean-up Projects	20,000		20,000
Code Enforcement	218,149	13,270	231,419
<b>Economic Development</b>	<b>20,000</b>		<b>20,000</b>
Workforce Development Program	20,000		20,000
<b>Public Services</b>	<b>510,953</b>	<b>61,000</b>	<b>571,953</b>
Stanislaus Literacy Center "Adult Literacy"	15,497		15,497
Second Harvest Food Bank "Food Assistance Program"	40,000		40,000
Stanislaus Community Assistance "Nutritional Supplement & Education Program"	41,485		41,485
Victory Life Center "Commodity Supplement Food Program"	19,940		19,940
CHSS "Housing Services Case Management"	22,199		22,199
Interfaith Ministries "Santa Fe Emergency Shelter"	79,527	12,200	91,727
Healthy Aging Association "Young at Heart"	12,686		12,686
Children Crisis Center "Cricket's House Respite Child Care"	18,720		18,720
Children Crisis Center "Sawyer Respite Child Care"	18,720		18,720
Parents Resources Center "ABC's of Childcare"	21,747		21,747
CHS "Hutton House Runaway & Homeless Youth Shelter"	27,590		27,590
MPD "Crime Free Multi-Housing Project"	110,000		110,000
Children's Crisis Center "Sawyer House Children's Homeless Shelter"	14,040		14,040
Project Sentinel "Fair Housing"	22,000		22,000
Project Sentinel "Tenant Landlord Services"	24,000		24,000
CHS "Pathways Transitional Living"	22,802		22,802
Salvation Army "Winter Emergency Shelter"		36,600	36,600
CHSS "Emergency Shelter"		12,200	12,200

**Exhibit A**

<b>Program Administration &amp; Planning</b>	<b>629,271</b>		<b>629,271</b>
General Administration	510,623		510,623
Indirect Administration	83,648		83,648
Fair Housing Services	35,000		35,000
<b>Section 108 Loan Repayment</b>	<b>369,180</b>		<b>369,180</b>
Principal and Interest for Section 108 Loan	369,180		369,180
<b>Revolving Loan Fund (RLF) Interest Payment</b>	<b>50,000</b>		<b>50,000</b>
Interest Payment for RLF	50,000		50,000
<b>CDBG Grand Total</b>	<b>3,326,355</b>	<b>3,171,106</b>	<b>6,497,461</b>

### REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis  
 Telephone No.: 577-5311  
 Department: Parks, Recr & Neighborhoods

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_

Fund Title: Capital Grants

FY: 05-06  
 Transfer No. \_\_\_\_\_

Fund-Agency-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
--------------------	-----------	----------------	----------------------	----------------	-----------------------

#### APPROPRIATIONS

<b>FROM</b> 1150-800-8000-8003	1150R		(\$50,000)		RLF Reserve
<b>TO</b> 2300-310-A012-6070	A012		\$50,000	\$50,000	1230 12th Street Retrofit

#### TRANSFERS

<b>FROM</b> 1150-700-A012-7230	A012	\$201,498	\$50,000	\$251,498	Transfer to fund 2300
<b>TO</b> 2300-700-A012-9115	na	\$201,498	\$50,000	\$251,498	Transfer from fund 1150

#### COMMENTS/JUSTIFICATION

Appropriate \$50,000 from RLF reserve for replacement HVAC system for the 1230 12th Street retrofit. This is reflected in the Amendment to the 05-06 Annual Action Plan.

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 or out of Personnel Services)		

### REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis  
 Telephone No.: 577-5311  
 Department: Parks, Recr & Neighborhoods

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_

Fund Title: Capital Grants

FY: 05-06  
 Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

#### APPROPRIATIONS

<b>FROM</b> 1130-800-8000-8003	1130R		(\$220,000)		CDBG Reserve
<b>TO</b> 2300-310-M182-6040 2300-310-M182-6070	M182 M182	\$2,359,262	\$160,000 \$60,000	\$2,519,262 \$60,000	Construction-Maddux Yth Center Equipment

#### TRANSFERS

<b>FROM</b> 1130-700-M182-7230	M182	\$350,000	\$220,000	\$570,000	Transfer to fund 2300
<b>TO</b> 2300-700-M182-9113	na	\$350,000	\$220,000	\$570,000	Transfer from fund 1130

#### COMMENTS/JUSTIFICATION

Increase CIP budget for the remodeling of Maddux Youth Center. Extra funding is: \$140,000 for hardwood floor, \$20,000 for landscaping, and \$60,000 for furnishings for the Youth Center. This funding is from carryover of unspent funds from the 04-05 year, and is reflected in the Amendment to the 05-06 Annual Action Plan.

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 or out of Personnel Services)		

# REQUEST FOR BUDGET ADJUSTMENT

Exhibit A

Contact Person: Cheryl Davis  
 Telephone No.: 577-5311  
 Department: Parks, Recr & Neighborhoods

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_

Fund Title: Special Fund for Capital Outlay

FY: 05-06  
 Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

### APPROPRIATIONS

<b>FROM</b>					
1130-800-8000-8003	1130R		(\$94,917)		CDBG Reserve
<b>TO</b>					
1300-310-M163-6040	M163	\$4,521,715	\$94,917	\$4,616,632	Construction-Nghbohd Ctr

### TRANSFERS

<b>FROM</b>					
1130-700-M163-7230	M163	\$513,000	\$94,917	\$607,917	Transfer to fund 1300
<b>TO</b>					
1300-700-M163-9113	na	\$513,000	\$94,917	\$607,917	Transfer from fund 1130

### COMMENTS/JUSTIFICATION

Increase CIP budget for the construction of the Neighborhood Center at Marshall Park.  
 This funding is from carryover of unspent funds from the 04-05 year, and is reflected in the Amendment to the 05-06 Annual Action Plan.

AUTHORIZATION (check if required)	SIGNATURE	DATE
<b>DEPARTMENT DIRECTOR</b> or <b>AUTHORIZED ASSISTANT</b> (Allocation of Dept Appr to Line-Item Level)		
<b>FINANCE DIRECTOR</b> (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
<b>CITY MANAGER</b> (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into or out of Personnel Services)		

# REQUEST FOR BUDGET ADJUSTMENT

Exhibit A

Contact Person: Cheryl Davis  
 Telephone No.: 577-5311  
 Department: Parks, Recr & Neighborhoods

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_

Fund Title: Capital Grants

FY: 05-06  
 Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

### APPROPRIATIONS

<b>FROM</b> 1130-800-8000-8003	1130R		(\$150,000)		CDBG Reserve
<b>TO</b> 2330-320-NCIP-6040	NCIP		\$150,000	\$150,000	Water Tower Removal-17th & G

### TRANSFERS

<b>FROM</b> 1130-700-NCIP-7233	NCIP		\$150,000	\$150,000	Transfer to fund 2330
<b>TO</b> 2330-700-NCIP-9113	na		\$150,000	\$150,000	Transfer from fund 1130

### COMMENTS/JUSTIFICATION

Create a new CIP for removal of the water tower at 17th and G Street, the site of the old Tower Park. This funding is from carryover from 04-05 and is reflected in the Amendment to the 05-06 Annual Action Plan.

AUTHORIZATION (check if required)	SIGNATURE	DATE
<b>DEPARTMENT DIRECTOR</b> or <b>AUTHORIZED ASSISTANT</b> (Allocation of Dept Appr to Line-Item Level)		
<b>FINANCE DIRECTOR</b> (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
<b>CITY MANAGER</b> (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Transfers into or out of Personnel Services)		

# REQUEST FOR BUDGET ADJUSTMENT

Exhibit A

Contact Person: Cheryl Davis  
 Telephone No.: 577-5311  
 Department: Parks, Recr & Neighborhoods  
 Fund Title: Capital Grants

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_  
 FY: 05-06  
 Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

***APPROPRIATIONS***

<b>FROM</b>					
1130-800-8000-8003	1130R		(\$150,000)		CDBG Reserve
<b>TO</b>					
2330-320-NCIP-6010	NCIP		\$30,000	\$30,000	Engineering
2330-320-NCIP-6040			\$90,000	\$90,000	Construction
2330-320-NCIP-6050			\$15,000	\$15,000	Congtingency
2330-320-NCIP-6060			\$15,000	\$15,000	Constr Admin
			\$150,000		

***TRANSFERS***

<b>FROM</b>					
1130-700-NCIP-7233	NCIP		\$150,000	\$150,000	Transfer to fund 2330
<b>TO</b>					
2330-700-NCIP-9113	na		\$150,000	\$150,000	Transfer from fund 1130

**COMMENTS/JUSTIFICATION**

Create a new CIP for the replacement of the irrigation system at Mellis Park. This funding is from carryover from 04-05 and is reflected in the Amendment to the 05-06 Annual Action Plan.

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 or out of Personnel Services)		



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-028**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005-2006 ANNUAL  
OPERATING BUDGET AND CAPITAL IMPROVEMENT BUDGET TO  
REFLECT REVENUES AND APPROPRIATIONS AS ADOPTED, AND  
CARRYOVER AMOUNTS FROM PRIOR YEAR**

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

WHEREAS, the City Council, at its May 24, 2005, meeting, by Resolution No. 2005-279, approved the adoption of the 2005-2006 Annual Action Plan, and

WHEREAS, since adoption of the Annual Action Plan, staff has determined that some adjustments need to be made in order to align the City's budget to the HUD financial system, and

WHEREAS, some of these changes require a transfer of funds from the General Fund Reserve, and

WHEREAS, these changes are shown on Exhibit "A", attached hereto and incorporated by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2005-2006 Annual Operating Budget and Capital Improvement Budget are hereby amended to reflect adjustments to the HUD fund as indicated on Exhibit "A" attached hereto and incorporated herein by reference.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

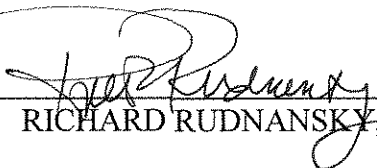
AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: \_\_\_\_\_  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
RICHARD RUDNANSKY, Interim City Attorney

**CDBG Budget-Fiscal Year 2005-2006-Amendment**

	FY 05-06	Amendment	Total
<b>ousing Development, Preservation &amp; Home Ownership</b>	<b>1,118,366</b>	<b>570,000</b>	<b>1,688,366</b>
First-Time Homebuyers Classes	3,000		3,000
Down Payment Assistance Program	120,000		120,000
Housing Rehabilitation Loans	125,000	250,000	375,000
Property Enhancement	5,000		5,000
Paint/Insulation Rebate	8,000		8,000
Tool Bank Program	3,000		3,000
Emergency Home Repair / Disabled Access Assistance Programs	125,344	300,000	425,344
Building Code Enforcement	49,311		49,311
Lead-Based Paint Services	10,000	10,000	20,000
Housing Demolition & Clearance	6,000		6,000
Temporary Relocation	15,000		15,000
Minor Home Repair Grant Program		10,000	10,000
Rehabilitation Support	648,711		648,711
<b>Infrastructure &amp; Public Improvement</b>	<b>390,436</b>	<b>2,526,836</b>	<b>2,917,272</b>
Street Paving in Low-Income Areas	390,436		390,436
05-06 ADA Improvements-Curb Ramps		50,000	50,000
Neighborhood Based Projects		40,000	40,000
Property Acquisition		1,466,919	1,466,919
Neighborhood Center at Marshall Park		94,917	94,917
Maddux Youth Center		220,000	220,000
Public Improvements-Robertson Road		15,000	15,000
Homeless Day Facility Showers		40,000	40,000
1230 12th Street Retrofit		50,000	50,000
Public Improvements-Mellis Park Irrigation		150,000	150,000
Playground Equipment-M. Twain, Chrysler, Chrysler 99		220,000	220,000
Water Tower Removal-17th & G		150,000	150,000
King-Kennedy Memorial Center-Multipurpose/Kitchen		30,000	30,000
<b>Neighborhood Preservation &amp; Stabilization</b>	<b>238,149</b>	<b>13,270</b>	<b>251,419</b>
Neighborhood Clean-up Projects	20,000		20,000
Code Enforcement	218,149	13,270	231,419
<b>Economic Development</b>	<b>20,000</b>		<b>20,000</b>
Workforce Development Program	20,000		20,000
<b>Public Services</b>	<b>510,953</b>	<b>61,000</b>	<b>571,953</b>
Stanislaus Literacy Center "Adult Literacy"	15,497		15,497
Second Harvest Food Bank "Food Assistance Program"	40,000		40,000
Stanislaus Community Assistance "Nutritional Supplement & Education Program"	41,485		41,485
Victory Life Center "Commodity Supplement Food Program"	19,940		19,940
CHSS "Housing Services Case Management"	22,199		22,199
Interfaith Ministries "Santa Fe Emergency Shelter"	79,527	12,200	91,727
Healthy Aging Association "Young at Heart"	12,686		12,686
Children Crisis Center "Cricket's House Respite Child Care"	18,720		18,720
Children Crisis Center "Sawyer Respite Child Care"	18,720		18,720
Parents Resources Center "ABC's of Childcare"	21,747		21,747
CHS "Hutton House Runaway & Homeless Youth Shelter"	27,590		27,590
MPD "Crime Free Multi-Housing Project"	110,000		110,000
Children's Crisis Center "Sawyer House Children's Homeless Shelter"	14,040		14,040
Project Sentinel "Fair Housing"	22,000		22,000
Project Sentinel "Tenant Landlord Services"	24,000		24,000
CHS "Pathways Transitional Living"	22,802		22,802
Salvation Army "Winter Emergency Shelter"		36,600	36,600
CHSS "Emergency Shelter"		12,200	12,200

<b>Program Administration &amp; Planning</b>	<b>629,271</b>		<b>629,271</b>
General Administration	510,623		510,623
Indirect Administration	83,648		83,648
Fair Housing Services	35,000		35,000
<b>Section 108 Loan Repayment</b>	<b>369,180</b>		<b>369,180</b>
Principal and Interest for Section 108 Loan	369,180		369,180
<b>Revolving Loan Fund (RLF) Interest Payment</b>	<b>50,000</b>		<b>50,000</b>
Interest Payment for RLF	50,000		50,000
<b>CDBG Grand Total</b>	<b>3,326,355</b>	<b>3,171,106</b>	<b>6,497,461</b>

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis  
 Telephone No.: 577-5311  
 Department: Parks, Recr & Neighborhoods

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_

Fund Title: CDBG Direct Program

**FY: 05-06**

Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES**

<u>FROM</u>					
1130-320-3254-3513	na	\$1,239,585	(\$50,000)	\$1,189,585	Entitlement
1130-320-3256-6301	na	\$150,000	(\$150,000)		Direct Loan Principal
			(\$200,000)		
<u>TO</u>					
1130-320-3223-3513	na	\$140,436	\$50,000	\$190,436	Entitlement
1130-320-3223-6310	na	\$50,000	\$150,000	\$200,000	Direct Loan-Program Income
			\$200,000		

**APPROPRIATIONS**

<u>FROM</u>					
1130-320-3256-0493	3250C	\$156,000	(\$150,000)	\$6,000	Housing Demo
1130-320-3254-0235	3250C	\$3,000	(\$3,000)	0	Service, Professional & Other
1130-320-3254-0505	3250C	\$30,000	(\$30,000)	0	Neighborhood Grants
1130-320-3254-0496	3250C	\$455,953	(\$20,000)	\$435,953	Direct Grants (non profits)
			(\$203,000)		
<u>TO</u>					
1130-320-3223-6041	3250C	\$190,436	\$200,000	\$390,436	City Forces (Street Paving)
1130-320-3254-0497	3250C	\$117,000	\$3,000	\$120,000	Direct Loans (DPAP)
			\$203,000		

**COMMENTS/JUSTIFICATION**

This is an adjustment to match the City budget to the HUD Annual Action Plan.  
 The organization 3223 for 05-06 Street Pavings needs to be changed to a multi-year org.

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) (Salary lines movement in or out)		

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis  
 Telephone No.: 577-5311  
 Department: Parks, Recr & Neighborhoods

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_

Fund Title: CDBG-Rental Rehab

FY: 05-06

Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES**

<u>FROM</u>					
<u>TO</u> 1140-320-3265-6301	na	0	\$2,616	\$2,616	Direct Loan Principal

**APPROPRIATIONS**

<u>FROM</u>					
<u>TO</u> 1140-320-3265-0496		0	\$2,616	\$2,616	Direct Grants

**COMMENTS/JUSTIFICATION**

Revenue collected to fund the Minor Home Repair Grant Program.

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) (Salary lines movement in or out)		

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis  
 Telephone No.: 577-5311  
 Department: Parks, Recr & Neighborhoods

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_

Fund Title: Housing Loans

FY: 05-06

Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES**

<u>FROM</u>					
<u>TO</u>					

**APPROPRIATIONS**

<u>FROM</u>					
1150-320-3266-0235		\$3,000	(\$3,000)		Serv, Professional and Other
<u>TO</u>					
1150-320-3266-0495		\$123,844	\$1,500	\$125,344	CDBG-EHRP (Loans)
1150-320-3266-0497		\$123,500	\$1,500	\$125,000	Direct Loans (HMP)

**COMMENTS/JUSTIFICATION**

Adjustment to match the City Budget to HUD Annual Action Plan.

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) (Salary lines movement in or out)		

### REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis  
 Telephone No.: 577-5311  
 Department: Parks, Recr & Neighborhoods

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_

Fund Title: Public Service

**FY: 05-06**

Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

#### DEPARTMENTAL REVENUES

<b>FROM</b>					
<b>TO</b>					
1152-320-3270-6104		\$75,000	\$20,000	\$95,000	Direct Loan interest

#### APPROPRIATIONS

<b>FROM</b>					
<b>TO</b>					
1152-320-3270-0496		\$75,000	\$20,000	\$95,000	Direct Grants

#### COMMENTS/JUSTIFICATION

Adjustment to match the City Budget to HUD Annual Action Plan for the Workforce Development activity.

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) (Salary lines movement in or out)		



## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis  
 Telephone No.: 577-5311  
 Department: Parks, Recr & Neighborhoods

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_

Fund Title: HOME Program

FY: 05-06

Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES**

<u>FROM</u>					
<u>TO</u>					

**APPROPRIATIONS**

<u>FROM</u>					
1170-320-3259-0235	3259C	\$1,000	(\$1,000)	0	Serv, Professional & Other
<u>TO</u>					
1170-320-3259-0497	3259C	\$1,051,522	\$1,000	\$1,052,522	Direct Loans

**COMMENTS/JUSTIFICATION**

Adjustment to match the City Budget to HUD Annual Action Plan.

AUTHORIZATION (check if required)	SIGNATURE	DATE
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appt 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) (Salary lines movement in or out)		

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Cheryl Davis  
 Telephone No.: 577-5311  
 Department: Parks, Recr & Neighborhoods

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_

Fund Title: CDBG Direct Program

FY: 05-06

Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES**

<b>FROM</b>					
<b>TO</b>					
1130-320-3231-3511	na		\$175,000	\$175,000	CDBG Carryover

**APPROPRIATIONS**

<b>FROM</b>					
<b>TO</b>					
1130-320-3231-0506	3231C		\$175,000	\$175,000	KKMC Neighborhood Collabtv

**COMMENTS/JUSTIFICATION**

Create a new multi-year org, 3231, for the KKMC Collaborative for development and construction of the Collaborative's headquarters to be constructed in Mellis Park. The adjustment is required to re-appropriate unspent budget from FY 04-05 for an on-going HUD activity. This activity is committed in the HUD system, but it not budgeted in the City's system for 05-06.

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) (Salary lines movement in or out)		

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-029**

**A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S  
AUTHORITY TO ISSUE CHANGE ORDERS ON THE "MADDUX YOUTH  
CENTER RENOVATION AND EXPANSION" PROJECT FROM 8 PERCENT  
(\$186,940) TO 12.5 PERCENT (\$293,513) OF THE ORIGINAL CONTRACT  
PRICE WITH ACME CONSTRUCTION, INC. TOTAL ESTIMATED COST OF  
THIS PROJECT IS \$2,972,465, WHICH INCLUDES CONSTRUCTION  
CONTINGENCY, CONSTRUCTION ADMINISTRATION AND ENGINEERING  
DESIGN**

WHEREAS, on March 8, 2005, the City Council awarded a \$2,336,752 contract to Acme Construction, Inc. to construct the "Maddux Youth Center Renovation and Expansion" project, and

WHEREAS, the contractor started work on May 9, 2005, and

WHEREAS, changes to the Maddux Youth Center construction budget are necessary in order to complete portions of the project that were omitted, due to a limited budget at the beginning of the project scope, and

WHEREAS, funds were not budgeted for a new wooden gymnasium floor, irrigation within the project scope or funds for all necessary furnishings and equipment, and

WHEREAS, due to the availability of CDBG funds, as well as the need for these aspects of the project to be funded, staff is now recommending funding this item, and

WHEREAS, the cost of the extra work could be as high as 15 percent over the original contract price, an estimated \$293,513, an amount which exceeds the Director's authority for the project as established by the Council's Change Order Approval Policy adopted by Resolution No. 94-443 on July 19, 1994, and

WHEREAS, the Director currently has authority to approve change orders up to a cumulative amount of \$186,940, and seeks authority to issue change orders in an increased amount,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director's authority level to issue change orders, from 8 percent (\$186,940) to 15 percent (\$293,513) of the original contract price for the project entitled "Maddux Youth Center Renovation and Expansion".

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-030**

**A RESOLUTION AMENDING SECTIONS 1 & 2 OF RESOLUTION NO. 80-129  
ENTITLED "A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR  
PREZONED PLANNED DEVELOPMENT ZONE, P-D(255), (JOAQUIN  
CONSTRUCTION)." (LLOYD VARGAS)**

WHEREAS, the City Council, by Ordinance No. 1919-C.S., adopted on February 12, 1980, and which became effective on July 24, 1980, amended Section 25-3-8 of the Zoning Map to Planned Development Zone, P-D(255) to allow a 79 unit small lot subdivision on property located west of Carpenter Road north of Torrid Avenue, and

WHEREAS, Modesto City Council Resolution No. 80-129, which was approved on February 12, 1980, and amended by City Council Resolution No. 81-369 on May 12, 1981, approved a development plan for Planned Development Zone, P-D(255), and

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(255), was filed by Lloyd Vargas on September 23, 2005, to allow a property located at 1104 Diablo Avenue north of Torrid Avenue, to subdivide into three new residential units, and

WHEREAS, after a public hearing held on December 5, 2005, in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2005-46, that the amendment to Planned Development Zone P-D(255), as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed Plan Development Amendment is consistent with the Modesto Urban Area General Plan. The General Plan designates this area as "R" (Residential), and the amendment to allow Residential uses will be consistent with the General Plan land use and intensity.

2. The type of project is described in Chapter II of the Modesto Urban Area General Plan Master EIR (MEIR).
3. The proposed project by reason of its plot plan design and conditions of approval will be compatible with the surrounding land uses.

WHEREAS, said matter was set for a public hearing of the City Council to be held on January 10, 2006, in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Lloyd Vargas for an amendment to Planned Development Zone, P-D(255) should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2005-46 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3402-C.S. on the 10<sup>th</sup> day of January, 2006, amending Section 2 of Ordinance No. 1919-C.S. to allow three additional residential units, for a total of 81, to be established in Planned Development Zone, P-D(255).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Section 1 of Modesto City Council Resolution No. 80-129 entitled "A Resolution Approving a Development Plan for Pre-zoned Planned Development Zone, P-D(255), (Joaquin Construction)" is hereby amended to read as follows:

"SECTION 1. DEVELOPMENT PLAN. An amended development plan for Planned Development Zone, P-D(255), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan and building elevations titled "Zero-Lot Subdivision – 3 Lot Re-Zone Vargas Family." As amended in red, stamped approved by the Planning Commission on December 5, 2005.
2. Street improvements consistent with Standard Specifications shall be provided prior to the occupancy of any structures or when requested by the City Engineer or designee to alleviate a health, safety, or traffic problem in the area.
3. Prior to the 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.
4. Prior to the issuance of a building permit for any structure, a final subdivision or 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, 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 what so-ever. The City of Modesto shall promptly notify the developer of any such claim, action, or proceeding and shall cooperate fully in the defense.
6. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this development shall be based on the rates in effect at the time of issuance of the building permit.
7. All conditions of City Council Resolution No. 81-369, as amended by Planning Commission Resolution No. 84-86, not in conflict with this action shall remain in full force and effect."

"SECTION 2. DEVELOPMENT SCHEDULE. The Planned Development Zone is built-out and this proposal only consists of establishing three residential units on site, the following development schedule is hereby approved for the new development:

All development shall start construction on or before December 5, 2007, completion to be by December 5, 2008."

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. 3402-C.S. amending Ordinance No. 1919-C.S becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10<sup>th</sup> day of January, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-031**

**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 PLANNED DEVELOPMENT ZONE  
P-D(255), PROPERTY LOCATED AT 1104 DIABLO AVENUE (LLOYD  
VARGAS)**

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, Lloyd Vargas has proposed an amendment to Planned Development Zone P-D(255) to allow the establishment of three residential units at 1104 Diablo Avenue north of Torrid Avenue, 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. 2005-37 (“Initial Study”) reviewed the proposed amendment to P-D(255) 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, the Planning Commission, by Resolution No. 2005-46 recommended to the City Council approval of the application of Lloyd Vargas to amend Planned Development Zone, P-D(255), for the property located on the east side of Diablo Avenue north of Torrid Avenue, to allow the establishment of three residential units on site as set forth in said Resolution No. 2005-46, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on January 10, 2006, 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(255), 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 proposed amendment to P-D(255) is consistent with the General Plan and will bring the subject property more in line with the surrounding zero-lot line homes.
2. The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required.
3. The type of project is described in Chapter II of the Master EIR.
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 that was not identified in the MEIR.
  - b. No new or additional mitigation measures or alternatives are required.
7. The criteria for currency of the Master EIR were reviewed and it was determined that the Master EIR is current for all areas of the Initial Study.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the 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 10<sup>th</sup> day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**EXHIBIT A**

**Initial Study**

**EA/C&ED No. 2005-07**

**City of Modesto**

**Finding of Conformance to  
General Plan Master EIR:**

**Initial Study C&ED No. 2005-37**

**For the proposed:**

**Amendment to Planned Development Zone, P-D(255) and for  
a Subsequent Vesting Tentative Parcel Map to Allow  
Replacement of an Existing Dwelling with Three (3) New  
Dwellings**

**Prepared by:  
City of Modesto  
Community & Economic Development Department  
Planning Division  
November 21, 2005**

# 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 proposed tentative subdivision map 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: Amendment to P-D(255) and Subsequent Vesting Tentative Parcel Map
- B. Address or Location: 1104 Diablo Avenue, Modesto
- C. Applicant: Lloyd J. Vargas  
2831 S. Carpenter Road  
Modesto, CA 95358
- D. City Contact Person:

Project Manager: Bob Cannell  
Department: Community & Economic Development  
Phone Number: (209) 577-5274  
E-mail address: [bcannell@modestogov.com](mailto:bcannell@modestogov.com)

- E. Current General Plan Designation: R - Residential
- F. Current Zoning Classification(s): P-D(255), Low-Density Residential
- G. Surrounding Land Uses: North: Residential  
South: Residential  
East: Residential  
West: 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):

The applicant seeks approval of an amendment to P-D(255) to allow an existing house on a large lot to be replaced with three (3) new homes following a subsequent Vesting Tentative Parcel Map, creating three lots.

- I. Other Public Agencies Whose Approval is Required: None

**III. FINDINGS / DETERMINATION**

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.

  
 \_\_\_\_\_  
 Project Manager

Senior Planner  
 Title

November 21, 2005  
 Date



#### 4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

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

#### 5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any negative response must be discussed.

- |  | YES | NO                       |
|--|-----|--------------------------|
| (1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project. | X   | <input type="checkbox"/> |
| (2) This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project.       | X   | <input type="checkbox"/> |
| (3) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.                               | X   | <input type="checkbox"/> |

- (4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available. X
- (5) Policies that require site-specific mitigation remain in place, in addition to 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 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.

**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. | <input type="checkbox"/> | X  |

Where a project exceeds an additional 100 ADT contribution, 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 & Transportation staff, a comprehensive traffic study will be required that will include off-site traffic impact analysis.

- |  | YES                      | NO |
|--|--------------------------|----|
| (2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). | <input type="checkbox"/> | X  |
| (3) Result in inadequate emergency access.   | <input type="checkbox"/> | X  |
| (4) Result in inadequate parking capacity.   | <input type="checkbox"/> | X  |

Discussion:

The proposed project would generate less than 100 ADT, and would have no impact relative to transportation system design, incompatible uses, and emergency access, nor would it result in inadequate 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 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 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.

### c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

	YES	NO
(1) The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	<input type="checkbox"/>	X
(1) The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	<input type="checkbox"/>	X
(2) The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(4) The project would expose sensitive receptors to substantial pollutant concentrations.	<input type="checkbox"/>	X
(5) The project would create objectionable odors affecting a substantial number of people.	<input type="checkbox"/>	X

Discussion:

The proposed project would not result in long-term air quality-related impacts. However, in order to minimize any short-term air quality-related impacts associated with construction, the appropriate mitigation measures will be applied from 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 exceed 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-3-10 through V-3-15 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. New measures are listed in Section V: Mitigation Applied to Project.

**c. Project-Specific Effects**

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	<input type="checkbox"/>	X
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	X
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	<input type="checkbox"/>	X

Discussion:

The proposed project will not result in any substantial increase in noise levels that exist without the project, and construction-related noise is limited per the City of Modesto Municipal Code. The appropriate mitigation measures will be applied from the MEIR.

**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 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.

**c. Project-Specific Effects**

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project will directly result in the development of land outside the March 2003 planning area boundaries.	<input type="checkbox"/>	X
(3) The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	<input type="checkbox"/>	X
(4) The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland to non-agricultural use.	<input type="checkbox"/>	X

## Discussion:

The proposed project is in an urbanized area, and will have no effect on agricultural lands of any kind.

## **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 V, Mitigation Measures Applied to Project.

### **c. Project-Specific Effects**

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

YES NO

- |     |   |                          |   |
|-----|---|--------------------------|---|
| (1) | The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X |
| (2) | Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed. | <input type="checkbox"/> | X |

Discussion:

Water supplies are available to serve the existing residential 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 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.



### c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

- |   | YES                      | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (2) The project will result in a determination by the wastewater treatment provider who serves or may serve the project that there is not adequate capacity to serve the project's projected demand in addition to the provider's existing commitments. | <input type="checkbox"/> | X  |

#### Discussion:

The City of Modesto wastewater infrastructure has adequate capacity to serve the property.

## 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.

### c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	<input type="checkbox"/>	X
(3) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<input type="checkbox"/>	X

#### Discussion:

The proposed project would not have any impact on wildlife nor plant habitat.

## 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. 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.

**c. Project-Specific Effects**

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

- |   | YES                      | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (2) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. | <input type="checkbox"/> | X  |

Discussion:

The proposed three-lot subdivision addition would have absolutely no impact whatsoever on archaeological /historical sites.

**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.

**c. Project-Specific Effects**

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan. The following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	<input type="checkbox"/>	X
(3) Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	<input type="checkbox"/>	X

Discussion:

The proposed three-lot subdivision addition would have absolutely no impact on the rate nor amount of surface runoff. Furthermore, the storm water drainage system will accommodate all current on-site 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 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.

### c. Project-Specific Effects

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

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	<input type="checkbox"/>	X
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	<input type="checkbox"/>	X
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	<input type="checkbox"/>	X

Discussion:

The proposed project is subject to all City of Modesto storm water quality control requirements.

**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 V, Mitigation Applied to 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.  X

## 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 V, Mitigation Applied to 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.  YES  NO
- (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.  YES  NO

Discussion:

The proposed three-lot subdivision addition would have no impact to 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-13-3 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 V, Mitigation Measures Applied to 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.  YES  NO
- (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.  YES  NO



Discussion:

The proposed project would have no effect relative to provision of 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 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 V, Mitigation Measures Applied to 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.  | <input type="checkbox"/> | X  |
| (2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. | <input type="checkbox"/> | X  |

Discussion:

The proposed project would have no effect relative to provision of 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 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 V, Mitigation Applied to Project.

**c. Project-Specific Effects**

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2)	The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	<input type="checkbox"/>	X

Discussion:

The proposed project will have not impact relative to solid waste.

## 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 V, Mitigation Measures Applied to Project.

### c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	<input type="checkbox"/>	X
(3) The project contains a contaminated site not identified as of March 2003.	<input type="checkbox"/>	X
(4) The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	<input type="checkbox"/>	X
(5) The project would be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	<input type="checkbox"/>	X

Discussion:

The proposed project would have no impacts relative to 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-17-6 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 V, Mitigation Measures Applied to Project.

**c. Project-Specific Effects**

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	<input type="checkbox"/>	X

Discussion:

The proposed three-lot subdivision addition would have no potential to increase risks associated with landslides or seismic activity.

## 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 V, Mitigation Applied to Project.

### c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

- |   | YES                      | NO                                  |
|---|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

## 19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

**a. Project-Specific Effects**

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-significant unless:

- |  | YES                      | NO |
|--|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.                | <input type="checkbox"/> | X  |
| (2) The project includes a substantive amendment to the Modesto Urban Area General Plan. | <input type="checkbox"/> | X  |
| (3) The project would physically divide an established community                         | <input type="checkbox"/> | X  |

Discussion:

The proposed three-lot subdivision addition is consistent with the Modesto Urban Area General Plan, and would not physically 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.  | <input type="checkbox"/> | X  |
| (2) The project would have a substantial adverse effect on a scenic vista.   | <input type="checkbox"/> | X  |
| (3) The project would substantially degrade the existing visual character or quality of the project site and its surroundings.             | <input type="checkbox"/> | X  |
| (4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area. | <input type="checkbox"/> | X  |

## 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:

**Traffic and Circulation Measures:** N/A

#### **Air Quality Measures:**

- A. The City of Modesto shall work with the SJVUAPCD to reduce particulate matter emissions from construction, grading, excavation, and demolition to the maximum extent feasible.
- B. 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
- 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.

#### **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.):

- 1. A hammer, or any other device or implement used to pound or strike an object.
- 2. An impact wrench, or other tool or equipment powered by compressed air.
- 3. A hand-powered saw.
- 4. 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.
- 5. 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.

6. 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.
7. 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.
8. 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 of the State CEQA Guidelines.

**Storm Drainage Measures:** N/A

**Flooding and Water Quality Measures:** N/A

**Parks and Open Space Measures:** N/A

**Schools Measures:** N/A

**Police Services:** N/A

**Fire Services:** N/A



**Generation of Solid Waste:** N/A

**Generation of Hazardous Materials:** N/A

**Potential for Landslides and Seismic Activity:** N/A

**Energy:** N/A

**Planning and Land Use:** N/A

**Aesthetics:** N/A

## **B. New or Additional Mitigation Measures or Alternatives Required**

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: None.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-032**

**A RESOLUTION INCREASING BUILDING PERMIT FEES AND AMENDING  
RESOLUTION NOS. 89-1003, 89-1004, 89-1005, 89-1006, 92-255, 93-263, 2003-446  
AND 2005-278**

WHEREAS, California Government Code Section 66014 authorizes development user fees which include but is not limited to fees for building inspections, building permits, and filing and processing applications, and

WHEREAS, Section 9-1.08 of the Modesto Municipal Code authorizes the City Council to establish building permit, plan checking and investigation fees in accordance with a schedule approved by the City Council from time to time by resolution, and

WHEREAS, Section 4-3.08 of the Modesto Municipal Code authorizes the Council to establish by resolution, investigation and permit fees relating to the moving of houses, and

WHEREAS, said development user fees are set forth in City Council Resolution Nos. 89-1003, 89-1004, 89-1005, 89-1006, 92-255, 93-263, 2003-446, and 2005-278, and

WHEREAS, a Process Improvement Task Force (PITF) was established in April 2004 with the task of creating a Development Process Improvement Program to address concerns regarding the development review process, and

WHEREAS, the PITF conducted a thorough evaluation of the current planning, building, engineering and landscape permit and plan approval process, and

WHEREAS, on October 11, 2004, the Economic Development Committee reviewed the preliminary recommendations of the PITF and recommended their approval to the full Council as follows:

- A. Enhance processes, systems and technology for more effective communication, coordination and decision-making
- B. Centralize information through the use of technology to track parallel activities and plan checks
- C. Establish uniform policies for application of standard specifications
- D. Standardize all application and plan submittal requirements
- E. Improve interdepartmental project condition referral and implementation processes, and

WHEREAS, on January 4, 2005, the City Council approved Resolution No. 2005-26, adopting the Development Process Improvement Program Action Plan that identified City staff responsibilities requiring the commitment of additional resources, and

WHEREAS, staff proposed that the additional resources necessary to fund the Action Plan come from an increase in building permit fees, and

WHEREAS, the building permit fee increases are outlined in the Building Permit Fee Schedule attached hereto as Exhibit "A", and

WHEREAS, the Finance Committee reviewed the Development Process Improvement Program Action Plan on October 21, 2005, and approved the fee increase on December 13, 2005, and recommended its adoption to the full Council, and

WHEREAS, the Development Process Improvement Program Action Plan and fee increase has been reviewed with both the Construction Industry Liaison Committee and the Building Industry Association who had no objection to the proposed fee increase, and

WHEREAS, said matter was set for public hearing of the City Council to be held on January 10, 2006, in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which date and time said duly noticed public hearing was held.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the building permit fee increase as set forth in the Building Permit Fee Schedule attached hereto as Exhibit "A", and incorporated herein by this reference.

BE IT FURTHER RESOLVED that the Council finds that the California Environmental Quality Act (CEQA) does not apply to the adoption of this resolution pursuant to Sections 15378(b)(4).

BE IT FURTHER RESOLVED that the Council finds that should any fee, provision, clause, paragraph or subparagraph be held invalid or unconstitutional, that invalidity or unconstitutionality shall not affect other provisions or applications thereof which can be given effect without the invalid fee, provision, clause, paragraph, or subparagraph, and to this end, the provisions are declared severable. By adopting this resolution, the City Council hereby declares that it would have adopted this resolution without that fee, provision, clause, paragraph or subparagraph.

BE IT FURTHER RESOLVED by the City Council that this resolution shall take effect in accordance with the law sixty (60) calendar days from the date of adoption of this resolution.

BE IT FURTHER RESOLVED that Resolution Nos. 89-1003, 89-1004, 89-1005, 89-1006, 92-255, 93-263, 2003-446 and 2005-278 are hereby amended effective upon the effective date of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**BUILDING PERMIT FEE SCHEDULE  
CITY OF MODESTO  
2006**

**BUILDING PERMIT FEE:**

Total Valuation:

\$1.00	to	\$2,000.00.....	\$68.00	
\$2,001.00	to	\$25,000.00.....	\$68.00	for the first \$2,000 plus \$10.00 for each additional \$1,000 or fraction thereof, to and including \$25,000
\$25,001.00	to	\$50,000.00.....	\$298.00	for the first \$25,000 plus \$7.27 for each additional \$1,000 or fraction thereof, to and including \$50,000
\$50,001.00	to	\$100,000.00.....	\$480.00	for the first \$50,000 plus \$5.00 for each additional \$1,000 or fraction thereof, to and including \$100,000
\$100,001.00	to	\$500,000.00.....	\$732.00	for the first \$100,000 plus \$3.90 for each additional \$1,000 or fraction thereof, to and including \$500,000
\$500,001.00	to	\$1,000,000.00.....	\$2,300.00	for the first \$500,000 plus \$3.36 for each additional \$1,000 or fraction thereof, to and including \$1,000,000
\$1,000,001.00	and up.....		\$3,980.00	for the first \$1,000,000 plus \$2.24 for each additional \$1,000 or fraction thereof

**PLAN CHECK FEE:**

65% of Building Permit Fee

**RESIDENTIAL (NEW SINGLE-FAMILY AND DUPLEX)**

Master Plan "all inclusive" fee (residential).....	\$.45	per square foot (house and garage)
Custom House "all inclusive" fee (residential) .....	\$.55	per square foot (house and garage)
Addition "all inclusive" fee (residential).....	\$.55	per square foot

**OTHER RESIDENTIAL FEES**

Remodel fee (residential)

Building Permit fee based on valuation ..... see "Building Permit Fee" Table above  
Plan Check ..... 65% of building permit fee

- Plumbing ..... \$68.00
- Mechanical ..... \$68.00
- Electrical ..... \$68.00

Reroof fee (residential) ..... \$170.00

Pool (residential) ..... \$447.00

Pool with Spa (residential) ..... \$617.00

Spa (residential) ..... \$202.00

HVAC replacement (residential) ..... \$73.00

HVAC new (residential) ..... \$202.00

Plumbing Permit (residential) ..... \$73.00

Mechanical Permit (residential) ..... \$73.00

Electrical Permit (residential) ..... \$73.00

**COMMERCIAL AND MULTIFAMILY FEES**

- Building Fees (commercial) -- (new, additions, excluding warehouses)

Building Permit fee based on valuation ..... see "Building Permit Fee Table" above  
Plan Check ..... 65% of building permit fee

Electrical fee.....\$.075 per square foot  
minimum \$68.00

Plumbing fee .....\$.053 per square foot  
minimum \$68.00

Mechanical fee.....\$.053 per square foot  
minimum \$68.00

- Shell Building Fees (commercial) -- (finished building without tenants)

Building Permit fee based on valuation ..... see "Building Permit Fee Table" above  
Plan Check ..... 65% of building permit fee

Electrical fee.....\$.075 per square foot  
minimum \$68.00

Plumbing fee.....	\$.053	per square foot minimum \$68.00
Mechanical fee.....	\$.053	per square foot minimum \$68.00

- Shell Building Fees (commercial) -- (unfinished interior)

Building Permit fee based on valuation .....	see "Building Permit Fee Table" above
Plan Check .....	65% of building permit fee

Electrical fee.....	\$68.00
Plumbing fee.....	\$68.00
Mechanical fee.....	\$68.00

- Tenant Improvements fees (commercial) -- (including commercial remodel and warehouse remodel)

Building Permit fee based on valuation .....	see "Building Permit Fee Table" above
Plan Check .....	65% of building permit fee

Electrical fee.....	\$.075	per square foot minimum \$68.00
Plumbing fee.....	\$.053	per square foot minimum \$68.00
Mechanical fee.....	\$.053	per square foot minimum \$68.00

- Warehouse Permit fees (commercial)

Building Permit fee based on valuation .....	see "Building Permit Fee Table" above
Plan Check .....	65% of building permit fee

Less than 20,000 Square Feet:

Electrical fee.....	\$.075	per square foot minimum \$68.00
Plumbing fee.....	\$.053	per square foot minimum \$68.00
Mechanical fee.....	\$.053	per square foot minimum \$68.00

Over 20,000 Square Feet:

Electrical fee.....	\$1,570 + .033 per square foot over 20,000 sq ft
Plumbing fee.....	\$1,120 + .023 per square foot over 20,000 sq ft
Mechanical fee.....	\$1,120 + .023 per square foot over 20,000 sq ft



**OTHER COMMERCIAL, MULTIFAMILY, AND WAREHOUSE FEES NOT CATEGORIZED ABOVE**

Plumbing Permit (commercial).....	\$68.00
Mechanical Permit (commercial) .....	\$68.00
Electrical Permit (commercial) .....	\$68.00

**STRONG MOTION INSTRUMENTATION FEE (EARTHQUAKE TAX)**

Collected on new buildings, building alterations, additions, and repairs, as well as all-inclusive permits, ramadas, porches, awnings

- Residential Permits ..... Multiply valuation by .0001  
Minimum Fee..... \$ .50
- Commercial Permits ..... Multiply valuation by .00021  
Minimum Fee..... \$ .50

**PRE-MOVE INSPECTION FEE AND MOVING PERMIT**

Investigation of suitability of building located in City for moving to another site in City..... \$112.00

Investigation of suitability of building located outside City limits for moving into City ..... \$112.00 + current approved mileage rate

Building located in City and is to be moved outside the City, there is no investigation fee

**HOUSE MOVING PERMIT**

Permits for moving of house to new location ..... \$68.00

**MOBILE HOME PARK FEES**

Special fees for mobile home parks which are based on State Codes

Each Cabana .....	\$64.00
Each Ramada .....	\$64.00
Each Awning.....	\$64.00
Each Carport.....	\$64.00
Each Porch .....	\$64.00
Each Fence or Windbreak.....	\$64.00

Each Set-Up..... \$80.00

Each Set-Up Reinspection ..... \$80.00

An issuance fee only with no additional charge will be required for screening of an existing awning.

**OTHER INSPECTIONS AND FEES**

Inspection outside of normal business  
hours (minimum charge – two hours) ..... \$98.00/hour

Weekend and holidays  
(minimum charge – four hours) ..... \$98.00/hour

Reinspection fee assessed under  
provisions of Section 305(g) ..... \$84.00 each

Inspections for which no fee is specially  
indicated (minimum charge - 1 hour) ..... \$98.00/hour

Additional plan review required by changes,  
additions or revisions to approved plans  
(minimum charge – 1 hour) ..... \$98.00/hour

Inspections outside of normal business  
hours (minimum charge - 2 hours) ..... \$98.00/hour

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-033**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005-2006 OPERATING  
BUDGET TO INCREASE THE REVENUE BUDGETS OF THE COMMUNITY &  
ECONOMIC DEVELOPMENT DEPARTMENT AND PUBLIC WORKS  
DEPARTMENT TO IMPLEMENT THE DEVELOPMENT PROCESS  
IMPROVEMENT PROGRAM**

WHEREAS, on January 4, 2005, the City Council adopted Resolution 2005-26 approving the Development Process Improvement Program Action Plan that identified City staff tasks requiring the commitment of additional resources, and

WHEREAS, staff proposed that the additional resources necessary to fund the Action Plan come from an increase in building permit fees, and

WHEREAS, implementation of the Action Plan requires the additional resources and staff for FY05/06 as follows:

- 1 Software Analyst
- 1 Senior Planner
- 1 Associate Civil Engineer
- 1 AOA II
- Staff Training and Education
- Software and Technology Additions
- Customer Outreach, and

WHEREAS, on October 21, 2005, the Finance Committee reviewed the expenses necessary to support the continued implementation of the Development Process Improvement Program Action Plan and, on December 13, 2005, the Finance Committee approved said expenses and recommended their approval to the full Council, and

WHEREAS, the Development Process Improvement Program Action Plan has been reviewed by both the Construction Industry Liaison Committee and the Building Industry Association who had no objection to the fee increases and additional appropriations.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby amends the Fiscal Year 2005-2006 budget for salaries and expenses and increases the position allocations as follows:

A. Amend the Community & Economic Development Department operating budget

and position allocation to:

- a. Increase revenues by \$75,000 to Account Number 0100-140-1401-4001
- b. Increase salaries by \$11,000 to Account Number 0100-140-1430-0182
- c. Increase service credit expenses by \$24,000 to Account Number 0100-140-1401-0255
- d. Increase miscellaneous expenses by \$40,000 to Account Number 0100-140-1401-0260
- e. Add the following positions:
  - i. 1 Senior Planner
  - ii. 1 Administrative Office Assistant II

B. Amend the Information Technology Department operating budget and position

allocation to:

- a. Increase service credit revenue by \$24,000 to Account 0100-7130-0742-4909
- b. Increase salaries by \$24,000 to Account 0100-7130-0742-0182
- c. Add the following position:
  - i. 1 Software Analyst

C. Amend the Public Works operating budget to:

- a. Increase revenues by \$34,000 to Account Number 0100-420-4213-4000
- b. Appropriate \$34,000 to Account Number 0100-420-4213-0182
- c. Add the following position:
  - i. 1 Associate Civil Engineer

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 10th day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

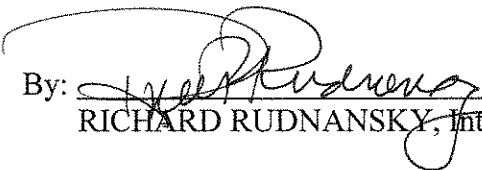
AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST   
JEAN ZAHR City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-034**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO,  
ACTING AS THE LEGISLATIVE BODY OF CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2),  
AUTHORIZING THE SALE AND ISSUANCE OF SPECIAL TAX BONDS OF  
SAID COMMUNITY FACILITIES DISTRICT, APPROVING DOCUMENTS  
RELATING THERETO AND AUTHORIZING AND DIRECTING CERTAIN  
RELATED ACTIONS**

WHEREAS, the City Council of the City of Modesto acting as the legislative body of City of Modesto Community Facilities District No. 2004-1 (Village One #2) (hereinafter sometimes referred to as the “legislative body of the Community Facilities District” or the “City Council”) has heretofore undertaken proceedings and declared the necessity to issue bonds on behalf of City of Modesto Community Facilities District No. 2004-1 (Village One #2) (the “Community Facilities District”) pursuant to the terms and provisions of the Mello-Roos Community Facilities Act of 1982, as amended, being Chapter 2.5, Part 1, Division 2, Title 5, of the Government Code of the State of California (the “Act”); and

WHEREAS, based upon a resolution adopted by the legislative body of the Community Facilities District on April 6, 2004 and an election held on April 6, 2004 authorizing the issuance of bonds by the Community Facilities District, the Community Facilities District is now authorized to issue bonds in one or more series, pursuant to the Act, in an aggregate principal amount not to exceed \$75,000,000; and

WHEREAS, the legislative body of the Community Facilities District intends to accomplish the financing of certain public improvements and appurtenances and

appurtenant work in connection with the foregoing, including acquisition and construction costs thereof (the “Facilities”), and the incidental expenses incurred and to be incurred in connection with financing the facilities, including costs associated with the formation of the Community Facilities District and the issuance of bonds and the establishment of a bond reserve fund (the “Incidental Expenses”) through the issuance of bonds designated as the “City of Modesto Community Facilities District No. 2004-1 (Village One #2) Special Tax Bonds, Series 2006” (the “Bonds”); and

WHEREAS, the Community Facilities District has determined all requirements of the Act for the issuance of the Bonds have been satisfied; and

WHEREAS, in connection with the authorization, sale and issuance of the Bonds and the acquisition and construction of the facilities, forms of the following documents have been presented to this City Council for approval:

1. the Trust Indenture, by and between The Bank of New York Trust Company, N.A., as trustee (the “Trustee”), and the Community Facilities District (the “Indenture”);
2. the Continuing Disclosure Agreement, executed by the Community Facilities District (the “Continuing Disclosure Agreement”);
3. the Preliminary Official Statement relating to the Bonds (the “Preliminary Official Statement”); and



4. the Bond Purchase Agreement relating to the Bonds (the “Bond Purchase Agreement”) by and between the Community Facilities District and UBS Securities LLC (the “Underwriter”); 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 issuance of the Bonds do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the Community Facilities District is now authorized and empowered, pursuant to each and every requirement of law, to authorize the execution and delivery of certain documents in order to sell the Bonds in the manner and upon the terms herein provided;

WHEREAS, it appears that each of the documents which is now before the City Council is in appropriate form and is an appropriate document to be executed and delivered for the purpose intended.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MODESTO, ACTING AS THE LEGISLATIVE BODY OF CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2), DOES HEREBY RESOLVE, DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1. The above recitals, and each of them, are true and correct.

SECTION 2. The proposed forms of the Indenture and the Continuing Disclosure Agreement are hereby approved; and each of the Mayor of the City and his or his designee and the District Administrator or his or her designee (the “Authorized

Officers”), acting alone, and the City Clerk are hereby authorized and directed for and in the name and on behalf of the Community Facilities District to execute, acknowledge and deliver to the respective other parties, the Indenture and the Continuing Disclosure Agreement in substantially said forms, with such additions thereto, completions thereof and/or changes therein as the officers executing the same may approve as necessary or desirable (consistent with the provisions of this Resolution and with form of the Bond Purchase Agreement approved pursuant hereto), such approval to be conclusively evidenced by the execution and delivery thereof.

SECTION 3. The issuance of the Bonds pursuant to the Indenture in an aggregate principal amount (not in excess of \$40,000,000) approved by the District Administrator or his or her designee as being necessary and appropriate in order to provide financing for the Facilities and the Incidental Expenses and to fund the various funds and accounts created by the Indenture in the amounts described in the Preliminary Official Statement (or as determined by the District Administrator or his or her designee), is hereby authorized. The Bonds shall mature on the dates and in the amounts, and bear interest at the rates, set forth in the Bond Purchase Agreement to be executed on behalf of the Community Facilities District in accordance with Section 9 hereof. The sum of (i) the aggregate principal amount of the Bonds so authorized plus (ii) the principal amount of all other bonds outstanding that are secured by a special tax levied pursuant to the Act on property within the Community Facilities District or a special assessment levied on such property (as shown in the Preliminary Official Statement under the caption “THE COMMUNITY FACILITIES DISTRICT – Direct and Overlapping Debt”) does not exceed one-third of the value of the property within the Community Facilities District

that will be subject to the Special Tax, as such value is estimated in an appraisal prepared for the Community Facilities District by Bender Rosenthal, Inc. of Sacramento, California (a copy of which is set forth in Appendix B to the Preliminary Official Statement).

SECTION 4. In connection with the issuance of the Bonds, each of the Authorized Officers, acting alone, and the City Clerk are hereby authorized and directed for and in the name and on behalf of the Community Facilities District to execute, acknowledge and deliver to the respective other parties such additional agreements, as the officers executing the same may approve (including, but not limited to an Investment Agreement, as defined in the Indenture) as necessary or desirable to provide reductions in the yields of Bonds or additional debt service relief or cash flow savings or increased payments to the Community Facilities District, such approval to be conclusively evidenced by the execution and delivery thereof.

SECTION 5. The Community Facilities District will covenant, for the benefit of the owners of the Bonds, to commence and diligently pursue to completion any judicial foreclosure proceedings regarding delinquent special taxes for the payment of interest or principal of the Bonds, such foreclosure action to be commenced, paid for and pursued as more completely set forth in the Indenture.

SECTION 6. The form of the Bonds, as set forth in the form of the Indenture (as the Indenture may be modified pursuant to Section 2 hereof), is hereby approved; and the Mayor and the City Clerk are hereby authorized and directed to execute them by manual or facsimile signature in the name and on behalf of the Community Facilities District.

SECTION 7. The proposed form of the Preliminary Official Statement is hereby approved with such changes thereto as may be approved by the District Administrator or his or her designee in order to make such Preliminary Official Statement final as of its date, except for the omission of certain information, as permitted by Section 240.15c2-12(b)(1) of Title 17 of the Code of Federal Regulations (the "Rule"); and the distribution of the Preliminary Official Statement in connection with the sale of the Bonds, with such changes included, is hereby authorized. Each of the Authorized Officers, acting alone, is authorized and directed to execute and deliver a certificate relating to compliance with the Rule. Each of the Authorized Officers, acting alone, is authorized and directed to execute and deliver to the Underwriter a final Official Statement in substantially the form of the Preliminary Official Statement hereby approved with such changes as may be approved by the officer executing said document as necessary or desirable, such approval to be conclusively evidenced by the execution and delivery thereof; and the distribution of such final Official Statement in connection with the sale of the Bonds is hereby authorized.

SECTION 8. In accordance with the provisions of Section 53360.4 of the Act, the City Council hereby finds and determines that a negotiated sale of the Bonds to the Underwriter in accordance with the terms of the Bond Purchase Agreement will result in a lower overall cost to the Community Facilities District than a sale conducted pursuant to Section 53360 of the Act.

SECTION 9. The proposed form of the Bond Purchase Agreement and the sale of the Bonds pursuant thereto are hereby approved, provided that (a) the Underwriter's discount (exclusive of any original issue discount, if any) shall not exceed one and one-

half percent (1.50%) of the original aggregate principal amount of the Bonds, (b) any original issue discount shall conform to the City's policies with respect thereto (c) the true interest cost of the Bonds shall not exceed six and one half percent (6.50%), (d) the final maturity of the Bonds shall be a date not later than thirty-five (35) years from the date the Bonds are issued and (e) the maturity dates and purchase price of and interest rates and original issue discount applicable to the Bonds shall have been approved by the District Administrator or his or her designee; and, subject to such approval, each of the Authorized Officers, acting alone, and the City Clerk are hereby authorized and directed to evidence the Community Facilities District's acceptance of the offer made by said Bond Purchase Agreement by executing and delivering to the Underwriter said Bond Purchase Agreement in said form with such changes therein as the officers executing the same may approve as necessary or desirable, such approval to be conclusively evidenced by the execution and delivery thereof.

SECTION 10. In the event that the District Administrator is unavailable to execute and deliver any of the documents that the District Administrator is authorized to execute and deliver pursuant to the terms of this Resolution, then the City Manager or his or her designee is hereby authorized and directed to do so as an Authorized Officer hereunder.

SECTION 11. Each of the Authorized Officers and other officers of the City of Modesto, acting alone, is hereby authorized and directed, jointly and severally, to execute and sign any and all approvals, certificates, statements, requests, requisitions and orders of the Community Facilities District in connection with the issuance of the Bonds; and any action specifically authorized or directed by this Resolution to be undertaken by any

of such officers may be undertaken by either of the others with the same force and effect as if it had been undertaken by the officer specifically authorized or directed to do so.

SECTION 12. If and to the extent that any provision of this Resolution or of any of the documents approved pursuant hereto is inconsistent with the City's policies and procedures for the formation, annexation and administration of community facilities districts, said policies and procedures are hereby waived.

SECTION 13. If any section, paragraph or provision of this Resolution shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph or provision shall not affect any remaining provisions of this Resolution.

SECTION 14. All actions heretofore taken by the officers and agents of the Community Facilities District with respect to the establishment of the Community Facilities District and the sale and issuance of the Bonds are hereby approved, confirmed and ratified, and each of the Authorized Officers, acting alone, is hereby authorized and directed to do any and all things and take any and all actions and execute 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 any certificate, agreement, and other document described in the documents herein approved.

SECTION 15. This Resolution shall take effect from and after its adoption.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10<sup>th</sup> day of January 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-035**

**A RESOLUTION DENYING THE APPEAL OF CHARLES EVINS ON BEHALF  
OF NEW BETHANY MISSIONARY BAPTIST CHURCH FOR PAYMENT OF A  
FEE INCREASE IN THE FILING FEES FOR AN AMENDMENT TO A  
CONDITIONAL USE PERMIT**

WHEREAS, California Government Code Section 66014 authorizes fees for zoning variances and changes, use permits, building inspections, building permits, and filing and processing applications, and

WHEREAS, Sections 10-2.1704, 10-2.2506, 10-2605, 10-2.2.703 and 10-2.2803 of the Modesto Municipal Code authorizes the Council to establish by resolution the filing fees for each planning application filed pursuant to Chapter 2 of Title 10 of said Code, and

WHEREAS, on June 24, 2003, the Council established a policy to recover most fees at full cost, and

WHEREAS, the Council adopted Resolution No. 2003-446 on August 12, 2003, which established new filing fees for planning applications filed pursuant to Chapter 2 of Title 10 of the Municipal Code, and

WHEREAS, on December 9, 2005, Charles Evins on behalf of New Bethany Missionary Baptist Church has filed an application for an amendment to a conditional use permit and paid the filing fee of \$5,273 as established by Council Resolution, No. 2005-278, and

WHEREAS, Charles Evins appealed the payment of the filing fee by a letter submitted to the office of the City Clerk on December 13, 2005, and

WHEREAS, said appeal was set before the City Council on January 10, 2006, and



WHEREAS, after said meeting the City Council determined that the appeal of Charles Evins on behalf of New Bethany Missionary Baptist Church should be denied as being inconsistent with adopted City policy to recover the full costs of providing services on planning applications, as expressed in City Council Resolution No. 2003-466.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby denies the appeal of Charles Evins on behalf of New Bethany Missionary Baptist Church for payment of a fee increase in the filing fees for an amendment to a conditional use permit.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10<sup>th</sup> day of January 2006, 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, O'Bryant, Mayor Ridenour  
NOES: Councilmembers: Dunbar, Marsh, Olsen  
ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-036**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT  
FOR TWO (2), NEW, CURRENT YEAR/MODEL, HYBRID  
GASOLINE/ELECTRIC, TOYOTA PRIUS SEDAN VEHICLES TO GEWEKE  
TOYOTA SCION OF LODI, CA., FOR A TOTAL ESTIMATED AMOUNT OF  
54,109.31 AND REJECTING THE BID OF GEWEKE TOYOTA SCION OF  
LODI, CA., FOR ONE (1) TOYOTA HIGHLANDER, SPORT UTILITY  
VEHICLE**

WHEREAS, the Public Works Department-Fleet Services has requested the purchase of two (2), new, current year/model, hybrid Toyota Prius Sedan vehicles, and one (1) new, current year model, hybrid gasoline/electric, Toyota Highlander Sport Utility vehicle, and

WHEREAS, Resolution No. 2005-381 authorized the Purchasing Supervisor to solicit formal bids for new vehicles and heavy equipment throughout FY 05/06 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, the Toyota Prius Sedans will be used by the Modesto Police Department Records Division for work such as issuing subpoenas and other miscellaneous work completed by police assistance employees, and

WHEREAS, current performance guidelines call for us to explore new technology and implement when it is prudent to do so, and

WHEREAS, the Fleet Services Division fully expects the state to impose new mandates for alternative fuel vehicles in municipal fleets, and

WHEREAS, in preparation to meet those mandates we are researching our options and developing a plan for integration of those vehicles into our fleet, and

WHEREAS, our first purchase of a Toyota Prius in 2001 has given us operating data to support the reliability of this equipment, and

WHEREAS, these purchases will expand the use to the records division of the Police Department for multiple local users including the issuance of subpoenas, and

WHEREAS, these purchases will be “banked” as credits toward future mandates, and

WHEREAS, the Toyota Prius is extremely fuel efficient and shows our community our desire to be environmentally responsible, and

WHEREAS, the Toyota Highlander was targeted for use by the wastewater treatment plant for miscellaneous transportation to complete errands throughout the City and between treatment sites, and

WHEREAS, the Purchasing Division solicited formal bids for two (2), new, current year/model, hybrid gasoline/electric, Toyota Prius Sedan vehicles and one (1), new, current year/model, hybrid gasoline/electric, Toyota Highlander, Sport Utility vehicles on Request for Bid (RFB) 0506-15, and

WHEREAS, fourteen (14) vendors were solicited, two (2) of which were local vendors, and

WHEREAS, out of the fourteen (14) vendors solicited, one (1) chose to respond, and

WHEREAS, the Purchasing Division and the Public Works-Fleet Services staff evaluated bids, and

WHEREAS, the total approximate cost for the two (2), new, current year/model hybrid gasoline/electric, Toyota Prius Sedan vehicles is approximately \$54,109.31 including freight and sales tax, and

WHEREAS, Geweke Toyota Scion of Lodi, CA., is the lowest responsive and responsible bidder, and

WHEREAS, the bid received on RFB 0506-15 from Geweke Toyota Scion of Lodi, CA., for one (1), new, current year/model, hybrid gasoline/electric, Toyota Highlander, Sport Utility Vehicle is over the budgeted amount of \$25,000.00, and

WHEREAS, Modesto Municipal Code 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, this Request for Bid (RFB) process conforms to City Code, and

WHEREAS, the City Council has appropriated funds for two (2), new, current year/model, hybrid gasoline/electric, Toyota Prius Sedan vehicles and one (1), new, current year/model, hybrid gasoline/electric, Toyota Highlander Sport Utility Vehicle in account numbers: 7210-480-5814-5327 and 6210-480-5212-5700 (FLEET EQUIPMENT REPLACEMENT), and

WHEREAS, the Purchasing Division has coordinated the solicitation of and evaluation of bids for two (2), new, current year/model, hybrid gasoline/electric, Toyota Prius Sedan vehicles and one (1), new, current year/model, hybrid gasoline/electric, Toyota Highlander, Sport Utility vehicle with the Public Works Department-Fleet Services staff, and

WHEREAS, City staff has recommended that the bid for one (1) Toyota Highlander, Sport Utility vehicle be rejected,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the bid and contract for two (2) new, current year/model, hybrid gasoline/electric, Toyota Prius vehicles to Geweke Toyota Scion of Lodi, CA., for a total estimated annual cost of \$54,109.31.

BE IT FURTHER RESOLVED that the Purchasing Division is hereby authorized to issue a purchase order for two (2), new, current year/model, hybrid gasoline/electric, Toyota Prius vehicles for a total estimated cost of \$54,109.31.

BE IT FURTHER RESOLVED that the bid from Geweke Toyota Scion of Lodi, CA., for one (1) Toyota Highlander Sport Utility vehicle is hereby rejected.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST:

Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:

Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-037**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT  
FOR SEVEN (7), NEW, CURRENT YEAR/MODEL, HONDA POLICE  
MOTORCYCLES TO HONDA OF MODESTO FOR A TOTAL ESTIMATED  
AMOUNT OF 102,777.20**

WHEREAS, the Public Works Department-Fleet Services Division has requested the purchase of seven (7), new, current year/model, Honda Police Motorcycles, and

WHEREAS, Resolution No. 2005-381 authorized the Purchasing Supervisor to solicit formal bids for new vehicles and heavy equipment throughout FY 05/06 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, the Modesto Police Department currently has sixteen (16) Harley Davidson Police motorcycles, and

WHEREAS, based on a two (2) year replacement cycle, seven (7) of those motorcycles are scheduled to be replaced this year, and

WHEREAS, the two year warranty and current rotation replacement cycle results in lower operational costs on these motorcycles, and

WHEREAS, in October 2005, Fleet Service Division in conjunction with the Modesto Police Department did an analysis of the Harley and Honda motorcycles, and

WHEREAS, the analysis showed the Honda ST1300 outperformed the Harley in terms of rideability, performance, and braking efficiency as demonstrated in the following areas: more efficient braking system; capable of shorter stopping distances; 200 pounds lighter in weight; water-cooled engine; equipped with body panels that direct engine heat

away from the officer; more maneuverable; tighter turning radius; better around clearance; larger saddlebags; and protects better from the elements, and

WHEREAS, the Purchasing Division solicited formal bids for seven (7), new, current year/model, Honda Police motorcycles on Request for Bid, 0506-16, and

WHEREAS, twelve (12) vendors were solicited, one (1) of which is a local vendor, and

WHEREAS, out of twelve (12) vendors solicited, three (3) chose to respond, and

WHEREAS, one (1) bid received was deemed to be non-responsive because the vendor only submitted one signed original bid, and

WHEREAS, the Purchasing Division and Public Works-Fleet Services Division staff evaluated the bids, and

WHEREAS, the total cost for the seven (7), new, current year/model, Honda Police motorcycles is approximately \$102,777.20 including freight and sales tax, and

WHEREAS, Honda of Modesto was deemed to be the lowest responsive and responsible bidder, and

WHEREAS, Modesto Municipal Code 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, this Request for Bid (RFB) process conforms to City code, and

WHEREAS, the City Council has appropriated funds for seven (7), new, current year/model, Honda Police motorcycles in account numbers: 7210-480-5814-5322 (FLEET EQUIPMENT REPLACEMENT), and

WHEREAS, the Purchasing Division has coordinated the solicitation of and evaluation of bids for seven (7), new, current year/model, Honda Police motorcycles with the Public Works Department-Fleet Services staff,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the bid and contract for seven (7) new, current year/model, Honda Police motorcycles to Honda of Modesto for a total estimated cost of \$102,777.20.

BE IT FURTHER RESOLVED that the Purchasing Division is hereby authorized to issue a purchase order for seven (7), new, current year/model, Honda Police motorcycles for a total estimated cost of \$102,777.20.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-038**

**A RESOLUTION 1) APPROVING A GRANT APPLICATION FOR \$301,500 FROM THE STATE OF CALIFORNIA'S DEPARTMENT OF WATER RESOURCES' CALFED WATERSHED PROGRAM 2005 TO HELP CONTINUE THE TUOLUMNE RIVER COALITION INTO A SECOND PHASE OF WORK WITH THE TUOLUMNE RIVER AND 2) AUTHORIZING THE CITY OF MODESTO TO ACT AS THE FISCAL AGENT FOR THE TUOLUMNE RIVER COALITION FOR THE PROCUREMENT AND MANAGEMENT OF A PROJECT COORDINATOR FOR A PERIOD OF THREE YEARS**

WHEREAS, the State of California's Department of Resources' CALFED Watershed program has made funding available through its Watershed Program 2005 through Proposition 50, and

WHEREAS, the continuation and development of the Tuolumne River Coalition is consistent with the CALFED Watershed Program and the City of Modesto's interest in the Coalition and its effect on the Tuolumne River Regional Park, and

WHEREAS, said procedures established by the State of California's Department of Water Resources' CALFED program require the applicant's governing body to certify by resolution the approval of the applicant before submission of said application to the State, and

WHEREAS, the applicant will enter into a contract with the State of California for the Project, and

WHEREAS, in order to complete the project submitted to the CALFED Program the City of Modesto will act as the fiscal agent for the Tuolumne River Coalition for the procurement and management of a project coordinator for a period of three years,

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

1. Approves the filing of an application for \$301,500 in local assistance funds from the State of California's Department of Water Resources through the CALFED Watershed program 2005; and
2. Certifies that the application has or will have sufficient funds to operate and maintain the Project; and
3. Certifies that the City of Modesto staff has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Procedural Guide; and
4. Authorizes the City of Modesto to act as the fiscal agent for the Tuolumne River Coalition for the procurement and management of a project coordinator for a period of three years.
5. 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 and so on, which may be necessary for the completion of the Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Zahr  
 JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
 RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-039**

**A RESOLUTION ACCEPTING \$100,000 IN REMOVE II PROGRAM FUNDING FROM THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT FOR THE VIRGINIA CORRIDOR CLASS I BIKE PATH ALONG VIRGINIA ST. BETWEEN NEEDHAM ST. AND BRIGGSMORE AVE. AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT CONTRACT**

WHEREAS, staff has been notified by the San Joaquin Valley Air Pollution Control District that the City of Modesto has been awarded \$100,000 in funding from the REMOVE II program, and

WHEREAS, said funding will allow for construction of a Class I Bike path within the designated Virginia Corridor Class I Bike Path along Virginia Street, between Needham Street and Briggsmore Avenue, and

WHEREAS, the REMOVE II funding does not require a local match, 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 the Council hereby accepts \$100,000 in funding from the San Joaquin Valley Air Pollution Control Board for construction of a Class I Bike Path between Needham Street and Briggsmore Avenue, within the Virginia Corridor Class I Bike Path.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-040**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005-06 CAPITAL  
IMPROVEMENT PROGRAM TO ESTIMATE \$100,000 IN REMOVE II  
PROGRAM FUNDING FROM THE SAN JOAQUIN VALLEY AIR POLLUTION  
CONTROL DISTRICT AND TO APPROPRIATE SAID FUNDING TO PROJECT  
2300-310-P713, VIRGINIA CORRIDOR, PHASE III**

WHEREAS, staff has been notified by the San Joaquin Valley Air Pollution Control District that the City of Modesto has been awarded \$100,000 in funding from the REMOVE II program, and

WHEREAS, said funding will allow for construction of a Class I Bike path within the designated Virginia Corridor Class I Bike Path along Virginia Street, between Needham Street and Briggsmore Avenue, and

WHEREAS, the REMOVE II funding does not require a local match, and

WHEREAS, in order to appropriate the funding, the Fiscal Year 05-06 Capital Improvement Program needs to be amended,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the FY 05-06 Capital Improvement Program to estimate \$100,000 in REMOVE II program funding and appropriate said funding to Project 2300-310-P713, Virginia Corridor Phase III.

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 24<sup>th</sup> day of January, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-041**

**A RESOLUTION ACCEPTING \$400,000 IN FEDERAL HIGHWAY FUNDS  
FROM THE STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION  
FOR THE VIRGINIA CORRIDOR PHASE III PROJECT AND AUTHORIZING  
THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE FUNDING  
CONTRACT**

WHEREAS, staff has been notified by the State of California Department of Transportation that the City of Modesto has been awarded \$400,000 in funding from the Federal Highway funds, and

WHEREAS, said funding will allow for construction of a Class I Bike path within the designated Virginia Corridor Phase III, and

WHEREAS, the Federal Highway funds do not require a local match, and

WHEREAS, in order to accept the funding, the City Manager or his designee must be authorized to execute the Contract,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts \$400,000 in funding from the State of California Department of Transportation for the Federal Highway funds for the Virginia Corridor Phase III project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-042**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005-06 CAPITAL  
IMPROVEMENT PROGRAM TO ESTIMATE \$400,000 IN FEDERAL  
HIGHWAY FUNDING FROM THE STATE OF CALIFORNIA DEPARTMENT  
OF TRANSPORTATION AND TO APPROPRIATE SAID FUNDING TO  
PROJECT 2300-310-P713, VIRGINIA CORRIDOR, PHASE III**

WHEREAS, staff has been notified by the State of California Department of Transportation that the City of Modesto has been awarded \$400,000 in funding from the Federal Highway funds, and

WHEREAS, said funding will allow for construction of a Class I Bike path within the designated Virginia Corridor Phase III, and

WHEREAS, the Federal Highway funds do not require a local match, and

WHEREAS, in order to appropriate the funding, the Fiscal Year 05-06 Capital Improvement Program needs to be amended,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the FY 05-06 Capital Improvement Program to estimate \$400,000 in Federal Highway funding and appropriate said funding to Project 2300-310-P713, Virginia Corridor Phase III.

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 January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-043**

**A RESOLUTION APPROVING A THIRD AMENDMENT TO THE  
AGREEMENT WITH CALLANDER ASSOCIATES LANDSCAPE  
ARCHITECTURE, INC., INCREASING THE CONTRACT AMOUNT BY  
\$14,340, PLUS \$10,000 FOR CONTINGENCIES, TO PROVIDE ADDITIONAL  
SERVICES RELATED TO THE BIDDING AND CONSTRUCTION  
ADMINISTRATION FOR THE ROTARY CENTENNIAL JUNCTION PHASE  
OF THE VIRGINIA AVENUE CORRIDOR BIKE TRAIL PROJECT, AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE THIRD  
AMENDMENT**

WHEREAS, the Virginia Avenue Corridor Trail Project (“Project”) consists of conversion of the abandoned, 4.2 mile Union Pacific Railroad corridor – from City’s central business district at Needham Avenue to the northern City boundary at Bangs Avenue – to a premier linear park with Class I bikeway and pedestrian trail, and

WHEREAS, the City has hired Callander and Associates, a landscape architecture firm, to prepare the Specific Plan for the project, and

WHEREAS, the original Agreement included a professional service fee to Callander of \$304,000 and was approved by City Council on October 8, 2001, and

WHEREAS, since that time, the Agreement has been amended twice: first, for additional services related to the preparation of environmental documents; and second, for additional services related to construction documents for the first trail construction phase, also know as the Rotary Centennial Junction trail project, and

WHEREAS, a Third Amendment to the Agreement is needed so that Callander Associates may continue to devote the necessary staff time for construction support tasks associated with the Rotary Centennial Junction trail project, and

WHEREAS, the Transportation Policy Committee met on September 20, 2001, and recommended awarding a professional service contract to Callander Associates Landscape Architecture for the preparation of a Specific Plan for the 4.2 mile linear park/Class I bikeway in the Virginia Avenue Corridor, and

WHEREAS, the Safety and Communities Committee met on March 31, 2003, and recommended approval of an Amendment to the Agreement with Callander Associates to provide additional services related to the preparation of environmental documents for the Virginia Avenue Corridor Specific Plan project, and

WHEREAS, the Safety and Communities Committee met on November 3, 2003, and recommended approval of the Specific Plan, a Second Amendment to the Agreement with Callander Associates and expenditure of Proposition 40 Per Capita Funds in the amount of \$116,000 to fully fund this phase of project 0520-310-M139, and

WHEREAS, the Modesto Planning Commission met on December 15, 2003, and adopted resolutions to recommend that the City Council approve the Specific Plan and adopt the Mitigated Negative Declaration/Findings of No Significant Impact for the proposed Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a Third Amendment to the Agreement with Callander Associates Landscape Architecture, Inc., increasing the contract amount by \$14,340, plus \$10,000 for contingencies, to provide additional services related to the bidding and construction administration for the Rotary Centennial Junction phase of the Virginia Avenue Corridor bike trail project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest:

  
JEAN ZAHRU City Clerk

APPROVED AS TO FORM:

By:

  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-044**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005-06 CAPITAL  
IMPROVEMENT PROGRAM TO TRANSFER \$55,350 FROM 1350-800-8000-  
8003, PARKS CFF RESERVE, TO 1350-310-P406, STOCKARD COFFEE SHADE  
STRUCTURE**

WHEREAS, Stockard Coffee Neighborhood Park, located at 1800 Mable Avenue, is a 5-acre park sited next to Stockard Coffee Elementary School, and

WHEREAS, initial park development occurred in 2001 and included landscaping, a basketball court, play equipment, drinking fountain, picnic tables, pathways and space for a future shade structure and group picnic area, and

WHEREAS, staff now desires to develop the shade structure, and

WHEREAS, funding is available in 1350-800-8000-8003, the Parks Capital Facilities Fees Reserve,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 2005-06 Capital Improvement Program to transfer \$55,350 from 1350-800-8000-8003, Parks CFF Reserve, to 1350-310-P406, Stockard Coffee Shade Structure.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-045**

**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 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

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

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

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

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

Supervising Animal Control Officer

The job specification for this classification is being created to serve as a first level supervisor to the Animal Control Unit. The job specification for the classification of Supervising Animal Control Officer, 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 January 24, 2006.



The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 24th day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

## SUPERVISING ANIMAL CONTROL OFFICER

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

Plan, organize and supervise Animal Control operations; *to protect citizens from dangerous or hazardous animals*; to ensure proper enforcement of City and local ordinances governing the care and keeping of domestic and wild animals in the City; to capture and impound animals, as appropriate, to promote responsible pet ownership and to perform a variety of community relations, administrative and technical duties.

Note: When working in a field setting, the Supervising Animal Control Officer is required to carry a firearm and wear a ballistic vest.

### DISTINGUISHING CHARACTERISTICS

Supervising Animal Control Officer is the supervisory level in the Animal Control Officer series. The position is a working supervisor, with responsibility for supervising Animal Control Officers and assigned technical and administrative staff, while also functioning as a technically experienced field officer. This class is distinguished from Animal Control Officer II in that the latter is a journey level class, while Animal Control Supervisor is the supervisory level.

### SUPERVISION RECEIVED AND EXERCISED

Receives direction from a Police Lieutenant or other management staff. Exercises direct and indirect supervision over Animal Control Officers and assigned technical and administrative staff.

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

#### Essential Functions:

Supervise, evaluate and coach assigned staff; maintain discipline and ensure all rules, policies and procedures are enforced; advise and counsel subordinates; prepare performance evaluations; follow up on problems and complaints; participate in selection of staff.

Exhibit "A"

Essential Functions: (Continued)

Schedule personnel for shifts, ensure sufficient shift coverage and adjust shift schedules to fill vacancies, determine overtime needs and authorize overtime; prioritize calls and assignments.

Oversee training and orientation of new staff; train department personnel on animal control techniques, animal handling, tranquilizing, animal behavior, and common diseases of animals, human behavior, handling stress, crisis intervention, and report writing.

Interpret animal control laws, regulations, ordinances policies and procedures; recommend, coordinate and implement unit policy and procedures; advise Animal Control Officers on complex issues or calls.

Investigate reports or complaints of dogs, cats or other animals creating nuisances, use tactical communication style to de-escalate situations and use mediation techniques to reconcile various complaints.

Investigate reports of animal cruelty or abuse, and take appropriate action.

Patrol City streets, roads and parks; search for stray or abandoned animals; capture and confine animals using appropriate procedures; impound and quarantine animals, as appropriate; enforce City animal control and licensing laws; issue citations for violations of animal control and licensing ordinances.

Administer vaccines and provide first aid medical treatment to animals; may euthanize severely injured animals.

Write incident reports, gather evidence, prepare and present cases at administrative hearings; prepare and maintain a variety of records and reports; maintain inventories of medications supplies.

Maintain contact with citizens regarding animal control issues and problems and preserve good relationships with the general public; explain ordinances relating to the care and keeping of animals to the public; provide information regarding policies and procedures used by Animal Control Officers; conduct educational seminars and presentations promote and provide education to the public regarding the keeping and caring of pets.

Work with other department personnel, city staff and the public in the areas of assigned functional responsibilities.

Exhibit "A"

Essential Functions: (Continued)

Attend meetings and respond to questions and complaints; receive and investigate complaints, resolve or recommend resolutions of complaints; implement corrective actions, policy amendments or other actions to address complaints.

May assist Police Officers on high risk operations including dynamic and tactical entries, searches, and in serving arrest warrants, when vicious dogs may be present.

May make warrantless arrests related to penal code 830.9; interview victims, complainants and witnesses.

Present and maintain a positive and professional image of the police department; participate in community oriented policing.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles and practices of supervision and training; basic principles of public sector personnel management.

Applicable rules and regulations relating to laws and regulations governing the licensing, quarantine, impounding, care, release and disposal of animals.

PC 830 and 832 related to animal control, powers of arrest and use of firearms.

Principles and practices of humane apprehension and care of animals.

Physical and behavioral characteristics of common breeds of domestic animals.

Police protocols and standard operating procedures.

First aid and CPR procedures and practices.

Symptoms of common animal diseases.

Exhibit "A"

Knowledge of: (Continued)

Methods and equipment used in handling various types of animals and reptiles.

General safety requirements.

Procedures and techniques for working with the public in a tactful but firm manner.

Basic personal computer operation.

Ability to:

Supervise, train, plan, organize and review the work of assigned staff; coach and counsel staff.

Exercise independent judgment and make sound decisions in emergency situations.

Communicate clearly and concisely, both orally and in writing; write defensible reports.

Evaluate and establish priorities; handle simultaneous events effectively.

Establish and maintain effective working relationships with coworkers, subordinates and supervisors, other departments, outside agencies and the public including the ability to resolve conflicts.

Interact with the public displaying a high degree of courtesy, tact, compassion and poise.

Administer humane euthanasia to animals, as necessary.

Maintain neat and accurate logs, records, and related forms; maintain inventories of supplies, medications and drugs

Perform a variety of animal control activities such as animal handling, capturing, and confining including mitigating the most complex cases.

Enforce animal regulations and ordinances.

Provide high level of expertise in conduct of investigations into more involved problems, i.e. animal abuse/cruelty cases.

Exhibit "A"

Ability to: (Continued)

Interpret and apply applicable laws, ordinances and regulations.

Learn the operation of standard equipment required for job performance including the use of a computer and police radio.

Use maps and learn City geography.

Use and care for firearms.

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:

License or Certificate:

Possession of an appropriate, valid driver's license at time of application; valid California driver's License by time of appointment.

Possession of a POST approved P.C. 832 Certificate is required by the end of probationary period.

Possession of level one and level two certificates of completion from the National Animal Control Association (NACA) Training Academy is required by the end of probationary period. Failure to obtain the required certificates will result in release from probation.

Possession of a level three certificate of completion from the National Animal Control Association (NACA) Training Academy is desirable.

Experience:

Three years of progressively responsible experience in a governmental animal control agency or humane society performing animal control responsibilities including a minimum of one (1) year as a lead worker or supervisor

OR

Two (2) years as an Animal Control Officer II with the City of Modesto.

Exhibit "A"

Training:

Equivalent to the completion of the twelfth grade.

WORKING CONDITIONS

Environmental Conditions:

Field environment; travel from site to site. Hot and cold temperatures; inclement weather.

Physical Conditions:

Essential and marginal functions may require gaining and maintaining control of large and often aggressive animals; lifting/carrying medium-heavy objects of up to 75 lbs. of weight, maintaining physical condition necessary for standing, squatting, twisting, running, stooping and walking for prolonged periods of time; operating motor vehicle and other equipment.

Work Assignment:

Wear a Police Department approved uniform and related equipment including firearm and ballistic vest. Subject to irregular work shifts including evening, weekend and holiday shift assignments.

Must be able to pass a police background investigation.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-046**

**A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION  
NO. 2005-494 TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED  
MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO ADD  
SUPERVISING ANIMAL CONTROL OFFICER AT RANGE 426**

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2005-494, which approved the Class Range Table for Represented Management and Non-Sworn Classes,

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2005-494. Resolution No. 2005-494 effective October 4, 2005, 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 24, 2006", which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" adds the classification of Supervising Animal Control Officer at Salary Range 426 (\$3,977 - \$4,846 per month).

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 24, 2006.



The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 24th day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

CITY OF MODESTO  
CLASS RANGE TABLE  
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES  
Effective **January 24, 2006**

---

RANGE	TITLE
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	Senior Administrative Office Assistant (Confidential) Secretary
416	
417	
418	Legal Secretary Systems Technician I
419	Public Information Technician (Confidential)
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (Represented) Legal Services Technician
421	

Exhibit "A"

---

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

Exhibit "A"

---

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

Exhibit "A"

---

RANGE	TITLE
-------	-------

---

- |     |  |
|-----|--|
| 438 | Budget Officer<br>Housing Program Supervisor<br>Land Surveyor<br>Property Agent<br>Purchasing Supervisor<br>Senior Business Analyst<br>Software Analyst III<br>Systems Engineer II   |
| 439 | Administrative Services Officer<br>Community Facilities Districts Administrative Officer   |
| 440 | Associate Civil Engineer<br>Associate Traffic Engineer<br>Transportation Planner   |
| 441 | Airport Manager<br>Building Maintenance Superintendent<br>Fire Marshal<br>Fleet Manager<br>Housing and Urban Development Manager<br>Parks Operations Superintendent<br>Parks Planning and Development Manager<br>Recreation Superintendent<br>Solid Waste Program Manager<br>Streets Superintendent<br>Transit Manager<br>Urban Forestry Superintendent<br>Wastewater Collections Superintendent<br>Water Superintendent |
| 442 | Customer Services Division Manager<br>Manager of Budget and Financial Analysis<br>Software Analyst IV<br>Supervising Building Inspector<br>Supervising Construction Inspector<br>Systems Engineer III  |
| 443 |  |
| 444 | Deputy Chief Building Official<br>Principal Planner  |

Exhibit "A"

RANGE	TITLE
-------	-------

---

445	Accounting Division Manager
446	Water Quality Control Superintendent Information Technology Unit Manager
447	Business Development Division Manager Chief Building Official Planning Division Manager Senior Civil Engineer Traffic Engineer
448	
449	
450	
451	
452	
453	
455	

Exhibit "A"

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-047**

**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 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. CLASSIFICATIONS AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the job specifications for the following classifications:

1. Equipment Operator
2. Senior Equipment Operator

Said classifications are being amended to revise the job specifications to better reflect the requirements of the various job classifications, specifically state and federal licensing and certification requirements.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 24, 2006.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 24th day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney



## EQUIPMENT OPERATOR

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 operate construction, maintenance and transportation equipment including cranes in a variety of maintenance activities including refuse collection, street repair, water and wastewater maintenance and related operations according to required standards; and to perform semi-skilled and skilled maintenance tasks.

### SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from higher level supervisory and management staff.

May exercise functional and technical supervision over lower level maintenance staff.

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

#### Essential Functions:

Drive and operate construction equipment on routine assignments, including dump trucks, packer trucks, equipment trailers, tractors, vectors, rollers, cranes and loaders.

Load and transport heavy construction equipment to and from the work site using a large dump truck and trailer.

Identify equipment needs for each assigned project.

Pick up and transport refuse to the appropriate dumping site.

Operate jackhammer and other construction tools.

Perform minor repairs on equipment and report the need for major repairs; check and adjust fluid level; grease and lubricate moving parts as required.

Essential Functions: (Continued)

Perform additional construction and maintenance tasks such as concrete work, truck driving, asphalt spreading, jackhammering and a variety of repair activities when equipment is not in use.

Provide training to lower level staff in the operation of equipment.

Install traffic cones and barricades as necessary.

Clean and care for tools and equipment.

Perform on-call duties as required.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Operation and maintenance requirements of trucks and less complex power-driven equipment.

Practices, methods, and materials used in construction, maintenance, and sanitation work.

Traffic laws, ordinances, and rules involved in truck and equipment operations.

Safe work practices; working in and around open trenches.

Traffic control on construction sites.

Concrete tools and finishing.

Ability to:

Operate a variety of less complex-driven equipment.

Attach auxiliary pieces of equipment to power-driven equipment.

Locate utilities and understand Underground Service Alert (USA) procedures.

Ability to: (Continued)

Perform a variety of semi-skilled and skilled construction maintenance tasks.

Perform heavy manual labor, including, but not limited to, lifting and carrying 50 to 100 pounds of weight, climbing, bending, stooping, etc.

Understand and follow oral and written instructions.

Work independently or in a crew situation, as assigned.

Work in confined workspaces and follow confined space entry procedures.

Handle contaminated materials and equipment.

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:

Two years of increasingly responsible experience performing maintenance work involving the operation of light and medium size equipment.

Training:

Formal or informal education or training which ensures the ability to read and write at a level necessary for successful job performance.

License or Certificate:

Possession of a valid Class A or Class B Commercial California Driver's License with specific endorsements, as assigned, is required within 45 days of appointment. Failure to obtain the required license may result in release from probation or termination.

When assigned, possession of a valid crane operators certificate, issued by the National Commission of Crane Operators is required within six months of assignment.

WORKING CONDITIONS

Environmental Conditions:

Field environment; travel from site to site; exposure to inclement weather conditions.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for walking, standing or moving for prolonged periods of time; operating motorized equipment and vehicles for an entire work shift.

## SENIOR EQUIPMENT OPERATOR

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 operate the most difficult and complex heavy construction, maintenance and transportation equipment in a variety of maintenance activities including excavating, grading, trenching, exposing utilities, loading and related operations according to required standards; and to perform ~~semi-skilled~~ skilled maintenance tasks.

### SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from higher level supervisory and management staff.

Exercises functional and technical supervision over lower level maintenance staff.

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

#### Essential Functions:

Operate heavy construction equipment such as backhoes, motor graders, large front-end loaders, and cranes for a variety of construction operations involving streets, drainage systems, water lines, sidewalks, curbs and gutters.

May provide lead supervision to a small crew of lower level maintenance staff.

Break out and load asphalt and concrete onto large dump trucks.

Grade and crown City streets, roads and alleys using a motor grader; roll asphalt asphalt milling machine, excavator and paving machine, when assigned to Streets.

Identify equipment needs for each assigned project.

Perform minor repairs on equipment and report the need for major repairs; check and adjust fluid level; grease and lubricate moving parts as required.

Essential Functions: (Continued)

Perform daily DMV vehicle inspections; document and inspect equipment for safety and wear.

Perform additional construction and maintenance tasks such as concrete work, truck driving, asphalt spreading, jackhammering and a variety of repair activities when equipment is not in use.

Provide training to lower level staff in the operation.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Operation and maintenance requirements of trucks and heavy power-driven equipment.

Practices, methods, and materials used in construction and maintenance work, based on assignment.

Traffic laws, ordinances, and rules involved in truck and heavy equipment operations.

Safe work practices; trench safety and shoring methods.

Working in and around open trenches, traffic, construction equipment and utilities.

Traffic control on construction sites.

Principles of personnel supervision and training.

Ability to:

Operate a variety of complex heavy power-driven equipment.

Locate utilities and be familiar with Underground Service Alert (U.S.A.) procedures.

Perform a variety of ~~semi-skilled~~ and skilled construction and maintenance tasks.

Ability to: (Continued)

Load equipment on tractors for transport.

Learn the geography and street system of the City the area, based on assignment.

When assigned to Water, work with and around hazardous materials specific to water systems and water treatment.

When assigned to Water, perform maintenance repair and installation of water system equipment and machinery.

Read blue prints; participate in construction meetings.

Perform maintenance on assigned equipment in an efficient, safe manner.

Understand and follow oral and written instructions.

Depending on assignment, follow appropriate procedures for handling hazardous materials such as asbestos and chlorine.

Work independently or in a crew situation, as assigned.

Set up and work in construction sites at night, in adverse weather, or in emergencies.

Supervise and train lower-level assigned maintenance staff.

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

Occasionally lift up to 100 pounds.

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:

Three years of increasingly responsible experience performing maintenance work involving the operation of heavy construction equipment.

Training:

Formal or informal education or training which ensures the ability to read and write at a level necessary for successful job performance.

License or Certificate

Possession of, ~~or ability to obtain, an appropriate,~~ a Class B or valid Class A or Class B Commercial California driver's license with specific appropriate endorsements - as assigned - is required within 45 days of appointment. Failure to obtain the required license may result in release from probation or termination.

When assigned, possession of a valid crane operators certificate, issued by the National Commission of Crane Operators, is required within six months of assignment.

WORKING CONDITIONS:

Environmental Conditions:

Field environment; travel from site to site; exposure to noise, dust grease, smoke, fumes, gases, water and wastewater, and inclement weather conditions.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for heavy or moderate or light lifting, bending, stooping, kneeling, crawling, walking, climbing, standing or sitting for prolonged periods of time; operating motorized equipment and vehicles.

Work Assignment:

Depending on assignment may be subject to overtime and standby work assignments.



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-048**

**A RESOLUTION ACCEPTING IMPROVEMENTS IN THE VILLAGIO  
SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AND  
AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF COMPLETION  
AND AUTHORIZING RELEASE OF BONDS**

WHEREAS, K-D LAND & CATTLE INVESTMENTS, LLC, a California Limited Liability Company, is the subdivider of VILLAGIO SUDIVISION (“SUBDIVISION”), and

WHEREAS, K-D LAND & CATTLE INVESTMENTS, LLC, a California Limited Liability Company, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of \$579,900.00 and \$289,950.00, respectively, and

WHEREAS, K-D LAND & CATTLE INVESTMENTS, LLC, a California Limited Liability Company, has filed a warranty bond in the amount of \$57,990.00 to guarantee improvements in the VILLAGIO Subdivision, and

WHEREAS, the City Engineer, 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 City Engineer has indicated that it would be in order for the City Council to accept the improvements in said subdivision as complete, and authorize the City Clerk to file a Notice of Completion and release the bonds upon expiration of the statutory periods,

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

1. The improvements in the VILLAGIO Subdivision are hereby accepted and the City Clerk is hereby authorized to record a Notice of Completion for the improvements.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of \$579,900.00 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 \$289,950.00 sixty (60) days after the 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 improvements in the amount of \$57,990.00 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 24<sup>th</sup> day of January 2006, by Councilmember O'Bryant, 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: Dunbar, Hawn, Keating, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh, Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-049**

**A RESOLUTION APPROVING THE FINAL MAP OF THE PLAZA  
SUBDIVISION IN THE VILLAGE ONE SPECIFIC PLAN AREA OF THE CITY  
OF MODESTO AND AUTHORIZING THE CITY MANAGER TO EXECUTE A  
SUBDIVISION AGREEMENT WITH CENTEX HOMES, A NEVADA GENERAL  
PARTNERSHIP**

WHEREAS, CENTEX HOMES, A NEVADA GENERAL PARTNERSHIP, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 33.3 acres, known as THE PLAZA ("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 6th day of June, 2005, 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 securities, as set forth in Section 4-4.605 of the Modesto Municipal Code, which shall secure the obligations set forth in Section 66499.3 of the Government Code of the State of California. Said securities shall be in forms acceptable to the City Attorney and in the amounts required by the City Engineer.

BE IT FURTHER RESOLVED that the City Manager and the City Clerk be authorized to execute and attest, respectively, an agreement with subdivider as required by Section 4-4.604(c) of the Modesto Municipal Code.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-050**

**A RESOLUTION APPROVING A REQUEST FOR AN EXTENSION OF  
BUDGET AUTHORITY FOR VARIOUS STATE AND FEDERALLY FUNDED  
PROJECTS AND AUTHORIZING THE CITY MANAGER TO SIGN THE  
REQUEST**

WHEREAS, the State of California has placed limits for receiving reimbursement on grant funded projects administered through the Department of Transportation, and

WHEREAS, unspent funds that exceed the current June 30, 2006 cutoff will expire, and

WHEREAS, if a project is expected to go beyond the time limits specified by the State to conform to the June 30, 2006 expiration date, an extension request for budget authority needs to be submitted, and

WHEREAS, an extension of budget authority must be approved by the State Department of Finance, and

WHEREAS, if approved, the expenditure deadline would be extended to June 30, 2007, and

WHEREAS, the City Council must indicate concurrence with the request,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that a request to extend the life of the funds listed in the attached project list is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to sign the request for said extension.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-051

A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN REQUESTS  
FOR EXTENSION OF BUDGET AUTHORITY

WHEREAS, the State of California has placed limits for receiving reimbursement on grant funded projects administered through the Department of Transportation, and

WHEREAS, unspent funds that exceed the time limits will expire, and

WHEREAS, if a project is expected to go beyond the time limits specified by the State, an extension request for budget authority needs to be submitted, and

WHEREAS, an extension of budget authority must be approved by the State Department of Finance, and

WHEREAS, giving the City Manager authority to sign extensions will allow them to be processed as they are needed,

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 requests for extensions of budget authority for grant funded projects administered through the State of California Department of Transportation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-052**

**A RESOLUTION ACCEPTING THE BID AND APPROVING A \$2,113,090.33  
CONTRACT WITH GOODLAND LANDSCAPE CONSTRUCTION, INC., FOR  
THE PROJECT TITLED "FREEDOM NEIGHBORHOOD PARK", AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, the bids received for "Freedom Neighborhood Park" were opened at 11:00 a.m. on December 13, 2005, 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 \$2,113,090.33 received from Goodland Landscape Construction, Inc., be accepted as the lowest responsible bid and the contract be awarded to Goodland Landscape Construction, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the bid of Goodland Landscape Construction, Inc., in the amount of \$2,113,090.33, and hereby awards Goodland Landscape Construction, Inc., the contract titled "Freedom Neighborhood Park."

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 24<sup>th</sup> day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-053**

**A RESOLUTION AUTHORIZING REIMBURSEMENT IN THE AMOUNT OF \$1,040,100 FROM CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) TO THE CITY OF MODESTO'S CAPITAL FACILITIES FEES PROGRAM FOR FUNDS ADVANCED FOR THE CONSTRUCTION OF FREEDOM NEIGHBORHOOD PARK**

WHEREAS, the City of Modesto ("City") proposes to build a project entitled "Freedom Neighborhood Park" ("Project") which will be funded through City of Modesto Community Facilities District No. 2004-1 (Village One #2) ("Village One CFD #2") and the City of Modesto's Capital Facilities Fees program ("CFF"), and

WHEREAS, the Project is an authorized facility of the Village One CFD #2, and will be constructed as if it were under the direction and supervision of the Village One CFD #2, and

WHEREAS, the Village One CFD #2 has programmed \$1,040,100 for the Project as a Priority 2 item, and

WHEREAS, on or about November 8, 2005, the City solicited bids for the Project and,

WHEREAS, Goodland Landscape Construction, Inc., was deemed to be low bidder with a bid totaling \$2,113,090.33, and

WHEREAS, on January 24, 2006, the City Council awarded a contract to Goodland Landscape Construction, Inc., for construction of the Project, and

WHEREAS, Village One CFD #2 does not yet have monies available to contribute toward this Priority 2 project, and

WHEREAS, Government Code Section 53314.5 provides that the City may appropriate available monies to a revolving fund to be used for the construction of facilities of a community facilities district so long as the community facilities district reimburses the revolving fund within five (5) years, with interest at the current rate per annum received on similar types of investments by the City, and

WHEREAS, Government Code Section 53314.5 further provides that monies may not be disbursed from the revolving fund until the legislative body has established the method by, and term not exceeding five years within, which the community facilities district is to reimburse the fund, and

WHEREAS, the Parks CFF fund is advancing \$2,559,701 towards construction of the Project, and

WHEREAS, the City of Modesto is currently receiving a 3.356% rate of return on its investments,

WHEREAS, the Village Once CFD #2 shall reimburse the Parks CFF fund in the amount of \$1,040,100, together with interest at the current rate of 3.356% per annum, and

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby finds and determines as follows:

1. The project entitled "Freedom Park" ("Project") will be funded by City of Modesto Community Facilities District No. 2004-1 (Village One #2) and the City of Modesto's Capital Facilities Fees program ("CFF").
2. The Project is an authorized facility of the Village One CFD #2, as set forth in Exhibit A to the Rate and Method of Apportionment for Village One CFD #2.

3. Approximately \$1,040,100 of the Project is programmed to be funded through the Village One CFD #2 and is designated as a Priority 2 project for which CFD funds are not yet available.
4. The CFF program has been authorized to advance the sum of \$2,559,701 to the District for work that is funded through the Village One CFD #2 and designated as Priority 2 work.
5. Within sixty (60) days of the date of this Resolution, the District intends to issue bonds to fund the construction of certain authorized facilities, and intends to use a portion of the bond proceeds to reimburse the CFF program.
6. The Village One CFD #2 shall reimburse the CFF program in the principal amount of \$1,040,100 with interest at the rate of 3.356% per annum. Interest shall accrue on the principal amount from the date the first disbursement is made from the appropriate CIP account until the principal amount and all accrued interest has been paid in full.
7. The CFD shall reimburse the CFF program from tax monies within sixty (60) days after Priority 2 funds are available for the Project, or within five (5) years from the date of this Resolution, whichever occurs first. The CFD hereby recognizes and acknowledges that should tax monies not be available for Priority 2 projects within five (5) years after disbursement is made from the appropriate CIP fund, then the CFD shall be required to review and redesignate the priority status for the Priority 2 work to ensure that the reimbursement will occur within the period required by law

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January 2006, Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-054**

**A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM TO  
1) ESTIMATE \$70,824 IN ADDITIONAL REVENUE FROM THE 05/06  
CONGESTION MANAGEMENT AND AIR QUALITY (CMAQ) GRANT FUNDS;  
2) APPROPRIATE \$70,824 IN CMAQ GRANT FUNDS TO THE SHARON/MAID  
MARIANE ROUNDABOUT ACCOUNT #2300-160-A010; 3) REDUCE PRIMARY  
TRAFFIC CONTROL DEVICES PROJECT ACCOUNT # 2370-160-E602-6053 BY  
\$9,176 AND INCREASE GAS TAX FUND RESERVE ACCOUNT #0700-800-8000-  
8003 BY \$9,176; 4) APPROPRIATE \$9,176 FROM ACCOUNT #0700-800-8000-  
8003, THE GAS TAX FUND RESERVE, TO THE SHARON/MAID MARIANE  
ROUNDABOUT ACCOUNT #2300-160-A010; AND 5) APPROPRIATE \$89,000  
FROM ACCOUNT #1350-800-8000-8003, THE PARKS CFF FUND RESERVE, TO  
THE FREEDOM NEIGHBORHOOD PARK ACCOUNT #1350-310-Q233**

WHEREAS, in October 2002, the Parks, Recreation and Neighborhoods  
Department began a project to build a 7-acre neighborhood park located on the corner of  
Sharon Avenue and Maid Mariane Lane, and

WHEREAS, construction bids were opened on December 13, 2005, and  
Goodland Landscape Construction, Inc., was the low bidder, and

WHEREAS, the Engineer's estimate and the bids are considered reasonable  
whenever any of the bids are within 10% of the Engineer's estimate, and

WHEREAS, the low bidder was within 11.23% of the Engineer's estimate but  
still considered competitive, and

WHEREAS, staff does not feel that another bid would result in any lower cost for  
the work, and

WHEREAS, in order to fully fund construction of the project, the Capital  
Improvement Program needs to be amended, and

WHEREAS, \$70,824 is available in additional Congestion Management and Air  
Quality (CMAQ) funds from the 05/06 grant process, and

WHEREAS, \$9,176 is available from the Primary Traffic Control Devices Project Account # 2370-160-E602-6053, and

WHEREAS, \$89,000 is available from the Parks CFF Fund Reserve, account #1350-800-8000-8003, and

WHEREAS, expenditures for Freedom Neighborhood Park will be increase to reflect a balanced budget,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby amends the Capital Improvement Program to 1) estimate \$70,824 in additional revenue from the 05/06 Congestion Management and Air Quality (CMAQ) Grant Funds; 2) appropriate \$70,824 in CMAQ Grant Funds to the Sharon/Maid Mariane Roundabout account #2300-160-A010; 3) reduce Primary Traffic Control Devices project account # 2370-160-E602-6053 by \$9,176 and increase Gas Tax Fund Reserve account #0700-800-8000-8003 by \$9,176; 4) appropriate \$9,176 from account #0700-800-8000-8003, the gas tax fund reserve, to the Sharon/Maid Mariane Roundabout account #2300-160-A010; and 5) appropriate \$89,000 from account #1350-800-8000-8003, the Parks CFF Fund Reserve, to the Freedom Neighborhood Park account #1350-310-Q233..

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 24<sup>th</sup> day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**AMENDED**  
on Mar. 23, 2011  
By Resolution 2011-105

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-055

Restated &  
**AMENDED**  
on 6-22-10  
By Resolution 2010-272

**A RESOLUTION AMENDING AND RESTATING RESOLUTION NO. 2003-309  
AND UPDATING THE 2003 CAPITAL FACILITIES FEES PROGRAM TO  
INCREASE LAND VALUES FOR PROPERTY ACQUISITION AND TO  
INCLUDE ADDITIONAL FUNDING FOR RIGHT OF WAY FOR  
EXPRESSWAYS**

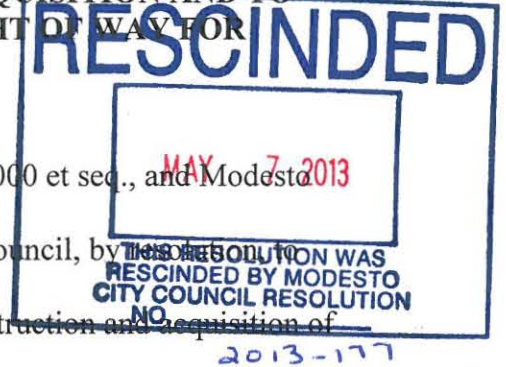
WHEREAS, California Government Code Section 66000 et seq., and Modesto  
Municipal Code Sections 8-1.904 et seq. authorize the City Council, by ~~this resolution~~  
establish a Capital Facilities Fees Program (CFF) for the construction and acquisition of  
certain public facilities, and

WHEREAS, on June 24, 2003, Council adopted Resolution No. 2003-309 which  
amended Resolution No. 88-649 as amended and adopted the 2003 CFF for City facilities  
associated with capital items related to police, fire, parks, transit, streets, air quality, and  
governmental facilities and, administration of the CFF, and

WHEREAS, the fees collected pursuant to this resolution will be used to finance  
the public capital facilities identified in the 2003 CFF Update Report adopted June 24,  
2003 and on file with the City Clerk and some additional right of way acquisition which  
is necessary to construct expressways identified in the 2003 CFF Update Report, and

WHEREAS, to accommodate the timely development of expressways throughout  
the City of Modesto, it is necessary to have funding available to acquire the full right of  
way for expressways prior to the development of the property, and

WHEREAS, due to market conditions, land values have risen dramatically which  
will affect the City's ability to fund the capital facilities outlined in the 2003 CFF Update  
Report, and



AMENDED

~~WHEREAS~~, the Council has asked that any significant increases be presented on an ongoing basis to make certain that development is paying its share, and

WHEREAS, an appraisal documenting typical land values in the City of Modesto and County of Stanislaus has been prepared and City staff have studied the impact of those land values on the City's 2003 CFF, and

WHEREAS, in the Fall of 2005, the City's CFF Administrator prepared a report which documents the impact of current land values on the 2003 CFF and establishes the methodology for adjusting the land values and calculating the additional costs for acquiring all right of way necessary to develop expressways, a copy of which is attached as Exhibit A ("Report"). The Report illustrates, based on an appraiser's opinion, that land values have increased substantially, and

WHEREAS, based on the increases in costs due to increases in land values and the additional funding necessary to acquire full right of way for expressways, the Report proposes that the 2003 CFF should be adjusted to reflect these costs, and

WHEREAS, the Notice of Public Hearing was published in the Modesto Bee on December 1, 2005, and

WHEREAS, the matter was set for public hearing on December 14, 2005, at 5:30 p.m., in the City Council Chambers Basement Level, located at 1010 Tenth Street, at which date and time said hearing was opened and continued to January 10, 2006, and

WHEREAS, the public hearing was opened on January 10, 2006 and was continued to January 24, 2006 at 5:30 p.m. in the City Council Chambers, Basement Level, 1010 10<sup>th</sup> Street, Modesto, California, at which date and time the duly noticed public hearing of the Council was held, and

WHEREAS, the Council has determined that it is necessary and appropriate to update the 2003 CFF in order to reflect these additional costs, and to amend and restate Resolution No. 2003-309 accordingly, and

WHEREAS, Resolution No. 2003-309 is hereby amended solely with respect to the addition of right of way on expressways to be included as part of the CFF and land values associated with acquisition for the calculation of capital facilities fees, the establishment of a new fee structure to reflect these increased costs, and the reorganization of policies relating to the administration of CFF which have been placed in the "CFF Policies and Procedures" document, adopted by the Council by Resolution 2006-061 on January 24, 2006, and

WHEREAS, Resolution No. 2003-309 is reaffirmed in every other respect and repeated in its entirety herein for the sake of administrative convenience.

NOW, THEREFORE, BE IT RESOLVED by the City Council that Resolution No. 2003-309 is hereby amended and restated, and that the Council hereby finds and determines as follows:

- A-1. There is a reasonable relationship between the need for the public facilities designated in the reports and analysis, and in the City's General Plan and Specific Plans generated in accordance with that plan, and the City's Capital Improvement Plan, and the impacts of the type of development for which the corresponding fees are charged.
- B-1. There is a reasonable relationship between the fees, uses, and the types of development for which the fee is charged.

- C-1. There is a reasonable relationship between the amount of the various fees and the cost of the public facilities or portions of the public facilities attributable to the development and types of development upon which the various fees are imposed.
- D-1. The cost estimates set forth in the reports and analysis are reasonable cost estimates for constructing these facilities, and the fees expected to be generated by future development will not exceed the total costs of constructing the public facilities just referenced.
- E-1. The 2003 CFF Update Report and analysis establish a linkage or nexus between development in the City's Annexation Areas (unincorporated area of the City's General Plan Area) and the need for additional public facilities or improvements to existing public facilities within the City of Modesto as well as within the Annexation Areas. Therefore, the term "development" as used in the preceding four subparagraphs shall include but not be limited to, development in the City's Annexation Areas that may be approved or allowed by Stanislaus County, prior to the annexation of said Annexation Areas or portions thereof to the City of Modesto. Because of this clearly established nexus, it is the intention of the City Council of the City of Modesto that the fees created by this resolution for streets facilities, air quality facilities, and public transportation facilities be imposed by the County of Stanislaus on development approved of or allowed by the County of Stanislaus in the City's Annexation Areas area and collected by the City of Modesto, and

BE IT FURTHER RESOLVED that:

- A-2. The 2005 Capital Facilities Fees are hereby adopted as shown in Exhibit B, and
- B-2. The City Council finds that only projects shown in the adopted 2003 CFF Update Report including the acquisition of all right of way necessary to develop the expressways identified in the 2003 CFF Report, are eligible for receipt of CFF funds and individual projects shall be flexibly budgeted within total dollar limits of the capital programs of the two principal fee components as follows:
  - a. Fees for Community Facilities, which include Police, Fire, Parks, Government and Administration.
  - b. Fees for Transportation, which include Streets, Transit and Air Quality.

As long as the overall dollar amounts of the capital programs for these two components are not exceeded, individual eligible projects may vary from the estimates shown in the CFF Update Report, and

- C-2. The Council of the City of Modesto establishes the following guidelines for implementation and payment of the 2003 Capital Facilities Fees, so that a development project that is not vested under State law would be subject to the fees in place prior to adoption of Resolution No. 2003-309 on September 1, 2003, if the development project meets any of the following criteria:

- a. The development is the subject of a written Development Agreement (as defined by Government Code Section 65864, et seq.) between the City and the proposed developer, if within City limits, or the County, if outside City limits but within the Sphere of Influence, and the Development Agreement expressly vests the project at a specific, pre-September 3, 2003, CFF rate.
- b. The development is the subject of a building permit application which has been deemed complete by the City, if within City limits, or the County, if outside City limits but within the City's Sphere of Influence, prior to September 3, 2003; or, for development which is not subject to permit by the City or County, e.g., a hospital, an application equivalent to a building permit application which has been deemed complete by the State permitting agency prior to September 3, 2003.
- c. All vesting tentative subdivision and parcel maps for which an application is deemed complete, and approved, prior to September 3, 2003, until the expiration of the map's vesting status, and

D-2 The Council of the City of Modesto establishes the following guidelines for implementation and payment of the 2005 Capital Facilities Fees, so that a development project that is not vested under State law would be

subject to the fees in place prior to January 25, 2006, if the development project meets any of the following criteria:

- a. The development is the subject of a written Development Agreement (as defined by Government Code Section 65864, et seq.) between the City and the proposed developer, if within City limits, or the County, if outside City limits but within the Sphere of Influence, and the Development Agreement expressly vests the project at a specific, pre-January 25, 2006, CFF rate.
- b. The development is the subject of a building permit application which has been deemed complete by the City, if within City limits, or the County, if outside City limits but within the City's Sphere of Influence, prior to January 25, 2006; or, for development which is not subject to permit by the City or County, e.g., a hospital, an application equivalent to a building permit application which has been deemed complete by the State permitting agency prior on or before March 25, 2006.
- c. All vesting tentative subdivision and parcel maps for which an application is deemed complete, and approved, on or before January 24, 2006, until the expiration of the map's vesting status, and

- E-2. CFF shall be due and payable at the time a building permit is issued, unless otherwise approved by Council resolution, as set forth in Modesto Municipal Code Section 8-1.904, and
- F-2. The City Council shall annually review one or more components of the capital program that form the basis of calculating the Capital Facilities Fees. This policy in no way prevents the upward adjustment of fees due to annual inflation, and
- G-2. For purposes of the fees the following definitions of land use development categories shall apply. Uses not defined in these definitions shall be charged at rates to be determined by the CFF Administrator using land use determinations and trip generation estimates acceptable to the Administrator.

#### RESIDENTIAL

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

Multiple Family: Includes 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. This category also applies to mobile homes and hotel/motel uses.

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

Senior Housing: Includes retirement communities restricted to adults or senior citizens, congregate care facilities, and similar residential uses.

#### BUSINESS PARK

A master planned campus-like development, with common infrastructure and common design standards, that features employment-intensive uses



and light manufacturing, and possibly service retail, and regional commercial uses. There are two basic types of business parks:

Business Park – Service

Within a master-planned Business Park area – a predominantly service-oriented business park that has a high amount of office/commercial uses relative to the industrial/warehousing uses, would characterize a service-oriented business park. Typical uses would include: offices including general office building, corporate headquarters, single tenant office building, office park and research and development uses; service retail, regional commercial and wholesale stores; restaurants; and recreational areas.

Business Park – Manufacturing

Within a master-planned Business Park area – a predominantly industrial-oriented business park with low amounts of office/service/retail uses. Typical uses would include: general light industrial uses, manufacturing and/or distribution with associated office, ware house, research, and related functions, and public facilities/utilities.

INDUSTRIAL

Manufacturing/Light Industrial/Industrial Park – facilities in which the primary activity is the production of finished items through manufacture, fabrication, processing, packaging, or treatment of raw materials or parts, except heavy industrial uses. Uses which are considered to be in this category include uses such as those listed below:

- 1) Electronics assembly, paper products
- 2) Metal fabricator
- 3) Bottling plant
- 4) Cabinet shop
- 5) Machine shop
- 6) Sheet-metal shop
- 7) Welding shop
- 8) Wholesale shop
- 9) Printing plant
- 10) Material testing labors manufacturer
- 11) Food processor, brewery, bakery
- 12) Recycling facility
- 13) Burning operations for lumber and wood products
- 14) Junk handling, processing, storage
- 15) Landfill, waste products disposal or transfer station

- 16) Manufacture, fabrication, processing, packaging and treatment of explosives, oil and great products, chemicals and chemical products.
- 17) Rock crushing
- 18) Pulp and paper mill
- 19) Reduction, processing and storage of offal, dead animals, bones or similar materials
- 20) Septic tank, cesspool servicing
- 21) Stockyard
- 22) Tannery
- 23) Vehicle salvaging, wrecking

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.

#### WAREHOUSE DISTRIBUTION/HEAVY

Warehouse Distribution – Facilities in which the primary activity is the storage of materials or in which the primary activity is receiving and shipping materials. Use which are considered to be in this category include uses such as those listed below:

- 1) Freight
- 2) Warehousing
- 3) Corporation yard, freight yard
- 4) Equipment rental yard
- 5) Moving and storage service
- 6) Bulk feed storage
- 7) Lumberyard
- 8) Sand, gravel, building materials dealer

#### OFFICE

Medical: 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.

General: All other types of general and professional offices.

#### COMMERCIAL

Small Retail (less than 50,000 square feet)

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

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.

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

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.

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

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 square feet or more, or provides full banking services, it should be treated as a bank.

Other retail includes a wide range of retail and 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 car sales. May include uses in small retail category if in a shopping center.

#### OTHER

Church: Structures primarily designed as a place for public worship.

Day Care and School: An educational, vocational or day care facility.

Hospital: A structure designed for health services, both inpatient and outpatient; that includes surgical care of the sick or injured 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 service 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".

Mini-Warehouse: A personal storage facility not associated with industrial use.

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.

For purposes of interpreting these definitions, the term "Commercial Use" shall mean those uses designated as permitted or conditional uses in the C-1, C-2 and C-3 Zones of Title 10 of the Modesto Municipal Code.

H-2. This resolution shall become effective on and after the date of its adoption, and that the fees shall become effective 60 days from the adoption of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of January 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant

NOES: Councilmembers: Olsen

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**Draft**

**City of Modesto**

**2005 Land Value Update  
To the  
2003 Capital Facilities Fees Program**

Presented to the  
Modesto City Council  
January 24, 2006

---

## **INTRODUCTION**

In an effort to keep pace with market conditions affecting the City's ability to construct public facilities, the City is endeavoring to update the land values of its Capital Facilities Fee Program, adopted in June of 2003, creating a new program element for the overall CFF program. The intent of this update is to ensure that new development pays for its share of future infrastructure necessary to serve the City of Modesto.

This 2005 Update only accounts for property acquisition costs by adjusting the land values contained in the Adopted 2003 CFF Program as well as account for the cost of forty feet of right of way acquisition on expressways.

## **BACKGROUND & REASONS FOR RECOMMENDATION**

Capital Facilities Fees, CFF, are collected at the time of building permit issuance, and are used to fund capital facilities such as the widening of Pelandale Avenue, construction of parks, and the expansion of the city's corporation yards to name a few. The collection of Capital Facilities Fees is in accordance with what is known as AB1600, codified in Section 66000 of the California Government Code.

In June 2003, the City Council adopted a comprehensive update of its Capital Facilities Fee Program. The update process was a substantial step in evaluating the City's anticipated capital infrastructure necessary to support new development. As a result of this intensive study, the fees were increased significantly to reflect the substantial amount of infrastructure necessary for new development. However, because of the significance of the increase, the Council put a "cap" on the fee for all but residential uses so as not to overburden job-creating developments. With the upswing in the real estate market, an increase in the economy, and a growing shortfall of funds to support the capital infrastructure, in December 2004 the Council removed the "cap".

The 2003 CFF Program contains a significant amount of acreage to be acquired either for the development of parks, right of way for the construction of roads, or land acquisition for the construction of a government building. Those land acquisition costs are the subject of this update. When the 2003 program was put into place, land values on average were assumed to be approximately \$124,000 per acre. Within most of the state, and in the Central Valley, land values have increased drastically, resulting in increased costs to the city to purchase the necessary land for city projects. In an effort to reflect this dramatic rise in land value costs, the land values reflected in the 2003 CFF program have been updated. Moreover, the line items for land acquisition have been increased which increase the fees.

In addition, current city policy dictates that for expressways, the first forty feet of right of way is a dedication requirement. This practice, however, has proven to be ineffective to develop the City's expressways as the City has to wait for a property owner to develop his parcel before the dedication to the City can be made. As a result, the 2005 CFF Update takes property acquisition for right of way on expressways and calculates that as part of this update.

## **LAND VALUE METHODOLOGY**

To evaluate *total* costs for the construction of projects, the CFF methodology calculates a range for right of way acquisition based on developed or undeveloped status, and includes design, construction, and

administration to determine the total project cost. The total project costs across all areas for consideration of the CFF program are then divided based on use and impact to determine the appropriate fee based on land use. The intent of this update is to strictly address the right of way acquisition of the cost component across all areas of the CFF program.

Buildout of the General Plan assumed a 46% increase in overall population to 371,000. Since the adoption of the 2003 CFF program, the population has increased to 207,634, an increase of 4%. Furthermore, of the \$1,254,907,000 in anticipated facility costs outlined in the overall 2003 CFF program, \$17,006,323, or 1% has been collected, representing a small fraction of funds available for facilities to be constructed.

**Land Value Determination:**

Rather than use anecdotal information relating to land values, Cogdill and Giomi, a local appraisal firm, examined completed and pending sales of lands within the city limits, outside and inside the City's sphere, as well as various stages of development and zoning to devise an overall composite of land value. That study is included as Attachment A. Since the valuation made multiple comparisons of lands uses and location, a weighted average was used that encompassed the percentage of buildout left in the sphere of influence by land use type as well as a consideration for developed and undeveloped land. This was done to avoid double counting of areas that have already paid their fees. The resulting per acre cost is \$350,000. Attachment B illustrates how the averages were weighted to make the comparisons for the various uses outlined in the appraiser's report.

**Table 1. Weighted Average Comparison for Properties Compared in Appraisal Report**

Land Use	Total SOI Acres Available	% of Total	Undeveloped (\$/sf)		Developed - No Structures (\$/sf)		Improvements \$/sf
			Low	High	Low	High	
			Business Park	1,963	27%	\$ 2.30	
Residential	5,135	70%	\$ 8.03	\$ 11.08	\$ 12.03	\$ 15.08	\$ 4.00
Commercial	234	3%	\$ 8.00	\$ 12.00	\$ 13.00	\$ 17.00	\$ 5.00
<b>Total</b>	<b>7,332</b>	<b>100%</b>					
<i>Weighted Average</i>			\$ 6.49	\$ 9.06	\$ 10.79	\$ 13.36	

	Units	Low	High
Average	\$/sf	\$7.78	\$12.08
Proposed	\$/sf	\$8.00	\$12.00
Average	\$/ac	338,872	526,164
Proposed	\$/ac	348,480	522,720

The 2003 CFF contemplated an *average* value of land within the sphere. The land value used in the 2003 CFF of \$120,000 per acre was low in comparison to the average land value at that time which was approximately \$200,000 per acre. Furthermore, the 2005 CFF Update for land valuation selected for

---

parkland acquisition is the lowest land value calculated in the Weighted Average Comparison for Properties Compared Appraisal Report (\$350,000 per acre) as shown above in Table 1.

There are multiple factors related to how the cost for a project is derived, including design, acquisition, and construction. This 2005 CFF Update only applies to acquisition. To apply an even methodology that would not over inflate costs, but would specifically look at acquisition, all costs associated with property or right of way were extracted from the inflationary index to avoid double counting. The land value of \$350,000 was applied to all acquisition costs. The overall percent increase was then multiplied to the land use category. It should be noted that the CFF Program does include a cost inflationary factor that is applied every July; however the index does not account for real estate costs and is only a construction cost indicator.

Attachment B illustrates the increase in costs by fee components, where the land value is applicable. Parks development and Air mitigation are the two areas where the impact is the most significant. This is due to the fact that a large proportion of those impacts require land acquisition. The most significant increases affect the residential uses, as they are the only uses that have both the parks and roadway components where the significant increases are affected. As noted above, the 2003 CFF Program makes an annual inflation adjustment based on the Engineering News Record which is effective July 1 of every year. Table 2 below summarizes various uses, the existing fee, the fee with adjusted land uses, and the adjusted fee with the 2005 inflation factor and land value increase.

**Table 2. Various Uses Outlining Existing Fees and Updated Fees Reflecting Land Value and Inflation Increases.**

Use	Existing Fee	2005 Updated Fee
Single Family	\$16,085	\$19,512/du
Senior Housing	\$8,352	\$10,314/du
Retail <50,000 sf	\$16.62/sf	\$17.78/sf
Medical Office	\$21.40/sf	\$22.89/sf

Attachment C outlines the revised fee per impacted component. Based on the methodology presented in the report, the total fee for a single-family home with an anticipated effective date of March 11 is \$19,512.

### **SUMMARY**

Updating the land values to compete with market demand is an integral part of ensuring that the City is adequately collecting the appropriate fees for new development. The intent on addressing this is to ensure that cost extraordinary increases are adjusted so to ensure that developers are paying their fair share. The 2005 Land Value Update is simply updating the estimated land value costs to keep in line with market demands with the intent of having enough funding on hand to purchase land for the betterment of the public.



---

ATTACHMENT A

Land Value Report from Cogdill and Giomi

Draft

  
**COGDILL & GIOMI**  
REAL ESTATE APPRAISERS & CONSULTANTS

September 14, 2004

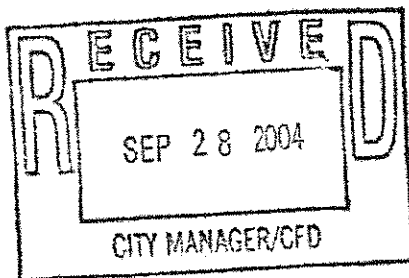
Amy S. Gedney  
CFD Administrative Officer  
City of Modesto  
1010 Tenth Street, Suite 6100  
Modesto, CA 95353

Re: CFF Update - City Wide and  
Sphere of Influence Land Values

Dear Ms. Gedney:

In response to your request I proceeded with an analysis of the Modesto real estate market to determine values for various types of properties that are within the sphere of influence of the city of Modesto. More particularly I spent a substantial amount of time investigating potential subdivision land prices, paper lot values, industrial land prices, as well as properties that are located along the fringe of the city limits of Modesto that have future development potential for possible business park or residential expansion.

Because of the nature of this assignment and the difficulty in confirming data from potential buyers and sellers, some of the information I obtained is confidential and I have been asked not to disclose the exact location and/or exact details of certain transactions. I am obligated to respect the wishes of these buyers and sellers. I have, however, included some data that has been recorded which will provide certain market trends for properties in the general Modesto area.



1317 I Street Suite A • Modesto, CA 95354 • Ph (209) 523-9365 • Fax (209) 523-6344 • Toll Free (800) 223-9365

Amy S. Gedney  
CFD Administrative Officer  
City of Modesto  
September 14, 2004  
Page Two

The scope of this assignment includes but was not limited to the following:

- A market analysis of potential subdivision properties, both infill properties and also those located within the Village neighborhood of Modesto
- A search for properties on the fringe of Modesto, particularly around the Kiernan Avenue/Dale Road area, with potential influence from the Kaiser Hospital
- Large commercial shopping center land sales within the city limits of Modesto
- Typical infill industrial developed parcels (located in business parks, with utilities available)

Research sources included Comps Inc., other appraisers, real estate brokers, and a local title company's plant.

There have been several recent offers on a 12 acre infill property. Four developers have been bidding on this property over the last six months. The original offers were at approximately \$300,000 per acre, and the last offers (which included some contingent entitlements) was at \$6,000,000 or around \$500,000 per acre. The entitlements include a certain number of lots, mapping, and other factors that may, or may not, occur. I have been asked not to disclose the location of this parcel.

A recent subdivision acquisition within the Village neighborhood of Modesto was also analyzed. Again, the exact location and all details cannot be disclosed. It is the acquisition of a proposed 24 lot residential subdivision that is currently in escrow for \$1,800,000 or about \$75,000 per paper lot. Typically there are 4.5 to 5 lots per acre in this area. Adjusting for some entitlements indicates a raw land price (without mapping or entitlements) of approximately \$250,000 to \$325,000 per acre.

Amy S. Gedney  
CFD Administrative Officer  
City of Modesto  
September 14, 2004  
Page Three

A recent purchase of parcel within the Village area that is slightly under ten acres for \$3,687,542 was also analyzed. It is zoned PD and will allow some apartments to be developed on the site. Analysis of this transaction reflects a price per unit of slightly under \$16,000 per unit and roughly \$381,000 for this small parcel (which has a multi residential use).

A multi residential sale located in Riverbank reflects a price of around \$229,000 per acre.

An almond orchard near Faith Home and Hatch Roads, with residential development potential is being negotiated at between the \$210,000 to \$220,000 per acre range.

There appears to be an extremely strong demand for properties that have residential development potential within the general Modesto area.

Sales that are outside the city limits but have future development potential (within the next three to five years) are also in strong demand. Properties along Kiernan Avenue (between Stoddard Road and Dale Road) that are large blocks of approximately 20 acres in size, are selling for about \$100,000 to \$150,000 per acre. Again these parcels do not yet have residential zoning, are located in the county and need to complete the entitlement process before development can occur.

Also an analysis of industrial land sales in Modesto city limits indicates that one to three acre parcels in the northern portion of the city, located within business parks, with most utilities available, are commanding between \$5.00 to \$8.00 per square foot, depending upon size.

Sales of shopping center land within the city have indicated prices of from around \$8.00 to \$12.00 per square foot (land value only), with pad sales within these developments bringing \$18.00 to \$25.00 per square foot.

Based upon the market study, the concluded values for the various scenarios would be as follows:

Amy S. Gedney  
CFD Administrative Officer  
City of Modesto  
September 14, 2004  
Page Four

Subdivision Land - Within the City (Infill Properties)	\$350,000 to \$500,000 Per Acre
Subdivision Land - Within the Village Neighborhood and Other Surrounding Areas of Modesto	\$250,000 to \$350,000 Per Acre
Paper Lot Value in Modesto Area	\$70,000 to \$80,000 Per Lot
Business Park Development Parcels Located Within the County Near the Proposed Kaiser Hospital (Without Entitlements)	\$100,000 to \$150,000 Per Acre
Developed Industrial Parcels	\$5.00 to \$8.00 Per Square Foot
R-2 and R-3 (Multi Residential) Parcels (Infill Parcels)	250,000 to \$380,000 Per Acre
Shopping Center Land Value	\$8.00 to \$12.00 Per Square Foot

More detailed information is located in my office in this particular file and can be provided if so desired. The data is available for inspection if you wish to do so. If you have any questions concerning this analysis or my conclusions of value, feel free to give me a call.

Amy S. Gedney  
CFD Administrative Officer  
City of Modesto  
September 14, 2004  
Page Five

It should be noted that most of the data I analyzed are either pending sales or agreements that have been negotiated within the last six to eight months, and have yet to close escrow. I have specifically been asked not to disclose all of the details of these sales, but have reliable information that confirms the data are good market indications.

Respectfully,

COGDILL & GIOMI

A large, stylized handwritten signature in black ink, appearing to read 'David R. Gioni', is written over the printed name and title.

David R. Gioni, MAI, RM  
State of California No. AG004978

---

ATTACHMENT B  
% increases by fee component

Draft

Attachment B  
2005 CFF Program  
Land Value Cost Increases by Fee Components

Capital Cost		Fire		Police		Parks		General Government		Air Mitigation		Streets		Transit		Admin	
Existing		\$ 16,756,995	\$ 18,276,363					\$ 12,302,756	\$ 12,536,508								
Future		\$ 21,963,705	\$ 23,771,693			\$ 506,393,000	\$ 689,155,312	\$ 59,452,008	\$ 61,332,386	\$ 78,408,000	\$ 204,939,276	\$ 813,803,566	\$ 999,481,027				
Total		\$ 38,720,700	\$ 42,048,056	\$ 128,299,383	\$ 129,058,801	\$ 506,393,000	\$ 689,155,312	\$ 71,754,764	\$ 73,868,904	\$ 78,408,000	\$ 204,939,276	\$ 913,803,566	\$ 999,481,027	\$ -	\$ -	\$ -	\$ -
2004 inflation adjustment		\$ 39,456,393		\$ 128,699,071		\$ 516,014,467		\$ 73,118,105		\$ 79,897,752		\$ 831,165,834					
% Increase			8.57%		0.28%		33.55%		1.03%		156.50%		7.34%				
w out ROW policy													\$ 962,068,986				
% Increase														3%			



---

ATTACHMENT C  
Fee by component with LV and 2005, 2004 fees

Draft

**ATTACHMENT C**  
**2005 Land Value Update with 2005 Inflation Adjustment**

5.70%

	Fire	Police	Parks	General Government	Air Mitigation	Streets	Transit	Admin	2005 LV Adjustment
<b>Residential (per unit)</b>									<b>TOTAL</b>
Single Family	\$ 293	2% \$ 898	5% \$ 6,348	33% \$ 516	3% \$ 1,876	10% \$ 9,249	47% \$ 98	1% \$ 238	1% \$ 19,512
Multi Family	\$ 179	1% \$ 547	4% \$ 3,847	30% \$ 314	2% \$ 1,144	9% \$ 6,407	51% \$ 68	1% \$ 156	1% \$ 12,661
Senior Housing	\$ 179	2% \$ 547	5% \$ 3,847	37% \$ 314	3% \$ 1,144	11% \$ 4,134	40% \$ 37	0% \$ 113	1% \$ 10,314
	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Non-Residential (per 1,000 sq. ft.)</b>	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Hotel/Motel (room = 500 sq. ft.)	\$ 61	1% \$ 188	3% \$ -	0% \$ 107	2% \$ -	0% \$ 5,215	91% \$ 55	1% \$ 79	1% \$ 5,702
Retail	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
<50,000	\$ 72	0% \$ 222	1% \$ -	0% \$ 127	1% \$ -	0% \$ 16,932	95% \$ 179	1% \$ 246	1% \$ 17,779
50 - 100,000	\$ 72	0% \$ 222	2% \$ -	0% \$ 127	1% \$ -	0% \$ 14,022	95% \$ 149	1% \$ 204	1% \$ 14,797
100 - 300,000	\$ 72	1% \$ 222	2% \$ -	0% \$ 127	1% \$ -	0% \$ 11,805	94% \$ 125	1% \$ 172	1% \$ 12,524
>300,000	\$ 72	1% \$ 222	2% \$ -	0% \$ 127	1% \$ -	0% \$ 10,999	94% \$ 116	1% \$ 162	1% \$ 11,699
Medical Office	\$ 121	1% \$ 370	2% \$ -	0% \$ 213	1% \$ -	0% \$ 21,638	95% \$ 228	1% \$ 317	1% \$ 22,887
General Office	\$ 121	1% \$ 370	4% \$ -	0% \$ 213	2% \$ -	0% \$ 9,288	91% \$ 98	1% \$ 142	1% \$ 10,233
Hospital	\$ 121	1% \$ 370	3% \$ -	0% \$ 213	1% \$ -	0% \$ 13,363	93% \$ 141	1% \$ 199	1% \$ 14,408
Daycare	\$ 121	1% \$ 370	4% \$ -	0% \$ 213	3% \$ -	0% \$ 7,367	89% \$ 78	1% \$ 115	1% \$ 8,264
Church	\$ 121	5% \$ 370	16% \$ -	0% \$ 213	9% \$ -	0% \$ 1,553	67% \$ 16	1% \$ 32	1% \$ 2,305
Nursing Home	\$ 121	4% \$ 370	12% \$ -	0% \$ 213	7% \$ -	0% \$ 2,281	75% \$ 24	1% \$ 43	1% \$ 3,052
Business Park (Service)	\$ 121	2% \$ 370	5% \$ -	0% \$ 213	3% \$ -	0% \$ 6,409	88% \$ 68	1% \$ 101	1% \$ 7,283
Business Park (Manufacturing)	\$ 121	3% \$ 370	8% \$ -	0% \$ 213	5% \$ -	0% \$ 3,695	82% \$ 39	1% \$ 62	1% \$ 4,500
Industrial (Manufacturing)	\$ 52	1% \$ 159	4% \$ -	0% \$ 91	2% \$ -	0% \$ 3,601	90% \$ 38	1% \$ 55	1% \$ 3,986
Industrial (Warehousing)	\$ 52	2% \$ 159	5% \$ -	0% \$ 91	3% \$ -	0% \$ 2,526	87% \$ 27	1% \$ 40	1% \$ 2,895

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-056**

**A RESOLUTION AMENDING SECTION 1 AND 2 OF RESOLUTION NO. 85-240  
ENTITLED "A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR  
PLANNED DEVELOPMENT ZONE, P-D (371), (ROBERT L. ERICKSON)."  
(CALIFORNIA EQUITY MANAGEMENT GROUP)**

WHEREAS, the City Council, by Ordinance No. 1616-C.S., adopted on May 2, 1977, and which became effective on June 1, 1977, amended Section 18-3-9 of the Zoning Map by rezoning the property located on the south side of Briggsmore Avenue east of Prescott Road, 2000 West Briggsmore Avenue, from Neighborhood Commercial Zone, C-1 to Planned Development Zone, P-D (159), to allow the addition of a Family Amusement Machine Center to be added on site, and

WHEREAS, Modesto City Council Resolution No. 77-435, which was adopted on May 2, 1977, approved the development plan for Planned Development Zone, P-D(159), and

WHEREAS, the City Council, by Ordinance No. 2173-C.S., which was adopted on February, 15, 1983, and which became effective on March 17, 1983, amended Planned Development Zone, P-D (159), to allow an outdoor bicycle race course, and

WHEREAS, Modesto City Council Resolution No. 83-75, which was adopted on February, 15, 1983, approved an amendment to the development plan for Planned Development Zone P-D (159), to allow an outdoor bicycle race course, and

WHEREAS, the City Council, by Ordinance No. 2327-C.S., which was adopted on May 7, 1985, and which became effective on June 6, 1985, amended Section 18-3-9 of the Zoning Map to rezone Planned Development P-D(159), to Planned Development Zone, P-D(371), to allow a mini-storage facility as a permitted use, and

WHEREAS, Modesto City Council Resolution No. 85-240, which was approved on May 7, 1985, approved the development plan for Planned Development Zone, P-D(371),

WHEREAS, the City Council, by Ordinance No. 3388-C.S., which was adopted on April, 26, 2005, and which became effective on May 27, 2005, amended Planned Development Zone, P-D(371), to allow all uses as permitted under the C-2 Zone, and

WHEREAS, Modesto City Council Resolution No. 2005-219, which was adopted on April 26, 2005, approved an amendment to the development plan for Planned Development Zone P-D (371), to expand the list of allowed uses to include all uses allowed under the C-2 Zone, and

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(371) was filed by California Equity Management Group on November 4, 2005, to allow the development of a commercial building, on the property located on the south side of West Briggsmore Avenue east of Prescott Road, 2000 West Briggsmore Avenue, and

WHEREAS, after a public hearing held on December 5, 2005, in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2005-47, that the amendment to Planned Development Zone P-D (371), 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(371) is consistent with the Modesto Urban Area General Plan. The General Plan designates this area as "C" (Commercial), and the amendment to allow the development of a commercial building will be consistent with the General Plan land use and intensity.

2. The type of project is described in Chapter II of the Modesto Urban Area General Plan Master EIR (MEIR).

WHEREAS, said matter was set for a public hearing of the City Council to be held on January, 24, 2006, in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of California Equity Management Group for an amendment to Planned Development Zone, P-D(371) should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2005-47 and quoted above, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Section 1 and 2 of Modesto City Council Resolution No. 85-240 entitled "A Resolution Approving a Development Plan for Planned Development Zone, P-D(371), (Robert L. Erickson)" is hereby amended to read as follows:

"SECTION 1. DEVELOPMENT PLAN. An amended development plan for Planned Development Zone, P-D(371), is hereby approved subject to the following conditions:

1. All previous conditions and requirements imposed on the site will remain in effect for this new proposal. All conditions of Planned Development Zone P-D(371), as stated in Council Resolution No. 2005-219, not in conflict with this action shall remain in full force and effect.
2. All development shall conform to the plot plan and building elevations titled "Briggsmore Plaza" as amended in red, stamped approved by the Planning Commission on December 5, 2005.

3. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhood Director or designee. Screen landscaping shall be installed along the eastern property line. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.
4. Fences or walls shall be constructed prior to occupancy and shall be as follows:

Eight (8) foot-high decorative masonry wall along the eastern property line adjacent to the residential development.
5. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
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. 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.
8. Irrigation lines shall be removed, relocated, or protected as required by the Modesto Irrigation District and the City Engineer or designee. Easements for irrigation lines to remain shall be dedicated.
9. All outdoor lighting shall be shielded from adjacent residential properties as required by the City Engineer or designee.
10. Trash bins shall be kept in enclosures 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.
11. 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.
12. Trash cans shall be screened from view from any public street.

13. 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.
14. A ten-foot-wide public utility easements, and a six-foot-wide planting easement located within the ten-foot-wide public utility easements, as required by the City Engineer or designee, shall be dedicated along all street frontages.
15. 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.
16. 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.
17. All signs shall comply with the sign requirements of the C-3 Zone.
18. 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.
19. 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.
20. Final plans shall show the location of the water mains, backflow preventors, and Fire Department connections.

21. Landscaping along Briggsmore frontage should be situated to maximize observation from the street. It is recommended that hedges be no higher than 36 inches.
22. Parking landscaping will be required to comply with current City Code requirements and provide one shade tree for every eight parking spaces.
23. Developer shall obtain coverage under the General Construction Activity Storm Water Permit (General Construction Permit) issued by the State Water Resources Control Board (SWRCB).
  - a. To obtain coverage under the General Permit, a Notice of Intent (NOI) shall be filled with the SWRCB. Submit one copy of the NOI to Development Services, when filed.
  - b. The General Construction Permit requires the developer to prepare and carry out a Stormwater Pollution Prevention Plan (SWPPP) for the project. Submit one copy of the SWPPP to Development Services, Storm water, for review.
24. Trash enclosures for the project shall be bermed to prevent storm water run-off and graded to drain to adjacent landscape areas.
25. Provide treatment (grass swale, vegetative strip, or other approved proprietary stormwater treatment device) to remove pollutants from first ½" of stormwater runoff from parking lot and other impervious areas. Roof run-off shall be routed directly to landscaped areas and will not require treatment.
26. Provide owner signed and notarized Stormwater Treatment Device Access and Maintenance Agreement to Development Services, Stormwater for recording. This shall be done prior to obtaining a Grading Permit
27. The final plans need to show utilities for off-site and any proposed connections. All Storm drainage shall be retained on site, and shall follow the New Development Guidelines for Storm Water.

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 & 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. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.
35. Suspend excavation and grading activity when winds exceed 20 mph.
36. The City's Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the "loud and raucous discharge into the open air of the steam of any steam equipment or exhaust from any stationary internal-combustion engine."

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.
  
- 37. 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.
  
- 38. 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(371):

All development shall start construction on or before December 5, 2007, completion to be by December 5, 2008.”

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 24<sup>th</sup> day of January, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-057**

**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 PLANNED DEVELOPMENT ZONE P-D  
(371), PROPERTY LOCATED AT 2000 WEST BRIGGSMORE AVENUE  
(CALIFORNIA EQUITY MANAGEMENT GROUP)**

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, California Equity Management Group has proposed an amendment to Planned Development Zone P-D(371) to allow the development of a new commercial building at 2000 West Briggsmore Avenue, 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. 2005-38 (“Initial Study”) reviewed the proposed amendment to P-D(371) 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, the Planning Commission, by Resolution No. 2005-47 recommended to the City Council approval of the application of California Equity Management Group to amend Planned Development Zone, P-D(371), for the property located on the south side of west Briggsmore Avenue east of Prescott Road, to allow the development of a new commercial building on site as set forth in said Resolution No. 2005-47, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on January, 24, 2006, 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(371), 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 proposed Plan Development Amendment is consistent with the Modesto Urban Area General Plan. The General Plan designates this area as "C," Commercial, and the amendment to allow a new commercial building will be consistent with the General Plan land use and intensity.
2. The type of project is described in Chapter II of the Modesto Urban Area General Plan Master EIR (MEIR).
3. All applicable policies, regulations, and mitigation measures identified in the MEIR 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 that was not 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 2005-38, provides the substantial evidence to support finding numbers 2-5 noted above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of 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 24<sup>th</sup> day of January, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**EXHIBIT A**

**Initial Study**

**EA/C&ED No. 2005-38**



**City of Modesto**

**Finding of Conformance to  
General Plan Master EIR:**

**Initial Study C&ED No. (2005- 38)**

**For the proposed:**

**PDA- Planned Development Amendment for P-D (371)**

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

**11/15/05**

**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: Briggsmore Plaza, Planned Development Amendment to P-D (371)
- B. Address or Location: 2000 W. Briggsmore Avenue
- C. Applicant: California Equity Management Group, P.O. Box 1747, Modesto, CA. 95353
- D. City Contact Person: Daniel De La O

Project Manager: Daniel De La O  
Department: Community and Economic Development Department  
Phone Number: (209) 577-5267  
E-mail address: ddelao@modestogov.com

- E. Current General Plan Designation(s): "C" Commercial Land Use
- F. Current Zoning Classification(s): P-D (371), Planned Development
- G. Surrounding Land Uses: North: Commercial (C-3 Commercial)  
South: Commercial (Both C-1 & C-3 Commercial)  
East: Residential Units (R-2 Residential)  
West: Commercial (C-1 Commercial)

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

The proposed project will involve an amendment to the existing Planned Development Zone P-D (371). In April 2005 the Council approved an amendment to P-D (371) that expanded the existing uses to include retail commercial uses (C-2 uses) on the site (#P-PDA-04-009). The applicant is now proposing to renovate the existing Roller King skating rink building (28,800 sq. ft. in size) and add a new 7,784 sq. ft. building on the property. Both buildings will be designated for retail commercial businesses and additional parking & landscaping will be added on the site.

- 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.

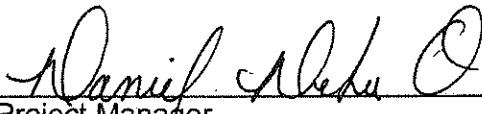
2.        **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

- 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      11-22-05  
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   | <input type="checkbox"/> |
| (2) City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. | X   | <input type="checkbox"/> |
| (3) Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).  | X   | <input type="checkbox"/> |
| (4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.  | X   | <input type="checkbox"/> |
| (5) The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.  | X   | <input type="checkbox"/> |
| (6) Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.  | X   | <input type="checkbox"/> |

#### 5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "No" response must be discussed.

- |   | YES | NO                       |
|---|-----|--------------------------|
| (1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.  | X   | <input type="checkbox"/> |
| (2) This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings: | X   | <input type="checkbox"/> |
| (3) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.  | X   | <input type="checkbox"/> |

- (4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available. X
- (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:

This is an application to facilitate the development of a commercial building within an existing commercial site. The proposed project is compatible with the existing surrounding mix use of commercial development located along this area of Briggsmore Avenue. All City Departments including the Engineering and Transportation Department reviewed the proposed project for impacts and compliance to City regulations. The factors considered in making the determination that the project will have a new significant effect on the roadways is based on the peak hour trips generated by the project. If a project exceeds the peak hour trips contribution further studies are required. The Traffic Division Staff reviewed the proposal to add the new building on site. The square footage, uses, and layout of the site were analyzed. The Traffic Division indicated that the project would not generate traffic impacts to the adjacent roadways in excess of what was assumed under the Master EIR. No traffic study or site access study was required for this project.

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

Traffic and Circulation mitigation measures that may be pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, *Mitigation Measures Applied to Project*.

**c. Project-Specific Effects**

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

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

YES NO

- |   |   |
|---|---|
| (1) Does the project contribute one hundred (100) or more peak hour trips to or from the site during the adjacent roadway's peak hour or the development's peak hour, to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR. | <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO |
|---|---|

Note:

If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also

exceeds the Master EIR's traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.

	YES	NO
(2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	<input type="checkbox"/>	X
(3) Result in inadequate emergency access.	<input type="checkbox"/>	X
(4) Result in inadequate parking capacity.	<input type="checkbox"/>	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.
- (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 adjacent to the existing and proposed building. The project will provide a total of 122 spaces meeting the minimum requirement of 122 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-significant unless:

		YES	NO
(1)	The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	<input type="checkbox"/>	X
(2)	The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	<input type="checkbox"/>	X
(3)	The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(4)	The project would expose sensitive receptors to substantial pollutant concentrations.	<input type="checkbox"/>	X
(5)	The project would create objectionable odors affecting a substantial number of people.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.
- (2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).
- (3) Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).

- (4) The project is not a significant contributor to pollution levels in that it involves only a building addition for an existing commercial site. 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-significant unless:

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	<input type="checkbox"/>	X
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	X

- (4) The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.  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 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-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project will directly result in the development of land outside the March 2003 planning area boundaries.	<input type="checkbox"/>	X
(3) The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	<input type="checkbox"/>	X
(4) The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	<input type="checkbox"/>	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 land 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-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	<input type="checkbox"/>	X

## DISCUSSION:

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

## **6. SANITARY SEWER SERVICES**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. *As a result, this impact would be less-than-significant.*

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. *This is a less-than-significant impact.*

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

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

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study, are found on pages V-6-4 through V-6-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

## DISCUSSION:

There are no mitigation measures applicable to this project.

### **c. Project-Specific Effects**

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

- |   | YES                      | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (2) The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments. | <input type="checkbox"/> | X  |

**DISCUSSION:**

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

**7. SENSITIVE WILDLIFE AND PLANT HABITAT**

**a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less-than-significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

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

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

**c. Project-Specific Effects**

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

- |   | YES                      | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species. | <input type="checkbox"/> | X  |
| (3) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.  | <input type="checkbox"/> | X  |

DISCUSSION:

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

**8. ARCHAEOLOGICAL OR HISTORICAL SITES**

**a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential



impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

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

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR.

DISCUSSION:

Mitigation Measures applicable to this project include: AH-8, Master EIR.

**c. Project-Specific Effects**

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	<input type="checkbox"/>	X

DISCUSSION:

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

## 9. STORM DRAINAGE

### a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered *less-than-significant*.

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

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

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8.

#### DISCUSSION:

Mitigation measures appropriate to this project include: SD-7, MEIR. This mitigation measure is addressed by conditions of approval.

### c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- (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 "C" (Commercial Land 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 the conditions of approval.

DISCUSSION:

Mitigation measures appropriate to this project include: FWQ-14, MEIR. This mitigation measure is addressed by conditions of approval.

**c. Project-Specific Effects**

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

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	<input type="checkbox"/>	X
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	<input type="checkbox"/>	X
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan "C" (Commercial Land 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 measures 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-significant unless:

YES NO

- (1) The project is inconsistent with the Modesto Urban Area General Plan.  YES  NO

## DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan "C" (Commercial Land 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-significant unless:

YES NO

- (1) The project is inconsistent with the Modesto Urban Area General Plan.  YES  NO
- (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.  YES  NO

DISCUSSION:

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

**13. POLICE SERVICES**

**a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. *The impact is less-than-significant.*

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. *These policies reduce the impact to a less-than-significant level.*

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

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

**c. Project-Specific Effects**

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

YES NO

- |     |  |                          |   |
|-----|--|--------------------------|---|
| (1) | The project is inconsistent with the Modesto Urban Area General Plan.  | <input type="checkbox"/> | X |
| (2) | The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. | <input type="checkbox"/> | X |

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan "C" (Commercial Land 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-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan "C" (Commercial Land 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-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan "C" (Commercial Land 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-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	<input type="checkbox"/>	X
(3) The project contains a contaminated site not identified as of March 2003.	<input type="checkbox"/>	X
(4) The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	<input type="checkbox"/>	X
(5) The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan "C" (Commercial Land 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-significant unless:

- |   | YES                      | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (2) The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. | <input type="checkbox"/> | X  |

DISCUSSION:

- (1) The project is consistent with the General Plan in both land use and intensity.
- (2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

**18. ENERGY**

**a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. *Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.*

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. *The impact is less-than-significant.*

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

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

**c. Project-Specific Effects**

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

- |   | YES                      | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | X  |

**DISCUSSION:**

- (1) The project is consistent with the Modesto Urban Area General Plan "C" (Commercial Land 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-significant unless:

- |  | YES                      | NO |
|--|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.                | <input type="checkbox"/> | X  |
| (2) The project includes a substantive amendment to the Modesto Urban Area General Plan. | <input type="checkbox"/> | X  |
| (3) The project would physically divide an established community                         | <input type="checkbox"/> | X  |

**Discussion:**

- (1) The project is consistent with the Modesto Urban Area General Plan "C" (Commercial Land 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-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project would have a substantial adverse effect on a scenic vista.	<input type="checkbox"/>	X
(3) The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	<input type="checkbox"/>	X
(4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	<input type="checkbox"/>	X

### DISCUSSION:

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

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 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:**

N/A

**Schools Measures:**

N/A

**Police Services:**

N/A

**Fire Services:**

N/A

**Generation of Solid Waste**

N/A

**Generation of Hazardous Materials**

N/A

**Potential for Landslides and Seismic Activity**

N/A

**Energy**

N/A

**Planning and Land Use**

N/A

**Aesthetics**

N/A

**B. New or Additional Mitigation Measures or Alternatives Required**

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: **None**.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-058**

**A RESOLUTION CONDITIONALLY VACATING AND ABANDONING A  
PORTION OF THE SHARON AVENUE RIGHT-OF-WAY AT THE CLAUS  
ROAD INTERSECTION (WILLIAM LYON HOMES)**

WHEREAS, William Lyon Homes have filed an application to vacate and abandon a 118 foot long portion of the Sharon Avenue right-of-way, located at the Claus Road Intersection (“Proposed Abandonment”), and

WHEREAS, Streets and Highways Code Section 8320 et seq. prescribes the procedures to vacate and abandon public rights-of-way, and

WHEREAS, a title report was submitted by William Lyon Homes with the abandonment request which shows that fee title to the property underlying the proposed abandonment belongs to the adjacent land owners who are proponents of the abandonment, and

WHEREAS, the Proposed Abandonment has been referred to affected City departments and local utility companies, and no objection to the Proposed Abandonment has been received, and

WHEREAS, no utilities exist in the portion of Sharon Avenue right-of-way to be abandoned, and

WHEREAS, Government Code Section 65402(a) requires that prior to abandoning a public right-of-way, the Planning Commission shall make a determination as to whether the abandonment is consistent with the General Plan, and

WHEREAS, a hearing was held by the Planning Commission on December 5, 2005, in the Tenth Street Chambers, located at 1010 Tenth Street, Modesto, California, at

which hearing both oral and documentary was received and considered regarding the proposed vacation and abandonment, and

WHEREAS, by Planning Commission Resolution No. 2005-49, the Planning Commission rendered a report finding that the Proposed Abandonment is in conformance with the Modesto Urban Area General Plan and recommended that the Council vacate and abandon the portion of Sharon Avenue right-of-way, and

WHEREAS, a duly noticed public hearing was held by the Council of the City of Modesto on Tuesday, January 24, 2006, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which time all persons interested in or objecting to the Proposed Abandonment were afforded the opportunity to appear, and

WHEREAS, three notices were posted at the site of the proposed right-of-way abandonment for two successive weeks prior to the hearing, and notice was published in the Modesto Bee for two successive weeks prior to the hearing, per Streets & Highways Code sections 8323 and 8332, respectively, and,

WHEREAS, all things and acts necessary to be done as required by the State of California Streets and Highways Code, Section 8300 through 8363: Public Streets, Highways and Service Easements Vacation Law, in order to vacate and abandon the subject right-of-way have been done and accomplished, and

WHEREAS, the Proposed Abandonment should be conditioned on the construction of needed improvements and the reservation of the necessary utility easements to ensure that the abandoned right-of-way functions in a manner which is not detrimental to the public health, safety and welfare, and

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of

Modesto finds and determines as follows:

1. That the portion of Sharon Avenue to be abandoned is unnecessary for present or future pedestrian or vehicular use.
2. That Environmental Assessment No. EA C&ED 2005-39 determined that the potential environmental effects of the subdivision are adequately addressed within the context of the previously adopted Village One Program EIR.
3. That the vacation and abandonment of the 118 foot long portion of Sharon Avenue right-of-way at the Claus Road intersection, is in conformance with the City of Modesto General Plan.

BE IT FURTHER RESOLVED that the Council hereby orders and declares the vacation and abandonment of a 118 foot long portion of the Sharon Avenue right-of-way, located at the Claus Road intersection, subject to the following conditions:

1. The applicants shall secure and construct the following improvements six months from the date of City Council approval of the abandonment or upon acceptance of the Floyd Avenue improvements to the satisfaction of the Engineering and Transportation Director:
  - a. Construction of curb, gutter and sidewalk along the western side of the abandoned portion of Sharon Avenue which incorporates part of the church property to the south and Lot No. 34 of the "Falling Leaf Subdivision" to the north. This includes the construction of the driveway serving the Church site for access as show on the "Falling Leaf Improvement Plans."
  - b. Demolition and removal of the pavement and concrete of the abandon Sharon Avenue to the edge of Claus Road.
  - c. The closure of the 118 foot portion of Sharon Avenue shall be in accordance with the City approved improvement plans and to the satisfaction of the Engineering and Transportation Director.

2. The abandonment of Sharon Avenue shall not become effective until the completion of the extension and improvements of Floyd Avenue to connect to Claus Road, to the satisfaction of the City Engineer and acceptance of the Floyd Avenue improvements by the City Council.

Said right-of-way to be vacated and abandoned is more particularly described in Exhibit "A" attached hereto, and by this reference made a part hereof as though set forth in full herein.

BE IT FURTHER RESOLVED that in the event two (2) years lapse from the date of conditional approval without the required conditions having been fulfilled, the conditional right-of-way abandonment shall expire and Sharon Avenue shall remain as public right-of-way.

BE IT FURTHER RESOLVED that the City Clerk shall not record this Resolution of abandonment until conditions 1 through 2 above have been fully satisfied to the satisfaction of the City's Community and Economic Director. Within ten (10) working days after said conditions have been fully satisfied, the City Clerk shall cause a certified copy of this Resolution, attested under seal of the City, to be recorded in the Office of the County Recorder of Stanislaus County.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard R. Rudnansky  
RICHARD R. RUDNANSKY, Interim City Attorney



**Exhibit "A"**

## EXHIBIT 'A'

All that certain real property, situate in the East ½ of Section 13, Township 3 South, Range 9 East, Mount Diablo Meridian, City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

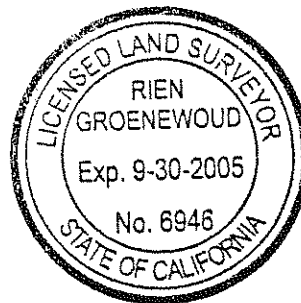
COMMENCING at the East ¼ corner of said Section 13, said corner being marked with a 2" Iron Pipe with a brass disk in a monument well; thence along the East-West ¼ section line South 89°51'27" West, a distance of 120.29 feet to the TRUE POINT OF BEGINNING of this description; thence leaving said ¼ section line, South 04°41'02" East, a distance of 30.09 feet to a point, which is 30.00 feet distant at right angles with said ¼ section line; thence parallel with said ¼ section line, South 89°51'27" West, a distance of 118.48 feet to the beginning of a non-tangent curve concave to the West having a radius of 40.00 feet, to which beginning a radial line bears South 41°33'08" East; thence 60.75 feet northeasterly and northwesterly along said curve through a central angle of 87°01'16" to the beginning of a reverse curve concave to the northeast having a radius of 40.00 feet, to which beginning a radial line bears North 51°25'36" East; thence 6.20 feet northwesterly along said curve through a central angle of 08°53'01" to a point which is 30.00 feet distant at right angles from said ¼ section line; thence along a non-tangent line and parallel with said ¼ section line, North 89°51'27" East, a distance of 112.30 feet; thence South 04°41'02" East, a distance of 30.09 feet to the Point of Beginning.

SUBJECT TO all easements and/or rights of way of record.

Containing 6,400 square feet (0.15 Acres) more or less.



Rien Groenewoud, P.L.S. 6946  
License expiration date: 09-30-2005



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-059**

**A RESOLUTION FINDING THAT THE POTENTIAL ENVIRONMENTAL  
IMPACTS OF THE FOLLOWING PROJECT HAVE BEEN ADEQUATELY  
ADDRESSED BY THE VILLAGE ONE SPECIFIC PLAN PROGRAM EIR (SCH  
NO. 90020181): CONDITIONAL VACATION AND ABANDONMENT OF A  
PORTION OF SHARON AVENUE RIGHT-OF-WAY AT THE CLAUS ROAD  
INTERSECTION (WILLIAM LYON HOMES)**

WHEREAS, on September 9, 1990, the City Council of the City of Modesto certified the Final Program Environmental Impact Report (SCH# 90020181) for the Village One Specific Plan, and

WHEREAS, William Lyon Homes has proposed that a 118 foot portion of Sharon Avenue at the Claus Road intersection be vacated and abandoned by the City, 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. 2005-39 ("Initial Study") reviewed the proposed abandonment to Sharon Avenue to determine whether the project is within the scope of the project covered by the Village One Program Environmental Impact Report (Program EIR), and made the determination that the proposed project will have no additional significant effect on the environment that was not identified in the 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 Program EIR, and

WHEREAS, the Planning Commission, by Resolution No. 2005-49 recommended to the City Council approval of the application of William Lyon Homes to abandon a portion of Sharon Avenue, for the street section located at the Claus Road intersection, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on January 24, 2006, 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 vacation and abandonment of a portion of Sharon Avenue, 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 proposed street abandonment, together with the provisions for its design and improvements, is consistent with the City of Modesto General Plan, Village One Specific Plan and Precise Plan No. 24.
2. 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.
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 Village One Program EIR.
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 Village One Program EIR.

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 Village One Program EIR, was adopted which shows any of the following:
  - a. one or more significant effects which is not discussed in the Village One Program EIR
  - b. significant effects which were previously examined will be substantially more severe than previously shown
  - 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
  - d. mitigation measures or alternatives which are considerably different from those analyzed in the Village One 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 Initial Study, Environmental Assessment No. EA/C&ED 2005-39, provides the substantial evidence to support findings 2-5, above.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of January 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**Exhibit "A"**

**EA/C&ED No. 2005-39**

**Determination:  
Project Within the Scope of the  
Village One Specific Plan  
Program Environmental Impact Report for the**

**Sharon Avenue-Street Abandonment As Part of the  
Falling Leaf Subdivision Project**

*Prepared for:*

City of Modesto  
P.O. Box 642  
Modesto, CA 95353  
Contact: Daniel De La O  
(209) 577-5267

*Prepared By:*

City of Modesto  
Community and Economic Development Department  
(209) 577-5267

Date:  
11/14/2005



# WRITTEN CHECKLIST

EA/C&ED No. 2005-39

## I. PURPOSE

This written checklist, pursuant to CEQA Guidelines Section 15168 (C) (4), serves to make a determination where subsequent activities of a Program EIR involve site-specific operations, based on evaluation of the site and the activity to determine whether the environmental effects of the operation were covered in the program EIR. Based on a review of the project and Section 15162(a), this determination would permit the lead agency (City of Modesto) to approve the activity as being within the scope of the project covered by the Program EIR. This determination includes whether any new environmental document is required beyond the adopted Village One Specific Plan Program EIR (SCH# 90020181) for the Sharon Avenue Street Abandonment (project).

The 1994 Supplemental EIR that amended and superseded the 1990 Program EIR is the document reviewed for projects within the Village One Specific Plan area. A summary of significant impacts and their mitigation measures from the 1994 Supplemental EIR is attached as Exhibit "A." Where appropriate those feasible mitigation measures developed in the Supplement to the program EIR shall be incorporated into the proposed project.

## II. PROJECT INFORMATION

1. **Project Title:** Sharon Avenue-Street Abandonment
2. **Lead Agency Name and Address:** City of Modesto
3. **Contact Person and Phone Number:** Daniel De La O, Assistant Planner  
City of Modesto Community & Economic  
Development Department (209) 577-5267
4. **Project Location:** Sharon Avenue is Generally Located in Northeast Modesto at the Clause Road and Sharon Avenue Intersection.

5. **Project Sponsor's Name and Address:** William Lyon Homes  
2603 Camino Ramón, Suite 150  
San Ramon, Ca. 94583
6. **General Plan Designation:** The General Plan land use designation for the project site is: Village Residential (VR). The proposed project is consistent with this designation.
7. **Zoning:** Specific Plan Holding Zone (SP-O)
8. **Description of Project:** Pursuant to the adopted Village One Specific Plan, and Precise Plan No. 24, the project applicant proposes the vacation and abandonment of a 118 feet portion of Sharon Avenue at the Clause Road intersection. The proposed abandonment of this section of street is a requirement as part of the Falling Leaf Subdivision project, which was previously approved by the Planning Commission in January 2005 under Resolution 2005-05. The project was conditioned to close this portion of the street in conjunction with the Floyd avenue improvements (to the north) and the development of the subdivision. The closure is consistent with the Village One Specific Plan Circulation
9. **Surrounding Land Uses and Setting:** The Village One Specific Plan Area is over half built, as planned and approved by the 1990 Village One Specific Plan. The project area is bounded by an existing ranchette and a vacant parcel designated for business park on the east, a vacant parcel designated for village residential to the south, an existing single-family subdivision to the west, and a vacant parcel to the north which is the site of the previously approved "Falling Leaf" subdivision.
10. **Other Public Agencies whose Approval Is Required:** None.

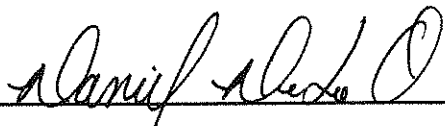
### III. DETERMINATION:

Based on the analysis contained in this document, staff finds that pursuant to Guidelines Section 15182 the following is true for the proposed project:

- (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, and

- (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 Village One Program EIR, as amended by the 1994 Supplemental EIR are required, and
- (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 Village One Program EIR, as amended by the 1994 Supplemental EIR are required, and
- (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 Village One Program EIR, as amended by the 1994 Supplemental EIR, was adopted which shows any of the following:
  - a. one or more significant effects which is not discussed in the Village One Program EIR, as amended by the 1994 Supplemental 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 Village One Program EIR, as amended by the 1994 Supplemental EIR, would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.



November 14, 2005

Project Manager

Date

## IV. PROJECT EVALUATION:

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

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

Aesthetic and visual impacts are analyzed on pages III-100 through III-101 of the 1994 Supplement.

### Responses to Checklist Questions

- a. The Village One Specific Plan program EIR found that as the Specific Plan area is developed, it will eliminate views of the valley and the distant mountains from adjacent areas and reduce the area's visual open space. However, the program EIR found the effects of build out of Village One on scenic vistas to be less than significant because views from the project area are minimal. The proposed street abandonment would not change the extent or nature of construction in the Specific Plan area, or cause any other changes in the project area. Impacts on scenic vistas would therefore remain the same as those identified in the program EIR. There would be no additional impact. *No mitigation is required.*
- b. The Village One Specific Plan program EIR found that there are no scenic resources in the project area, and that development within the Specific Plan area would therefore not result in significant impacts on scenic resources. This

finding would not be affected by the proposed street abandonment project. There would be no impact. *No mitigation is required.*

- c. The Village One Specific Plan program EIR found that the development within the Specific Plan area would have a less-than-significant impact on the visual character of the area. The project only involves the closure of a portion of Sharon Avenue in conjunction with the development of the previously approved Falling Leaf subdivision. The project would not substantially degrade the existing visual character or quality of the site and its surroundings. For this reason, impacts on the visual character of the area would remain the same as those identified in the program EIR. There would be no additional impact. *No mitigation is required.*
- d. The proposed abandonment is consistent with the Village One Specific Plan and Precise Plan No. 24. For this reason, impacts associated with additional light and glare would remain the same as those identified in the program EIR. There would be no additional impact. *No mitigation is required.*

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

**II. AGRICULTURAL RESOURCES.** In determining whether impacts on agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation. Would the project:

- |    |   |                          |                          |                          |                                     |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Impacts on agricultural resources are analyzed on pages III-80 through III-94 of the 1994 Supplement.

## Responses to Checklist Questions

- a. The Village One Specific Plan program EIR found that land designated as Prime Farmland would be lost as a result of development in the Village One Specific Plan area. This impact was determined to be significant and not mitigable. The project would not affect this finding because the proposal involves the closure of an existing street and the adjacent area would remain the same. There would be no additional impact. *No mitigation is required.*
- b. The Village One Specific Plan program EIR presented information showing that any Williamson Act contracts in the Village One Specific Plan area would be automatically cancelled on annexation of the land to the City of Modesto, which has occurred, or would expire within 10 years of the time the original program EIR was prepared. The last Williamson Act contract covering land in the Village One Specific Plan area expired in 2001. There are no lands in the project area under Williamson Act contract. The Village One Specific Plan area has also been rezoned consistent with the specific plan, and no lands in the project area are now zoned for agricultural use. There would be no additional impact. *No mitigation is required.*
- c. The Village One Specific Plan program EIR identified a potential land use conflict between new residential uses in the specific plan area and adjacent agricultural uses. Such conflicts can lead to conversion of adjacent farmlands to other uses. The program EIR proposed mitigation measures for this potential impact that would reduce the impact's significance, although the EIR noted that the mitigation measure might not fully mitigate the impact. No additional mitigation measures are available for this impact. This finding would not be affected by the proposed project because the proposal involves only a street closure and the adjacent land uses would remain the same. There would be no additional impact. *No mitigation is required.*

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

**III. AIR QUALITY.** When available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

- a. Conflict with or obstruct implementation of the applicable air quality plan?

- |    |   |                          |                          |                          |                                     |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| b. | Violate any air quality standard or contribute substantially to an existing or projected air quality violation?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is a nonattainment area for an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. | Expose sensitive receptors to substantial pollutant concentrations?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e. | Create objectionable odors affecting a substantial number of people?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Impacts on air quality are analyzed on pages III-45 through III-54 of the 1994 Supplement.

## Responses to Checklist Questions

- a. / b. The Village One Specific Plan program EIR found that air pollution from project-related construction traffic and fireplaces & wood stoves in planned residential areas would violate air quality standards and contribute to an existing air quality violation. Construction traffic emissions would contribute to violation of the state and federal 8-hour carbon monoxide (CO) and particulate matter (PM10) standards and the federal ozone standard in the Modesto Urban Area and the San Joaquin Valley Air Basin. Urban traffic pollution would contribute to violations of the state ozone, CO, and PM10 standards in the Modesto Urban Area and San Joaquin Valley Air Basin. Residential pollution would contribute to violations of the pollutant standard index in the Modesto Urban Area. Partial mitigation for these impacts is included in the program EIR (Mitigation Measures 3–5), and the City of Modesto adopted a statement of overriding consideration for each impact. The proposed project would not change the amount of development and construction in the project area, no trips are generated by the abandonment and the types of land uses would not change. There would be no additional impact. *No mitigation is required.*
- c. The Village One Specific Plan program EIR found that air pollutant emissions associated with traffic at buildout of Village One would exacerbate the existing ozone, PM10, and CO violations in the Modesto area and cause a significant cumulative impact. Partial mitigation for these emissions is included in the program EIR (Mitigation Measures 4.5.3[a] and 4.5.3[b]), and the City of Modesto made a statement of overriding consideration for each impact. The proposed project would not change the amount of traffic associated with buildout of Village One or the types of land uses. There would be no additional impact. *No mitigation is required.*

- d. The Village One Specific Plan program EIR found that PM10 generated during construction would aggravate the respiratory problems of people living and working nearby, therefore exposing sensitive receptors in the area to pollutant concentrations and causing a significant impact. However, the program EIR outlines mitigation measures that will be implemented to reduce the impact to an acceptable level (Mitigation Measure 40). The proposed abandonment would not change the level of construction emissions. There would be no additional impact. *No additional mitigation is required.*
- e. The proposed street abandonment would not create odors. There would be no impact. *No mitigation is required.*

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

**IV. BIOLOGICAL RESOURCES.** Would the project:

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marshes, vernal pools, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means?                                 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |



- f. Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan?

Impacts on biological resources are analyzed on pages III-68 through III-79 of the 1994 Supplement.

## Responses to Checklist Questions

- a. The Village One Specific Plan program EIR found that the build out could result in the loss of foraging habitat for Swainson's Hawk, a state-listed threatened species, but found that mitigation measures identified in the program EIR would reduce the impact to a less-than-significant level. The project applicant hired a qualified biologist to survey the project site in order to determine whether the project site contains foraging habitat for the Swainson's Hawk. The Biologist determined that there would be no additional impact. No additional mitigation is required. (Swainson's Hawk Foraging Habitat Survey Village One Precise Plan No. 23 and 24, prepared by Rosemary Laird, URS Corporation. April 5, 2004).
- b. The Village One Specific Plan program EIR did not find that any riparian habitat or other designated sensitive natural community was present in the project area, and so found that the project would have a less-than-significant impact. The proposed street abandonment would not change the boundaries of the Specific Plan area. There would be no impact. *No mitigation is required.*
- c. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would result in the loss of lands that might be classified as wetlands by the U.S. Army Corps of Engineers but that, with mitigation, the impact would be less than significant. The proposed project would not change the Specific Plan area boundaries or the areas that would be disturbed. There would be no additional impact. *No mitigation is required.*
- d. The Village One Specific Plan program EIR did not identify any migratory corridors in the project area, nor did it find that the project would interfere with the movement of any species. The proposed project would not change the Specific Plan area boundaries. There would be no impact. *No mitigation is required.*
- e. / f. No local biological resource protection policies, ordinances, habitat conservation plans, or natural community conservation plans apply to the Village One Specific Plan area. There would be no impact. *No mitigation is required.*

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

## Responses to Checklist Questions

- a.-d. Impacts on cultural resources resulting from the buildout of Village One (e.g., from construction of associated infrastructure) are addressed in the Opportunities/Constraints Report prepared for the Modesto Planning Commission (December 1, 1989). The report concluded that there are no known historic, archaeological, or paleontological resources in the Village One Specific Plan area. Based on the results of this report, (Cultural and Historic Resources Report, page 3) it was determined that the likelihood that the proposed residential development would change or disturb human remains or significant historic, archaeological, or paleontological resources was low.

The proposed project would not change the locations or types of construction in the project area nor the boundaries of the project area. The street abandonment will not result in effects on scattered existing structures. A Cultural Resources Assessment was prepared to determine if any of these affected structures are considered historic resources. No historic structures are located within the project area boundaries. Therefore, no mitigation measures are necessary.

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

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

**VI. GEOLOGY AND SOILS.** Would the project:

- |    |  |                          |                          |                          |                                     |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:  |                          |                          |                          |                                     |
|    | 1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|    | 2. Strong seismic ground shaking?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|    | 3. Seismic-related ground failure, including liquefaction?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|    | 4. Landslides?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Result in substantial soil erosion or the loss of topsoil?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project and potentially result in an onsite or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. | Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e. | Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Impacts associated with geology and soils are analyzed on pages III-105 through III-108 of the 1994 Supplement

## Responses to Checklist Questions

- a.-d. The program EIR, as supplemented, found that the project area is not subject to geologic or soil-related hazards that cannot be adequately mitigated through the implementation of existing city regulations, such as the building code. No significant impacts were identified, and no mitigation measures were required. The proposed project would not change the locations or types of construction in the project area nor the boundaries of the project area. There would be no additional impact. *No mitigation is required.*
- e. The Village One Specific Plan included provisions for the project to be served by public sewers. No septic tanks or alternative wastewater systems were proposed. The proposed project would not change the proposed method of wastewater disposal. There would be no impact. *No mitigation is required.*

Potentially Significant Impact	Less than Significant with Mitigation	Less-than- Significant Impact	No Impact
--------------------------------------	--	-------------------------------------	--------------

### VII. HAZARDS AND HAZARDOUS MATERIALS.

Would the project:

- |    |  |                          |                          |                          |                                     |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?                                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Emit hazardous emissions or involve handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. | Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?     | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e. | Be located within an airport land use plan area or, where such a plan has not been adopted, be within two miles of a public airport or public use airport, and result in a safety hazard for people residing or working in the | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

project area?

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
f.	Be located within the vicinity of a private airstrip and result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g.	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h.	Expose people or structures to a significant risk of loss, injury, or death involving wild land fires, including where wild lands are adjacent to urbanized areas or where residences are intermixed with wild lands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Impacts associated with hazards and hazardous materials are analyzed on pages III-80 through III-94 and III-109 through III-119 of the 1994 Supplement.

## Responses to Checklist Questions

- a.-c. The Village One Specific Plan does not allow any land uses that would use hazardous materials. The proposed street abandonment would not change land uses contemplated by the Specific Plan. There would be no impact. *No mitigation is required.*
- d. The Village One Specific Plan program EIR, as supplemented, found no hazardous materials were stored at or near the project site. No significant impacts were identified, and no mitigation measures were required. There would be no additional impact. *No mitigation is required.*
- e. The Village One Specific Plan area is not located in an airport land use plan area or within 2 miles of a public airport. There would be no impact. *No mitigation is required.*
- f. The Village One Specific Plan program EIR found that a private airstrip, the Eastside Mosquito Abatement District Airstrip, is located to the east of the Village One Specific Plan area. However, take-offs and landings were found to take place parallel to and outside the Specific Plan area boundaries, and flight patterns are generally situated to the east of the Specific Plan area. There would be no additional impact. *No mitigation is required.*

- g. Since the adoption of the Village One Specific Plan, the Modesto General Plan has been updated to include development of Village One consistent with the specific plan. City emergency plans are developed with the assumption that the Village One Specific Plan will be implemented. The proposed project would not change construction, land use, or other physical attributes of the Right-of-Way Acquisition. There would be no additional impact. *No mitigation is required.*
- h. The project site is located in an area of the City of Modesto planned for buildout of an urban neighborhood. Approximately 50% of the project area remains undeveloped, with a covering of dry brush and vegetation. The potential for wildland fires is low, and this potential will decrease further as buildout continues. There would be no additional impact. *No mitigation is required.*

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

**VIII. HYDROLOGY AND WATER QUALITY.**

Would the project:

- |    |  |                          |                          |                          |                                     |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Violate any water quality standards or waste discharge requirements?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, resulting in a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation onsite or offsite?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. | Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	amount of surface runoff in a manner that would result in flooding onsite or offsite?				
e.	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f.	Otherwise substantially degrade water quality?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
g.	Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h.	Place within a 100-year flood hazard area structures that would impede or redirect flood flows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i.	Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j.	Contribute to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Impacts associated with hydrology are analyzed on pages III-109 through III-119 of the 1994 Supplement.

## Responses to Checklist Questions

- a. The Village One Specific Plan program EIR did not find that development would violate any water quality standards or waste discharge requirements. The proposed project is consistent with the Village One Specific Plan, so there would be no additional impacts. *No mitigation is required.*
- b. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area might interfere with local groundwater recharge. The project involves the abandonment of a portion of a street and as part of the conditions to approve the proposal all existing non-pervious surface will be

removed. Therefore, there would be no additional impact. *No mitigation is required.*

- c.-e. The Village One Specific Plan program EIR found that development will substantially alter the existing drainage pattern of the area but, because the project involves the abandonment of street and no development, it will not result in any erosion impacts. The proposed project would not change the amount of impervious surface or the proposed storm drain facilities. There would be no additional impact. *No mitigation is required.*
- f. The Village One Specific Plan program EIR did not find that development would substantially degrade water quality. The proposed project would not change water use or discharge associated with the buildout of the Village One Specific Plan area. There would be no additional impact. *No mitigation is required.*
- g.-i. According to the Village One Specific Plan program EIR, the project site is not situated in a 100-year flood hazard area or downstream from a levee or dam. There would be no impact. *No mitigation is required.*
- j. The project site is located in a flat, inland area not susceptible to seiche, tsunami, or mudflow. There would be no impact. *No mitigation is required.*

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

**IX. LAND USE AND PLANNING.** Would the project:

- |    |   |                          |                          |                          |                                     |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Physically divide an established community?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Conflict with any applicable habitat conservation plan or natural community conservation plan?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Impacts associated with land use and planning are analyzed on pages III-80 through III-94 of the 1994 Supplement.



## Responses to Checklist Questions

- a. The proposed project would not result in any physical changes to the environment beyond those described in the Village One Specific Plan. The Village One area would continue to be developed as a planned community; therefore, the project would not divide an established community. There would be no impact, and *no mitigation is required*.
- b., c. The Village One Specific Plan has been adopted by the City of Modesto and has been incorporated into the Modesto General Plan. The proposed project would be consistent with the Village One Specific Plan. There are no other applicable land use or conservation plans for the project area. There would be no impact. *No mitigation is required*.

		Potentially Significant Impact	Less than Significant with Mitigation	Less-than- Significant Impact	No Impact
<b>X.</b>	<b>MINERAL RESOURCES.</b> Would the project:				
a.	Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b.	Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## Responses to Checklist Questions

- a., b. No known mineral resources or important recovery sites are located in the Village One Specific Plan Area. There would be no impact. *No mitigation is required*.

Potentially Significant Impact	Less than Significant with Mitigation	Less-than- Significant Impact	No Impact
--------------------------------------	--	-------------------------------------	--------------

**XI. NOISE.** Would the project:

- |    |  |                          |                          |                          |                                     |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| c. | Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. | Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e. | Be located within an airport land use plan area, or, where such a plan has not been adopted, within two miles of a public airport or public use airport and expose people residing or working in the project area to excessive noise levels? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f. | Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Impacts associated with noise are analyzed on pages III-55 through III-67 of the 1994 Supplement.

## Responses to Checklist Questions

- a., c. The Village One Specific Plan program EIR found that proposed residential housing in the project area would be exposed to noise levels exceeding general plan thresholds, but mitigation measures were incorporated to reduce the impact to a less-than-significant level. The proposed project would not change project-related noise-generating activities. There would be no additional impact. *No mitigation is required.*
- b. The Village One Specific Plan program EIR found that the buildout of Village One would not expose people to, or generate excessive, ground borne vibration or ground borne noise levels. There would be no impact. *No mitigation is required.*
- d. The Village One Specific Plan program EIR found that construction of the proposed project would result in a substantial temporary increase in ambient noise levels for residential housing. However, mitigation measures were incorporated into the program EIR to reduce the impact to a less-than-significant level. The proposed project would not change construction activities. There would be no additional impact. *No mitigation is required.*

- e. The Village One Specific Plan program EIR found that the Village One Specific Plan area is not located in an airport land use plan area or within 2 miles of a public airport. There would be no impact. *No mitigation is required.*
- f. The Village One Specific Plan program EIR found that a private airstrip, the Eastside Mosquito Abatement District Airstrip, is located east of the Village One Specific Plan area. However, take-offs and landings take place parallel to and outside the Specific Plan boundaries, and flight patterns are generally situated east of the project area. There would be no additional impact. *No mitigation is required.*

Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
--------------------------------	---------------------------------------	------------------------------	-----------

**XII. POPULATION AND HOUSING.** Would the project:

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Displace a substantial number of people, necessitating the construction of replacement housing elsewhere?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Impacts on population and housing are analyzed on pages III-95 through III-99 of the 1994 Supplement.

## Responses to Checklist Questions

- a.-c. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would not result in significant adverse impacts on population and housing units. *No mitigation is required.*

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

**XIII. PUBLIC SERVICES.** Would the project:

- a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or a need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:

Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Impacts on public services are analyzed on pages III-120 through III-158 of the 1994 Supplement.

## Responses to Checklist Questions

- a. The Village One Specific Plan program EIR found that the only significant impact that buildout of the Village One Specific Plan area would have on public services would be in the areas of fire protection and law enforcement. Mitigation measures were identified in the program EIR to reduce the level of this impact to a less-than-significant level. No other significant impacts on public services were identified. The proposed project would not change the provision of public services. There would be no additional impact. *No mitigation is required.*

Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
--------------------------------	---------------------------------------	------------------------------	-----------

**XIV. RECREATION.** Would the project:

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Include recreational facilities or require the  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

construction or expansion of recreational facilities that might have an adverse physical effect on the environment?

Impacts on recreation are analyzed on pages III-120 through III-158 of the 1994 Supplement.

## Responses to Checklist Questions

- a., b. No significant impacts on recreation were identified in the program EIR. The proposed project would not change the provision of parks and recreation facilities. There would be no additional impact. *No mitigation is required.*

	Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
<b>XV. TRANSPORTATION/TRAFFIC.</b> Would the project:				
a. Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Cause, either individually or cumulatively, exceedance of a LOS standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Result in a change in air traffic patterns, including an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
	Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

Impacts on transportation and traffic are analyzed on pages III-40 – III-44 of the 1994 Supplement.

## Responses to Checklist Questions

- a., b. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system and would affect level of service at several intersections. Mitigation measures identified in the program EIR were identified to reduce impacts to a less-than-significant level for all intersections except the Briggsmore Avenue/Oakdale Avenue intersection. For that intersection, the impact was determined to be significant and not mitigable. The City of Modesto made a statement of overriding considerations for that impact at the time it certified the 1994 Supplement. The proposed abandonment will not itself generate additional traffic but will result in a modified circulation pattern. However, the proposed pattern is consistent with the Circulation diagram as specified in the Village One Specific Plan. The circulation pattern and the street closure are also consistent with Specific Plan No. 24. Therefore, the proposed project would not alter traffic patterns in the Specific Plan area or result in additional trips. There would be no additional impact. *No mitigation is required.*
- c. The Village One Specific Plan program EIR did not find that the buildout of the Village One Specific Plan area would result in a change in air traffic patterns. The proposed project does not include any elements that would affect air traffic patterns. There would be no impact. *No mitigation is required.*
- d. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area included any hazardous design features or increased any incompatible uses for roads in the project area. The proposed project would not change roadway design or land uses. There would be no impact. *No mitigation is required.*
- e. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area would result in inadequate emergency access in the Specific Plan area. The Specific Plan includes provision of adequate roadways to serve the Village One development. The abandonment does not eliminate points of entry to the existing or proposed developments. The street closure will not interfere with adequate emergency access, and will not interfere with emergency access to adjacent areas. Therefore, the impact on emergency service access is less than significant. There would be no additional impact. *No mitigation is required.*

- f. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area would result in inadequate parking capacity in the Specific Plan area. The provision of parking, consistent with zoning requirements for the proposed project, is included in the project design. There would be no impact. *No mitigation is required.*
- g. The proposed project does not include any changes related to transportation policies, and would have no impact. *No mitigation is required.*

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

**XVI. UTILITIES AND SERVICE SYSTEMS.**

Would the project:

- |    |   |                          |                          |                          |                                     |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?                           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?                                    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. | Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e. | Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f. | Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

- g. Comply with federal, state, and local statutes and regulations related to solid waste?

Impacts on utilities and service systems are analyzed on pages III-120 through III-158 of the 1994 Supplement.

## Responses to Checklist Questions

- a. The City provides sewer services to the Village One area. All wastewater would be directed to city wastewater treatment facilities. No wastewater discharges would occur in the project area. The proposed project would not increase the amount of wastewater that will be generated at buildout of the Specific Plan area. There would be no additional impact. *No mitigation is required.*
- b., e. The Village One Specific Plan program EIR discusses the changes and new facilities that will be needed to accommodate buildout of the Village One Specific Plan area. The EIR found that, with mitigation, there would be no significant impact on water or wastewater infrastructure. There would be no additional impact as a result of the proposed project. *No mitigation is required.*
- c. The Village One Specific Plan program EIR discusses the changes and new facilities that will be needed in order to accommodate buildout of the Village One Specific Plan area. The EIR found that, with mitigation, there would be no significant impact on stormwater drainage facilities. An update to the Storm Drainage Master Plan has been prepared and is under consideration by the City. An addendum to the Village One program EIR for the Storm Drainage Master Plan has also been prepared and is under consideration by the City. The project would not result in any additional impacts or the need for any additional mitigation beyond that assessed in the Addendum to the Village One Program EIR for the Storm Drainage Master Plan.
- d. The Village One Specific Plan program EIR found that, with mitigation, the effects of buildout of the Village One Specific Plan area on water supply would be less than significant. There would be no additional impact resulting from the proposed project. *No mitigation is required.*
- f., g. The Village One Specific Plan program EIR found that the area's landfills have sufficient permitted capacity to accommodate the project's solid waste disposal needs. The proposed project would not result in any physical changes in the environment or the generation of any additional solid waste. There would be no impact. *No mitigation is required.*



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

**XVII. MANDATORY FINDINGS OF SIGNIFICANCE.**

- |    |  |                          |                          |                          |                                     |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Does the project have impacts that are individually limited but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Cumulative impacts are analyzed on page III-161 of the 1994 Supplement.

**Responses to Checklist Questions**

- a. As described above, the proposed project would not result in any significant impacts on the environment over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.
- b. As described above, the proposed project would not result in any significant impacts, either on a project or on cumulative level, over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.
- c. As described above, the proposed project would not result in any significant impacts affecting humans over and above those associated with implementation

of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.

## V. MITIGATION APPLIED TO PROJECT

The following mitigation measures developed in the 1994 Village One Specific Plan Supplement to the Program EIR are appropriate to the project and will be incorporated into the project. Therefore, the environmental effects of the project were covered by the program EIR.

1. "Construction noise is regulated by the City's Noise Ordinance, Section 4.9 – 103. Construction noise is generally permitted during the hours of 7:00 am to 9:00 pm. To avoid complaints from nearby residents, and possible citations, the full text of the ordinance should be reviewed by builders prior to construction. City construction projects will be monitored by Construction Inspection for conformance with the City's Noise Ordinance."
2. During construction activities, Building Inspection Division shall verify that contractors observe the requirements of City of Modesto Standard Specification 2.07(A)(5), Dust Control, and when necessary, Regulation VIII of the San Joaquin Valley Unified Air Pollution Control District to control the generation of PM 10 from construction related dust and emissions.

**RESCINDED**

JUN 27 2006

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-060**

**A RESOLUTION ADOPTING A REVISED SCHEDULE OF MAXIMUM RATES AND CHARGES FOR THE COLLECTION OF GARBAGE IN THE CITY OF MODESTO, AND RESCINDING RESOLUTION NO. 2005-337**

THIS RESOLUTION WAS  
APPROVED BY THE  
CITY COUNCIL OF MODESTO  
ON JUN 27 2006  
RESOLUTION NO. 2006-060

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's garbage collection companies have requested a mid-year adjustment in the maximum rates due to unanticipated and significant increases in the price of fuel, and

WHEREAS, the City has conducted an analysis of this request for a mid-year adjustment to the base maximum rates 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 have been calculated based on a 2% adjustment to the base maximum rates for these fuel cost increases, and a recommendation for a new maximum rate schedule has been developed, and

WHEREAS, this mid-year adjustment to the maximum rates will be re-evaluated in conjunction with all other factors that influence the maximum rates, and

WHEREAS, the Economic Development Committee met on January 9, 2006, and supported the recommendation to approve a 2% mid-year adjustment to the maximum rate schedule for City solid waste collection services due to fuel price increases, and

WHEREAS, a report dated January 10, 2006, 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 January 24, 2006 in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto California, and

WHEREAS, 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,

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

1. 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 on February 1, 2006, 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. 2005-337 is hereby rescinded, effective February 1, 2006.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of January, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MAXIMUM CHARGES FOR GARBAGE SERVICE**

**STANDARD CONTAINERS**

Maximum Monthly Rates  
(Once a Week Pickup Service)

Standard service shall include one, 96-gallon container for garbage/recyclables, one, 96-gallon container for green waste, blue bag recycling, a countertop container for kitchen scraps, drop-off of old TV and computer tubes, and two bulky item collections per year by appointment. Customer may opt for smaller containers; however, maximum rates apply.

The maximum rate for new sign ups for service or change in service which occur after July 1, 1996, shall be charged \$19.30 per month regardless of size of container. The maximum rate for each additional garbage container shall be \$14.40 per month.

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 \$16.30. The maximum rate for each additional garbage container shall be \$14.40 per month.

The above maximum standard container rate shall apply for service when containers are placed in a location set forth in Section 5-5.11 of the Municipal Code.

**DETACHABLE CONTAINERS**

Number of Collections Per Week

Container Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
1 CY	32.17	53.85	75.50	97.17	118.84	140.51
1½ CY	43.03	75.50	108.04	140.26	173.37	205.53
2 CY	53.85	97.17	140.51	183.84	227.16	270.49
3 CY	75.50	140.51	205.50	270.49	335.50	400.49
4 CY	97.17	183.84	270.49	357.16	443.82	530.49
5 CY	118.84	227.16	335.50	443.82	552.16	660.48
6 CY	140.51	270.49	400.49	530.49	660.48	790.48

**DETACHABLE CONTAINER RENTAL RATES  
ARE INCLUDED IN ABOVE SCHEDULE**

Detachable container size	1 CY to 6 CY
Monthly rental rate	\$10.00
Weekly rental of Detachable Containers	Shall not exceed the rate for 1 pickup per week for each size container

**DROP BOX CONTAINERS**

Pick up charge - \$195.15 per pick up  
 Rental - \$0.85 per day up to 7 day maximum rental  
 \$3.00 per day additional for boxes kept 7 or more days without servicing  
 \$10 per day additional for boxes kept 21 or more days without servicing

Disposal charge - Actual charge to be paid by customer  
 Garbage company will provide up to 40 CY Drop Box containers for above stated charges subject only to load limit of transfer vehicle.

**COMPACTORS**

**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

**Roll-Off Type:**

6 CY to 40 CY \$195.15 per pickup  
 Washing of compactor at the request of customer \$30.00  
 Disposal Charge: Actual charge to be paid by customer

**EXTRA PICKUPS**

Standard containers or equivalent \$3.50 plus \$1.38/container  
 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 residential rates include the \$0.10 per month per household recycling fee payable to the City by the garbage company. In addition to garbage, maximum residential rates also include twice-a-year bulky item pickup, blue bag recycling, green waste collection, food waste containers, cathode ray tube drop-off, and illegal dumping removal from streets and alleys.
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.



# GILTON Solid Waste Management Inc.

September 12, 2005

Ms. Jocelyn Reed, Solid Waste Program Manager  
City of Modesto Solid Waste Management  
P.O. Box 642  
Modesto, CA 95353

Re: Request for Rate Increase due to Fuel Price Increases

Jocelyn:

As I am sure you aware, diesel fuel prices have skyrocketed. Prices have continued to increase at an alarming rate in the past several months. Due to those increases, and their impact on our business, we are requesting your consideration of a rate increase.

The most current financial report that you have received from us covers the fiscal year ending June 30, 2004. Those statements were the basis for the rate review process that you completed and used to set our current rates. I have prepared an analysis of our fuel cost increases since those statements were completed. Included you will find a detail listing of the diesel portion of our fuel payments from July 2003 through August 2005. We went back as far as July 2003 to provide a perspective of where fuel costs were for the fiscal year that you have been working with. The detail includes the fiscal year ended June 30, 2005 purchases and the purchases so far in this fiscal year. The average price per gallon of diesel increased 25.95% from fiscal year ended June 30, 2004 to fiscal year ended June 30, 2005. With the recent accelerated increases we are now experiencing prices that reflect an increase of 69.51% over those of fiscal year ended June 30, 2004. In dollars, the impact for City of Modesto services at the most recent price is approximately \$255,000.00 more than those reflected in the last financial statements that you have. I have also included a worksheet that reflects the dollar impacts based on the fiscal year ended June 30, 2004.

Your assistance in this matter would be greatly appreciated. In the years that I have worked for Gilton we have not been faced with a situation quite like this one. The impact of this issue obviously goes further than just the City of Modesto. So you can imagine the magnitude of the problem on the whole company. I am very concerned with the implications that this situation is creating for our Company. If there is more information that I can provide to help you in your analysis please let me know. Please consider this request at your earliest convenience. Each day, as prices increase, the problem becomes more critical. My e-mail address is [bobp@gilton.com](mailto:bobp@gilton.com) and my phone number is (209) 573-6248.

Sincerely,

Robert Pritchard, CPA  
Controller



FY04				FY05				FY06							
	GAL	PRICE	\$PG		GAL	PRICE	\$PG		GAL	PRICE	\$PG				
JUL	19948.46	33155.77	JULY 15	1.662	JUL	23098.9	51195.34	JULY 15	2.216	JUL	22854.9	60378.93	JULY 15	2.642	
	25409.11	44837.46	JULY 31	1.765		29810.24	64512.82	JULY 31	2.164		28887.15	77715.06	JULY 31	2.69	
AUG	17820.34	32581.27	AUG 15	1.828	AUG	29469.86	65502.22	AUG 15	2.223	AUG	29680.18	91287.87	AUG 15	3.076	
	33898.55	61649.42	AUG 31	1.819		32531.49	72472.82	AUG 31	2.228		32498.87	102398.5	AUG 31	3.1508	
SEP	25166.72	41762.89	SEP 15	1.659	SEP	29321.07	62950.34	SEP 15	2.147	SEP			SEP 15		
	24133.21	38980.42	SEP 30	1.615		26930.77	61390.45	SEP 30	2.28				SEP 30		
OCT	17292.86	28532.77	OCT 15	1.65	OCT	24496.16	58583.21	OCT 15	2.392	OCT			OCT 15		
	27126.6	45910.52	OCT 31	1.692		20768.98	52303.35	OCT 31	2.518				OCT 31		
NOV	21321.32	35569.96	NOV 15	1.668	NOV	20510.66	47632.3	NOV 15	2.321	NOV			NOV 15		
	17716.21	30202.19	NOV 30	1.705		21289.9	48916.15	NOV 30	2.298				NOV 30		
DEC	18104.92	31494.36	DEC 15	1.74	DEC	21325.81	43918.04	DEC 15	2.059	DEC			DEC 15		
	21439.99	36180.25	DEC 31	1.688		20705.64	43518.43	DEC 31	2.102				DEC 31		
JAN	19021.89	32559.08	JAN 15	1.712	JAN	19771.97	38972.81	JAN 15	1.971	JAN			JAN 15		
	19294.72	32818.61	JAN 31	1.701		21792.8	46924.18	JAN 31	2.153				JAN 31		
FEB	18019.74	33714.89	FEB 15	1.871	FEB	19684.4	44211.49	FEB 15	2.246	FEB			FEB 15		
	17077.57	32282.17	FEB 28	1.89		18559.91	44652.5	FEB 28	2.406				FEB 28		
MAR	19319.35	36068.05	MAR 15	1.867	MAR	20634.28	51249.24	MAR 15	2.484	MAR			MAR 15		
	21944.92	41474.31	MAR 31	1.89		22864.34	58766.22	MAR 31	2.5702				MAR 31		
APR	18655.65	41018.58	APR 15	2.199	APR	22006.96	59460.85	APR 15	2.702	APR			APR 15		
	22009.64	50899.87	APR 30	2.313		20362.87	53852.83	APR 30	2.645				APR 30		
MAY	19733.76	47890.13	MAY 15	2.427	MAY	20428.43	51714.94	MAY 15	2.532	MAY			MAY 15		
	21041.24	45822.62	MAY 31	2.178		24032.91	57448.02	MAY 31	2.39				MAY 31		
JUN	21289.72	42714.82	JUN 15	2.006	JUN	22625.8	57723.06	JUN 15	2.551	JUN			JUN 15		
	21460.99	44347.9	JUN 30	2.066		20502.33	53061.53	JUN 30	2.588				JUN 30		
TOTAL \$PG			44.611	NUMBER OF PAYMENTS			24	NUMBER OF PAYMENTS			24	AVERAGE PRICE FOR THE YEAR			1.8588
AVERAGE PRICE FOR THE YEAR			1.8588	AVERAGE PRICE FOR THE YEAR			2.3411	AVERAGE PRICE FOR THE YEAR			2.34109	PERCENT INCREASE FY04 TO FY05			25.95%
AVE. PRICE FY05			2.3411	PERCENT INCREASE FY04 TO 8/05			69.51%	PRICE ON AUGUST 31			3.1508	PERCENT INCREASE FY05 TO 8/05			34.59%
PERCENT INCREASE FY04 TO 8/05			25.95%	PRICE ON AUGUST 31			3.1508	PERCENT INCREASE FY05 TO 8/05			34.59%				

CITY OF MODESTO  
 IMPACT OF FUEL COSTS

FUEL EXPENSE PER AUDITED FINANCIAL STATEMENTS FOR THE FY 6/30/04 \$1,002,602.85

FUEL EXPENSE AS REPORTED ON CITY OF MODESTO OPERATING EXPENSE SUMMARY

RESIDENTIAL SERVICE	\$230,783.00
CONTAINER SERVICE	\$90,430.00
DROP BOX SERVICE	\$45,266.00

TOTAL \$366,479.00

PERCENT OF TOTAL FUEL EXPENSE REPORTED ON CITY OF MODESTO 36.55%

PERCENT INCREASE IN FUEL EXPENSE FROM FY2004 TO FY2005 25.95%

PERCENT INCREASE IN FUEL EXPENSE FROM FY2004 TO AUG 2005 69.51%

PROJECTED INCREASE IN FUEL EXPENSE

FUEL EXPENSE AS REPORTED ON CITY OF MODESTO OPERATING EXPENSE SUMMARY

	RESIDENTIAL SERVICE	CONTAINER SERVICE	DROP BOX SERVICE	TOTAL SERVICES
FUEL EXPENSE REPORTED FY2004	\$230,783.00	\$90,430.00	\$45,266.00	\$366,479.00
PERCENT INCREASE FY2004 TO FY2005	25.95%	25.95%	25.95%	25.95%
PROJECTED FUEL EXPENSE	<u>\$290,671.19</u>	<u>\$113,896.59</u>	<u>\$57,012.53</u>	<u>\$461,580.30</u>
PERCENT INCREASE FY2004 TO AUG 2005	69.51%	69.51%	69.51%	69.51%
PROJECTED FUEL EXPENSE	<u>\$391,200.26</u>	<u>\$153,287.89</u>	<u>\$76,730.40</u>	<u>\$621,218.55</u>

GILTON SOLID WASTE MANAGEMENT, INC.  
 FUEL ANALYSIS DETAIL  
 JULY 1, 2003 THRU NOVEMBER 30, 2005

FY04				FY05				FY06						
	GAL	PRICE	\$PG		GAL	PRICE	\$PG		GAL	PRICE	\$PG			
JUL	19948.46	33155.77	JULY 15	1.662	JUL	23098.9	51195.34	JULY 15	2.216	JUL	22854.9	60378.93	JULY 15	2.642
	25409.11	44837.46	JULY 31	1.765		29810.24	64512.82	JULY 31	2.164		28887.15	77715.06	JULY 31	2.692
AUG	17820.34	32581.27	AUG 15	1.828	AUG	29469.86	65502.22	AUG 15	2.223	AUG	29680.18	91287.87	AUG 15	3.076
	33898.55	61649.42	AUG 31	1.819		32531.49	72472.82	AUG 31	2.228		32498.87	102398.5	AUG 31	3.1508
SEP	25166.72	41762.89	SEP 15	1.659	SEP	29321.07	62950.34	SEP 15	2.147	SEP	25933.82	85760.08	SEP 15	3.3068
	24133.21	38980.42	SEP 30	1.615		26930.77	61390.45	SEP 30	2.28		31179.03	96372.43	SEP 30	3.0908
OCT	17292.86	28532.77	OCT 15	1.65	OCT	24496.16	58583.21	OCT 15	2.392	OCT	25160.81	82292.18	OCT 15	3.2706
	27126.6	45910.52	OCT 31	1.692		20768.98	52303.35	OCT 31	2.518		23202.45	70554.11	OCT 31	3.0408
NOV	21321.32	35569.96	NOV 15	1.668	NOV	20510.66	47632.3	NOV 15	2.321	NOV	23509.87	65183.94	NOV 15	2.7726
	17716.21	30202.19	NOV 30	1.705		21289.9	48916.15	NOV 30	2.298		20843.04	53814.98	NOV 30	2.5818
DEC	18104.92	31494.36	DEC 15	1.74	DEC	21325.81	43918.04	DEC 15	2.059	DEC			DEC 15	
	21439.99	36180.25	DEC 31	1.688		20705.64	43518.43	DEC 31	2.102				DEC 31	
JAN	19021.89	32559.08	JAN 15	1.712	JAN	19771.97	38972.81	JAN 15	1.971	JAN			JAN 15	
	19294.72	32818.61	JAN 31	1.701		21792.8	46924.18	JAN 31	2.153				JAN 31	
FEB	18019.74	33714.89	FEB 15	1.871	FEB	19684.4	44211.49	FEB 15	2.246	FEB			FEB 15	
	17077.57	32282.17	FEB 28	1.89		18559.91	44652.5	FEB 28	2.406				FEB 28	
MAR	19319.35	36068.05	MAR 15	1.867	MAR	20634.28	51249.24	MAR 15	2.484	MAR			MAR 15	
	21944.92	41474.31	MAR 31	1.89		22864.34	58766.22	MAR 31	2.5702				MAR 31	
APR	18655.65	41018.58	APR 15	2.199	APR	22006.96	59460.85	APR 15	2.702	APR			APR 15	
	22009.64	50899.87	APR 30	2.313		20362.87	53852.83	APR 30	2.645				APR 30	
MAY	19733.76	47890.13	MAY 15	2.427	MAY	20428.43	51714.94	MAY 15	2.532	MAY			MAY 15	
	21041.24	45822.62	MAY 31	2.178		24032.91	57448.02	MAY 31	2.39				MAY 31	
JUN	21289.72	42714.82	JUN 15	2.006	JUN	22625.8	57723.06	JUN 15	2.551	JUN			JUN 15	
	21460.99	44347.9	JUN 30	2.066		20502.33	53061.53	JUN 30	2.588				JUN 30	
TOTAL \$PG			44.611	TOTAL \$PG			56.1862	TOTAL \$PG			29.622			
NUMBER OF PAYMENTS			24	NUMBER OF PAYMENTS			24	NUMBER OF PAYMENTS			10			
AVERAGE PRICE FOR THE YEAR			1.8588	AVERAGE PRICE FOR THE YEAR			2.3411	AVERAGE PRICE FOR THE YEAR			2.9622			
AVE. PRICE FY05			2.3411											
PERCENT INCREASE FY04 TO FY05			25.95%											
AVERAGE PRICE THRU 11/30/05			2.9622	AVERAGE PRICE THRU 11/30/05			2.9622							
PERCENT INCREASE FY04 TO 11/05			59.36%	PERCENT INCREASE FY05 TO 11/05			26.53%							

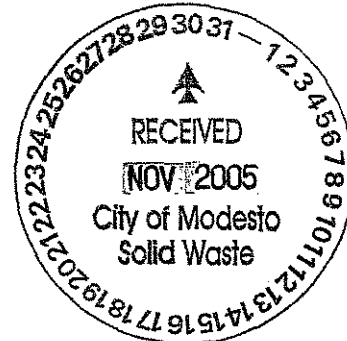


**MODESTO DISPOSAL SERVICE**  
A WASTE MANAGEMENT COMPANY

2769 W. Hatch Road  
Modesto, CA 95358  
(209) 538-2210  
(209) 538-0754 Fax

November 22, 2005

Jocelyn Reed, Solid Waste Program Manager  
City of Modesto  
Department of Parks and Recreation  
PO Box 642  
Modesto, CA 95353



RE: Diesel Fuel Costs

Dear Ms. Reed:

Soaring fuel costs have put an unexpected burden on the cost of providing garbage service to the residents of Modesto. In accordance with Section f. (2) of the Service Agreement dated November 1, 1997, Modesto Disposal does hereby request a rate adjustment to cover these costs, retroactive to the beginning of the 2004-2005 fiscal year.

Attached is a spreadsheet showing Modesto Disposal's fuel cost increases for calendar years 2004 and 2005, by month, using the monthly data available. It also shows City of Modesto fiscal year fuel costs from our audited financials. Lastly, it projects the cost of diesel fuel through the next fiscal year.

The spreadsheet shows that diesel costs in the City of Modesto have increased by \$80,478, year over year, from the last fiscal year audited financials to the present fiscal year. I have used two methods for projecting fuel costs forward. The first is the percentage increase used to obtain the \$80,478 difference between fiscal years, projected forward. The second is the price per gallon increase from January 2005 to October 2005, projected forward. The latter projects an increased cost of \$194,834 for the 2005-2006 fiscal year and should be the more accurate of the two methods, since it contains more recent trend data. I am requesting that both of these numbers be considered in the rate adjustment.

Modesto Disposal appreciates your consideration of this unanticipated rate adjustment proposal. If you need clarification of any of the data on the attached spreadsheet, please contact me. As always, I am just a phone call away.

Sincerely,

Thomas Clark  
District Manager  
Modesto Disposal

## DIESEL FUEL USAGE AND COST

2004

2005

	Gallons	PPG	Cost
January			
February			
March			
April			
May	30,401	\$2.08	\$63,470.82
June	22,712	\$1.82	\$41,341.03
July	30,174	\$1.99	\$60,341.72
August	30,072	\$2.02	\$61,013.33
Sept	30,077	\$2.05	\$61,912.42
October	30,209	\$2.27	\$68,806.36
November	22,584	\$2.09	\$47,347.53
December	30,172	\$1.90	\$57,476.29

	Gallons	PPG	Cost
January	30,209	\$1.89	\$57,137.71
February	22,660	\$2.17	\$49,397.40
March	30,144	\$2.35	\$70,973.00
April	29,867	\$2.44	\$72,914.32
May	29,807	\$2.21	\$66,157.72
June	22,459	\$2.35	\$52,781.65
July	29,617	\$2.43	\$72,235.80
August	29,657	\$2.89	\$85,830.87
Sept	29,702	\$3.02	\$89,721.45
October	22,369	\$2.89	\$64,782.57
November			
December			

CALENDAR YEAR	PPG		
Average PPG 2004	\$2.03	Average PPG 2005	\$2.46
Variance 04/05 PPG	\$0.44	% Increase	21.53%
05 Increase (Jan-Oct)	\$1.00	% Increase	52.91%

FISCAL YEAR	Residential	Comm.	Rolloff	Total	Yr over Yr	% Increase
FY 03-04 City of Modesto costs:	\$171,806	\$76,011	\$39,942	\$287,759		
FY 04-05 City of Modesto costs:	\$219,854	\$97,269	\$51,114	\$368,237	\$80,478	27.97%
FY 04-05 all Modesto Disposal:				\$726,259		
City of Modesto percentage:				51%		

PROJECTIONS		
FY 05-06 all Modesto Disposal	Yearly	Monthly
Increase by FY 04/05 variance	\$203,114	\$16,926
Projected fuel cost	\$929,374	\$77,448
Increase by Jan-Oct 05 variance	\$384,264	\$32,022
Projected fuel cost	\$1,110,524	\$92,544

CITY OF MODESTO ONLY FY 05-06		
Yearly	Monthly	
\$102,985	\$8,582	
\$471,222	\$39,269	
\$194,834	\$16,236	
\$563,071	\$46,923	

# Bertolotti Disposal

231 FLAMINGO DRIVE, MODESTO

P.O. BOX 127, CERES, CA 95307

(209) 537-8000

FAX (209) 537-9809

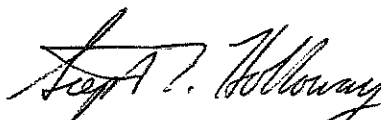
December 12, 2005

CITY OF MODESTO  
MS. JOCELYN REED  
SOLID WASTE PROGRAM MANAGER  
1010 TENTH STREET  
MODESTO, CA 95354

DEAR JOCELYN:

BERTOLOTTI MODESTO DISPOSAL, INC. REQUESTS A REVIEW OF THE RESIDENTIAL, COMMERCIAL,  
AND DROP BOX RATES DUE TO THE EXTRAORDINARY INCREASE IN FUEL THAT WE HAVE  
BEEN EXPERIENCING FOR THE LAST YEAR. ATTACHED IS SPREADSHEET SHOWING THE PRICE  
PER GALLON WE HAVE BEEN PAYING FOR THE LAST 2 YEARS.  
BERT AND I APPRECIATE YOUR UNDERSTANDING IN THIS MATTER.

SINCERELY



STEPHEN T. HOLLOWAY  
GENERAL MANAGER  
BERTOLOTTI DISPOSAL, INC.

BERTOLOTTI MODESTO DISPOSAL, INC  
FUEL COSTS  
JULY 1, 2003 THRU OCTOBER 31, 2005

FY 7/03 to 6/04

	# of Gallons	Invoice Price	Price per Gallon
July			
delivery #1	7505	10821.15	1.441858761
delivery #2	7522	12057.19	1.602923425
delivery #3			0
delivery #4			0
August			
delivery #1	7708	12686.38	1.645871821
delivery #2	2460	4167.71	1.694191057
delivery #3	7535	12563.48	1.667349701
delivery #4			0
September			
delivery #1	3667	5306.99	1.447229343
delivery #2	7552	10929.48	1.447229873
delivery #3	7713	10789.79	1.398909633
delivery #4			0
October			
delivery #1	7593	11844.89	1.559974977
delivery #2			0
delivery #3			0
delivery #4			0
November			
delivery #1	7523	11493.34	1.527760202
delivery #2	7657	11615.84	1.517022333
delivery #3			0
delivery #4			0
December			
delivery #1	7492	11928.66	1.592186332
delivery #2			0
delivery #3			0
delivery #4			0
January			
delivery #1	7711	11242.39	1.457967838
delivery #2	7682	11571.29	1.506286123
delivery #3			0
delivery #4			0
February			
delivery #1	7501	12345.7	1.645873883
delivery #2	7685	12999.24	1.691508133
delivery #3			0
delivery #4			0
March			
delivery #1	7501	13473.27	1.796196507
delivery #2	7616	12126.09	1.592186187
delivery #3	7706	13924.23	1.806933558
delivery #4			0
April			
delivery #1	7662	16641.95	2.172011224
delivery #2	7655	15928.08	2.080741999
delivery #3			0
delivery #4			0
May			
delivery #1	7545	16772.63	2.223012591
delivery #2	7632	14999.26	1.965311845
delivery #3			0
delivery #4			0
June			
delivery #1	7556	13490.93	1.785459238
delivery #2	7521	13610.14	1.809618402
delivery #3			0
delivery #4			0
Average	180900	305330.1	1.687839138

FY 7/04 to 6/05

	# of Gallons	Invoice Price	Price per Gallon
July			
delivery #1	7625	15272.06	2.002893115
delivery #2	1000	2182.76	2.18276
delivery #3			0
delivery #4			0
August			
delivery #1	7435	15530.19	2.088794889
delivery #2	7612	16226.85	2.131745927
delivery #3			0
delivery #4			0
September			
delivery #1	7384	14135.27	1.914310672
delivery #2	7595	15844.02	2.086111916
delivery #3	7514	16481.85	2.193485494
delivery #4			0
October			
delivery #1	7423	16999.58	2.290122592
delivery #2	7674	17842.2	2.325019547
delivery #3			0
delivery #4			0
November			
delivery #1	7671	15693.67	2.045844088
delivery #2	7485	15895.84	2.123692719
delivery #3			0
delivery #4			0
December			
delivery #1	7601	14346.64	1.887467438
delivery #2	7580	13757.6	1.814986807
delivery #3	7600	13426.69	1.76669737
delivery #4			0
January			
delivery #1	7684	14256.18	1.855307132
delivery #2	7618	15421.65	2.024369913
delivery #3			0
delivery #4			0
February			
delivery #1	7420	15120.4	2.037789757
delivery #2	7682	17134.92	2.230528508
delivery #3			0
delivery #4			0
March			
delivery #1	7689	17092.77	2.223015997
delivery #2	7585	18225.75	2.402867502
delivery #3	7769	18313.34	2.357232591
delivery #4			0
April			
delivery #1	7707	18249.95	2.367970676
delivery #2	7689	18843.04	2.450648979
delivery #3			0
delivery #4			0
May			
delivery #1	7451	17241.4	2.313971279
delivery #2	7501	16183.42	2.157501666
delivery #3			0
delivery #4			0
June			
delivery #1	7624	16882.78	2.214425498
delivery #2	7501	17294.98	2.305689908
delivery #3	7524	17630.79	2.343273525
delivery #4			0
Average	205643	441526.59	2.147053826

FY 7/05 to 6/06

	# of Gallons	Invoice Price	Price per Gallon
July			
delivery #1	7433	18335.35	2.46674963
delivery #2	3867	9289.8	2.402327386
delivery #3	7703	19642.43	2.54997144
delivery #4			0
August			
delivery #1	7479	22500.28	3.008461024
delivery #2	7526	24847.8	3.301594472
delivery #3	2000	6458.23	3.229115
delivery #4	7560	22565.39	2.984839947
September			
delivery #1	7533	21251.28	2.821091199
delivery #2	7598	22208.88	2.922990261
delivery #3	7538	22470.57	2.980972406
delivery #4			0
October			
delivery #1	7342	22516.98	3.066872787
delivery #2	7538	22470.57	2.980972406
delivery #3	7653	20512.53	2.680325363
delivery #4			0
November			
delivery #1			0
delivery #2			0
delivery #3			0
delivery #4			0
December			
delivery #1			0
delivery #2			0
delivery #3			0
delivery #4			0
January			
delivery #1			0
delivery #2			0
delivery #3			0
delivery #4			0
February			
delivery #1			0
delivery #2			0
delivery #3			0
delivery #4			0
March			
delivery #1			0
delivery #2			0
delivery #3			0
delivery #4			0
April			
delivery #1			0
delivery #2			0
delivery #3			0
delivery #4			0
May			
delivery #1			0
delivery #2			0
delivery #3			0
delivery #4			0
June			
delivery #1			0
delivery #2			0
delivery #3			0
delivery #4			0
Average	88770	255070.09	2.87338166



## Retail On-Highway Diesel Prices

[Sign Up for Email Updates](#)
[EIA Home](#) > [Petroleum](#) > [Retail On-Highway Diesel Prices](#)

### Weekly Retail On-Highway Diesel Prices

Dollars per gallon, including all taxes

	12/26/2005	1/2/2006	1/9/2006	Change from week ago	Change from year ago
<b>U.S.</b>	2.448	2.442	2.485	0.043	0.551
<b>East Coast</b>	2.481	2.481	2.528	0.047	0.529
<b>New England</b>	2.643	2.645	2.676	0.031	0.513
<b>Central Atlantic</b>	2.599	2.590	2.626	0.036	0.493
<b>Lower Atlantic</b>	2.416	2.420	2.473	0.053	0.547
<b>Midwest</b>	2.420	2.412	2.451	0.039	0.540
<b>Gulf Coast</b>	2.421	2.414	2.453	0.039	0.577
<b>Rocky Mountain</b>	2.410	2.392	2.421	0.029	0.544
<b>West Coast</b>	2.523	2.519	2.577	0.058	0.604
<b>California</b>	2.543	2.538	2.601	0.063	0.587

Graphs of U.S. and all Regions



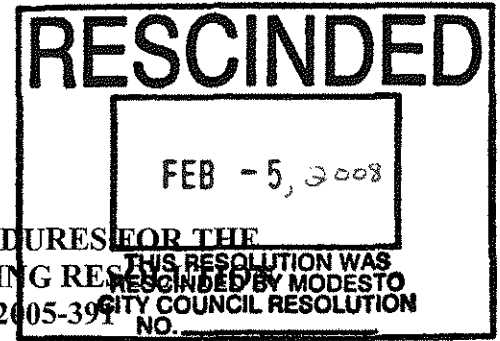
Stanislaus County  
Garbage Rates and Programs

City	Monthly rate	Garbage Size	Recycling Size	Yard Waste Size	Bulky Item	Curbside Oil	Misc.	Hauler
Ceres	\$19.50	96	96-bi-monthly	No	2x per yr	no	No	Bertolotti Disposal
Hughson	\$28.14	96	96-bi-monthly	96-bi-monthly	1x per yr \$10 fee	Yes	No	WM
Modesto (proposed)	\$19.30	96	blue bags	96	2x per yr	Yes	Food Waste, CRT's, Illegal Dumping, Tire Collection, cell phone collection	WM, BDS, GSW
Newman	\$16.33	96	96	No	2-drop offs per yr	no	3 month leaf & limb prog.	BDS
Oakdale	\$13.61	96	96	No	No	No	No	GSW
Patterson	\$19.06	96	No	96	2x per yr	no	pruned refuse collection	WM
Riverbank	\$16.01	96	96-bi-monthly	No	No	No	No	Gilton
Stanislaus County (Bert)*	\$19.45	96	bins	No	Drop off \$10 fee	Yes	No	Bertolotti Disposal
Stanislaus County (GSW)*	\$19.12	96	bins	No	Drop off \$10 fee	Yes	No	GSW
Stanislaus County (Tur Scv.)*	\$19.32	96	bins	No	Drop off \$10 fee	Yes	No	Turlock Scavenger
Stanislaus County (WM)*	\$18.60	96	bins	No	Drop off \$10 fee	Yes	No	WM
Turlock	\$38.10	96	64	96	2x per yr	No	No	Turlock Scavenger
Waterford	\$15.64	96	bins	No	No	Yes	No	WM
Minimum	\$13.61							
Median	\$19.12							
Maximum	\$38.10							
Average	\$20.17							

\*effective 1/1/06

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-061**

**A RESOLUTION ADOPTING POLICIES AND PROCEDURES FOR THE  
CAPITAL FACILITIES FEE PROGRAM AND AMENDING RESOLUTIONS  
NOS. 99-32, 99-385, 2003-309, 2004-527, AND 2005-391**



2008-070

WHEREAS, the City Council of the City of Modesto has adopted Modesto Municipal Code Sections 8-1.904 et seq. creating and establishing the authority for imposing and charging 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, policies relating to CFF are set forth in Council Resolution Nos. 99-32, 99-385, 2003-309, 2004-527 and 2005-391, and

WHEREAS, the City has been utilizing administrative guidelines to manage the CFF Program; however, these guidelines have not been formally adopted by the Council, and

WHEREAS, it would be beneficial and efficient for the administration of the CFF program to combine the policies mentioned above and the informal administrative guidelines into one document, called CFF Policies and Procedures.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts Policies and Procedures for the Capital Facilities Fees Program, a copy of which is attached hereto as Exhibit "A", and incorporated herein by reference.

BE IT FURTHER RESOLVED that Resolution Nos. 99-32, 99-385, 2003-309, 2004-527 and 2005-391 are hereby amended and superceded solely with respect to the relocation and revision of any policy which has been incorporated into the attached

Policies and Procedures for the Capital Facilities Fee Program, effective upon the adoption of this resolution. Resolution Nos. 99-32, 99-385, 2003-309, 2004-527 and 2005-391 and are hereby reaffirmed in every other respect.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of January 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**EXHIBIT "A"**

City of Modesto  
Capital Facilities Fees  
Policies and Procedures

**City of Modesto**

**Capital Facilities Fees  
Policies and Procedures**

## TABLE OF CONTENTS

1.00	Introduction	1
2.00	Definitions	1
3.00	Administration	6
	CFF Review Committee	6
	Annual Report	6
	Inflationary Adjustments	7
	Calculation of Fees	8
4.00	Exactions	15
	Residential Streets	15
	Expressways	15
	Arterial/Major Collector Streets	15
5.00	Priority Policies	16
	Priority Principles	16
	Priority Transportation Corridors	16
6.00	Reimbursements	17
	Agreements	17
	Timing and Payments of Agreements	17
	Payments of Agreements	18
7.00	Bidding Process, Prevailing Wages and Licenses	18
	Reimbursement for work less than \$300,000	18
8.00	Completion and Acceptance of Work	20

## 1.00 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.

The CFF Program is updated every five years. As a result, Resolution 2003-309 approved a comprehensive update of the CFF Program whereby new schedules and rates applicable to development were established. These policies and procedures have been developed to govern the administration of the CFF Program.

## 2.00 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 Inspection Division of the Community and Economic Development Department for the City of Modesto.
- B. BUSINESS PARK LAND USE – shall mean a master planned campus-like development, with common infrastructure and common design standards that features employment-intensive uses and light manufacturing, possible service retail, and regional commercial uses.
  - 1. Service – shall mean a predominantly service-oriented business park that has a high amount of office/commercial uses relative to the industrial/warehousing uses. Typical uses would include: office including general office building, corporate headquarters, single tenant office building, office park and research development uses; service retail, regional commercial and wholesale stores; restaurants; and recreational areas.
  - 2. Manufacturing – shall mean a predominantly industrial-oriented business park with low amounts of office/service/retail uses. Typical uses would include: general light industrial uses, manufacturing and/or distribution with associated office, warehouse, research, and related functions, and public facilities/utilities.
- C. CFF ADMINISTRATOR – person or persons appointed by the City Manager responsible for the management of the Capital Facilities Fee Program.
- D. CFF REVIEW COMMITTEE – shall mean a committee comprised of city staff from the following departments or divisions of the City of Modesto: CFF Administrator,

City Attorney's Office, Planning, Building, Finance, Parks, Recreation and Neighborhoods, and Public Works as appointed by the City Manager.

- E. CHIEF BUILDING OFFICIAL – The Chief Building Official of the City of Modesto.
- F. CITY – shall mean the City of Modesto.
- G. CITY ATTORNEY – The City Attorney of the City of Modesto or his or her designee.
- H. CITY ENGINEER – The City Engineer of the City of Modesto or his or her designee.
- I. CITY MANAGER – The City Manager of the City of Modesto or his or her designee.
- J. COMMERCIAL – as used in this section, shall mean any of the following small retail (less than 50,000 square feet):
  - 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 car sales. May include uses in small retail category if in a shopping center.

- K. 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.
- L. DEVELOPMENT SERVICES – shall mean the Development Services division of the Public Works Department, City of Modesto.
- M. 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.
- N. 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 are 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).

O. IMPROVEMENTS – See FACILITIES.

P. 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
- 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.

Q. 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.

R. 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.
- S. 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.
- T. PUBLIC FACILITIES – see FACILITIES.
- U. 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.

V. 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. Use 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

### 3.0 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 Public Works or 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 1<sup>st</sup> of each year. The Director of Public Works 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

Fees are due and payable at the time of building permit *issuance*. Building Inspection will calculate the fee based on the type of permit being issued and the definition of the fee that relates to that type of permit. Listed below are applications of fees 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.

### 1. CFF Policies for undefined uses:

#### a. Recreation Buildings:

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.

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

<b>Facility</b>	<b>Capital Facilities Fees</b>
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:

Multi-Use Buildings are handled on a case-by-case basis.

#### c. Temporary Trailers:

- A maximum term of two (2) years is used to define “temporary” use of trailers.
- Construction trailers are administratively exempt from CFF.
- 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.

- The deadline for receipt of written application for rebate by the City Building Inspection 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.

2. Exemptions:

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

- a. Canopied and Enclosed Truck Loading Bays.
- 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. 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.

Any Low or Very Low Income or special needs housing, constructed or expanded by any other person or entity. The term of the exemption would be the term of the period deemed low income.

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 State Department of Housing and Urban Development to be used by the homebuyer as its principle

place of residence. 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.

The exemption 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 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. 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.

- e. The term for the CFF exemption would be the term of the period deemed low income.
- f. For each use listed 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 Uniform Building Code.
- g. Any alteration or addition to a residential structure, except to the extent that additional dwelling units are created.
- h. For new developments, when a structure is demolished and new structures are built, an exemption is appropriate for the structure that was destroyed provided:
  - i. Any replacement or reconstruction of a residential structure that has been destroyed or demolished, provided that the building permit for reconstruction is obtained within two (2) years after the building was destroyed or demolished except to the extent that additional units are created. Replacement or reconstruction limited to residential use only.
  - ii. Any replacement or reconstruction of a non-residential including multi-family structure that has been destroyed or demolished, unless the replacement or reconstruction increases the square footage of the structure, ten percent (10%) or more, changes the use of the structure to a higher density category, or will result in the generation of additional peak hour trip ends.
- i. 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.

- j. 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.

Staff reports for requests for exemptions shall indicate the cumulative inventory of exempt units and the percent of anticipated total exempt units at build out. The staff report shall also 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%) of the total units built.

- k. Such other exemptions as the City Council may establish by Resolution from time to time.
- l. Process for the Authorization of an Exemption:
  - i. Exemption application must be completed.
  - ii. Notice of a Public Hearing shall be filed.
  - iii. The Exemption may be authorized by the City Council on a case-by-case basis after a public hearing. The public hearing shall focus on whether or not the units to be constructed or expanded are in fact “low income”.
  - iv. The term for the CFF exemption would be the term of the period deemed low income and would require affordability covenants as per §10-3.202 of the Modesto Municipal Code.
  - v. Once exemption is approved an agreement with the City shall be signed and CFF shall be secured by a Deed of Trust.

### 3. Deferral Qualifications:

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.

- a. Category "A" qualified projects shall include any non-residential project (except industrial/warehouse projects but including hotel/motel projects) on one (1) parcel of land or a group of contiguous parcels under the same ownership for which CFF exceed \$150,000.00. Category "A" qualified projects shall also include any industrial/warehouse projects on one (1) parcel of land or a group of contiguous parcels under the same ownership for which CFF exceeds \$50,000.00.

The property owner and/or developer in the case of "Category 'A' qualified projects" may enter into 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).

- b. Category "B" qualified projects shall include any non-residential project (except industrial/warehouse projects but including hotel/motel 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. 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.

The property owner and/or developer in the case of "Category B qualified projects" may enter into a 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).

- c. Other 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. 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. 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. 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. 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.
- f. Rather than paying CFF at the time the building permit is issued for the construction of a single-family affordable housing unit, the developer may elect to defer payment of all or a portion of those fees on the following:
  - i. 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.
  - ii. The homebuyer may be granted a CFF deferral for up to five (5) years, with payments of principle 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. 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. 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. 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.

#### 4. Processing of Requests for Deferrals:

- a. The CFF Administrator will complete the deferral agreement and will either obtain the letter of credit or file a 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.
- b. The developer will take copies of the completed documents to Building Inspection. 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.

5. Once the Payment has been received:

- a. Building Inspection 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.
- b. A copy of the paid permit will be sent to Accounts Receivable.

6. Annual Installments:

- 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 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 1<sup>st</sup> of the first installment year.

Example 1: Permit is issued on May 30, 2005. Finance will prorate 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 prorate 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.

7. Review & Appeal Process:

In the event of a dispute of what fee shall be applied to the permitted use, the CFF Administrator shall present the dispute to the CFF Review Committee who then shall make a final determination. The CFF Administrator shall send a written statement of decision and the grounds therefore.

In the event that the applicant disagrees with the CFF Review Committee's determination, the applicant may choose to make his case to the review committee or may make his case to the City Council according to the appeal rights outlined in the Modesto Municipal Code Section 1.4. The CFF Administrator shall present the basis for the dispute to the Council whereby the Council will make the final determination.

#### **4.0 EXACTION POLICIES FOR CFF-RELATED IMPROVEMENTS AND REIMBURSEMENTS**

##### **A. RESIDENTIAL STREETS**

Those residential and collector 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.

Exceptions: 1) where interim improvements are required to facilitate current development pending future expressway improvement, such interim improvements shall be provided by the abutting developer 2) 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 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 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.

## **5.0 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:

### **A. PRIORITY PRINCIPLES**

1. Address Critical Safety Issues.
2. Legal Obligations:
  - a. Projects must be included in the program to use CFF funding.
  - b. Honor all commitments in existing executed agreements.
3. Maximize Traffic Benefits For Dollars Spent:
  - a. Phase projects to maximize traffic benefits per unit cost.
  - b. Utilize lower cost traffic improvements such as restriping and signal modifications where possible.
  - c. Project amenities will follow later.
4. Economic Development:
  - a. Projects to complement high priority economic development.
5. Segment Completion:
  - a. Projects that complete segments of previously phased work.

### **B. PRIORITY TRANSPORTATION CORRIDORS**

The following corridors are of high priority for programming projects:

1. East-West Priority Corridors:
  - a. Pelandale Avenue
  - b. Briggsmore Avenue

2. North-South Priority Corridors:
  - a. Carpenter Road
  - b. Claus Road

## 6.0 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.

### A. AGREEMENTS

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)

It is the obligation of the developer, landowner, and or the developer's engineer to submit a request to the CFF Administrator for reimbursement. The request shall include: 1) engineer's estimate on reimbursement amount 2) all exhibits relating to the improvements or right of way including the plat and, where applicable, closure calculations. Requests will not be granted if the dedication has already been made, or the improvements have been started.

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.

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.

### B. TIMING & PAYMENT OF AGREEMENTS

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 an 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.

#### C. 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 an RA in order to provide advances to CFF eligible projects.

### 7.0 **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.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-062**

**A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2005-485  
TO REVISE THE CLASS RANGE TABLE FOR GENERAL NON-SWORN  
CLASSES TO ESTABLISH A SALARY RANGE FOR ENVIRONMENTAL  
REVIEW SPECIALIST AT SALARY RANGE 132**

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2005-485, which approved the Class Range Table for General Non-Sworn Classes,

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

SECTION 1. AMENDMENT TO RESOLUTION NO. 2005-485. Exhibit "A" entitled "City of Modesto Class Range Table General Non-Sworn Classes Effective September 27, 2005," attached to Resolution No. 2005-485, is hereby amended as shown on the amended Exhibit "A" entitled "City of Modesto Class Range Table General Non-Sworn Classes Effective January 24, 2006," which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" establishes the salary range for Environmental Review Specialist at range 132.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 24, 2006.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of January 2006, 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: Dunbar, Hawn, Marsh, O'Bryant, Olsen

NOES: Councilmembers: Keating

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

CITY OF MODESTO  
 CLASS RANGE TABLE  
 GENERAL NON-SWORN CLASSES  
 Effective January 24, 2006

RANGE	TITLE
101	Custodian I
103	Administrative Office Assistant I
104	
105	
106	
107	Administrative Office Assistant II Custodian II Police Clerk I
108	
109	Customer Services Account Clerk I
110	Security Officer Maintenance Worker I
111	Account Clerk Administrative Office Assistant III Customer Services Account Clerk II Police Clerk II
112	
113	Administrative Technician Computer Operator Drafting and Graphics Technician
114	Animal Control Officer I Electrical Technician I Equipment Service Technician Evidence and Property Specialist Maintenance Worker II Production Technician Storeskeeper

Exhibit "A"

---

RANGE	TITLE
115	Accounting Technician Administrative Services Technician I Code Enforcement Officer I Community Service Officer I Customer Services Account Clerk III Senior Administrative Office Assistant Wastewater Treatment Plant Attendant
116	Equipment Operator Fire Prevention Technician I Motor Sweeper Operator Traffic Operations Technician Used Oil Coordinator Wastewater Collection System Operator Water Distribution System Operator
117	Electrical Technician II
118	Customer Services Accounting Technician Fleet Procurement Specialist Parking Lot Maintenance Crewleader Parks Crewleader Recreation Coordinator Senior Storeskeeper Tree Trimmer
119	Administrative Services Technician II Animal Control Officer II Assistant Buyer Building Maintenance Mechanic Civil Engineering Technician I Code Enforcement Officer II Community Service Officer II Maintenance Mechanic – Parks Maintenance Mechanic – Pumps Public Information Technician Wastewater Treatment Plant Operator

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

Exhibit "A"

---

RANGE	TITLE
127	Civil Engineering Assistant Identification Technician II Senior Fire Equipment Mechanic
128	Community Development Program Specialist II Environmental Compliance Inspector II Instrument Repair Technician Senior Wastewater Treatment Plant Operator
129	
130	Building Inspector II Construction Inspector Housing Rehabilitation Specialist II Project Coordinator
131	Senior Civil Engineering Assistant
132	<b>Environmental Review Specialist</b> Senior Environmental Compliance Inspector
133	
134	Deputy Fire Marshal Plan Review Engineer Senior Building Inspector Senior Construction Inspector



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-063**

**A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2005-494  
TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED  
MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES**

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2005-494, which approved the Class Range Table for Represented Management and Confidential,

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

SECTION I. AMENDMENT TO RESOLUTION NO.2005-494, Exhibit "A" entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective October 4, 2005" attached to Resolution No. 2005-494 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 24, 2006", which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" amends the Class Range Table as follows:

1. Amends Transit Manager from Range 441 to 444
2. Amends Senior Community Development Program Specialist from Range 431 to 434
3. Amends Solid Waste Program Manager from Range 441 to 444 concurrent with changes in management oversight of compost operations
4. Deletes Events Supervisor I, Range 430
5. Deletes Events Supervisor II, Range 434

6. Deletes Purchasing Supervisor, Range 438
7. Establishes Purchasing Manager at Range 441 (new classification)
8. Establishes Supervising Accountant at Range 438 (new classification)
9. Establishes Fire Business Services Analyst at Range 438 (new classification)
10. Establishes Events Coordinator at Range 430 (new classification)
11. Establishes Events Supervisor at Range 434 (new classification)

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 24, 2006.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of January 2006, 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: Dunbar, Hawn, Marsh, O'Bryant, Olsen  
 NOES: Councilmembers: Keating  
 ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
 JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
 RICHARD RUDNANSKY, Interim City Attorney

CITY OF MODESTO  
 CLASS RANGE TABLE  
 REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES  
 Effective January 24, 2006

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	Senior Administrative Office Assistant (Confidential) Secretary
416	
417	
418	Legal Secretary Systems Technician I
419	Public Information Technician (Confidential)
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (Represented) Legal Services Technician
421	

Exhibit "A"

---

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

Exhibit "A"

RANGE      TITLE

---

- 432    Communications Specialist  
      Customer Services Supervisor  
      Neighborhood Preservation Supervisor  
      Operations and Maintenance Supervisor  
      Recreation Supervisor II  
      Senior Accountant  
      Water Quality Control Maintenance Supervisor  
      Water Quality Control Operations Supervisor
  
- 433    Organizational Development Specialist
  
- 434    Assistant Civil Engineer  
      Assistant Traffic Engineer  
      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  
      Integrated Waste Specialist  
      Management Analyst  
      Senior Personnel Analyst  
      Weed and Seed Program Coordinator
  
- 436    Electrical Supervisor  
      Senior Planner
  
- 437

Exhibit "A"

---

RANGE	TITLE
-------	-------

---

438	Budget Officer <b>Events Supervisor</b> <b>Fire Business Services Analyst</b> Housing Program Supervisor Land Surveyor Property Agent Senior Business Analyst Software Analyst III Systems Engineer II
439	Administrative Services Officer Community Facilities Districts Administrative Officer
440	Associate Civil Engineer Associate Traffic Engineer Transportation Planner
441	Airport Manager Building Maintenance Superintendent Fire Marshal Fleet Manager Housing and Urban Development Manager Parks Operations Superintendent Parks Planning and Development Manager <b>Purchasing Manager</b> Recreation Superintendent Streets Superintendent Urban Forestry Superintendent Wastewater Collections Superintendent Water Superintendent
442	Customer Services Division Manager Manager of Budget and Financial Analysis Software Analyst IV Supervising Building Inspector Supervising Construction Inspector Systems Engineer III
443	
444	Deputy Chief Building Official Principal Planner

Exhibit "A"

RANGE      TITLE

---

**Solid Waste Program Manager**  
**Transit Manager**

445    Accounting Division Manager

446    Water Quality Control Superintendent  
      Information Technology Unit Manager

447    Business Development Division Manager  
      Chief Building Official  
      Planning Division Manager  
      Senior Civil Engineer  
      Traffic Engineer

448

449

450

451

452

453

455

Exhibit "A"

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-064**

**A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION 2005-603  
WHICH AMENDED THE CLASS RANGE TABLE FOR UNREPRESENTED  
MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES EFFECTIVE  
DECEMBER 27, 2005, TO ESTABLISH A SALARY RANGE FOR SENIOR  
AUDITOR AT RANGE 2434 AND EQUAL OPPORTUNITY ANALYST AT  
RANGE 2431 AND TO DELETE THE CLASSIFICATION OF ACCOUNTANT II  
– CITY CLERK'S OFFICE AT RANGE 2428 FROM THE CLASS RANGE  
TABLE**

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2005-603 which amended the Class Range Table for Unrepresented Management and Confidential Employees including Charter Officers and Executives, effective December 27, 2005,

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

**SECTION 1. AMENDMENT OF RESOLUTION NO.2005-603.**

Exhibit "A" entitled "City of Modesto Class Range Table, Unrepresented Management and Confidential Non-sworn Classes, Effective December 27, 2005," attached to Resolution No.2005-603, is hereby amended as shown on the amended Exhibit "A" entitled, "City of Modesto Class Range Table, Unrepresented Management and Confidential Non-sworn Classes, Effective January 24, 2006," which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" establishes the Salary Range for Senior Auditor at Range 2434 and Equal Opportunity Analyst at Range 2431 and deletes the classification of Accountant II – City Clerk's Office from the Class Range Table.



SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after January 24, 2006.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of January 2006, 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: Dunbar, Hawn, Marsh, O'Bryant, Olsen

NOES: Councilmembers: Keating

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

CITY OF MODESTO  
CLASS RANGE TABLE  
UNREPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES  
Effective **January 24, 2006**

---

RANGE	TITLE
-------	-------

---

2419

2420 Executive Secretary – Personnel and City Manager's Offices

2421

2422

2423

2424

2425 Executive Assistant  
Paralegal

2426

2427

**2428**

2429

2430

2431 **Equal Opportunity Analyst**  
Equal Opportunity Officer

2432

2433

**2434 Senior Auditor**

2435

2436

2437 Deputy City Attorney I

2438

---

RANGE	TITLE
-------	-------

---

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

2455 Assistant City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-064A**

**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 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 1. CLASSIFICATIONS AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the job specifications for the following classifications:

1. Accountant I
2. Accountant II
3. Transit Manager
4. Senior Accountant
5. Senior Community Development Program Specialist
6. Executive Assistant

Said job specifications for the above listed classifications are being amended to update the essential functions and experience and training guidelines to more accurately reflect the requirements of these classifications. The job specifications for the classifications are 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. NEW CLASSIFICATIONS CREATED. The Position Classification Plan of the City of Modesto is hereby amended to create job specifications for the following classifications:

1. Purchasing Manager
2. Events Supervisor
3. Events Coordinator
4. Equal Opportunity Analyst
5. Fire Business Services Analyst
6. Environmental Review Specialist
7. Supervising Accountant
8. Senior Auditor

Said job specifications for the above listed classifications are being established to more accurately reflect the requirements of these classifications. The job specifications for the classifications are 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. CLASSIFICATIONS DELETED. The Position Classification Plan of the City of Modesto is hereby amended to delete job specifications for the following classifications:

1. Events Supervisor I
2. Events Supervisor II
3. Purchasing Supervisor
4. Accountant II – City Clerk’s Office

Said job specifications for the above listed classifications are being deleted as they no longer reflect the requirements of the City.

SECTION 4. EFFECTIVE DATE. This resolution shall become effective on and after January 24, 2006.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of January 2006, 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: Dunbar, Hawn, O’Bryant, Olsen

NOES: Councilmembers: Keating

ABSENT: Councilmembers: Mayor Ridenour

ATTEST:

  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**Resolution Exhibit A**  
**Amended Job Classifications**  
**City Council, Jan. 24, 2006**

ACCOUNTANT I  
ACCOUNTANT II

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

DEFINITION:

To perform professional level accounting and auditing work; to record and report financial transactions of the City in accordance with generally accepted accounting principles; review accounting records for accuracy; to prepare financial reports, statements, and special financial analyses for both internal and external customers; to review accounting transactions for accuracy.

DISTINGUISHING CHARACTERISTICS:

Accountant I – This is the entry level in the Accountant series. This class is distinguished from Accountant II by the performance of the more routine tasks and duties assigned to positions within the series. Since this class is typically used as a training class, employees may have only limited work experience.

Note: Positions in this class may be assigned confidential status.

Accountant II – This is the full journey level class within the Accountant series. Employees within this class are distinguished from the Accountant I by the ability to perform the full range of assigned duties with only instruction or assistance as unusual or unique situations arise. Positions in this class have responsibility for a specific accounting function, may provide accounting support to a Senior Accountant or higher level supervisory or management position, and may be assigned supervisory responsibility over technical or clerical staff. Positions in this class are flexibly staffed and are normally filled by advancement from the entry level.

SUPERVISION RECEIVED AND EXERCISED

Accountant I

Receives general supervision from a Supervising Accountant or higher level accounting staff.

May exercise technical and functional supervision over technical and clerical staff.

Accountant II

Receives direction from a Supervising Accountant or senior level management staff.



May exercise direct supervision over technical and clerical staff.

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

Essential Functions:

Maintains and reconciles a variety of ledgers and accounts; examines all accounting transactions to ensure accuracy; corrects financial records as necessary.

Assists in monitoring various accounts, verifying availability of funds and classification of expenditures; researches and analyzes transactions to resolve problems.

Conducts routine and special sales and use tax audits of local business organizations; conducts entrance and exit interviews.

**In addition to the above, the functions of the Accountant II may include:**

Assists in preparing financial reports for internal as well as external purposes.

Recommends changes in accounting and auditing systems, policies and procedures.

Reviews and evaluates laws, controls, grants and administrative policies for guidelines in performing accounting and fiscal operations.

Prepares a variety of financial documents and reports.

Prepares spreadsheets and other account data for the annual audit.

Prepares clear and concise reports, records, correspondence and other written material.

Marginal Functions:

Performs other related work as may be assigned.

## QUALIFICATIONS

### Knowledge of:

Generally accepted accounting principles and procedures.

Automated financial management systems, spreadsheet applications, word processing, and other related software.

Principles and procedures of account classification.

Principles of technical report preparation.

Modern office procedures, methods and computer equipment.

Basic statistical techniques.

### **In addition to the knowledge for Accountant I, Accountant II requires:**

Governmental accounting principles and practices as it pertains to assigned function.

Financial research and report preparation methods and techniques.

Account reconciliation principles.

Principles and practices of organization, administration and personnel management.

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

### Ability to:

Learn and apply accounting principles to the maintenance of financial and accounting transactions.

Learn and apply Federal, State and local laws and regulations to accounting.

Examine and verify routine financial documents and reports.

Prepare a variety of routine financial statements, reports and analyses.

Communicate clearly and concisely, both orally and in writing.

Use a variety of modern office equipment, including but not limited to, computer, calculator, typewriter, telephone, facsimile machine, and photocopy machine.

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

**In addition to the ability for Accountant I, Accountant II requires:**

Apply generally accepted accounting principles in the maintenance of financial and accounting transactions.

Prepare, or assist in the preparation of, a variety of financial statements, reports and analyses.

Examine and verify a variety of financial documents and transactions and make necessary corrections.

Research, analyze and make effective recommendations on accounting work processes and fiscal practices.

Conduct fiscally sound audits of financial records.

Conduct audits in accordance with applicable audit standards.

Apply laws and regulations pertaining to accounting and auditing 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:

##### **Accountant I:**

##### Experience:

Some professional general or governmental accounting experience is highly desirable.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in accounting or a closely related field.

**Accountant II:**

Experience:

Two years of professional level accounting/auditing experience. Experience including governmental accounting, grant accounting and auditing is desirable.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in accounting or closely a related field.

WORKING CONDITIONS

Environmental Conditions:

Office environment.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting, standing, bending, and stooping for prolonged periods of time and occasional lifting; using various office equipment including a computer screen and keyboard.

## TRANSIT MANAGER

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

### DEFINITION

To manage, direct and coordinate the activities of the City's transit system.

### SUPERVISION RECEIVED AND EXERCISED

Receives general direction from the Director of Public Works.

Exercises direct supervision over professional, technical, and clerical staff.

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

#### ESSENTIAL FUNCTIONS:

Conducts studies of routes and schedules; recommends changes to increase Efficiency to the Director.

Prepares the transit system budget; assists in budget implementation; participates in the forecast of additional funds needed for staffing, equipment, materials, and supplies; administers the approved budget.

Projects estimates of revenues and expenses.

Negotiates and drafts agreements with other jurisdictions regarding transit service.

Gathers information for federal, state and county grants; prepares application.

Coordinates the transit system advertising program with advertising contractor; monitors contractor's performance.

Drafts specifications for transit equipment and contract operations; monitors procurement of operations contractors; monitors performance of transit operations contractors.

Works with contractors to solve operational problems such as bus stop location and problem passengers.

Prepares specifications for and solicit bids for the bus bench franchise; monitors performance of the bus bench franchise; reviews requested bench locations.

Prepares quarterly reports on federal and state funded projects; submits to funding agencies.

Prepares special and required reports for various agencies and the City Council.

Responds to and resolves difficult and sensitive citizen inquiries and complaints.

Manages the downtown transportation center.

Assigns and supervises bus observers.

Orders and maintains supplies used by the transit system.

Marginal Functions:

Performs related duties as assigned.

QUALIFICATIONS

Knowledge of:

General principles and practices of management relating to a municipal transit system.

Municipal budget preparation and monitoring of complex programs.

State and Federal grant administration.

Supplies used in a transit system.

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

Ability to:

Manage complex transit system.

Prepare clear and concise written reports.

Make clear and concise oral presentations.

Prepare and administer a budget.

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

Communicate clearly and concisely, both orally and in writing.

Experience and Training Guidelines

Experience:

Four years of increasingly responsible experience in the management and operation of a transit system.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in business or public administration or a related field.

License or Certificate

Possession of, or ability to obtain, an appropriate, valid California driver's license.

WORKING CONDITIONS

Environmental Conditions:

Office environment.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting, standing, bending, and stooping for prolonged periods of time and occasional lifting; using various office equipment including a computer screen and keyboard.



## SENIOR ACCOUNTANT

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

### DEFINITION

To perform the more complex professional level accounting and auditing work; to record and report financial transactions of the City in accordance with generally accepted accounting principles; review accounting records for accuracy; to prepare a variety of technical financial reports, statements, and special financial analysis for both internal and external customers; to invest temporarily idle City funds to obtain maximum investment earnings; and to provide technical staff assistance to management staff.

### SUPERVISION RECEIVED AND EXERCISED

Receives general direction from the Accounting Division Manager or other management level position.

May exercise direct or indirect supervision over assigned technical and clerical staff; however, supervision is not a preponderance of the duties assigned.

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 more complex professional level accounting work; reviews the work of less experienced staff and serves as technical advisor to staff and departments.

Reviews, interprets, and implements new governmental accounting standards, as required by Governmental Accounting Standards Board statement.

Plans and oversees the accounting for a variety of specialized accounting functions, such as treasury and investments, debt service, and joint powers agencies.

Designs and prepares specialized financial reports; reconciles complex balance sheet accounts and maintains detailed supporting documentation for audit.

Reviews and implements procedures pertaining to accounting issues, including but not limited to, investment and Council financial policies.

Prepares and interprets a variety of complex and technical financial reports for internal as well as external purposes.

Recommends changes in accounting and auditing systems, policies and procedures.

Reviews and evaluates laws, controls, grants, and administrative policies for guidelines in performing accounting and fiscal operations.

Resolves work problems and interprets administrative policies and technical procedures to subordinates, other departments, and the public; resolves difficult problems.

Coordinates assigned activities and functions with those of other divisions, departments and outside agencies and organizations.

Reconciles and maintains records for various accounts; maintains documentation.

Provides information to the public; responds to and resolves difficult or sensitive citizen or business inquiries and complaints.

## QUALIFICATIONS

### Knowledge of:

Generally accepted accounting principles and procedures and their application to a variety of complex accounting transactions and problems.

Advanced governmental accounting and auditing principles and practices.

Principles and practices of organization, administration and personnel management.

Appropriate municipal laws, rules and regulations with regards to municipal finance administration.

Automated financial management systems.

Modern office procedures, methods and computer equipment.

### Ability to:

Apply advanced accounting principles to the maintenance of financial and accounting transactions.

Analyze problems, identify alternative solutions, project consequences of proposed actions and implement recommendations in support of goals.

Interpret and apply complex accounting and financial guidelines.

Prepare clear and concise administrative and financial reports, correspondence, and other written documents.

Prepare accurate financial and statistical reports; maintain detailed records.

Interpret and explain department policies and procedures.

Assist in developing and administering Department policies and procedures.

Interpret and apply City policies, procedures, rules and regulations.

Prepare, examine, and verify financial documents and reports.

Oversee staff and activities of an accounting or auditing function.

Prepare a variety of complex audits, financial statements, reports and analyses.

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:

Four years of professional journey level accounting/auditing experience. Experience including governmental accounting, grant accounting and auditing is desirable.

##### Training:

Bachelor's degree from an accredited college or university with major course work in accounting or closely a related field.

#### WORKING CONDITIONS

##### Environmental Conditions:

Office environment.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting, standing, bending, and stooping for prolonged periods of time and occasional lifting; using various office equipment including a computer screen and keyboard.

## SENIOR COMMUNITY DEVELOPMENT PROGRAM SPECIALIST

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

### DEFINITION

To provide administrative and technical support to the Housing and Neighborhoods Division of the Parks, Recreation, and Neighborhood Department; to perform research, statistical and other analytical work; and to provide professional level support to budget and financial accounting/monitoring and grant-related activities.

### SUPERVISION RECEIVED AND EXERCISED:

Receives general direction from a management level position.

May exercise technical and functional supervision over administrative staff.

### DISTINGUISHING CHARACTERISTICS

This class is distinguished from the Community Development Program Specialist II by the performance of advanced journey level duties involving budgetary and financial responsibilities, and providing administrative support to the Department in specific areas of responsibility including grant programs and budgeting.

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

#### Essential Functions:

Acts as Budget Officer for the division and/or specific HUD programs; prepares and administers the division budget; manages the day-to-day fiscal operation and funding allocation; is responsible for budget monitoring; is responsible for gathering and compiling financial data for annual reports.

Undertakes independent analysis, program development and research, making recommendations and preparing corresponding staff reports.

Coordinates preparation of required annual HUD grant applications, reports and documents; compiles, analyzes and prepares annual funding reports.

Directs daily fiscal operations and funding allocation of assigned programs or funds; ensures fiscal operations are in compliance with funding agency guidelines.

Compiles and analyzes data and prepares annual reports including the Grantee Performance Report, Community Development Block Grant (CDBG) Application, HOME Application and Comprehensive Housing Affordability Strategy (CHAS).

Negotiates terms and conditions of contracts; administers and monitors contracts with various sub-contractors.

Recommends goals and objectives; assists in the development of policies and procedures.

Evaluates operations and activities of assigned responsibilities; recommends improvements and modifications.

Attends various City Council, commission, board and other governmental meetings; prepares and presents agenda items to the City Council.

Assists in marketing of community development programs administered through the Housing and Neighborhoods Office including writing and preparing brochures and flyers.

Monitors small-business loans, nonprofit organizations and other governmental entities for proper expenditures according to loan or grant agreements and Federal regulations.

Assists in packaging and underwriting loans under the Down Payment Assistance Program.

Marginal Functions:

Performs related duties as assigned.

QUALIFICATIONS

Knowledge of:

Federal, State and local housing and community development programs and regulations.

Effective communication skills with a diversity of clients.

Technical report writing procedures and grant proposal development.

Statistical methods and graphic presentation.

Principles and practices of loan packaging and underwriting.

Principles and practices of contract monitoring.

Principles and practices of budget preparation and administration.

Computers and related software, including spreadsheets.

Ability to:

Prepare and present completed staff reports including statistical charts, graphs and exhibits.

Deal effectively with individuals from a variety of ethnic and socio-economic groups.

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

Communicate clearly and concisely, both orally and in writing.

Estimate and project revenues and expenditures.

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

Analyze problems, identify solutions, and implement recommendations.

Analyze pro-formas and financial statements.

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:

Education:

Equivalent to a Bachelor's Degree from an accredited college or university with major course work in finance, business or public administration or related field.

Experience:

At least four years of increasingly responsible experience in finance, community development, or a related field with a minimum of one year in a community development or housing agency.

License:

Possession of, or the ability to obtain, an appropriate and valid California driver's license.

WORKING CONDITIONS:

Environmental Conditions:

Office environment; exposure to computer screens.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting, standing, bending, and stooping for prolonged periods of time and occasional lifting; using various office equipment including a computer screen and keyboard.



## EXECUTIVE ASSISTANT

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

### DEFINITION

To perform a variety of highly responsible, confidential and complex secretarial and administrative duties for the City Manager or Mayor and City Council; and to provide general information and assistance to the public.

### SUPERVISION RECEIVED AND EXERCISED

Receives direction from the City Manager.

Exercises direct supervision over clerical and secretarial staff.

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

#### Essential Functions:

Performs a wide variety of complex, responsible and confidential duties for the City Manager, Mayor, and the City Council.

Screens calls, visitors and mail; responds to sensitive requests for information and assistance; resolves citizen concerns and complaints.

Interprets City policies, procedures, laws and regulations in response to inquiries and complaints; refers inquiries as appropriate.

Participates and assists in the administration of the City Manager's Office or Mayor's Office; prepares comprehensive reports, compiles information to be used in special projects and reports.

Independently responds to letters and general correspondence of a routine nature.

Makes travel arrangements, maintains appointment schedules and calendars and arranges meetings, conferences and civic functions for the City Manager, Mayor, and/or City Council members.

Takes and transcribes dictation; types and assembles reports, manuals, newsletters and other materials and distributes to staff.

Plans, prioritizes, assigns, supervises and reviews the work of clerical staff involved in the City Manager's Office or Mayor's Office.

Recommends organizational or procedural changes affecting support activities.

Researches, compiles and analyzes data for special projects and various reports; assists in assembling City Council agenda items as needed.

Orders and maintains office supplies; orders stationary, business cards and supplies for administrative office staff and City Council members as required.

Initiates and maintains a variety of files and records of information related to the City Manager's Office or Mayor's Office; maintains manuals and updates resource materials.

Participates in budget preparation and administration; prepares cost estimates for budget recommendations; submits justifications for budget items; monitors and controls expenditures.

Participates in the selection of staff; provides or coordinates staff training; works with employees to correct deficiencies; implements discipline procedures.

Evaluates operations and activities of assigned responsibilities; recommends improvements and modifications; prepares various reports on operations and activities.

Performs related duties as assigned.

### QUALIFICATIONS

#### Knowledge of:

English usage, spelling, grammar and punctuation.

Modern office procedures, methods and computer equipment.

Alphabetic and numeric filing system management.

Business correspondence writing and report preparation.

Principles of supervision, training, and performance evaluation.

Budgeting procedures and techniques.

Fiscal control.

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

Functions and organization of municipal government.

Principles and procedures of record keeping.

Ability to:

Interpret and apply administrative and departmental policies, procedures, laws and regulations.

Work cooperatively with other departments, City officials and outside agencies.

Perform responsible and difficult secretarial work involving the use of independent judgment and personal initiative.

Understand the organization and operation of the City and of outside agencies as necessary to assume assigned responsibilities.

Analyze situations carefully and adopt effective courses of action.

Compile and maintain complex and extensive reports and prepare routine reports.

Maintain confidential data and information for executive staff.

Independently prepare correspondence and memorandums.

Work independently in the absence of supervision.

Operate and use modern office equipment including a computer.

Type and transcribe at a speed necessary for successful job performance.

Take and transcribe dictation at a speed necessary for successful job performance.

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:

Four years of increasingly responsible secretarial and clerical experience.

#### Training:

Equivalent to completion of the twelfth grade supplemented by specialized secretarial course work.

### WORKING CONDITIONS

#### Environmental Conditions:

Office environment.

#### Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting, standing, bending, and stooping for prolonged periods of time and occasional lifting; using various office equipment including a computer screen and keyboard.

**Resolution Exhibit B**  
**New Job Classifications**  
**City Council, Jan. 24, 2006**

PURCHASING MANAGER

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

DEFINITION

To manage, plan, coordinate, and administer the City's Purchasing Division which includes centralized procurement and central stores; to perform the most complex procurement functions assigned to the Purchasing Division; and to carry out special projects as assigned.

SUPERVISION RECEIVED AND EXERCISED

Receives general direction from the Finance Director.

Exercises direct supervision over professional, technical and clerical staff.

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

Essential Functions:

Plans, coordinates, and administers the operational, personnel, and financial activities of the Purchasing Division.

Develops and directs the implementation of goals, objectives, policies, procedures and work standards for the Purchasing Division; prepares and administers the division's budget.

Participates in the selection of staff; motivates staff and encourages teamwork; provides or coordinates staff training; works with employees to correct deficiencies; and implements discipline procedures.

Directs and participates in the development of work plans; assigns work activities, projects and programs; monitors work flow; reviews and evaluates work products, methods and procedures.

Appropriately represents the City in meetings with representatives of governmental agencies, professional and business organizations, vendors, suppliers and contractors.

Prepares and makes presentations to City Council on procurement related activities.

Develops and implements policies and procedures related to the purchasing of materials and services.

Confers with other City departments regarding purchasing, stores, or related issues; implements inventory, and other internal controls to ensure governmental policy and regulations are met and that supplies are available.

Develops new sources of supply and recommends alternative materials, equipment, and supplies.

Monitors developments related to purchasing and materials management matters, evaluates their impact upon City operations and develops and implements policy and procedural improvements.

Directs and conducts analytical studies; develops and reviews reports.

Reviews contracts and purchase orders; contacts and negotiates with vendors; evaluates vendor performance; keeps informed of market conditions and new products.

Supervises the development of bid specifications; solicits, analyzes, and awards bids.

Collaborates with department representatives to determine purchasing needs, specifications, and areas of standardization.

Provides information on prices, products, materials, and services to departments for budgeting purposes.

Participates in intergovernmental meetings for the purpose of standardizing specifications, preparing purchasing ordinances, and developing cooperative methods and practices.

Fulfills the duties of Minority Business Enterprises Liaison Officer.

Marginal functions:

Performs related duties as assigned.

QUALIFICATIONS

Knowledge of:

Terminology, principles, practices and methods used in public purchasing.

Principles and practices of supervision, training and personnel management.

Commodity markets, marketing practices, and commodity pricing methods.

Laws and regulations as they apply to public purchasing.

Principles of financial forecasting, materials planning, and budget procedures and techniques.

Market conditions, current prices, trade names and brands relating to purchasing for a municipality.

Methods of establishing specifications and methods of store inventory control.

Sources of supplies, materials, and equipment commonly used by municipalities.

Modern office methods, practices, procedures, and equipment.

Ability to:

Organize, direct and implement a comprehensive purchasing program to produce the greatest efficiency, service and value to the organization.

Analyze, evaluate, and modify operating methods and procedures.

Analyze and interpret market prices and trends.

Make accurate price and quality comparisons in the evaluation of bids, materials and equipment needs.

Prepare equipment and material specifications.



Plan, organize, administer, review and evaluate purchasing and administrative support activities.

Analyze complex problems, evaluate alternatives, and make creative recommendations.

Interpret applicable laws, rules, and regulations.

Prepare and administer a Division budget.

Prepare clear and concise reports, specifications, requests for proposals, correspondence and other written materials; and communicate effectively verbally.

Supervise, train and evaluate personnel.

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:

Four years of increasingly responsible experience in purchasing and materials management work, preferably in the public sector, including one year of supervisory or lead responsibility.

##### Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in purchasing, business administration, public administration, or a related field.

##### Certificate:

Certification by the National Association of Purchasing Managers (NAPM) or institute of Governmental Purchasing (IGP) or other recognized purchasing organization is highly desirable.

WORKING CONDITIONS

Environmental Conditions:

Office Environment.

Physical conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting, standing, bending, and stooping for prolonged periods of time and occasional lifting; using various office equipment including a computer screen and keyboard.

EVENTS SUPERVISOR

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 supervise and coordinate the needs and services of lessees for events at the Modesto Centre Plaza; to oversee the day-to-day operations of the Modesto Centre Plaza; and to participate in duties related to booking, scheduling, planning, and supervising of events.

SUPERVISION RECEIVED AND EXERCISED

Receives general direction from a management level classification.

Exercises direct supervision over subordinate, professional, technical, scheduling, temporary, and contracted staff.

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

Essential Functions:

Selects and recommends the appointment and termination of personnel; trains and orients staff; assigns and reviews work, evaluates performance, and implements progressive discipline as required.

Recommends goals and objectives; assists in the development and implementation of policies and procedures.

Supervises and coordinates event activities.

Supervises and participates in the development of work plans; assigns work activities; monitors work flow; reviews and evaluates work products, methods, and procedures.

Supervises the booking, scheduling, and sales of Centre Plaza events.

Works with Centre Plaza users to plan the execution of their events, including equipment, personnel, and services.

Supervises Centre Plaza events while in progress. This includes some evening and weekend events.

Reviews all settlements and approves for final billings.

Oversees the operation of box office functions including ticket ordering, ticket sales, ticket taking, supervision of related personnel and final ticket auditing.

Records, transfers and processes all monies that the Centre generates through ticket sales, rental deposits and settlements, novelty sales and other.

Directly participates in the preparation and implementation of budget.

Responds to facility user complaints and inquiries.

Supervises the maintenance of: rental agreements, permit agreements, and associated rules and regulations for events and outside services; service manuals, box office manuals, and operations manuals for contracted services and center personnel; evaluation procedures for catering, concessions, and decorators who provide services.

Proactively communicates with representatives of various organizations regarding potential facility use.

Develops recommendations for rate schedules.

Establishes and maintains working relations with the Modesto Convention, Visitors Bureau, media, and other organizations.

Recommends capital improvement projects and expenditure of FF&E funds.

Identifies new and existing markets for facility use.

Marginal Functions:

Performs other related work as may be assigned.

QUALIFICATIONS:

Knowledge of:

Principles and techniques for scheduling, booking, planning, servicing and coordinating a variety of theatrical, entertainment, meeting, banquet, and convention events.

Basic accounting as used in event and box office bookkeeping and settlement.

Fire and safety regulations and emergency procedures related to public assembly facilities.

Security, catering, concessions, equipment, services, and other operational needs of community/convention center events.

Principles of box office and ticketing operations.

Negotiation techniques.

Principles of budget development and administration.

Principles of supervision, training, and performance evaluation.

Modern office procedures, methods and computer equipment.

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

Ability to:

Supervise a variety of event related activities.

Supervise the booking, scheduling, and selling of Centre Plaza space to potential users.

Select, supervise, evaluate, train, and coach assigned staff.

Plan, organize, and coordinate the activities of various service providers associated with Centre Plaza events.

Supervise events in progress.

Communicate clearly and concisely, orally and in writing.

Respond appropriately to Center Plaza guests within the context of Centre Plaza policies and procedures while maintaining a high customer service ethic.

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

Lift and carry objects, if it becomes necessary.

Establish and maintain cooperative relationships with those contacted during work.

Hire, supervise, train, and evaluate subordinates.

Identify and respond to public and City Council issues and concerns.

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

#### Experience and Training Guidelines

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

##### Experience:

Four years of progressively responsible experience supervising and coordinating a variety of events in a conference center, convention center, college union, recreational, entertainment, or other public assembly facility with one year at the leadworker or supervisor level. One (1) year experience with ConCentRICS facility management software is desirable.

##### Training:

Equivalent to graduation with Bachelor's Degree from an accredited college or university.

##### License or Certificate

Possession of valid Class C drivers' license issued by California Department of Motor Vehicles within one month of employment.  
Possession of certificate from the International Association of Assembly Managers (IAAM) school for Public Assembly Management is desirable.

WORKING CONDITIONS

Environmental Conditions:

Office and field environment.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for walking or standing for prolonged periods of time; operating motorized equipment and vehicles.

EVENTS COORDINATOR

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

DEFINITION

To coordinate the needs and services of lessees for events at the Modesto Centre Plaza; to book, schedule, plan, and supervise of events.

SUPERVISION RECEIVED AND EXERCISED

Receives direction from the Events Supervisor.

May exercise technical and functional supervision over technical, clerical, and contracted staff.

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

Essential Functions:

Books, schedules, and sells Centre Plaza events.

Works with Centre Plaza users to plan the execution of their events, including equipment, personnel, and services.

Supervises Centre Plaza events while in progress. This includes some evening and weekend events.

Prepares event settlements and evaluations.

Operates box office functions including ticket ordering, ticket sales, ticket taking, supervision of related personnel and final ticket auditing.

Records, transfers and processes all monies that the Centre generates through ticket sales, rental deposits and settlement, novelty sales and other.

Assists in budget preparation and administration.

Responds to facility user complaints and inquiries.



Maintains and updates as needed: rental agreements, permit agreements, and associated rules and regulations for events and outside services; service manuals, box office manuals, and operations manual for contracted services and center personnel; evaluation procedures for catering, concessions, and decorators who provide services.

Maintains records and prepares reports and correspondence, as necessary, related to events and facility use.

QUALIFICATIONS:

Knowledge of:

Principles and techniques for scheduling, booking, planning, servicing and coordinating a variety of theatrical, entertainment, meeting, banquet, and convention events.

Basic accounting as used in event and box office bookkeeping and settlement.

Fire and safety regulations and emergency procedures related to public assembly facilities.

Security, catering, concessions, equipment, services, and other operational needs of community/convention center events.

Principles of box office and ticketing operations.

Modern office procedures, methods, and computer equipment.

Ability to:

Book, Schedule, and sell Centre Plaza space to potential users.

Plan, organize, and coordinate the activities of various service providers associated with Centre Plaza events.

Oversee events in progress.

Communicate clearly and concisely, orally and in writing.

OCTOBER, 2005

Respond appropriately to Center Plaza guests within the context of Centre procedures while maintaining a high customer service ethic.

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

Lift and carry objects, if it becomes necessary.

Establish and maintain cooperative relationships with those contacted during work.

### Experience and Training Guidelines

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

#### Experience:

Two years experience in supervising and coordinating a variety of events in a conference center, convention center, college union, recreational, entertainment, or other public assembly facility. One (1) year experience with ConCentRICS facility management software is desirable.

#### Training:

Equivalent to graduation with a Bachelor's Degree from an accredited college or university.

#### License or Certificate

Possession of valid Class C drivers' license issued by California Department of Motor Vehicles within one month of employment.  
Possession of a certificate from the International Association of Assembly Managers (IAAM) school for Public Assembly Management is desirable.

### WORKING CONDITIONS

#### Environmental Conditions:

Office and field environment.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for walking or standing for prolonged periods of time; operating motorized equipment and vehicles.

## EQUAL OPPORTUNITY ANALYST

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

### DEFINITION

To conduct investigations involving equal employment opportunity issues; to assist with training on equal employment opportunity to City employees, and to perform a variety of legal support duties for the City Attorney's Office.

### SUPERVISION RECEIVED AND EXERCISED

Receives direction from various attorneys assigned to the City Attorney's Office.

May exercise technical supervision over clerical staff.

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

#### ESSENTIAL FUNCTIONS:

Conducts investigations related to equal employment opportunity issues; interviews involved parties; prepares report of findings and recommendations; and makes presentations to City Council as required.

Assists with equal employment opportunity training of new City employees; provides input on course content.

Monitors legislation and litigation; conducts research and prepares memoranda.

Drafts legal documents, including discovery, administrative, pre-trial/trial documents, pleadings, motions, correspondence and memoranda.

Acts as a liaison between attorneys and client/witnesses.

Attends a variety of meetings and reviews related documents to ensure City's compliance with legislation and regulations.

Analyzes or distinguishes cases that may have relevance, and presents conclusions to attorney.

Monitors the progress of cases/projects as appropriate.

Marginal Functions:

Performs related duties as assigned.

QUALIFICATIONS:

Knowledge of:

Pertinent Federal, state, and local laws, court decisions, Personnel Rules, City policies, and administrative guidelines as they relate to equal employment opportunity.

Methods and techniques used in conducting legal research and available legal resource material, discovery, and fact investigation.

Principles and practices of analysis and statistical methodology.

Principles of legal writing and report preparation.

Ethics of law practices.

General familiarity with State and Federal Trial Court practices.

Principles and methodologies of developing and providing training.

Modern office procedures, methods and computer equipment.

Ability to:

Conduct investigations related to equal employment opportunity, prepare report of findings, and develop sound recommendations.

Assist with developing materials and curricula for equal employment opportunity training program.

Provide legal administrative support during administrative hearings and in court.

Prepare legal documents, including pleadings, motions, and discovery documents.

Research and summarize case law and other legal documents.

Organize work, set priorities, meet critical deadlines and follow-up on assignments with minimal direction.

Develop and establish effective cooperative relationships with those contacted in the course of work.

Communicate clearly and concisely, both orally and in writing.

Research and interpret a variety of legal issues.

Work with and control sensitive and confidential information; provide appropriate sensitivity to multi-cultural issues.

#### Experience and Training Guidelines

##### Experience:

Two years of increasingly responsible experience as a Paralegal working under the supervision of an attorney with experience related to equal employment opportunity or related investigations.

##### Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in Paralegal studies and a certificate of completion of a paralegal program approved by the American Bar Association.

##### Additional Special Requirements

Four hours of mandatory continuing education in either general law or in a specialized area of law every two years, and

Four hours of mandatory continuing legal education in legal ethics every three years.

WORKING CONDITIONS

Environmental Conditions:

Office environment.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting, standing, bending, and stooping for prolonged periods of time and occasional lifting; using various office equipment including a computer screen and keyboard.

FIRE BUSINESS SERVICES ANALYST

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

DEFINITION:

To provide a variety of administrative support for the Fire Department; to perform research, statistical and other analytical work; and to fulfill other assignments in functional areas such as purchasing, budget, project management, and other areas for the department.

SUPERVISION RECEIVED AND EXERCISED

Receives general direction from the Fire Chief or other management staff.

May exercise supervision over subordinate staff.

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

Essential Functions:

Directs the budgetary and fiscal control process for the Fire Department, and prepares the department's operating budget; develops proformas for the department; serves as the lead on financial items with the Finance Department.

Investigates, analyzes, develops, and prepares special studies or projects as requested.

Conducts special projects and administrative studies; prepares research and analytical reports.

Oversees the department's purchasing function including vendor development, specification development, solicitation of bids, cost evaluations, and the preparation of committee or council reports.

Oversees the management of department property and records.

Assists with the development of department policies and procedures.

Oversees the administration of department grants.



Essential Functions, Continued:

Serves as project manager for the department's facilities maintenance program.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles and practices of organization, administration, and personnel management.

Principles and practices of budget preparation and administration.

Modern office procedures, methods and computer equipment.

Principles and procedures of financial record keeping and reporting.

Technical report writing procedures.

Principles and practices of purchasing.

Principles of project management.

Principles of supervision, training, and performance evaluation.

Administrative research techniques, sources and availability of information.

Ability to:

Learn the process and structure of City and department.

Learn applicable Federal, State, and local laws, codes and regulations.

Analyze problems, identify alternative solutions, project consequences of proposed actions and implement recommendations in support of goals.

Analyze facts and make sound recommendations.

Prepare completed staff work for oral and written communications.

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

Communicate clearly and concisely, both orally and in writing.

Use and operate a personal computer with a variety of software.

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:

Two years of increasingly responsible administrative and analytical experience in a public agency.

##### Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in business or public administration or a related field.

#### WORKING CONDITIONS

##### Environment Conditions:

Office and field environment.

##### Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting, standing, bending, and stooping for prolonged periods of time and occasional lifting; using various office equipment including a computer screen and keyboard and travel from site to site.

## ENVIRONMENTAL REVIEW SPECIALIST

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

### DEFINITION

To monitor and complete environmental review documents for Community Development Block Grant (CDBG), ESG, HOME, and related programs; to ensure compliance with the Davis Bacon Labor Act and Disadvantaged Business and Women Owned Business Enterprise requirements for HUD funded programs; and to perform special projects as assigned.

### SUPERVISION RECEIVED AND EXERCISED:

Receives general direction from a management level position.

May exercise technical and functional supervision over technical, clerical, or contract staff.

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

#### Essential Functions:

Completes required environmental review documents and reports required by HUD for CDBG, ESG, HOME, and related programs to ensure compliance with HUD requirements.

Reviews HUD funded projects for compliance with Davis Bacon Labor Act and Disadvantaged and Women Owned Business Enterprise requirements.

Reviews and approves HUD funded capital improvement project bid packets prior to posting to ensure compliance with HUD, state, and federal requirements as it relates to salary review, Davis Bacon Labor Act, and environmental review.

Provides technical assistance related to CDBG funded or City owned buildings regarding asbestos and lead based paint regulations and removal.

Tracks public service projects and monitors compliance with Davis Bacon Labor Act compliance when applicable.

Uses GIS environmental mapping program to identify location of various projects and to produce maps containing census, ethnic, income, and related data, as required by HUD.

Receives, researches, and responds to questions from bidding contractors regarding compliance requirements.

Researches, reviews, analyzes, and applies Federal, State, and local laws and regulations regarding labor standards, environmental compliance issues, and HUD funding requirements.

Marginal Functions:

Performs related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles and practices of environmental planning and development as it relates to housing.

Federal, state, and local housing and community development programs and regulations.

Technical report writing.

Effective communication skills.

Modern office procedures, methods and computer equipment.

Ability to:

Understand, interpret, and apply department and program policies, procedures, rules, and regulations.

Understand, interpret, and apply federal, state, and local housing and community development programs and regulations.

Explain environmental programs, as they relate to housing, to the general public.

Establish and maintain effective working relationships with coworkers, other County employees, outside organizations, and the public.

Prepare technical reports including statistical charts, graphs, maps, and exhibits.

Deal effectively with individuals from a variety of ethnic and socio-economic backgrounds.

#### Experience and Training Guidelines

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

##### Experience:

Three years of experience working with HUD funded programs and state funded projects.

##### Training:

Equivalent to 60 semester units of college coursework.

##### Additional Special Requirements

Depending on assignment, any or a combination of the following certificates may be required: A.H.E.R.A. Asbestos Building Inspector/Manager Planner, Asbestos Contractor/Supervisor, Asbestos Project Designer, State of California Department of Health Services Certified Lead-Based Paint Inspector – Assessor and Supervisor.

#### WORKING CONDITIONS:

##### Environmental Conditions:

Office environment; exposure to computer screens; some field environment.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time.

## SUPERVISING ACCOUNTANT

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

### DEFINITION

Under general direction, supervises, plans and coordinates daily activities within the Finance Department involving areas of payroll, accounts payable, accounts receivable, and fixed assets; exercises direct supervision over assigned staff; provides highly responsible staff assistance to department management; performs specialized accounting and financial duties as assigned; develops, implements, monitors and evaluates computerized accounting systems, reports and procedures.

### SUPERVISION RECEIVED AND EXERCISED

Receives general direction from the Deputy Director of Finance.

Exercises direct supervision over professional, technical, and clerical staff.

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

#### Essential Functions:

Assists in the assessment, development, and maintenance of computerized financial systems through a review of present systems or in the selection of new systems and procedures; prepares recommendations for modifications or improvements.

Oversees and maintains of complex computer database in which the City's financial and payroll records reside.

Supervises and performs specialized accounting and recordkeeping duties within the City's accounting system.

Selects and recommends the appointment and termination of personnel; trains and orients staff; assigns and reviews work, evaluates performance and implements progressive discipline as required.

Analyzes and prepares fiscal reports in compliance with Federal, State and local laws, rules and regulations.

Provides primary assistance to the Finance Director and Deputy Director of Finance.

Makes recommendations regarding organization and operation of assigned areas of responsibility and recommends changes in policies and procedures.

Monitors financial systems, analyzes and reconciles financial records or statements and assists in internal control and auditing functions.

Provides information and assistance to other City staff or the public as it relates to the accounting activities of the department.

Performs special assignments and prepares reports as required.

Marginal Functions:

Performs related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles of fiscal accounting and financing; practices of centralized accounting, auditing and revenue administration.

Appropriate municipal laws, rules and regulations with regards to municipal finance administration.

Principles and practices of personnel management, supervision, training, discipline and performance evaluation.

Advanced computerized financial management, data processing, spreadsheet and word processing applications.

Modern office practices, procedures and equipment.

Mathematics and statistics as applied to area of assignment.

Ability to:

Manage, plan, organize and direct the work of staff.

Select, supervise, evaluate, train, and coach assigned staff.



Interpret and apply complex accounting and financial guidelines.

Prepare clear and concise administrative and financial reports, correspondence, and other written documents.

Prepare accurate financial and statistical reports; maintain detailed records.

Interpret and explain department policies and procedures.

Identify customer service issues and define appropriate and effective resolutions.

Perform accounting procedures related to assigned functions.

Communicate clearly and concisely, orally and in writing.

Develop and maintain cooperative working relationships with the general public, City officials, employees and representatives of various public and private agencies.

Operate a variety of financial and word processing computer software at a proficient level.

Experience and Training Guidelines:

Experience:

Four years of professional level accounting/auditing experience with one year in a lead capacity. Experience including governmental accounting, grant accounting and auditing is desirable.

Training:

Bachelor's degree from an accredited college or university with major course work in accounting or closely a related field.

WORKING CONDITIONS

Environmental Conditions:

Office environment.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting, standing, bending, and stooping for prolonged periods of time and occasional lifting; using various office equipment including a computer screen and keyboard.

## SENIOR 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 perform performance audits and investigations of City departments as directed by the Audit Committee of the City Council and approved by the City Council; to collect and analyze evidential data; to document work in the form of workpapers in accordance with audit standards; to prepare written reports and make presentations of findings and recommendations.

### SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from the City Clerk and Auditor.

May exercise direct or indirect supervision over assigned professional, technical, clerical staff, or contract staff.

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

#### Essential Functions:

Coordinates and participates in conducting audits, investigations, and related activities, according to applicable audit standards.

Determines scope of audit and/or investigation and develops audit programs.

Develops audit findings and collaborates with key members of the audited department or program to address issues identified.

Appraises the quality of performance of designated operations in carrying out assigned responsibilities.

Maintains proper records of internal audit functions and activities, including budgets and costs, time records, and appropriate files.

Conducts follow-up investigations and audits as warranted.

OCTOBER, 2005

Testifies and represents the Office of the City Clerk and Auditor before Audit Committee of the City Council and City Council regarding findings and recommendations.

Assists with the development and implementation of Audit Division budget.

Prepares Request for Proposals and manages the contract for the City's external auditor.

Reviews program records, activity reports, transactions and related documents; analyzes operations and prepares reports of findings and recommendations relating to compliance, efficiency, and effectiveness of program.

Performs non-audit projects as assigned.

Marginal functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Public administration, including government programs and operations.

Principles of governmental accounting and auditing practices and standards.

General research, analytical, and auditing techniques and their application.

Technical report writing.

Modern office procedures, methods and computer equipment.

Ability to:

Collect, compile, analyze, and interpret a variety of data and develop sound recommendations regarding findings.

Ascertain the extent of compliance with established policies and procedures.

Understand and apply instructions and legal and contractual requirements in terms of auditing programs.

Work with and control sensitive and confidential information.

Design and prepare audit programs, establish contact with operating personnel, conduct fieldwork, prepare workpapers, draft audit reports and follow up on audit recommendations.

Communicate clearly and concisely, both orally and in writing.

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

Prepare a variety of technical reports that clearly describe findings and recommendations.

Interpret and apply City policies, procedures, rules and regulations.

#### Experience and Training Guidelines

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

##### Experience:

Four years of professional journey level accounting/auditing experience. Government experience in these areas is desirable.

##### Training:

Bachelor's degree from an accredited college or university with major course work in accounting, economics, finance, business, public administration or closely a related field. An MPA, MBA, or equivalent graduate degree from an accredited college or university and relevant certifications, including, Certified Public Accountant, Certified Internal Auditor, Certified Government Audit Professional, Certified Information Systems Auditor, or Certified Fraud Examiner desirable.

Additional Requirements

Must pass a background investigation, including fingerprinting, that will allow access to sensitive areas and information, such as in the Police Department.

WORKING CONDITIONS

Environmental Conditions:

Office environment.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting, standing, bending, and stooping for prolonged periods of time and occasional lifting; using various office equipment including a computer screen and keyboard.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-065**

**A RESOLUTION ACCEPTING THE REPORT ON XCLAMATION FEST 2005,  
APPROVING XCLAMATION FEST 2006 HOSTED BY CHRIS RICCI  
PRESENTS, INC. IN DOWNTOWN MODESTO ON SATURDAY JULY 22, 2006,  
AND APPROVING A SHIFT IN THE DOWNTOWN LOCATION OF THE  
EVENT**

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, and

WHEREAS, the Safety and Communities Committee met on September 13, 2004, and supported approval of the Xclamation Fest 2005 for July 23, 2005, and

WHEREAS, on October 26, 2004, by Resolution No. 2004-553, the City Council approved Xclamation Fest 2005 hosted by Chris Ricci Presents, Inc. and JCD Concepts 2000, Inc. in downtown Modesto on Saturday, July 23, 2005, and

WHEREAS, the sixth annual Xclamation Fest was held on Saturday, July 23, 2005, and

WHEREAS, this downtown music and arts festival was successful, both financially and for providing a safe, entertaining festival for Modesto residents, and

WHEREAS, the proposed date for the 2006 annual Xclamation Fest is Saturday, July 22, 2006, and

WHEREAS, the location for Xclamation Fest 2006 is proposed to be shifted one block from the previous Xclamation Fest downtown locations, as shown on Exhibit "A" attached hereto and incorporated herein by reference, and

WHEREAS, the Safety and Communities Committee met on December 5, 2005, and, on a 2 to 1 vote, supported staff's recommendation to approve Xclamation Fest 2006 for July 22, 2006, including a shift of the downtown location, and

WHEREAS, Mr. Ricci coordinates all Xclamation Fest events with the Modesto Police Department, the Downtown Improvement District, and the Modesto Centre Plaza staff in order to secure approvals and coordination for the event, and

WHEREAS, this event is of financial benefit to the City of Modesto and downtown merchants,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts staff's report on Xclamation Fest 2005 held in Downtown Modesto on Saturday, July 23, 2005.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby approves Xclamation Fest 2006 to be held in Downtown Modesto on Saturday, July 22, 2006.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby approves a shift in the downtown location of the event, as shown on Exhibit "A" attached hereto and incorporated herein by reference.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of January 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

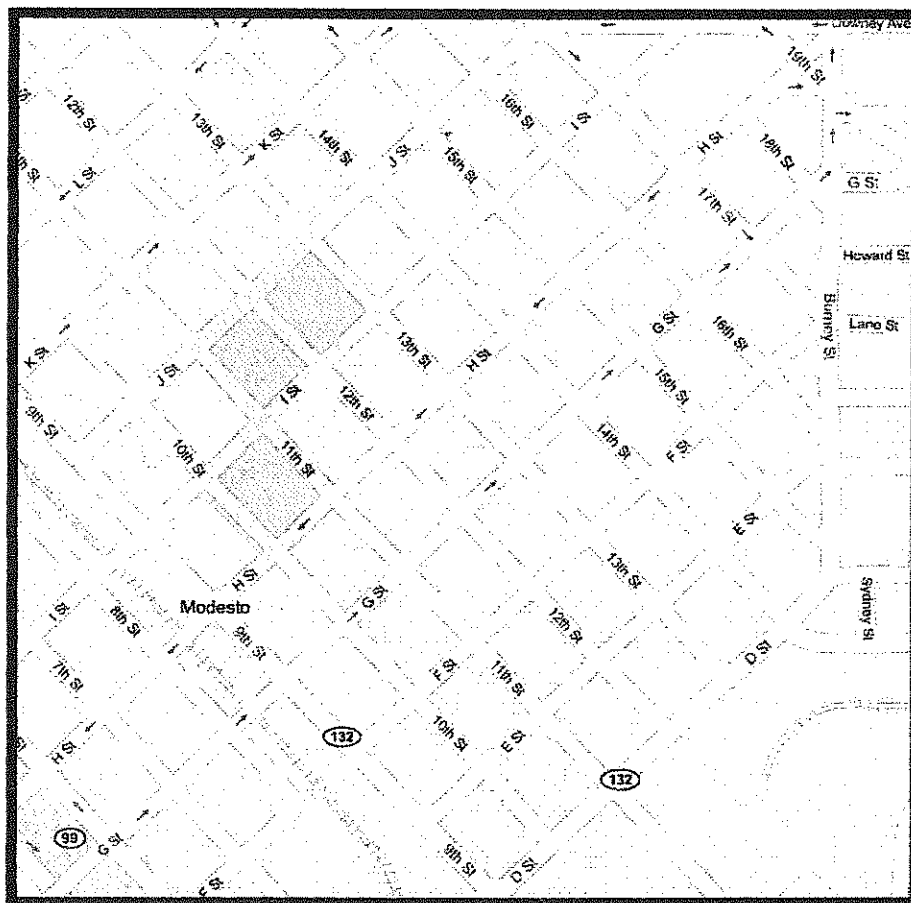
ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

# 2006 X-fest Proposed Map



X-fest Area Highlighted in Red

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-066**

**A RESOLUTION 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. 11)**

WHEREAS, pursuant to Chapter 3.5 Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the “Mello-Roos Community Facilities Act of 1982” (the “Act”), proceedings for the annexation of territory to an existing community facilities district may, pursuant to Chapter 3.5 of the Act, be instituted by the adoption by the legislative body of a resolution of intention to annex such territory, and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 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 the Act, this Council did, by its Resolution No. 2005-566, adopted on November 9, 2005, consolidate the map of the District and the map related to each annexation thereto, being Annexation Nos. 1 through 10, hereto recorded with the County Recorder, into a single map, and

WHEREAS, this Council hereby determines that the public convenience and necessity require the annexation of certain territory to the District, and

WHEREAS, the territory to be annexed is within the City limits, 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 boundaries of the District are shown on a map entitled "Consolidation of Boundary Maps of Community Facilities District No. 2004-1 (Village One #2)", on file with the County Recorder of the County of Stanislaus, Book 4 of Maps and Assessments and Community Facilities Districts, at Page 33.

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. 11 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, March 14, 2006, 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 7th day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST:   
JEAN ZAHR City Clerk

APPROVED AS TO FORM:

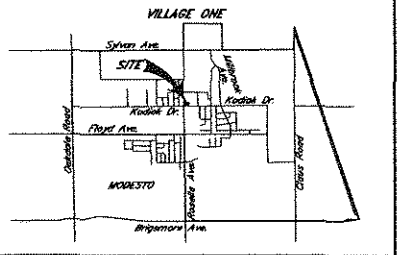
By:   
RICHARD RUDNANSKY, Interim City Attorney

EXHIBIT A

ANNEXATION NO. 11 TO  
COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2)

Proposed Boundary Map





VICINITY MAP  
NOT TO SCALE

Filed this \_\_\_\_\_ day of \_\_\_\_\_, 2006, 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.

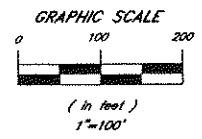
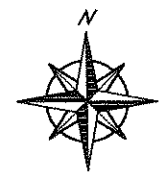
LEE LUNDGREN, County Recorder of the County of Stanislaus, State of California

By: \_\_\_\_\_  
Print Name

I hereby certify that this map showing the proposed boundaries of Annexation No. 11 of 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 \_\_\_\_\_, 2006, by its Resolution No. \_\_\_\_\_.

JEAN ZAHR, City Clerk

By: \_\_\_\_\_  
Print Name



**BASIS OF BEARINGS**

The bearing of N 00°43'00" W between GPS monuments 2527 and 2627 as shown on the "Amended City of Modesto Record of Survey" recorded March 30, 1995 in Book 22 of Surveys at Page 51, Stanislaus County Records, was used as the basis for all bearings shown herein.

Distances shown herein have been converted from Grid to Ground.

Filed in the Office of the City Clerk of the City of Modesto this \_\_\_\_\_ day of \_\_\_\_\_, 2006.

JEAN ZAHR, City Clerk

By: \_\_\_\_\_  
Print Name

= Property to be annexed

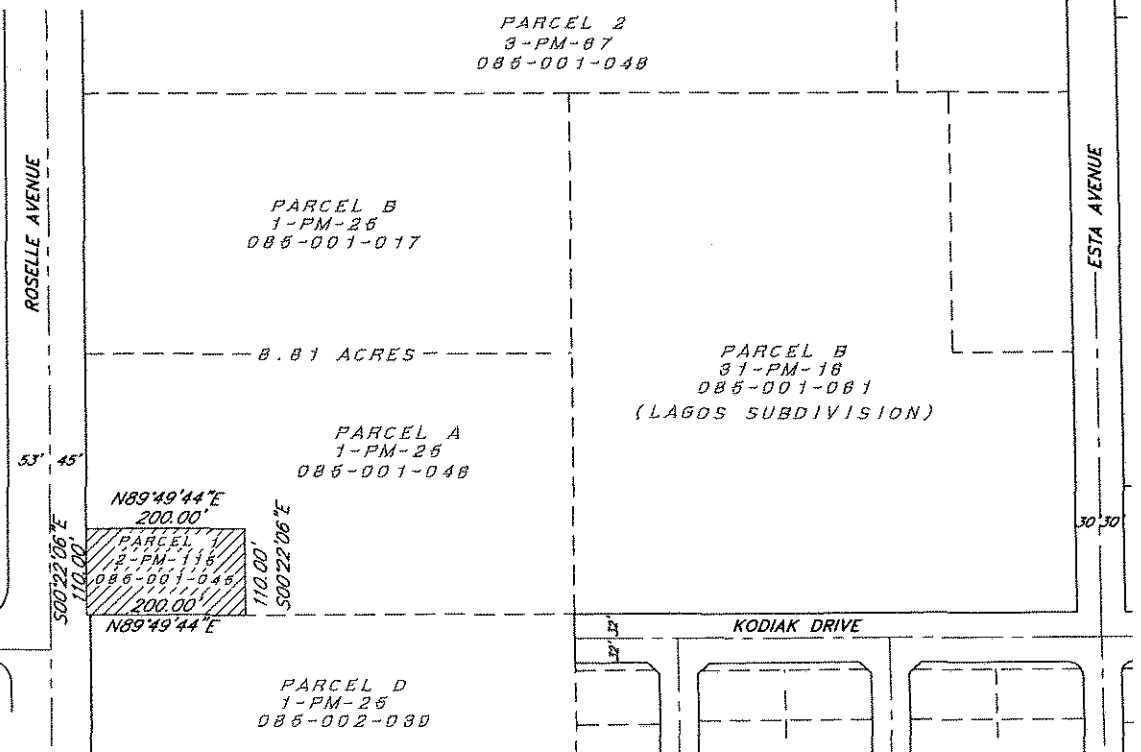
This is a map of the area proposed to be annexed to City of Modesto Community Facilities District No. 2004-1 (Village One #2), City of Modesto, County of Stanislaus, State of California, the Consolidated Boundary Map for which was recorded on November 23, 2005, in Book 4 of Maps of Assessment and Community Facilities Districts, at Page 33, in Office of the County Recorder, of the County of Stanislaus, State of California.

JEAN ZAHR, City Clerk

By: \_\_\_\_\_  
Print Name

PAPATONE  
EAST  
40-M-88

KODIAK DRIVE



SHEET <span style="font-size: 2em; font-weight: bold;">1.</span> / <span style="font-size: 2em; font-weight: bold;">1.</span>
DRAWN: DWK DATE: 12/21/05 SCALE: 1"=100' JOB NO.: 03259 CHECKED: CHY FILE:
ANNEXATION MAP NO. 11 OF COMMUNITY FACILITIES DISTRICT No. 2004-1 (VILLAGE ONE #2) CITY OF MODESTO COUNTY OF STANISLAUS STATE OF CALIFORNIA
MVE mid-valley engineering

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-067**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO  
DECLARING ITS INTENTION TO REIMBURSE ITSELF FROM THE  
PROCEEDS OF ONE OR MORE TAX-EXEMPT FINANCINGS FOR CERTAIN  
EXPENDITURES MADE AND/OR TO BE MADE IN CONNECTION WITH THE  
ACQUISITION, CONSTRUCTION AND EQUIPPING OF CERTAIN CAPITAL  
IMPROVEMENTS**

WHEREAS, the City of Modesto (the "City") is a political subdivision organized and existing under the laws of the State of California; and

WHEREAS, the City has paid, beginning no earlier than December 9, 2005 and will pay, on and after the date hereof, certain expenditures (the "Expenditures") in connection with the acquisition, construction and/or equipping of City's Tier 1 and Tier 2 water system improvements along with other capital expenditures and evaluations for City's water system (the "Project"), as more fully described in Exhibit A attached hereto; and

WHEREAS, the City Council of the City (the "City Council") has determined that those moneys previously advanced no more than 60 days prior to the date hereof and to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period and it is necessary to reimburse the City for the Expenditures from the proceeds of one or more issues of tax-exempt bonds (the "Bonds");

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL AS FOLLOWS:

Section 1. The City Council hereby declares the City's intent to reimburse the City with the proceeds of the Bonds for the Expenditures with respect to the Project made on and after December 9, 2005, which date is no more than 60 days prior to the date hereof. The City reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Bonds.

Section 2. Each Expenditure was and will be either (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditure), (b) a cost of issuance with respect to the Bonds, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the City so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the City.

Section 3. The maximum principal amount of the Bonds expected to be issued for the Project is \$75,000,000.00.

Section 4. The City will make a reimbursement allocation, which is a written allocation by the City that evidences the City's use of proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The City recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain *de minimis* amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction projects of at least 5 years.

Section 5. This resolution shall take effect immediately upon its passage.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7<sup>th</sup> day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**Exhibit A**  
**Description of Project**

1. Tier 1 Downstream Improvements  
(1 tank, booster pump station, transmission mains, distribution lines, control valves and associated improvements)
2. Tier 2 Downstream Improvements  
(2 tanks, booster pump stations, transmission mains, distribution lines and associated improvements)
3. TID Surface Water Supply Project
4. Water Quality Study
5. Remove Water Tanks
6. Recoat Tank Interiors
7. Extend Water Mains
8. Strengthen and Replace Water System
9. Install New Wells
10. Wellhead Treatment
11. Purchase and Install New Generators
12. Water System Security Enhancements
13. Groundwater Management Plan
14. Urban Water Management Plan
15. Water Master Plan
16. Water System Evaluation
17. New Water Tanks
18. Water Meters
19. Other City Water System Capital Improvement Projects
20. All Environmental Documentation Related to the Above Improvements
21. All Studies, Preliminary Engineering, Engineering and Construction Management Related to the Above Improvements
22. All Rights of Way to be Acquired Related to the Above Improvements

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-068**

**A RESOLUTION AMENDING THE  
FISCAL YEAR 2005-2006 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 2005-2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2005-2006 budget have been adjusted as shown in Schedule A.

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 7<sup>th</sup> day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Tracie Madison/Dean Phillips  
 Telephone No.: 1-5855  
 Department: Finance

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_

Fund Title: Capital Grants

FY: 05-06  
 Transfer No. \_\_\_\_\_

*MONTHLY ADJUSTMENT*

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES**

<u>FROM</u> 2370-430-H404-3532			\$115,000	\$115,000	Federal RSTP funds
<u>TO</u>					

**APPROPRIATIONS**

<u>FROM</u> 2370-430-H404-6010	H475C		\$115,000	\$115,000	Federal Pavemt Mtc 9th, H and I (130)
<u>TO</u>					

**COMMENTS/JUSTIFICATION**

This adjustment is to ammend the FY06 CIP. Public Works has received Federal funding for a new project designated Federal Pavement 9th H, I (130). This project is considered a secondary to the Federal Pavement Maintenance Project H475. The funding in this adjustment will be used to begin the Pre-Engineering Design component.

AUTHORIZATION (check if required)	SIGNATURE	DATE
ADMIN SVCS OFFICER/ADMIN ANALYST II	<i>Julie Hudec</i>	12-22-05
<i>for</i> DEPUTY DIRECTOR (Public Works)	<i>Dean Phillips</i>	12/22/05
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)	<i>JH</i>	12/22/05
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		
CFF/CFD ADMINISTRATOR		
CITY MANAGER (Transfers between Budgeted Activities of Departments within funds) (Appropriation of Unbudgeted Dept Revenues) (Salary lines movement in or out)		



## REQUEST FOR BUDGET ADJUSTMENT

Contact Person: \_\_\_\_\_  
 Telephone No.: \_\_\_\_\_  
 Department: \_\_\_\_\_

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_

Fund Title: Fairview Village Debt Svc.

**FY: 05-06**

Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES**

<u>FROM</u>					
<u>TO</u>					
2642-020-0251-5303			\$333,041	\$333,041	CFD Annual Special Tax Revenue
2642-020-0251-8000			\$197,430	\$197,430	Bond Financing

\$530,471

**APPROPRIATIONS**

<u>FROM</u>					
<u>TO</u>					
2642-020-0251-0235			\$42,000	\$42,000	Services Prof. & Other
2642-020-0251-0255			\$3,000	\$3,000	Services City Forces-Interfund
2642-020-0251-0452			\$125,059	\$125,059	Interest Expense (March 2006)
2642-020-0251-0452			\$32,655	\$32,655	Interest Expense (Sept 2005)
2642-020-0251-0455			\$53,175	\$53,175	Discount - Original Issue
2642-020-0251-0455			\$111,600	\$111,600	Discount - Underwriter
2642-020-0251-0461			\$5,000	\$5,000	Trustee Fees
2642-800-8000-8003			\$157,982	\$157,982	Debt Service Reserve

\$530,471

**COMMENTS/JUSTIFICATION**

This budget adjustment will set up the revenue and expense budget for making debt service payments on the Fairview Village bond issue. There will be an interest only payment due on March 1, 2006 in the amount of \$125,059. This budget will also recognize the interest payment paid on September 1, 2005 in the amount of \$32,655. This interest payment paid on September 1, 2005 is commonly referred to as capitalized interest and was deducted before the City received the net bond proceeds from the sale of the bonds. This budget adjustment also sets up the administrative budget for this bond issue to pay trustee fees, record the expenses for the Original Issue and Underwriter's Discounts and budget the FY 05-06 Special Tax revenue. There is no General Fund impact from these budget adjustments.

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) (Salary lines movement in or out)		

### REQUEST FOR BUDGET ADJUSTMENT

Contact Person: Janice Stewart  
 Telephone No.: 577-5466  
 Department: Personnel

Council Action Date: \_\_\_\_\_  
 Resolution Number: \_\_\_\_\_

Fund Title: General Fund 0100

FY: 05-06  
 Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES**

<u>FROM</u>					
				DEC - 6 2005	
<u>TO</u>					

**APPROPRIATIONS**

<u>FROM</u>					
0100-800-8000-8003	0100R		(\$6,330)	(\$6,330)	General Fund Reserve
<u>TO</u>					
0100-030-0301-0235	0300C	\$89,827	\$6,330	\$96,157	Services, Prof. & Other

**COMMENTS/JUSTIFICATION**

The City Council approved \$25,000 in funding for Citywide, mandatory harassment training for all supervisors. The actual amount of the training contract exceeded this amount by \$6,330. *CPS Audit*

AUTHORIZATION (check if required)	SIGNATURE	DATE
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT (Allocation of Dept Appr to Line-Item Level)	<i>Renwick</i>	12/5/05
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) (Salary lines movement in or out)		

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-069**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
FORMALLY SOLICIT REQUEST FOR BIDS FOR THE PURCHASE OF  
VARIABLE FREQUENCY DRIVE (VFD) UNITS FOR THE PUBLIC WORKS  
DEPARTMENT, WATER DIVISION FOR A TWO (2) YEAR AGREEMENT  
WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT AN ESTIMATED  
ANNUAL COST OF \$90,000**

WHEREAS, the Public Works Department, Water Division has approximately seventy-five (75) VFD units in use throughout the City, and

WHEREAS, VFD's are used to stabilize water pressure in the City's water system, and

WHEREAS, a VFD controls the motor speed of the well pump, which allows a variance in water flow from the controlled station, and

WHEREAS, this controlled water flow allows the system to maintain a more level water pressure without large fluctuations, and

WHEREAS, VFD's also start the pump at a softer rotation (ramp speed), which helps prevent water hammer surging, thus reducing electrical costs, and

WHEREAS, historically, approximately twenty percent (20%) of the VFD's in use need to be replaced on an annual basis, due to wear, and

WHEREAS, a VFD ranges in size from 10-HP to 200-HP, depending on the size of the water pump motor, and has a unit cost of \$2,180 to \$10,500, and

WHEREAS, on October 1, 2002, Council approved Resolution No. 2002-481 authorizing the award of bid and contract for the purchase of variable frequency drive units to Wesco Distribution, Concord, CA, for a three (3) year agreement, and

WHEREAS, the current contract is due to expire on March 16, 2006, and

WHEREAS, in order to ensure continued water pressure to the City's water system, City staff is requesting authorization to re-bid VFD units for a two (2) year agreement with three (3) one year extension options, 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 Request for Bid for the purchase of variable frequency drive units will conform to Modesto Municipal Code Section 8-3.203,

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 competitive sealed bids for the purchase of variable frequency drive units 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 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 7<sup>th</sup> day of February 2006, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-070**

**A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND  
CONTRACT FOR THE FURNISHING OF FORMS PRINTING AND MAILING  
SERVICES FOR THE FINANCE DEPARTMENT, CUSTOMER SERVICES  
DIVISION TO ABS PRESORT, INC., MODESTO, CA, FOR A TWO (2) YEAR  
AGREEMENT WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, FOR AN  
ESTIMATED ANNUAL COST OF \$144,083**

WHEREAS, the Finance Department, Customer Services Division and Information and Technology (IT) Department manage and facilitate the printing and mailing distribution of the City's billing forms, and

WHEREAS, these forms are printed and mailed to both residential and commercial customers, and include, but are not limited to, business licenses, declarations, notices and utility bills, and

WHEREAS, currently, these forms are printed on a Xerox Docuprint 92C printer, which is housed in the IT Department computer room, and

WHEREAS, the City's current lease on this printer expired in December 2005, and the printer is currently rented on a month-to-month basis, and

WHEREAS, outsourcing the printing and designing of these forms would provide several benefits to the City, including

- enhanced customer services and technology;
- improve flexibility in areas such as design overlay;
- ability to change forms;
- report options;
- tracking history
- producing duplicate bills

- backup contingency plan for printing
- printing of multiple page bills via the Internet
- reproduce an original bill
- multiple ink color capability, and

WHEREAS, the current utility bill print program is custom designed by a retired individual who no longer lives in the area. Any upgrades or changes to the print program are dependent upon his availability, and

WHEREAS, this leaves the City vulnerable and enhances the desire to seek a more flexible, updated, electronic solution, and

WHEREAS, the IT Department has limited space in its computer room and the current printer occupies a large portion of the space, and

WHEREAS, by outsourcing the forms printing the City could recognize savings by eliminating the monthly rental payment on the printer and staff time to manage the printing process, and

WHEREAS, on March 22, 2005, by Resolution No. 2005-141 Council approved authorizing the Purchasing Supervisor to formally solicit Request for Proposals (RFP) for the furnishing of forms printing and mailing services, for a two (2) year agreement with three (3) one-year extension options for the Finance Department, Customer Services Division, and

WHEREAS, the Purchasing Division solicited RFP No. 0405-05 for the furnishing of forms printing and mailing services to thirty-five (35) companies, twenty-four (24) of which reside in Modesto, posted the proposal on the City's web site, and formally advertised as required by law, and

WHEREAS, of the thirty-five (35) companies solicited, six (6) companies chose to respond, and

WHEREAS, a committee comprised of City staff personnel evaluated the proposals, and

WHEREAS, the Purchasing Division facilitated the evaluation process and took no active role in evaluating the proposals, and

WHEREAS, RFP specification language allowed the City, should the City elect, to send representatives to visit a proposer's production facility to ensure that their company can provide the proper quality and level of services outlined in the RFP. On September 30, 2005, the evaluation committee toured the facilities of ABS Presort, Inc. and the Pre-Sort Center of Stockton. The tours consisted of the following:

- a walk through and demonstration of the company's order entry department;
- in-house contingency backup and disaster recovery programs, including machinery redundancy and backup power supply;
- quality assurance program;
- security of buildings and grounds;
- five-year equipment plan, and

WHEREAS, during the proposal evaluation process committee members found that two (2) proposers did not include a copy of their company's most recent Annual Report or Financial Statement or Dunn & Bradstreet Rating Report with their proposal, which is a mandatory requirement outlined in the RFP, and



WHEREAS, the failure to provide one (1) of these three (3) documents would deem the proposal incomplete, result in a fail rating in the evaluation criteria, and cause said proposal to receive no further consideration, and

WHEREAS, based on being the most responsive and responsible proposer, City staff recommends the award of RFP No. 0405-05 and contract for the furnishing of forms printing and mailing services for the Finance Department, Customer Services Division to ABS Presort Inc., Modesto, CA, for a two (2) year agreement with three (3) one-year extension options, for an estimated annual cost of \$144,083,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards RFP No. 0405-05 and contract for the furnishing of forms printing and mailing services for the Finance Department, Customer Services Division to ABS Presort Inc., Modesto, CA, for a two (2) year agreement with three (3) one-year extension options, for an estimated annual cost of \$144,083.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue a purchase agreement for the furnishing of forms printing and mailing services for the Finance Department, Customer Services Division to ABS Presort Inc., Modesto, CA, for a two (2) year agreement with three (3) one-year extension options, for an estimated annual cost of \$144,083.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7<sup>th</sup> day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-071**

**A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND  
CONTRACT FOR THE ACQUISITION OF ORTHO-RECTIFIED AERIAL  
PHOTOGRAPHY SERVICES FOR THE INFORMATION TECHNOLOGY  
DEPARTMENT TO VARGIS, LLC, STERLING, VA, FOR A TOTAL  
ESTIMATED PRICE OF \$96,441**

WHEREAS, the City of Modesto last obtained high resolution, ortho-rectified aerial photography in March 2001, and

WHEREAS, as we progress further away from the March 2001 flight date, the benefits of using the City's current aerial photography are diminishing, and

WHEREAS, this is due to the growth and change of the City landscape, which is not reflected in that one-time snapshot taken in March 2001, and

WHEREAS, because the City continues to grow and change on a daily basis it is important that we obtain periodic aerial photography updates, and

WHEREAS, City staff obtained a rough cost estimate of \$100,000 to obtain Citywide aerials equivalent to the aerials taken in March 2001, and

WHEREAS, the aerial photography will directly overlay the newly completed City parcel map without visible discrepancies between the map and image, and

WHEREAS, aerial photography is utilized by nearly all of the City's departments including Public Works, Community and Economic Development, Recreation and Neighborhoods, Finance, City Manager's Office, Police and Fire, and

WHEREAS, all of these stakeholders use the aerials in a variety of ways, ultimately for one primary purpose, which is to provide a visual reference to what is on the ground at a given location, and

WHEREAS, displaying information (crimes, blight, emergency incidents, neighborhood boundaries, infrastructure) on top of an aerial picture that the public can relate to, can greatly enhance the legibility of a map and help solidify the point being made or the analysis being represented, and

WHEREAS, in addition to City staff's use of aerials, the general public and development community would also have access to the imagery via our public GIS enabled web site (<http://www.modestogov.com/gis>), and

WHEREAS, the adage that "a picture is worth a thousand words" is very much true when dealing with aerial photography, and

WHEREAS, the aerial acquisition date should occur during the annual leaf-off (fewest leaves on trees) period, which is typically in late January through February, and

WHEREAS, this time frame provides the City with the clearest view of what is on the ground as tree foliage blocks the view of the ground during other months, and

WHEREAS, as with the 2001 aerial acquisition, City crews will once again provide ground coordinates and will paint flight crosses for this project, and

WHEREAS, the imagery will be delivered in digital form, including both Geo-TIFF format and the "ECW" compressed imagery format, and

WHEREAS, updating the inventory of current aerial photography will provide staff with a current view of land use patterns and the overall growth of the City, and

WHEREAS, current imagery is necessary to accurately depict, locate, assess, inventory, or analyze land use/land use patterns, vacant lands, built vs. natural environments, transportation and utilities infrastructure, buildings inventory throughout the City, and

WHEREAS, many others will simply use the photography to provide a visual reference or backdrop that will help solidify the point being made or the analysis being represented, and

WHEREAS, on October 25, 2005, by Resolution No. 2005-526 Council approved authorizing the Purchasing Supervisor to formally solicit proposals for the acquisition of ortho-rectified aerial photography services for the Information Technology Department, and

WHEREAS, the Purchasing Division solicited Request for Proposal (RFP) No. 0506-13 for the acquisition of ortho-rectified aerial photography services to twenty-eight (28) companies, four of which reside in Modesto, posted the proposal on the City's web site, and formally advertised as required by law, and

WHEREAS, of the twenty-eight companies solicited, six (6) companies chose to respond, and

WHEREAS, a committee comprised of City staff personnel evaluated the proposals, and

WHEREAS, the Purchasing Division facilitated the evaluation process and took no active role in evaluating the proposals, and

WHEREAS, during the evaluation process committee members found that one (1) proposer could not meet the requirements specified in the RFP, specifically, the proposer could provide oblique imagery and as a side product ortho-rectified photography, but not to the specifications set forth in the RFP, and

WHEREAS, the RFP specifications required ortho-rectified photography that had a ground resolution of 3 inches; the proposer could only provide 6 inch ground resolution, and

WHEREAS, in addition, the proposer was unable to offer ortho-rectified photography exhibiting tonal balancing and a single “seamless” mosaic, which were specified in the RFP, and

WHEREAS, the evaluation committee failed the proposal and the proposal received no further consideration,

WHEREAS, based on being the most responsive and responsible proposer, City staff recommends the award of RFP No. 0506-13 and contract for the acquisition of ortho-rectified aerial photography services for the Information Technology Department to VARGIS, LLC, Sterling, VA, for a total estimated price of \$96,441,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards RFP No. 0506-13 and contract for the acquisition of ortho-rectified aerial photography services for the Information Technology Department to VARGIS, LLC, for a total estimated price of \$96,441.

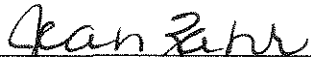
BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue a purchase order for the acquisition of ortho-rectified aerial photography services for the Information Technology Department to VARGIS, LLC, Sterling, VA, for a total estimated price of \$96,441.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7<sup>th</sup> day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN ZAIR, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-072**

**A RESOLUTION APPROVING A GRANT APPLICATION FOR \$50,000 FROM  
THE STEWARDSHIP COUNCIL YOUTH INVESTMENT PROGRAM 2005-06  
TO FUND A PART-TIME NURSERY WORKER AND TO IMPROVE THE  
FACILITIES AT THE CITY'S NURSERY TO SERVE THE TUOLUMNE RIVER  
REGIONAL PARK PROJECT AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE THE GRANT APPLICATION**

WHEREAS, the Stewardship Council has made funding available through its Youth Investment Program 2005-06, and

WHEREAS, city desires to fund a part-time nursery worker and to improve the facilities at the City nursery to serve the Tuolumne River Regional Park Project, and

WHEREAS, the continuation and development of the Tuolumne River Regional Park and the City's interest and work with youth programs is consistent with the Stewardship Council's Youth Investment Program, and

WHEREAS, said procedures established by the Stewardship Council require the applicant's governing body to certify by resolution the approval of the application before submission of said application to the Stewardship Council, and

WHEREAS, the applicant will enter into a contract with the Stewardship Council for the Project, and

WHEREAS, staff will return to Council for acceptance of grant funding,

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

1. Approves the filing of an application for \$50,000 in local assistance funds from the Stewardship Council's Youth Investment Program 2005-06; and
2. Certifies that the applicant has or will have sufficient funds to operate and maintain the Project; and



3. Certifies that the City of Modesto staff has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Procedural Guide; and
4. Authorizes the City Manager, or his designee, as agent to conduct all negotiations, execute and submit all documents including, but not limited to, applications, agreements, payment requests and so on, which may be necessary for the completion of the Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7<sup>th</sup> day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:


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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest:   
JEAN ZAHER, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-073**

**A RESOLUTION APPROVING AN EMERGENCY HOME REPAIR PROGRAM  
(EHRP) LOAN FOR WILMA FAE BAILEY, SECURED BY HER HOME AT 1525  
TERESA STREET, MODESTO, IN THE AMOUNT OF \$98,272, AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE ALL RELATED  
DOCUMENTS**

WHEREAS, this home, located near Orangeburg Avenue and Kearney Avenue, is a 2 bedroom, 1 bath, 790 square foot home, and

WHEREAS, the home was built in 1946 and has been in the family for over 50 years and

WHEREAS, during this time, very little maintenance has been done and the home is reaching the end of its useful life, and

WHEREAS, significant replacement is needed in many areas to maintain this home in a livable condition, and

WHEREAS, the work to be done includes extensive termite work, foundation work, roof, windows, HVAC, bathroom and kitchen remodel, electrical, and plumbing work, and

WHEREAS, there is lead based paint on the exterior of the home which will be stabilized and the home will be repainted, but there is no lead based paint in the home's interior, and

WHEREAS, the loan amount exceeds the program guidelines of \$25,000, which are \$20,000 for EHRP and \$5,000 for environmental hazards, and

WHEREAS staff is recommending an exception to the maximum loan amount due to the circumstances, and

WHEREAS, Ms. Bailey, a senior, lives alone in the home and her income is less than 50% of the Area Median Income, and therefore, she is eligible for a deferred payment loan, and

WHEREAS, there is a first mortgage on the property that is relatively small, so that the loan to value ratio, including the City's loan, is estimated to be 42%, based on seven comparable sales during the last five months, and

WHEREAS, Ms. Bailey is eligible for a 3%, 20-year deferred payment loan and owner occupancy will be a requirement for her, and

WHEREAS, the City Council must approve all EHRP requests to be submitted to the City Manager's Office for signature and all loans over \$60,000 must go to the City Council to be approved, and

WHEREAS, the Citizens Housing and Community Development Committee met on January 19, 2006, and supported the recommendation to approve an Emergency Home Repair Program (EHRP) loan for Wilma Fae Bailey, secured by her home at 1525 Teresa Street, Modesto, in the amount of \$98,272,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an Emergency Home Repair Program (EHRP) loan for Wilma Fae Bailey, secured by her home at 1525 Teresa Street, Modesto, in the amount of \$98,272.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7<sup>th</sup> day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Radnansky  
RICHARD RADNANSKY, Acting City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-074**

**A RESOLUTION AWARDED THE CONTRACT TO MILLER-PEZZONI &  
ASSOCIATES, INC. (MILLER-PEZZONI) FOR ON-CALL ELECTRICAL  
ENGINEERING SERVICES FOR THE PUBLIC WORKS DEPARTMENT –  
CAPITAL IMPROVEMENT SERVICES DIVISION FOR A ONE-YEAR  
AGREEMENT WITH THREE (3) ONE (1) YEAR EXTENSION OPTIONS IN AN  
AMOUNT NOT-TO-EXCEED \$45,000 ANNUALLY AND AUTHORIZING THE  
CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Public Works Department – Capital Improvement Services Division performs a number of tasks requiring electrical engineering services that, because of workload levels or staff experience, are beyond the ability of City's engineering staff to accomplish in a timely manner, and

WHEREAS, the Public Works Department – Capital Improvement Services Division has utilized the services of outside consultant engineers to perform targeted electrical engineering services in the past, and

WHEREAS, retaining on-call engineering services allows the Capital Improvement Services Division to have quick access to electrical engineering design when needed, using experienced staff and with a quick turnaround, thereby improving system efficiencies and minimizing down time, and

WHEREAS, staff solicited and formally advertised a Request for Qualifications (RFQ) for On-call Electrical Engineering Services to local consultants (consultants having offices within the Modesto urbanized area), and

WHEREAS, two (2) Statements of Qualifications were received and the firm of Miller-Pezzoni & Associates, Inc. was deemed the most qualified to provide the requested on-call electrical engineering services, and

WHEREAS, based on the City's previous experience, Miller-Pezzoni & Associates, Inc. has rendered satisfactory services to the City in past projects, and

WHEREAS, the consultant is paid on an hourly basis for actual hours required to perform individual projects at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes awarding a contract to Miller-Pezzoni for On-call Electrical Engineering Services for the Public Works Department – Capital Improvement Services Division for a one -year agreement, with three (3) one (1) year extension options, in an amount not-to-exceed \$45,000 per year.

BE IT FURTHER RESOLVED that the Council hereby authorizes the 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 7th day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-075**

**A RESOLUTION AWARDDING THE CONTRACT TO COMPLERE  
ENGINEERING GROUP, INC. (COMPLERE) FOR ON-CALL MECHANICAL  
ENGINEERING SERVICES FOR THE PUBLIC WORKS DEPARTMENT –  
CAPITAL IMPROVEMENT SERVICES DIVISION FOR A ONE-YEAR  
AGREEMENT WITH THREE (3) ONE (1) YEAR EXTENSION OPTIONS IN AN  
AMOUNT NOT-TO-EXCEED \$45,000 ANNUALLY AND AUTHORIZING THE  
CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Public Works Department – Capital Improvement Services Division performs a number of tasks requiring mechanical engineering services that, because of workload levels or staff experience, are beyond the ability of City’s engineering staff to accomplish in a timely manner, and

WHEREAS, the Public Works Department – Capital Improvement Services Division has utilized the services of outside consultant engineers to perform targeted mechanical engineering services in the past, and

WHEREAS, retaining on-call engineering services allows the Capital Improvement Services Division to have quick access to mechanical engineering design when needed, using experienced staff and with a quick turnaround, thereby improving system efficiencies and minimizing down time, and

WHEREAS, staff solicited and formally advertised a Request for Qualifications (RFQ) for On-call Mechanical Engineering Services to local consultants (consultants having offices within the Modesto urbanized area), and

WHEREAS, one (1) Statement of Qualifications was received and the firm of Complere Engineering Group, Inc. was deemed qualified to provide the requested on-call mechanical engineering services, and

WHEREAS, based on the City's previous experience, Complere Engineering Group, Inc. has rendered satisfactory services to the City in past projects, and

WHEREAS, the consultant is paid on an hourly basis for actual hours required to perform individual projects at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes awarding a contract to Complere for On-call Mechanical Engineering Services for the Public Works Department – Capital Improvement Services Division for a one -year agreement, with three (3) one (1) year extension options, in an amount not-to-exceed \$45,000 per year.

BE IT FURTHER RESOLVED that the Council hereby authorizes the 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 7th day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-076**

**A RESOLUTION AWARDDING THE CONTRACT TO COMPLERE  
ENGINEERING GROUP, INC. (COMPLERE) FOR ON-CALL STRUCTURAL  
ENGINEERING SERVICES FOR THE PUBLIC WORKS DEPARTMENT –  
CAPITAL IMPROVEMENT SERVICES DIVISION FOR A ONE-YEAR  
AGREEMENT WITH THREE (3) ONE (1) YEAR EXTENSION OPTIONS IN AN  
AMOUNT NOT-TO-EXCEED \$45,000 ANNUALLY AND AUTHORIZING THE  
CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Public Works Department – Capital Improvement Services Division performs a number of tasks requiring structural engineering services that, because of workload levels or staff experience, are beyond the ability of City's engineering staff to accomplish in a timely manner, and

WHEREAS, the Public Works Department – Capital Improvement Services Division has utilized the services of outside consultant engineers to perform targeted structural engineering services in the past, and

WHEREAS, retaining on-call engineering services allows the Capital Improvement Services Division to have quick access to structural engineering design when needed, using experienced staff and with a quick turnaround, thereby improving system efficiencies and minimizing down time, and

WHEREAS, staff solicited and formally advertised a Request for Qualifications (RFQ) for On-call Structural Engineering Services to local consultants (consultants having offices within the Modesto urbanized area), and

WHEREAS, one (1) Statement of Qualifications was received and the firm of Complere Engineering Group, Inc. was deemed qualified to provide the requested on-call structural engineering services, and

WHEREAS, based on the City's previous experience, Complere Engineering Group, Inc. has rendered satisfactory services to the City in past projects, and

WHEREAS, the consultant is paid on an hourly basis for actual hours required to perform individual projects at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes awarding a contract to Complere for On-call Structural Engineering Services for the Public Works Department – Capital Improvement Services Division for a one -year agreement, with three (3) one (1) year extension options, in an amount not-to-exceed \$45,000 per year.

BE IT FURTHER RESOLVED that the Council hereby authorizes the 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 7th day of February, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-077**

**A RESOLUTION APPROVING THE FINAL MAP OF VILLAGE RANCH UNIT  
NO. 2 SUBDIVISION IN THE VILLAGE ONE SPECIFIC PLAN AREA OF THE  
CITY OF MODESTO AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE A SUBDIVISION AGREEMENT WITH CENTEX HOMES, A  
NEVADA GENERAL PARTNERSHIP**

WHEREAS, CENTEX HOMES, A NEVADA GENERAL PARTNERSHIP, is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 12.246 acres, known as VILLAGE RANCH UNIT NO. 2 (“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 25th day of August, 2003, 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 securities, as set forth in Section 4-4.605 of the Modesto Municipal Code, which shall secure the obligations set forth in Section 66499.3 of the Government Code of the State of California. Said securities shall be in forms acceptable to the City Attorney and in the amounts required by the City Engineer.

BE IT FURTHER RESOLVED that the City Manager and the City Clerk be authorized to execute and attest, respectively, an agreement with subdivider as required by Section 4-4.604(c) of the Modesto Municipal Code.


The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 7<sup>th</sup> day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-078**

**A RESOLUTION APPROVING THE FINAL MAP OF TARANTELLA ESTATES  
IN THE VILLAGE ONE SPECIFIC PLAN AREA OF THE CITY OF MODESTO  
AND AUTHORIZING THE CITY MANAGER TO EXECUTE A SUBDIVISION  
AGREEMENT WITH JOHN S. RUSH, AN UNMARRIED MAN, AND DAVE  
UECKER CONSTRUCTION, INC., A CALIFORNIA CORPORATION**

WHEREAS, JOHN S. RUSH (“Subdivider”), is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 1.23 acres, known as TARANTELLA ESTATES (“SUBDIVISION”), in the Village One Specific Plan Area, and

WHEREAS, DAVE UECKER CONSTRUCTION, INC. is proposing to develop subdivision, and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 12th day of July, 2004, 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 securities, as set forth in Section 4-4.605 of the Modesto Municipal Code, which shall secure the obligations set forth in Section 66499.3 of the Government Code of the State of California. Said securities shall be in forms acceptable to the City Attorney and in the amounts required by the City Engineer.

BE IT FURTHER RESOLVED that the City Manager and the City Clerk be authorized to execute and attest, respectively, an agreement with John S. Rush and Uecker Construction Company, Inc. 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 7<sup>th</sup> day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

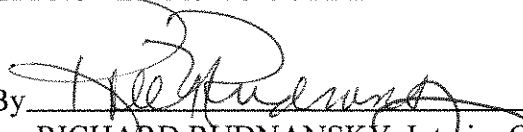
AYES: Councilmembers: Dunbar, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST:   
JEAN ZAHIR, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2006-079**

**A RESOLUTION ADOPTING POLICIES AND PROCEDURES FOR THE  
APPLICATION OF PUBLIC CONVENIENCE AND NECESSITY, AND  
RESCINDING RESOLUTION NUMBER 96-84**

WHEREAS, effective January 1, 1995, the Business and Professions Code regulations governing liquor license applications were revised allowing the State Department of Alcohol Beverage Control (ABC) to automatically deny an ABC license applicant, if records show an "undue concentration" of licenses in an affected geographical area, and

WHEREAS, on February 27, 1996, by Resolution No. 96-84, the City Council implemented a policy entitled, "Criteria for Variance to ABC Standards," and

WHEREAS, the City Council, as the local governing body, has been given the delegated authority to recommend approval of a liquor license if public convenience or necessity would best be served, and

WHEREAS, staff has developed a policy recommendation including a process and criteria for evaluating the applications, and

WHEREAS, at its meeting on January 4, 2006, the Safety and Communities Committee recommended approval of said policy, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on February 7, 2006, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, and

WHEREAS, 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 adopts the policy entitled "Policies and Procedures for the Application of Public Convenience and Necessity," marked Exhibit "A", attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED that Resolution No. 96-84 is hereby rescinded upon the effective date of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7<sup>th</sup> day of February 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney



Attachment A  
Proposed Policies and Procedures for the Application of  
Public Convenience and Necessity

**MODESTO POLICE DEPARTMENT  
GENERAL ORDER**

Number        ???

Date            July 5, 2005

**I.        SUBJECT:    **POLICIES & PROCEDURES FOR THE APPLICATION OF  
PUBLIC CONVENIENCE AND NECESSITY****

**II.        PURPOSE:**

To establish the policies and procedures for processing an Application of Public Convenience and Necessity and/or an application for Variance to ABC (Alcoholic Beverage Control) Standards due to "Undue Concentration" which were established pursuant to the Business & Professions Code effective January 1, 1995. These general orders describe the application, research, hearing and appeal process, and the billing process used to pay for administrative costs associated with the processing of these applications.

**III.        DEFINITIONS:**

a. *Un-due*

*Concentration -*

Means the case which the applicant premises for an original or premises-to-premises transfer of any retail license are located in an area where any of the following conditions exist:

(1) The applicant premises are located in a crime reporting district that has a twenty percent greater number of reported crimes than the average number of reported crimes as determined from all crime reporting districts within the jurisdiction of the Modesto Police Department.

(2) As to on-sale retail license applications, the ratio of on-sale retail licenses to population in the census tract or census division in which the application premises are located

exceeds the ratio of on-sale retail licenses to population in the county in which the application premises are located.

(3) As to off-sale retail licenses applications, the ratio of off-sale retail licenses to population in the census tract or census division in which the applicant premises are located exceeds the ratio of off-sale retail licenses to population in the county in which the applicant premises are located.

Sections 23958 and 23958.4 of the Business and Professions Code. Existing law provides that the Department of Alcoholic Beverage Control shall deny an application for a license if the issuance would, among other things, result in, or add to, an undue concentration of licenses. This current legislation relates to applications for on-sale and off-sale retail licenses where certain conditions exist under Section 23958.4 B&P.

The Department of Alcoholic Beverage Control shall further deny an application for a license if issuance of that license would tend to create a law enforcement problem, except as provided in Section 23958.5 B&P.

b. *Crime Reporting Districts:*

Means geographical areas within the City of Modesto that are identified by the local law enforcement agency in the compilation and maintenance of statistical information on reported crimes and arrests.

c. *PC&N:* Public Convenience and Necessity.

d. *Applicant:* Developer or property/business owner.

e. *City:* The City of Modesto

f. *Application Fee:* Required fee, as set forth by the City Council - \$1,000

g. *Hearing Officer(s):* Designee(s) authorized to review recommendation reports, conduct hearings, and render a decision pursuant to these policies and procedures. The Hearing Officer(s) will be a three-member panel selected by the City Manager.

h. *Transfers:* Pursuant to Business & Professions Code section 24070, a location "transfer" has occurred when the: 1) proposed site has had an active license within the preceding

twelve (12) months; or 2) proposed site has had an active license for at least thirty-six (36) of the last sixty months (60).

#### **IV. APPLICATION PROCESS**

When ABC denies a request for a liquor license due to “Undue Concentration” (B&P Section 23958), or if an application falls under the current moratorium for on-sale retail licenses applications and off-sale license(s) (B&P Section 23817.5, 23817.7 and 23817.8) the applicant may appeal the decision to the “local governing body” for a determination that “public convenience or necessity would be served by issuance of an ABC license (B&P Section 23958.4(b)(2)).

- a. The MPD Alcoholic Beverage Control (ABC) Investigator will be responsible for meeting with the applicant prior to or concurrent with the initiation of the application process. The MPD/ABC Investigator will provide the applicant with the current census track information, which includes current license information.
- b. An application for a transfer or location change will be handled in the same manner as an application for variance to ABC standards or an application of public convenience and necessity to pursuant to these general orders.
  - (1) *Application.* The applicant shall submit the application packet to the Modesto Police Department, Special Investigation Detail Sergeant, together with the application fee. The fee is to pay for the costs associated with the application process.
  - (2) *Application Packet.* The application packet shall include the following documents:
    - \$1,000 Application Fee
    - Completed application for variance to ABC standards or application of public convenience and necessity.
    - Stamped ABC application.
    - ABC application work sheet
    - Site plan and area location map depicting the layout, precise location and identification of surrounding land within 300 feet of site.
  - (3) *Project review.* Applicant and the MPD/ABC investigator may discuss the application including but not limited to further information that might be required and other issues as necessary. If necessary, the applicant may be required to submit a revised application or additional information.
  - (4) *Project Initiation.* The application is submitted to the Special

Investigations Detail Sergeant (SID). The SID Sergeant will review the application for completeness. Following this review the application packet will be sent to the MPD/ABC investigator. The MPD/ABC investigator will assign a case number and initiate an investigation of the application. The MPD/ABC investigator shall complete a summary report within forty-five (45) calendar days of receipt.

## V. INVESTIGATIVE PROCESS

The MPD/ABC investigator will be responsible for creating a summary report with recommendations to approve, approve with conditions, or deny the application. Once the summary report has been completed the MPD/ABC investigator will meet with the applicant and review the recommendation to approve, approve with conditions, or deny the license.

The summary report will include, but is not limited to, the following:

- Reporting district is determined
- Census tract information is determined
- Review of ABC information to determine accuracy
- Complete (RMS) search of location and adjacent reporting districts
- Determine total number of arrests for a one-year time period twelve (12) months prior to the date of the application

## VI. TRANSFERS

- a. *Transfer of a license from or to an existing location.* Any change to the license type shall be deemed the same as applying for a new license.
- b. *Criteria for transfer of license.* Transfers can be approved where they do not result in an over-concentration exceeding 150% of ABC standards. No variance shall be granted for transfer of any license that: 1) is regulated under the current beer and wine moratorium, as per Section 23817.5 of the ABC Control Act; and/or 2) is within 300 feet of any city neighborhood or community park or any school with an enrollment of at least 100 students.

*23817.5. (a) (1) The number of premises for which an off-sale beer and wine license is issued shall be limited to one for each 2,500, or fraction thereof, inhabitants of the city or county in which the premises are situated. No additional off-sale beer and wine license, other than a renewal or transfer or as permitted by Section 23821, shall be issued in any city or county where the number of premises for which all off-sale beer and wine licenses are issued is more than one for each 2,500, or fraction thereof, inhabitants of the city or county.*

*(2) The number of premises for which an off-sale beer and wine license is issued in a city and county, in combination with the number of premises for which an off-sale general license is issued in a city and county, shall be limited to one for each 1,250, or fraction thereof, inhabitants of the city and county in which the premises are situated. No additional off-sale beer and wine license, other than a renewal or transfer or as permitted by Section 23821, shall be issued in any city and county where the number of premises for which all off-sale beer and wine licenses in combination with off-sale general licenses are issued is more than one for each 1,250, or fraction thereof, inhabitants of the city and county.*

## **VII. CONDITIONS:**

Variations to ABC regulations will typically be conditional, Conditions shall remain attached to the license in the event of any type of transfer. Examples of possible conditions include, but is not limited to:

- Site lighting
- Security guards
- Beer or wine only
- No single containers
- Signage
- No loitering
- Business hours
- Removal of graffiti within 24 hours
- Age of patrons allowed on premise
- Restrictions on license privileges
- Noise restrictions
- What items may be sold
- No glass containers
- No consumption on premises
- Number of arcade games
- Where items may be sold

## **VIII. ADMINISTRATIVE HEARINGS**

An applicant has the right to contest the decision of the MPD/ABC investigator. If a hearing is desired the applicant must submit the required appeal form to the city clerk within (15) days of the date of mailing of the MPD/ABC investigators summary report.

Whenever a notice of appeal is filed with the City Clerk in proper form and with any fee that may be required, the City Clerk shall set said matter for hearing

before the hearing officers within thirty (30) days after the date of the filing of said notice of appeal with the City Clerk. The City Clerk shall give written notice of the time and place of said hearing to the applicant/appellant and any other persons requesting notice not less than ten (10) days prior to such hearing.

At such hearing the applicant/appellant shall show cause on the ground specified in the notice of appeal why the action accepted to should not be sustained. The applicant/appellant and all other interest parties may present oral or documentary evidence at the hearing. The hearing will be informal and technical rules of evidence will not apply. The hearing officers may continue the hearing from time to time. The hearing officers shall render its decision not more than ten (10) days after the close of the hearing.

a. *Approval.* A determination by the hearing officers that the applicant/appellant has established “public convenience or necessity” and the license should be granted. The applicant/appellant and the Alcoholic Beverage Control District Office will be notified in writing of the approval.

b. *Conditional Approval.* Approval as defined in subsection a, with conditions to protect public health, safety and welfare.

c. *Denial.* A decision by the hearing officers that the applicant/appellant has not established public convenience and necessity. The hearing officers determination is mailed to the applicant and the ABC District Office after the applicant/appellant has exhausted his/her appeal rights or the time to appeal has lapsed. The determination of the Hearing Officer(s) is final unless the applicant/appellant appeals the Hearing Officer(s) determination within the specified time period.

If the applicant/appellant wishes to appeal the decision of the hearing officers decision, he/she shall follow the appeal process set forth at Modesto Municipal Code section 1-4.01

## **IX. RE-APPLICATION PROCESS**

The Application of Public Convenience or Necessity and/or application for Variance to ABC (Alcoholic Beverage Control) Standards due to “Undue Concentration” application is directed at the “location” rather than the “applicant.” As such, an applicant who had his/her application denied, and/or loses his/her appeal to the Hearing Officer or to the City Council, must wait a period of one year from the denial decision date to re-applying for a permit for the same location.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-080**

**A RESOLUTION IMPLEMENTING A FEE SCHEDULE ASSOCIATED WITH  
THE PERMIT APPLICATION AND APPEALS PROCESS IN RELATION TO  
ABC LIQUOR LICENSES, AND RENAMING FEE SCHEDULE AND POLICY  
TO APPLICATION OF PUBLIC CONVENIENCE AND NECESSITY, AND  
RESCINDING RESOLUTION NO. 96-101**

WHEREAS, effective January 1, 1995, the Business and Professions Code regulations governing liquor license applications were revised allowing the State Department of Alcohol Beverage Control (ABC) to automatically deny an ABC license applicant, if records show an “undue concentration” of licenses in an affected geographical area, and

WHEREAS, certain types of applications which have not been approved by the Alcohol Beverage Control (ABC) board are now delegated to the City Council, as the local governing body, to consider recommending approval of ABC licenses, “if public convenience or necessity would best be served”, and

WHEREAS, City staff has developed policies and procedures for the Application of Public Convenience and Necessity, and

WHEREAS, at its meeting on January 4, 2006, the Safety and Communities Committee recommended approval of said policy, entitled “Policies and Procedures for the Application of Public Convenience and Necessity,” and said policy was approved by Council Resolution No. 2006-079 on February 7, 2006, and

WHEREAS, said policy includes conditions and criteria for evaluation of the permit applications and the appeal process, including proposed fees to cover staff costs associated with such reviews, and



WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on February 7, 2006, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, and

WHEREAS, 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 the following fees associated with the permit application and appeals process in relation to ABC liquor licenses are hereby approved:

- |    |                            |            |
|----|----------------------------|------------|
| 1) | New Site application fee   | \$1,000.00 |
| 2) | City Council appellate fee | \$ 100.00  |

BE IT FURTHER RESOLVED that Resolution No. 96-101 is hereby rescinded upon the effective date of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7<sup>th</sup> day of February 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

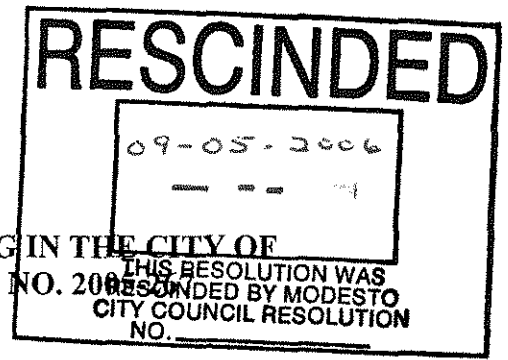
ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-081**

**A RESOLUTION ESTABLISHING ANGLE PARKING IN THE CITY OF  
MODESTO AND RESCINDING RESOLUTION NO. 2006-562**



WHEREAS, Article 10 of Chapter 2 of Title 3 of the Modesto Municipal Code authorizes the City Council, by resolution, to establish angle parking in the City of Modesto, and

WHEREAS, City staff received a request from New Bethany Missionary Baptist Church to install angle parking on Sierra Drive between 6th Street and the alley at the west property edge of the New Bethany Missionary Baptist Church to create additional on-street parking, and

WHEREAS, staff evaluated the traffic volumes and the speeds for this section of roadway and concluded that angle parking can be accommodated on Sierra Drive between 6th Street and the alley at the west property edge of the Bethany Missionary Baptist Church without creating a hazard and without impeding traffic flow,

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

SECTION 1. ANGLE PARKING. Angle parking in the City of Modesto is hereby established at the following locations:

- Portions of 10<sup>th</sup> Street, between I & K Streets (west side) (diagonal)
- 18<sup>th</sup> Street, between G and H Streets (west side) (diagonal)
- F Street, between 10<sup>th</sup> and 11<sup>th</sup> Streets (south side) (diagonal)
- I Street, between 9<sup>th</sup> and 12<sup>th</sup> Streets (both sides) (diagonal)
- P Street, between 9<sup>th</sup> and Needham Streets (both sides) (diagonal)

- Coldwell Avenue, between Tully Road and College Avenue
- 4<sup>th</sup> Street, between E Street and G Street (west side)
- 16<sup>th</sup> Street, between I Street and J Street (east side)
- Elm Street, between Jefferson and Washington Streets (diagonal)
- Jefferson Street, between 8<sup>th</sup> and Laurel Streets (diagonal)
- 13<sup>th</sup> Street, between H and L Streets (east side)
- J Street, between 7<sup>th</sup> Street and 8<sup>th</sup> Street (north side)
- 10<sup>th</sup> Street, between G Street and F Street (east side) (diagonal)
- F Street, between 10<sup>th</sup> Street and 11<sup>th</sup> Street (north side) (diagonal)
- 15<sup>th</sup> Street, between K Street and H Street (east side) (diagonal)
- F Street, between 9<sup>th</sup> Street and 10<sup>th</sup> Street (north side) (diagonal)
- 8<sup>th</sup> Street, between J Street and K Street (east side) (diagonal)
- 8<sup>th</sup> Street, between K Street and L Street (east side) (diagonal)
- Sierra Drive between F Street and 4<sup>th</sup> Street (north side)
- 8<sup>th</sup> Street between L Street and Jefferson Street (east side) (diagonal)
- M Street between 7<sup>th</sup> Street and 8<sup>th</sup> Street (south side) (diagonal)
- 10<sup>th</sup> Street between G Street and I Street (east side) (diagonal)
- Sierra Drive between 6<sup>th</sup> Street and the alley at the west property edge of New Bethany Missionary Baptist Church (diagonal)

SECTION 2. The Public Works Director is hereby directed to implement the provisions of this resolution.

SECTION 3. Resolution No. 2005-267 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7<sup>th</sup> day of February 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-082**

**A RESOLUTION DENYING THE APPEAL OF CHARLES EVINS,  
ON BEHALF OF THE NEW BETHANY MISSIONARY BAPTIST  
CHURCH, LOCATED AT 315 SIXTH STREET, REGARDING THE  
DETERMINATION 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. 2003-065 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 allow a reimbursement for the use of modulares if said modulares are removed within five years, and

WHEREAS, on November 15, 2005, a request was received from Charles Evins, on behalf of The New Bethany Missionary Baptist Church, to allow a credit of CFF for the removal of two modulares, and

WHEREAS, on December 7, 2005, Charles Evins of The New Bethany Missionary Baptist Church, was notified by letter from Amy Gedney, Infrastructure Financing Program Administrative Officer, that the CFF Committee had determined the CFF for a modular is reimbursable and the City would reimburse The New Bethany Missionary Baptist Church for the removal of two modulares but it would have to pay the fees in effect at the time a new permit was issued for the expansion of the church, and

WHEREAS, by letter from Charles Evins dated January 3, 2006, to Jean Zahr, City Clerk, The New Bethany Baptist Church appealed the City's determination to pay the capital facilities fees in place at the time a building permit is issued for new construction and requested a credit for the removal of two modulars, 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 10<sup>th</sup> Street, Modesto, California, on February 7, 2006 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 reviewed The New Bethany Missionary Baptist Church's request and has determined that the City does not issue credits.
2. Said appeal should be denied as recommended because the Modesto Municipal Code Section 8-1.904 specifically states that building permit fees shall be paid at the time the building permit is issued.
3. The project is not entitled to pay CFF at the 1998 CFF rate because the project is subject only to a conditional use permit which does not vest a project against increases in CFF.
4. The City of Modesto hereby denies the appeal of The New Bethany Missionary Baptist Church and its request for CFF credits for the temporary modulars for the reason set forth above.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7<sup>th</sup> day of February 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest:   
JEAN ZAHR City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-083**

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF JANE  
FENTON FROM THE CULTURE COMMISSION**

WHEREAS, JANE FENTON was appointed a member of the Culture Commission on August 3, 1999; and

WHEREAS, JANE FENTON has tendered her resignation from the Culture Commission; and

WHEREAS, JANE FENTON 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 JANE FENTON 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 JANE FENTON for her 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 14<sup>th</sup> day of February 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney





**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-084**

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF JOHN  
HUEY FROM THE CITIZENS ADVISORY COMMITTEE ON RECYCLING**

WHEREAS, JOHN HUEY was appointed a member of the Citizens Advisory Committee on Recycling on January 25, 2005; and

WHEREAS, JOHN HUEY has tendered his resignation from the Citizens Advisory Committee on Recycling; and

WHEREAS, JOHN HUEY 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 JOHN HUEY from the Citizens Advisory Committee on Recycling 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 JOHN HUEY 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 14<sup>th</sup> day of February 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-085

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF  
EDWIN PENFOLD FROM THE EQUAL OPPORTUNITY/DISABILITY  
COMMISSION AND HUMAN RELATIONS COMMISSION

WHEREAS, EDWIN PENFOLD was appointed a joint member of the Equal Opportunity/Disability Commission and Human Relations Commission on January 7, 2003, and

WHEREAS, EDWIN PENFOLD has tendered his resignation from the aforementioned committees,

NOW, THEREFORE, BE IT RESOLVED that the resignation of EDWIN PENFOLD from the Equal Opportunity/Disability Commission and 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 EDWIN PENFOLD 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 14<sup>th</sup> day of February 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-086**

**A RESOLUTION APPROVING THE 2006-2007 LEGISLATIVE PLATFORM  
FOR THE CITY OF MODESTO**

WHEREAS, on October 26, 2004, by Resolution No. 2004-544, the City Council adopted the 2004-2005 Legislative Platform, and

WHEREAS, on April 26, 2005, by Resolution No. 2005-181, the City Council amended the 2004-2005 Legislative Platform, 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 from time to time, and

WHEREAS, representatives from the City Manager's Office, the Community and Economic Development Department, the Personnel Department, the City Attorney's Office, the Fire Department, the Police Department, the Finance Department, the Parks, Recreation & Neighborhoods Department, and Public Works recently reviewed the document and recommended that the 2004-2005 Legislative Platform be amended and adopted as the 2006-2007 Legislative Platform as set forth in an agenda report from City Manager, George W. Britton, to the Mayor and Council, dated February 14, 2006,

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Modesto hereby approves the 2006-2007 Legislative Platform as set forth in said agenda report from the City Manager to the Mayor and Council dated February 14, 2006, 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 14th day of February, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-087**

**A RESOLUTION APPOINTING THE SEVEN INDIVIDUALS RECOMMENDED  
BY THE CITY COUNCIL TO SERVE AS MEMBERS OF THE CHARTER  
REVIEW COMMITTEE WITH THE MAYOR'S APPOINTEE SERVING AS  
THE CHAIR AND THE VICE-MAYOR'S APPOINTEE SERVING AS THE VICE  
CHAIR OF THE CHARTER REVIEW COMMITTEE AND AUTHORIZING  
THE SEVEN COMMITTEE MEMBERS TO APPOINT THREE ADDITIONAL  
COMMITTEE MEMBERS FROM THE COMMUNITY**

WHEREAS, on November 6, 1962 the qualified voters of the City of Modesto at a Special Charter Election consolidated with the State of California General Election ratified the Charter of the City of Modesto, and

WHEREAS, this Charter became effective on January 14, 1963, and

WHEREAS, section 1604 of the Charter provides that the City Council shall cause the Charter to be reviewed at least every ten (10) years commencing with the year of 1980, and

WHEREAS, the Charter was amended in 1990 and again in 1999, and

WHEREAS, in Fall 2005, the City Council discussed the possible review and amendment of the City of Modesto Charter, and

WHEREAS, it was determined to initiate the review in 2006 for possible consideration at the 2007 municipal election, and

WHEREAS, at the January 10, 2006 City Council meeting, the Council approved the recommendation to consider and take action at the February 14, 2006 City Council meeting on the following:

- 1) Appoint seven Charter Review Committee representatives. Each Councilmember has provided a recommendation of one individual from the City of Modesto to

- serve on the Charter Review Committee. These committee members should be prepared to meet at least two or three times a month for up to one year.
- 2) The individual nominated by the Mayor shall be appointed to serve as the Chair of the Charter Review Committee and the individual nominated by the Vice-Mayor shall serve as the Vice-Chair of the committee. The seven committee members will select three additional members from the community to serve on the Charter Review Committee.
  - 3) The Mayor will appoint one Councilmember to serve as an ad hoc, non-voting member of the Charter Committee.
  - 4) Council will discuss and establish the scope of the Charter review and charge of the Charter Review Committee. With Council direction City staff will be asked to prepare a Draft "Scope of Review" for adoption by the City Council.

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Modesto hereby approves the appointments of Thomas Wright, John Shores, Chris Harrigfeld, Marie Bairey, Susan Azevedo, Dave Cogdill, Jr. and George Petrulakis to serve as voting members of the Charter Review Committee with George Petrulakis serving as the Chair and Susan Azevedo serving as the Vice-Chair of the committee.

BE IT FURTHER RESOLVED that the Council of the City of Modesto hereby authorizes the seven Council-appointed committee members to select and appoint three additional members from the community to serve on the Charter Review Committee.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-087A**

**A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT  
BETWEEN CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO.  
2004-1 (VILLAGE ONE #2) AND BENDER ROSENTHAL, INC., INCREASING  
THE CONTRACT BY AN AMOUNT NOT TO EXCEED \$5,000, PROVIDING  
ADDITIONAL SERVICES RELATED TO THE CERTIFICATION OF THE  
APPRAISAL DATED OCTOBER 17, 2005 AND AUTHORIZING THE DISTRICT  
ADMINISTRATOR TO EXECUTE THE AMENDMENT**

WHEREAS, on February 25, 2005, a contract was executed between Community Facilities District No. 2004-1 (Village One #2) (“CFD No. 2004-1”) and Bender Rosenthal, Inc. (“Consultant”), in an amount not to exceed \$28,190, for services related to an appraisal of properties within CFD No. 2004-1, and

WHEREAS, on October 19, 2005, Change Order #1 was executed, in an amount not to exceed \$21,000, and authorized Bender Rosenthal to prepared an updated appraisal for the properties within CFD No. 2004-1, and

WHEREAS, Bender Rosenthal provided an updated appraisal dated October 17, 2005 (“Appraisal”), and

WHEREAS, Bond Counsel has determined that certification of the October 17, 2005 appraisal is required before it will provide certain opinions needed for the sale of the bonds for CFD No. 2004-1, and

WHEREAS, Bender Rosenthal has agreed to prepare a certification of the October 17, 2005, Appraisal, for an amount not to exceed \$5,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the District Administrator shall be authorized to execute the Amendment to the

Agreement with Bender Rosenthal in an amount not to exceed \$5,000 for certification of the October 17, 2005, Appraisal.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of February 2006 by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudansky  
RICHARD RUDANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-088**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO  
FORMALLY SOLICIT REQUEST FOR PROPOSALS (RFP) FOR TEMPORARY  
LABOR SERVICES FOR THE CITY OF MODESTO FOR AN INITIAL THREE  
(3) YEAR PERIOD WITH TWO (2) ONE-YEAR EXTENSION OPTIONS**

WHEREAS, the City of Modesto's has an ongoing need for temporary labor services to fill in for vacancies created through retirements, resignations and terminations, and

WHEREAS, temporary labor services are also utilized on a seasonal basis during periods of high demand and to handle workload fluctuations, and

WHEREAS, historically the Personnel Department facilitated the hiring of temporary labor services, and

WHEREAS, in 1999 as part of assessing the Personnel Department's delivery of services several departments requested that they be permitted to deal with the temporary labor agencies directly, and

WHEREAS, based on departmental requests and workload issues at the time, the decision was made to allow departments to conduct their own transactions, and

WHEREAS, currently most departments are conducting separate transactions with the temporary labor agencies, and

WHEREAS, in most cases these separate transactions do not allow for the City to receive discounted rates based on citywide usage and economies of scales, and

WHEREAS, last fiscal year the City as a whole spent approximately \$1.9 million dollars on temporary labor services, and

WHEREAS, historically the largest departmental users of temporary labor services have been the Public Works and Parks, Recreation & Neighborhoods Departments, and

WHEREAS, by bidding temporary labor services staff will provide assurance that these services are being provided at competitive rates and that monitoring will be in place that will ensure compliance with established City policies, 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 Request for Proposal for the furnishing of Temporary Labor Services will conform to Modesto Municipal Code Section 8-3.203,

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 competitive sealed proposals for Temporary Labor Services for the City of Modesto, for a three (3) year period, with two (2) one-year contract 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 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 regular meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-089**

**A RESOLUTION APPROVING AN ANNUAL CONTRACT WITH THE  
MODESTO BEE (MCCLATCHY NEWSPAPER GROUP) FOR WEEKLY  
ADVERTISING OF PARKS, RECREATION AND NEIGHBORHOODS  
DEPARTMENT PROGRAMS AND ACTIVITIES IN THE “BUZZ” SECTION  
AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, the City currently uses the Modesto Bee (Bee) as its primary newspaper-advertising source, and

WHEREAS, the Bee is used for the advertisement of classified and legal advertisements as required by law, and for retail advertisements for public information purposes, and

WHEREAS, the Public Information Technician in the Parks, Recreation and Neighborhoods Department was recently contacted by Modesto Bee staff regarding a unique advertising opportunity in the “BUZZ” section of the newspaper, a weekly section that is geared to teens, but it is widely read by others, including parents and grandparents, and

WHEREAS, the Parks, Recreation and Neighborhoods Department would be able to secure the same advertising space weekly or bi-weekly, and would be able to change the ad each time to showcase relevant and timely programs, activities and services and to inform readers about these activities, and

WHEREAS, staff is recommending a weekly ad of 6 by 3 column inches, which would allow space for two separate programs to be advertised, if desired, at a total annual cost of \$18,720, and



WHEREAS, funding would come from the existing advertising budget for the particular programs being spotlighted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an annual contract in the amount of \$18,720 with the Modesto Bee (McClatchy Newspaper Group) for weekly advertising of Parks, Recreation and Neighborhoods Department programs and activities in the "BUZZ" section.

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 14<sup>th</sup> day of February 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-090**

**A RESOLUTION APPROVING AND AUTHORIZING SUBMISSION OF A) THE LOCAL TRANSPORTATION FUND (LTF) CLAIM FOR ROADS AND STREETS FISCAL YEAR 2005-2006 (\$2,696,657); B) THE FISCAL YEAR 2004-2005 LTF SUPPLEMENTAL ROADS AND STREETS (\$221,818); C) THE FISCAL YEAR 2005-2006 LTF CLAIM FOR NON-MOTORIZED (\$140,890); D) THE FISCAL YEAR 2004-2005 LTF SUPPLEMENTAL NON-MOTORIZED (\$3,577); E) THE LTF MATCH FOR REGIONAL SURFACE TRANSPORTATION PROGRAM (\$25,234)**

WHEREAS, on June 8, 2005, the City Council approved the fiscal year 2004-2005 annual claim for Local Transportation Funds (LTF) for transit purposes only, and

WHEREAS, on February 9, 2005, the Stanislaus Council of Governments (StanCOG) pursuant to California State Public Utility Codes (PUC) Section 99401.6 determined that there are no unmet transit needs or that there are no unmet transit needs that are reasonable to meet, and

WHEREAS, StanCOG has informed the Finance Department that it will allocate both the Annual and Supplemental LTF for use on local streets and roads pursuant to PUC Sections 99400 and 99233.11, and

WHEREAS, StanCOG has informed the Finance Department that it has allocated both the Annual and Supplemental LTF for pedestrian and bicycle facilities use pursuant to PUC Sections 99233.3 and 99234, and

WHEREAS, StanCOG has informed the Finance Department that the City of Modesto may claim \$2,696,657 of Annual fiscal year 2005-2006 LTF for street purposes, and \$140,890 for pedestrian and bicycle projects, and \$25,234 for Pavement Management, and

WHEREAS, StanCOG has informed the Finance Department that the City of Modesto may claim \$221,818 of Supplemental LTF for street purposes, and \$3,577 for pedestrian and bicycle projects, and

WHEREAS, Council action authorizing the above claim is required by StanCOG pursuant to PUC Section 99261 before LTF can be released to the City of Modesto, and

WHEREAS, the City of Modesto had a \$1,465,256 carryover of fiscal year 2004-2005 LTF funded Operations and Capital Improvement Project budget projects to fiscal year 2005-2006, and

WHEREAS, Council action authorizing the carryover claim is required by StanCOG pursuant to PUC Section 99261 before LTF can be budgeted by the City of Modesto for multi-year and fiscal year 2004-2005 Operations and Capital Improvement Projects,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves and authorizes the execution and submission of the claim for apportionment of the fiscal year 2005-2006 Annual (\$2,862,781) and fiscal year 2004-2005 Supplemental LTF (\$225,395) to StanCOG to obtain non-transit funds in the amount of \$3,088,176.

BE IT FURTHER RESOLVED, by the Council of the City of Modesto that it hereby approves and authorizes the execution and submission of the claim for apportionment of \$1,465,253 of carryover funds from fiscal year 2004-2005 to the fiscal year 2005-2006 Operations and Capital Improvement Budgets.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of February 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Noes: Councilmembers: None

Absent: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-091**

**A RESOLUTION AMENDING THE FY05-06 OPERATING AND CIP BUDGETS  
TO REFLECT THE NECESSARY INCREASES/ADJUSTMENTS FOR NON-  
TRANSIT PURPOSES ONLY, TO THE STANISLAUS COUNCIL OF  
GOVERNMENTS (STANCOG)**

WHEREAS, on June 8, 2005, the City Council approved the fiscal year 2004-2005 annual claim for Local Transportation Funds (LTF) for transit purposes only, and

WHEREAS, on February 9, 2005, the Stanislaus Council of Governments (StanCOG) pursuant to California State Public Utility Codes (PUC) Section 99401.6 determined that there are no unmet transit needs or that there are no unmet transit needs that are reasonable to meet, and

WHEREAS, StanCOG has informed the Finance Department that it will allocate both the Annual and Supplemental LTF for use on local streets and roads pursuant to PUC Sections 99400 and 99233.11, and

WHEREAS, StanCOG has informed the Finance Department that it has allocated both the Annual and Supplemental LTF for pedestrian and bicycle facilities use pursuant to PUC Sections 99233.3 and 99234, and

WHEREAS, StanCOG has informed the Finance Department that the City of Modesto may claim \$2,696,657 of Annual fiscal year 2005-2006 LTF for street purposes, and \$140,890 for pedestrian and bicycle projects, and \$25,234 for Pavement Management, and

WHEREAS, StanCOG has informed the Finance Department that the City of Modesto may claim \$221,818 of Supplemental LTF for street purposes, and \$3,577 for pedestrian and bicycle projects, and

WHEREAS, Council action authorizing the above claim is required by StanCOG pursuant to PUC Section 99261 before LTF can be released to the City of Modesto, and

WHEREAS, the City of Modesto had a \$1,465,256 carryover of fiscal year 2004-2005 LTF funded Operations and Capital Improvement Project budget projects to fiscal year 2005-2006, and

WHEREAS, Council action authorizing the carryover claim is required by StanCOG pursuant to PUC Section 99261 before LTF can be budgeted by the City of Modesto for multi-year and fiscal year 2004-2005 Operations and Capital Improvement Projects, and

WHEREAS, on February 14, 2006, the City Council approved and authorized the execution and the submission of the claim for apportionment of the fiscal year 2005-2006 Annual (\$2,862,781) and fiscal year 2004-2005 Supplemental LTF (\$225,395) to StanCOG to obtain non-transit funds in the amount of \$3,088,176, and

WHEREAS, on February 14, 2006, the Council of the City of Modesto approved and authorized the execution and submission of the claim for apportionment of \$1,465,253 of carryover funds from fiscal year 2004-2005 to the fiscal year 2005-2006 Operations and Capital Improvement Budgets,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby authorizes the Finance Department to amend the Operating and Capital Improvement Program Budgets for Fiscal Year 2006 to appropriately reflect the LTF Claim being submitted to StanCOG.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of February 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

Noes: Councilmembers: None

Absent: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-092**

**A RESOLUTION ACCEPTING IMPROVEMENTS IN THE UDONA GROVE  
SUBDIVISION, AND AUTHORIZING THE CITY CLERK TO RECORD A  
NOTICE OF COMPLETION AND AUTHORIZING RELEASE OF BONDS**

WHEREAS, WILLIAM EUGENE BUCHTA AND CHARISSE RENEE  
BUCHTA, husband and wife as joint tenants, INDERJIT S. TOOR AND HARINDER S.  
TOOR, individuals, are the Subdividers of UDONA GROVE SUDIVISION  
("SUBDIVISION"), and

WHEREAS, the Subdividers, have filed irrevocable subdivision bonds to secure  
faithful performance and payment for labor and materials in the amounts of \$109,108.80  
and \$109,108.80, respectively, and

WHEREAS, the Subdividers, have filed a warranty bond in the amount of  
\$10,910.88 to guarantee improvements in the UDONA GROVE SUDIVISION, and

WHEREAS, the City Engineer, 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 City Engineer has indicated that it would be in order for the City  
Council to accept the improvements in said subdivision as complete, and authorize the  
City Clerk to file a Notice of Completion and release the bonds upon expiration of the  
statutory periods,

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



1. The improvements in the UDONA GROVE SUDIVISION are hereby accepted and the City Clerk is hereby authorized to record a Notice of Completion for the improvements.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of \$109,108.80 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 \$109,108.80 sixty (60) days after the 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 improvements in the amount of \$10,910.88 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 14<sup>th</sup> day of February 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-093**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE  
BLOCK WALL CONSTRUCTION FOR WELL 21 IN MCHENRY VILLAGE,  
ACCEPTING THE BID AND APPROVING A \$156,165.00 CONTRACT WITH  
RICHARD TOWNSEND CONSTRUCTION, INC., FOR THE PROJECT  
TITLED, "BLOCK WALL CONSTRUCTION FOR WELL 21 IN MCHENRY  
VILLAGE", AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE  
CONTRACT**

WHEREAS, City staff has prepared the plans and specifications for the Block Wall Construction for Well 21 in McHenry Village and recommends approval to the City Council, and

WHEREAS, the bids received for "Block Wall Construction for Well 21 in McHenry Village" were opened at 11:00 a.m. on January 24, 2006, 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 \$156,165.00 received from Richard Townsend Construction, Inc., be accepted as the lowest responsible bid and the contract be awarded to Richard Townsend 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 Block Wall Construction for Well 21 in McHenry Village.

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of \$156,165.00, and hereby awards Richard Townsend Construction, Inc., the contract titled "Block Wall Construction for Well 21 in McHenry Village."

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 14<sup>th</sup> day of February 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-094**

**A RESOLUTION ACCEPTING THE 2006 EDWARD BYRNE JUSTICE ASSISTANCE GRANT PROGRAM IN THE AMOUNT OF \$79,092 FROM THE U.S. DEPARTMENT OF JUSTICE AND AUTHORIZING THE CITY MANAGER, OR HIS AUTHORIZED DESIGNEE, TO EXECUTE THE NECESSARY GRANT DOCUMENTS**

WHEREAS, the City of Modesto Police Department desires to undertake a project designated as the 2006 Edward Byrne Justice Assistance Grant to be funded by the U. S. Department of Justice, and

WHEREAS, acceptance of said \$79,092 grant will continue to assist in the funding for the Computer Aided Dispatch System (CAD), Integrated Public Safety System, and Records Management System (RMS), and

WHEREAS, there is no local match required for this program, and

WHEREAS, awards are made in the first fiscal year of the appropriation and may be expended during the following 3 years, for a total of 4 years, and

WHEREAS, the program requires a public hearing for application, or any future amendments, to be made public and an opportunity to comment, and

WHEREAS, these funds must be held in an interest-bearing 2006 Byrne Justice Assistant Grant Fund and must not be used to supplant existing budget funds, and

WHEREAS, the Modesto Police Department plans to budget these funds for technology, communication equipment, and field equipment, which is needed but was not included in the budget due to budget reductions,

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the \$79,092 grant entitled the 2006 Edward Byrne Justice Assistance Grant from the U.S.

Department of Justice.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute the necessary grant documents, including any extensions or amendments thereof and any subsequent contract with the Federal Government in relation thereto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of February 2006, by Councilmember O'Bryant, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-095**

**A RESOLUTION TO INCLUDE THE GRANT AMOUNTS IN THE FISCAL  
YEAR 2006/07 ADOPTED BUDGET TO ESTIMATE REVENUE AND  
APPROPRIATE FUNDS FOR THE 2006 BYRNE JUSTICE ASSISTANCE  
GRANT (BJAG) WITH THE U.S. DEPARTMENT OF JUSTICE**

WHEREAS, the Police Department can make application to the U.S. Department of Justice for the 2006 Byrne Justice Assistance Grant in the sum of \$79,092, and

WHEREAS, the funds will be used to assist in the continued funding of the Modesto Police Department's new Computer Aided Dispatch System (CAD), Integrated Public Safety System, and Records Management System (RMS) upgrade, and

WHEREAS, the grant will commence on October 1, 2006 and end on September 30, 2010, and

WHEREAS, the City shall be compensated \$79,092 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 2006/2007 Operating Budget is hereby amended as follows:

	<u>Expenses:</u>		
To:	0400-190-2905-5000	\$79,092	2005 Byrne Justice Assistance Grant
	<u>Revenue:</u>		
From:	0400-190-2905-3508	\$79,092	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 14<sup>th</sup> day of February 2006, by Councilmember O'Bryant, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-096**

**A RESOLUTION APPROVING ROUTE AND SCHEDULE CHANGES FOR  
MODESTO AREA EXPRESS (MAX) ROUTES 21, 22, 24, 27, 28, 34 AND 36  
EFFECTIVE AUGUST 1, 2006, AND AUTHORIZING THE TRANSIT  
MANAGER TO IMPLEMENT THE CHANGES**

WHEREAS, the City of Modesto's Strategic Plan includes Strategy III.B.1:  
"Develop an efficient, well coordinated, county-wide, multi-modal transportation  
system", and

WHEREAS, Modesto Area Express (MAX) is a critical component of the  
transportation system for the City of Modesto, and

WHEREAS, to make the MAX system more efficient and productive, City staff is  
recommending extending and connecting Routes 24 and 34 to serve Village One and the  
new Enochs High School and revising Route 27 to provide more service on Mc Henry  
Avenue, and

WHEREAS, City staff is recommending the deletion of portions of Routes 24, 27,  
and 34 to enhance the efficiency of the MAX system, and

WHEREAS, additional efficiencies are to be gained by making schedule and/or  
route changes to Routes 21, 22, 28, and 36, and

WHEREAS, a public meeting was held on January 31, 2006, to allow for  
discussion of the proposed route changes, and

WHEREAS, the Economic Development Committee approved this item at its  
January 9, 2006 meeting, and



WHEREAS, by a report to the Council dated January 18, 2006, from the Public Works Department, City staff recommended implementing changes to Routes 21, 22, 24, 27, 28, 34 and 36, and

WHEREAS, said matter was set for a duly noticed public hearing of the City Council of the City of Modesto to be held on February 14, 2006, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, in accordance with Federal Transit Administration regulations, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the extension and connection of Routes 24 and 34, the revision of Route 27, the deletion of portions of Routes 24, 27, and 34, and schedule and/or route changes to Routes 21, 22, 28, and 36 as shown on Exhibits "A", "B" and "C" attached hereto and incorporated herein by reference and said changes shall become effective August 1, 2006.

BE IT FURTHER RESOLVED that the Transit Manager is authorized to implement said changes.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk



APPROVED AS TO FORM:

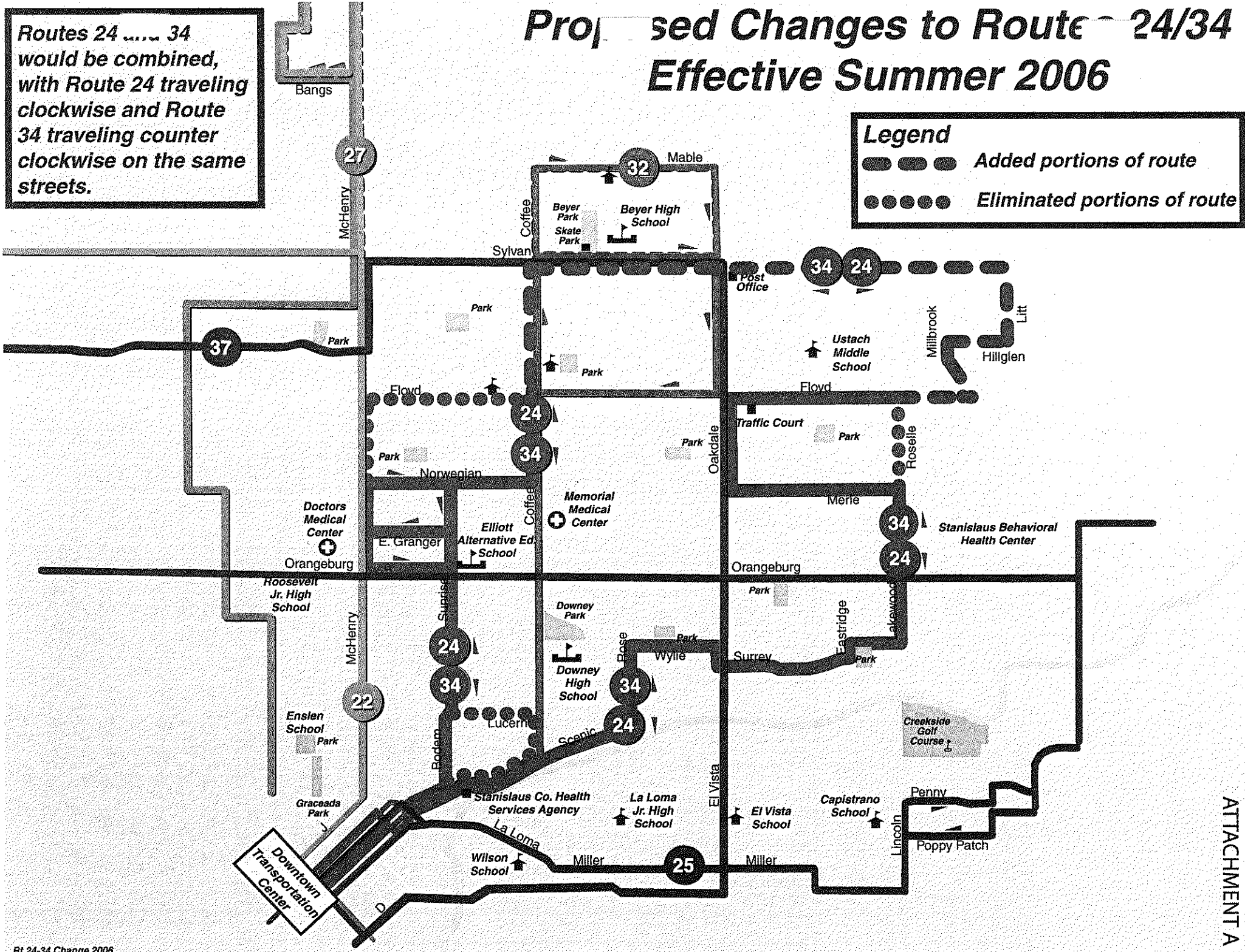
By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

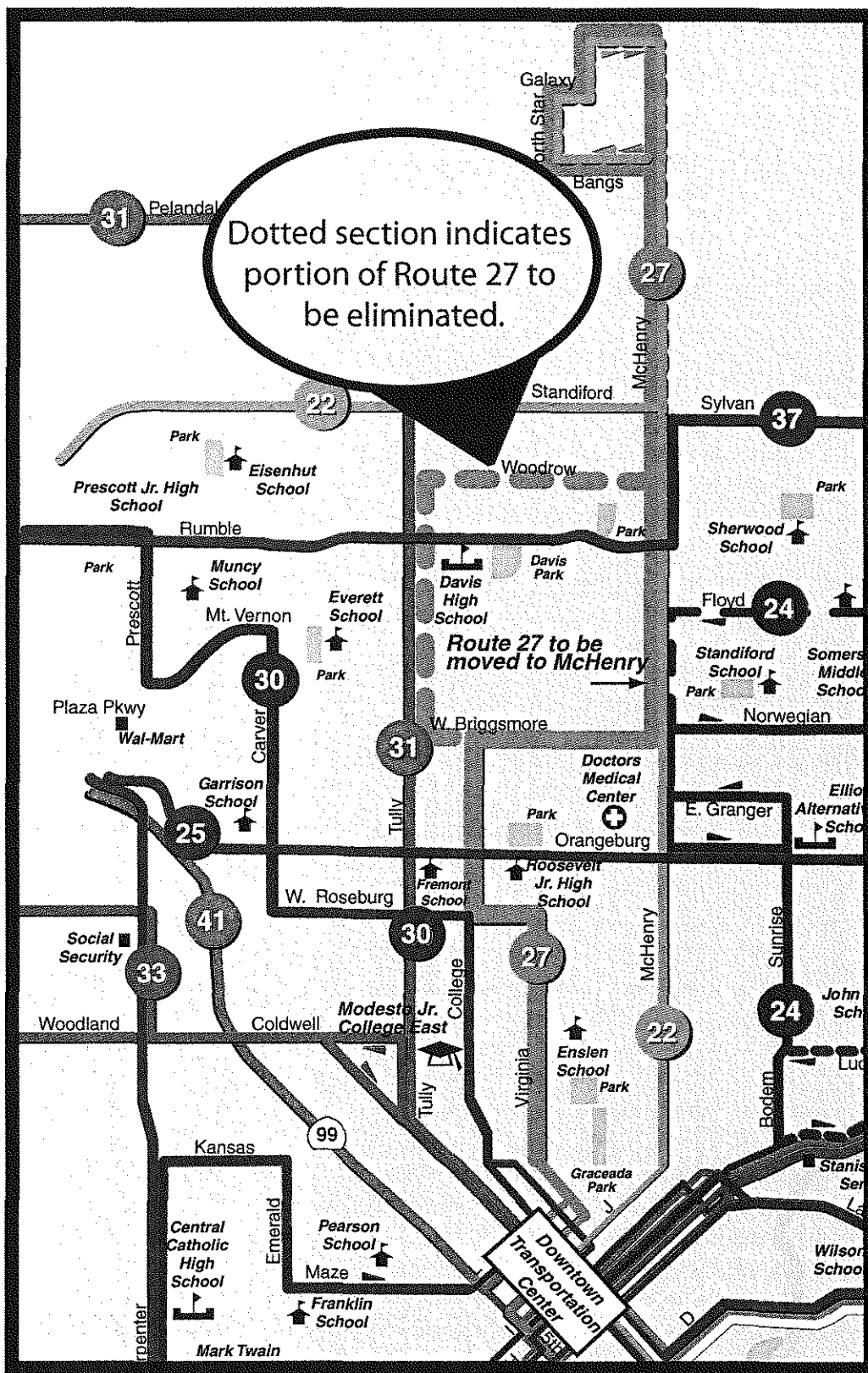
Routes 24 ..... 34  
 would be combined,  
 with Route 24 traveling  
 clockwise and Route  
 34 traveling counter  
 clockwise on the same  
 streets.

# Proposed Changes to Route 24/34 Effective Summer 2006

**Legend**

-  Added portions of route
-  Eliminated portions of route





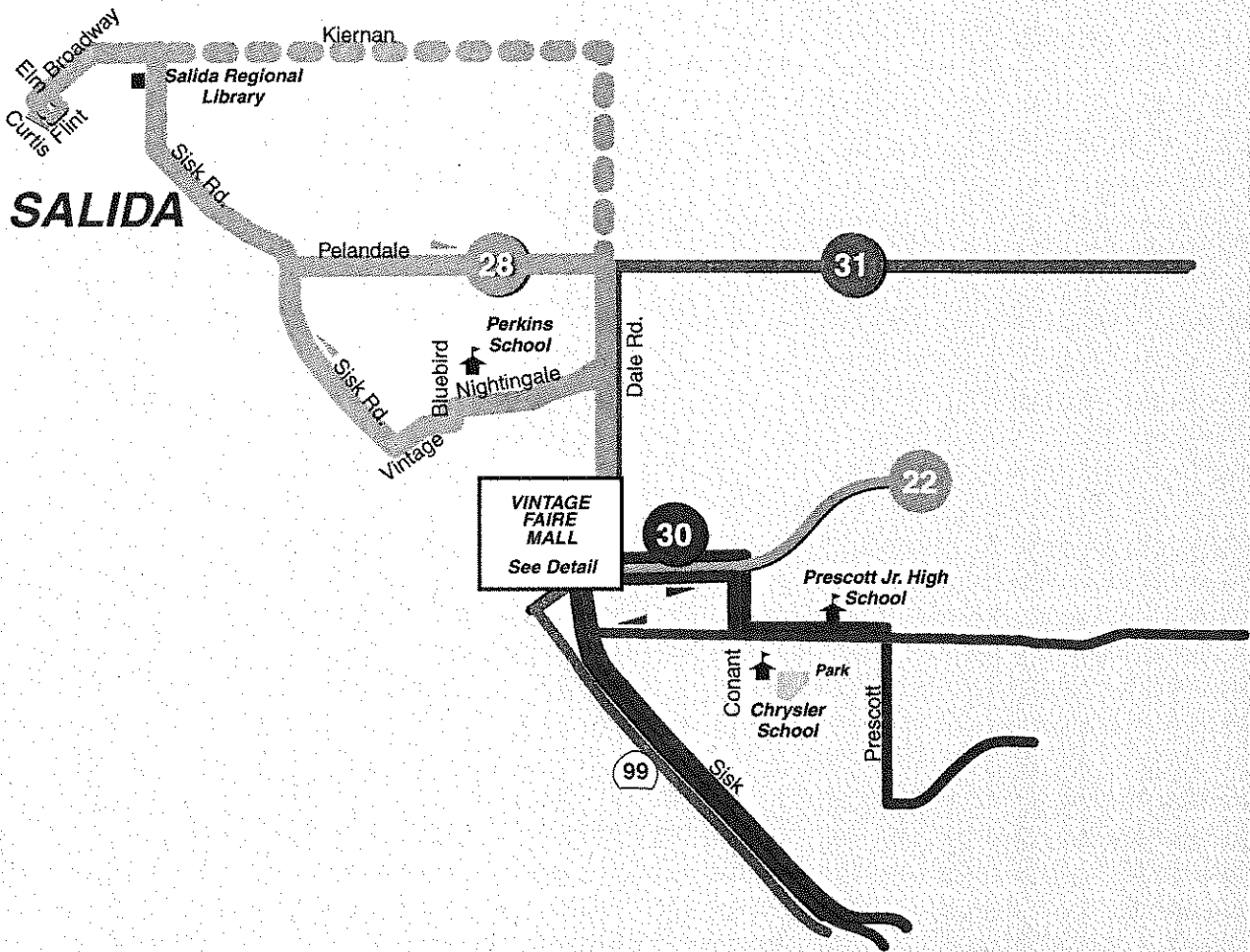
# MAX

## Proposed Changes for Route 27 effective Summer 2006

# Proposed Changes to Route 28 Effective Summer 2006

**Legend**

●●●●● Added portion of route



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-097**

**A RESOLUTION COMMITTING \$331,389 TO THE UPCOMING FISCAL YEAR  
2006/07 OPERATING BUDGET FUNDS TO COVER OPERATION OF NEW BUS  
SERVICE DURING THAT FISCAL YEAR**

WHEREAS, the City Council has been requested in the staff report from Nicholas Pinhey, Public Works Director, to the City Council dated January 18, 2006, to approve the route and schedule changes for Modesto Area Express (MAX) Routes 21, 22, 24, 27, 28, 34 and 36 effective August 1, 2006, and

WHEREAS, funds for these route and schedule changes will be included in the fiscal year 2006/07 Operating Budget, and

WHEREAS, a commitment of fiscal year 2006/07 Operating Budget Funds in the amount of \$331,389 to increase the proposed transit services is necessary before work on said services begins, and

WHEREAS, funding for the \$331,389 will be provided through the following revenue sources:

Federal Transit Administration Funds	\$ 69,592
Passenger Fares	\$ 49,708
Local Transportation Funds (LTF)	\$212,089

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby commits funds in the amount of \$331,389 in upcoming fiscal year 2006/07 Operating Budget to cover operation of new bus service during that fiscal year.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-098**

**A RESOLUTION REAPPOINTING AND APPOINTING MEMBERS 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 February 2, 2006, and recommended reappointment of JOHN SANDERS, and appointment of TED BRANDVOLD and WILLIE McDANIEL to the Planning Commission.

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

SECTION 1. JOHN SANDERS is hereby reappointed to the Planning Commission with a term expiration of January 1, 2008, and TED BRANDVOLD and WILLIE McDANIEL are hereby appointed to the Planning Commission, with term expirations of January 1, 2010.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed and appointed members 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 28<sup>th</sup> day of February 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-099**

**A RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ZONING  
ADJUSTMENT**

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

WHEREAS, the Economic Development Committee met on February 2 and February 6, 2006, and recommended appointment of RALPH SAXTON, AMY NEUMANN, HENRI (HANK) POLLARD, WILLIAM SCROGGINS and WILL GROVER to the Board of Zoning Adjustment.

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

SECTION 1. The following are hereby appointed to the Board of Zoning Adjustment:

- RALPH SAXTON, with a term expiration of January 1, 2007,
- AMY NEUMANN and HENRY (HANK) POLLARD with term expirations of January 1, 2009,
- WILLIAM SCROGGINS, with a term expiration of January 1, 2010,
- WILL GROVER commencing in June 2006, with a term expiration of January 1, 2010.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of February 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-100**

**A RESOLUTION APPOINTING PAMELA HOLLY 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 2, 2006, and recommended appointment of PAMELA HOLLY 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. PAMELA HOLLY is hereby appointed to the Citizens Advisory Committee on Recycling with a term expiration of January 1, 2007.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member 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 28<sup>th</sup> day of February 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-101**

**A RESOLUTION APPOINTING LILIANA LAZO AND GRACE LIEBERMAN  
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 2, 2006, and recommended appointment of LILIANA LAZO and GRACE LIEBERMAN to the Culture Commission.

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

SECTION 1. LILIANA LAZO and GRACE LIEBERMAN are hereby appointed to the Culture Commission with term expirations of January 1, 2010.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of February 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:


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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-102**

**A RESOLUTION APPOINTING DONALD LENGING 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 2, 2006, and recommended appointment of DONALD LENGING, as representative of Modesto Golf Club.

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

SECTION 1. DONALD LENGING, as representative of Modesto Golf Club, is hereby appointed to the Golf Courses Advisory Committee with a term expiration of January 1, 2007.

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 28<sup>th</sup> day of February 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-103**

**A RESOLUTION APPOINTING BARBARA PARRILL TO THE LANDMARK  
PRESERVATION COMMISSION**

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

WHEREAS, the Economic Development Committee met on February 2, 2006, and recommended appointment of BARBARA PARRILL to the Landmark Preservation Commission.

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

SECTION 1. BARBARA PARRILL is hereby reappointed to the Landmark Preservation Commission with a term expiration of January 1, 2010.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Landmark Preservation Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of February 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-104**

**A RESOLUTION APPROVING THE APPOINTMENT  
OF CINDY POWERS TO THE PUBLIC EVENTS COMMISSION**

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

WHEREAS, due to the recent election, a new appointment is necessary,

WHEREAS, Councilmember Kristin Olsen has nominated Cindy Powers 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 Cindy Powers is hereby appointed to the Public Events Commission.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahir  
JEAN ZAHIR, City Clerk

APPROVED AS TO THE FORM

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-105**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO TERMINATE  
THE AGREEMENT WITH PATTON BOGGS, LLP FOR FEDERAL LOBBYING  
SERVICES, AND APPROVING A TWO (2) YEAR AGREEMENT FOR  
FEDERAL LOBBYING SERVICES IN THE ANNUAL AMOUNT OF \$120,000  
WITH PILLSBURY WINTHROP SHAW PITTMAN, LLP AND AUTHORIZING  
THE CITY MANAGER TO EXECUTE 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, since 2001, Ms. Elizabeth V. Moeller of Patton Boggs, LLP has provided federal lobbying services to the City of Modesto and has been able to secure significant federal funding for Modesto projects, and

WHEREAS, on February 10, 2006, she notified the City that she had moved from the firm Patton Boggs, LLP to Pillsbury Winthrop Shaw Pittman, LLP, and

WHEREAS, in order to maintain the relationship the City has established with Ms. Moeller as the City's federal lobbying representative, City staff recommends terminating its agreement with Patton Boggs, LLP and authorizing the City Manager or his designee to execute a new agreement with Pillsbury Winthrop Shaw Pittman, LLP, and

WHEREAS, Ms. Moeller has been an exceptional advocate for the City of Modesto having helped secure over \$27.75 million in federal funding for City projects over the last four years, and

WHEREAS, due to the tremendous success and the excellent relationship the City has developed with Ms. Moeller staff recommends terminating the current agreement

with Patton Boggs, LLP and entering into a new agreement with Pillsbury Winthrop Shaw Pittman, LLP to maintain this established and successful relationship, and

WHEREAS, the City of Modesto has negotiated a new two (2) year Agreement for Consultant Services in the annual amount of \$120,000 with Pillsbury Winthrop Shaw Pittman, LLP to perform federal legislative lobbying services from April 1, 2006 through March 31, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager to terminated the agreement with Patton Boggs, LLP for federal lobbying services.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby approves a two (2) year Agreement for Consultant Services in the annual amount of \$120,000 with Pillsbury Winthrop Shaw Pittman, LLP to perform federal legislative lobbying services from April 1, 2006 through March 31, 2008, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of February 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**STANDARD  
AGREEMENT FOR CONSULTANT SERVICES**

*THIS AGREEMENT*, made and entered into in the City of Modesto, State of California, this \_\_\_\_ day of \_\_\_\_\_, 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 April 1, 2006, and will continue in effect until March 31, 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 April 1, 2006 and ending on March 31, 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 (15<sup>th</sup> 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 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. \_\_\_\_\_, adopted by the Council of the City of Modesto on the \_\_\_ day of \_\_\_\_\_, 2006, and Consultant has caused this agreement to be duly executed.*

CITY OF MODESTO,  
a California municipal corporation

PILLSBURY WINTHROP SHAW  
PITTMAN LLP

By: \_\_\_\_\_  
George W. Britton, City Manager

By: \_\_\_\_\_

By: \_\_\_\_\_

Consultant Federal ID# \_\_\_\_\_

*ATTEST:*

By \_\_\_\_\_  
JEAN ZAHR, City Clerk

*APPROVED AS TO FORM:*

By: \_\_\_\_\_  
RICHARD R. RUDNANSKY, Interim City Attorney

By: \_\_\_\_\_  
MARY AKIN, Risk Manager

EXHIBIT "A"  
SCOPE OF SERVICES

The Consultant shall provide the following services for the City:

- A. Consultant shall, at the direction of the City Manager and/or designee, develop a prioritized program of federal legislative funding targets and will develop strategies to successfully promote the City's objectives. This program will target projects in the broad categories of:
  - 1. Economic Development
  - 2. Health & Safety
  - 3. Diversity & Culture
- B. Consultant shall represent the City's federal objectives with members of Congress, appropriate congressional committees, federal agencies and congressional staff. In addition, consultant shall maintain effective liaison with major public interest groups and coalitions.
- C. Consultant shall monitor specified federal legislation, legislative committees, federal agencies, rule making, and the activities of appropriate interest groups, which are of a critical nature to the City of Modesto.
- D. Consultant shall identify grant opportunities for City projects and assist the City with submission of completed applications to the appropriate federal agencies.
- E. Consultant shall notify the City when testimony or personal communication is required to protect the City's federal interest. Consultant will assist the City in preparation of written and oral testimony and will coordinate federal visits.
- F. Consultant shall provide the City Manager and/or designee with periodic communications, both oral and written, outlining the activities undertaken on the City's behalf.

**MODESTO CITY COUNCIL  
RESOLUTION 2006-108**

**A RESOLUTION APPROVING A DEFERRED PAYMENT AGREEMENT AND NOTICE OF LIEN WITH PETER AND CHARLENE REECE, JOSEPH AND SHERYL PIMENTEL, AND STEPHEN AND KATHLEEN HUGHES FOR THE PAYMENT OF \$27,657.79 FOR CAPITAL FACILITIES FEES AT THE TIME OF BUILDING PERMIT ISSUANCE AND \$110,631.15 PLUS INTEREST IN NO MORE THAN FIVE (5) ANNUAL INSTALLMENTS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, Owner owns certain real property located within the City of Modesto, 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 three building permits from the City for the construction of Village Corners, a commercial development consisting of three buildings approximately 25,226 square feet, located at 3948 Sylvan Avenue, Modesto, California (Project), and

WHEREAS, Owner desires to defer payment of Capital Facilities Fees (CFF), in the amount of \$138,288.93 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. 2006-061,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Deferred Payment Agreement and Notice of Lien ("Agreement") with Peter and Charlene Reece, Joseph and Sheryl Pimentel, and Stephen and Kathleen Hughes for the payment of \$27,657.79 for capital facilities fees at the time of building permit issuance and \$110,631.15 plus interest in no more than five (5) annual installments is hereby approved.

BE IT FURTHER RESOLVED that the City Manager 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 28th day of February 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim, City Attorney

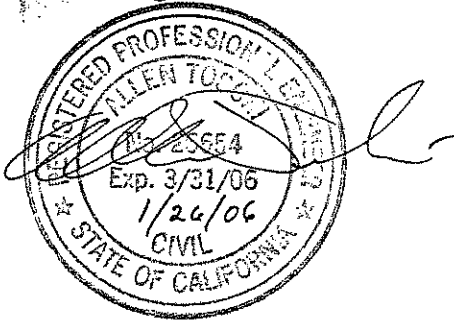


EXHIBIT "A"  
Legal Description

Property Subject to Deferred Payment Agreement  
and  
Notice of Lien

Parcels 1, 3 and 4 as shown on map filed in Book 52 of Parcel Maps, at Page 11, Stanislaus County Records, in a portion of the southeast quarter of Section 12, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California.

Containing 2.45 acres, more or less.



December 5, 2005

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-106**

**A RESOLUTION AUTHORIZING MID-VALLEY ENGINEERING (MVE) TO  
INSTALL FOURTEEN (14) BOLLARDS IN THE PUBLIC RIGHT-OF-WAY AT ITS  
BUSINESS OFFICE LOCATED AT 1117 L STREET, MODESTO, CALIFORNIA,  
APPROVING AN INDEMNITY AND HOLD HARMLESS AGREEMENT WITH MVE,  
AND AUTHORIZING THE CITY MANGER TO EXECUTE SAID AGREEMENT**

WHEREAS, Mid-Valley Engineering (MVE) is located on the northwest corner of the intersection of 12<sup>th</sup> and L Streets and is concerned with the traffic accidents that have occurred at this intersection over the last few years, and

WHEREAS, according to Modesto Police Department records sixty (60) collisions have been investigated at that location between January 1, 2000 and May 24, 2005, and

WHEREAS, two accidents have resulted in vehicles leaving the roadway and colliding with the Mid-Valley Engineering office building, and

WHEREAS, the owners of MVE desire to install fourteen (14) bollards around their office building at 1117 L Street, Modesto, California, and

WHEREAS, seven (7) of the bollards will be installed in front of the building along 56.31 feet of L Street and seven (7) will be installed along the side of the MVE building that is parallel to 12th Street, and

WHEREAS, the Citizens Redevelopment Advisory Committee considered this item at its February 1, 2006, meeting and recommended Council approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes Mid-Valley Engineering (MVE) to install fourteen (14) bollards in the public right-of-way two (2) feet away from the curb at its business office located at 1117 L Street, Modesto, California.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager to execute an Indemnity and Hold Harmless Agreement with MVE that releases the City of Modesto from any liability related to the bollards that will be installed in front of and along the side of the MVE business office, and authorizes the City Manager to execute said Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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


NOES: Councilmembers: Hawn, Marsh

ABSENT: Councilmembers: None

ATTEST:

  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-107**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN CITY OF  
MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE  
#2) AND PETER & CHARLENE REECE, JOSEPH & CHERYL PIMENTEL  
AND STEPHEN & KATHLEEN HUGHES WITH A MAXIMUM  
REIMBURSEMENT AMOUNT OF \$246,726.45 PLUS CONTINGENCY FOR  
IMPROVEMENTS ON SYLVAN AVENUE (PORTION AT CLAUS ROAD) AND  
A STORM DRAIN LINE (PORTION BETWEEN LITT AND CLAUS ROAD)  
AND AUTHORIZING THE DISTRICT ADMINISTRATOR TO EXECUTE SAID  
AGREEMENT**

WHEREAS, the City of Modesto desires to complete the core infrastructure needed to serve the Village One area, and

WHEREAS, Peter & Charlene Reece, Joseph & Cheryl Pimentel and Stephen & Kathleen Hughes (collectively "Landowner") have agreed to install certain improvements on Sylvan Avenue (portion at Claus Road) and a storm drain line (portion between Litt and Claus Road), and

WHEREAS, the City Council has considered the proposed Acquisition & Shortfall Agreement ("Agreement") between City of Modesto Community Facilities District No. 2004-1 ("Village One #2") and Landowner to acquire all such improvements to be installed by Landowner pursuant to the Agreement, and

WHEREAS, said Agreement shall have a maximum reimbursement amount of \$246,726.45 plus contingency,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines:

1. The proposed Acquisition and Shortfall Agreement between City of Modesto Community Facilities District No. 2004-1 and Peter &

Charlene Reece, Joseph & Cheryl Pimentel and Stephen & Kathleen Hughes (collectively "Landowner") for improvements on Sylvan Avenue (portion at Claus Road) and a storm drain line (portion between Litt and Claus Road) are hereby approved.

2. That the District Administrator, 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 28<sup>th</sup> day of February 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-109**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
SOLICIT FORMAL REQUEST FOR BIDS (RFB) FOR JANITORIAL PAPER  
PRODUCTS FOR AN INITIAL THREE (3) YEAR PERIOD, WITH TWO (2)  
ONE-YEAR CONTRACT EXTENSION OPTIONS FOR A TOTAL ESTIMATED  
ANNUAL COST OF \$43,400**

WHEREAS, the Finance Department-Central Stores has requested the purchase of janitorial paper products, and

WHEREAS, Central Stores will purchase the required janitorial paper products from account number 7110-120-8311-0439, and

WHEREAS, departments purchase the janitorial paper products from Central Stores with accounts designated for that purpose, and

WHEREAS, departments may pick up the materials at Central Stores, or transmit their request to Central Stores for delivery, and

WHEREAS, the following objectives will be achieved with a contract for janitorial paper products:

- Custodial personnel will not be performing unrelated duties.
- Materials will be purchased from the awarded vendor at the lowest competitive price.
- Processing of invoices and accounting of material for multiple departments is available from one location – Central Stores, and

WHEREAS, specifications for janitorial paper products have been developed over time through collaboration between Central Stores staff and division staff requesting the janitorial paper products, and

WHEREAS, by soliciting competitive bids, the City will achieve the best value for janitorial paper products and meet Modesto Municipal Code (MMC) requirements for formal bids, and

WHEREAS, the Modesto Municipal Code 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, this Request for Bid (RFB) conforms to City Code, and

WHEREAS, the funds for inventory purchases have been appropriated in account number 7110-120-8311-0439 (INVENTORY PURCHASES STORES), and

WHEREAS, material is purchased using these funds and recouped through sales to City divisions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Supervisor is hereby authorized to solicit formal Request for Bids for the janitorial paper products as follows:

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for janitorial paper products, for an initial three (3) year period, with two (2) one-year contract extension options at the sole discretion of City, to be opened in the office of the City Clerk, 1010 10<sup>th</sup> 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 bids are opened, they shall be tabulated and analyzed and a report submitted to the Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of February 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-110**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT  
FOR MATERIAL HAULING SERVICES TO BOB HARKRADER & SONS  
TRUCKING INC. OF CERES, CA. FOR AN INITIAL TWO (2)-YEAR PERIOD,  
WITH THREE (3) ONE-YEAR CONTRACT EXTENSION OPTIONS FOR A  
TOTAL ESTIMATED ANNUAL COST OF \$400,000.00**

WHEREAS, the Public Works Department-Streets Division has requested material (asphalt grindings & hot asphalt) hauling service, and

WHEREAS, Resolution 2005-402 authorized the Purchasing Supervisor to solicit formal bids for material hauling services, and

WHEREAS, the Streets Division is responsible for maintaining (paving) residential streets, alleys, and major arterial and collector streets, and

WHEREAS, to repave a street, a grinding operation removes the worst sections of roadways from two (2) to twelve (12) inches deep, and

WHEREAS, this operation requires larger end dump trucks that haul the material away to the Fire Training Center where it is stockpiled and use to repair alleys in the winter months, and

WHEREAS, in the past, asphalt grindings were hauled away by using rented dump trucks, or by staff borrowing dump trucks from other divisions, and

WHEREAS, the Streets Division currently does not have the trucks or the staff resources to haul away the materials during the paving season, and

WHEREAS, the paving season runs from April 15<sup>th</sup> to November 15<sup>th</sup>, and

WHEREAS, if the Streets Division had to provide the trucks to support paving

operations, street crews productivity would be reduced by approximately 80%, and

WHEREAS, by having a material hauling service in place, staff can place 700 tons of asphalt a day; and without material hauling service, staff is limited to 14 tons a day, and

WHEREAS, the initial estimated total annual cost for material hauling services of \$250,000 has been revised to \$400,000 based on new Proposition 42 funding, and

WHEREAS, the Purchasing Division solicited formal bids for material hauling services on Request for Bid (RFB) 0506-05, and

WHEREAS, twenty-one (21) vendors were solicited, eleven (11) of which were local vendors, and

WHEREAS, out of the twenty-one vendors solicited, two (2) chose to respond, and

WHEREAS, Purchasing Division and Public Works Department-Streets Division staff evaluated bids, and

WHEREAS, bids were received from Thornberry of Ceres, CA. and Bob Harkrader & Sons Trucking Inc. of Ceres, CA. for material hauling services, and

WHEREAS, both vendors quoted an hourly straight time labor rate of \$80.00, and

WHEREAS, based on feedback from vendor references, Bob Harkrader & Sons Trucking Inc. had best performed work as outlined in RFB 0506-05, technical requirement for material hauling services, and

WHEREAS, based on the evaluation of bids per RFB 0506-05, Bob Harkrader & Sons Trucking Inc. of Ceres, CA. is the most responsive bidder for material hauling services, and

WHEREAS, the City Council has appropriated funds for material hauling service in account numbers: 1130-320-3223-6041 (CDBG Direct Program) and 0700-480-4617-0360 (Streets, Traffic & Forestry), and

WHEREAS, the present funding will support approximately \$250,000 and could increase to \$400,000 based on additional funds that could be available based on new Proposition 42 funding, and

WHEREAS, the Modesto Municipal Code, 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, this Request for Bid process conforms to the Municipal Code, and

WHEREAS, the Purchasing Division has coordinated the solicitation and evaluation of bids for material hauling services with the Public Works Department-Street Division staff,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards the bid and contract for material hauling services to Bob Harkrader & Sons Trucking Inc. of Ceres, CA. for an initial two (2) year period, with three (3) one-year contract extension options at the sole discretion of the City, for a total estimated annual cost of \$400,000.

BE IT FURTHER RESOLVED that the Purchasing Division is hereby authorized to issue a purchase order for material hauling services in the total estimated annual cost of \$400,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-111**

**A RESOLUTION APPROVING A REQUEST FROM THE ALUMNI  
ASSOCIATION IN STANISLAUS COUNTY FOR USE OF AMPLIFIED MUSIC  
AT MANCINI BOWL FOR A RALLY FOR RECOVERY EVENT TO BE HELD  
ON SEPTEMBER 9, 2006**

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department has received a letter from The Alumni Association In Stanislaus County, requesting use of amplified music at Mancini Bowl on Saturday, September 9, 2006, for a Rally For Recovery event, and

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

WHEREAS, the Safety and Communities Committee met on February 6, 2006, and supported the request for amplified music,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a request from The Alumni Association In Stanislaus County for the use of amplified music at Mancini Bowl for a Rally For Recovery event on September 9, 2006.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of February 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-112**

**A RESOLUTION GRANTING APPROVAL TO THE FOURTH OF JULY  
CELEBRATION COMMITTEE OF THE MODESTO JAYCEES TO HOLD A  
PARADE, PICNIC IN THE PARK AND FIREWORKS DISPLAY FOR THE  
FOURTH OF JULY CELEBRATION IN THE CITY OF MODESTO, SUBJECT  
TO CERTAIN CONDITIONS, AND RESCINDING RESOLUTIONS NOS. 96-308  
AND 2003-208**

WHEREAS, the Fourth of July Celebration Committee of the Modesto Jaycees (hereinafter referred to as the Committee) has filed a request with the City Council for permission to have a parade, picnic in the park and fireworks display which will be held to celebrate the Fourth of July, and

WHEREAS, the Committee has requested the use of Graceada Park for the Fourth of July Celebration, and

WHEREAS, the Council deems it appropriate to grant approval and assistance to the Committee relating to its Fourth of July Celebration, subject to certain conditions,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the following, subject to the conditions set forth, relating to the Committee's Fourth of July Celebration parade, picnic in the park and fireworks display:

**1. Parade**

- a. "I" Street, between 11<sup>th</sup> and 12<sup>th</sup> Streets will be barricaded between 9:30 a.m. and 2:30 p.m. on the Fourth of July for the parade.
- b. The parade route to be used on the Fourth of July shall be subject to approval of the Police Chief and the Public Works Director: starting at 10<sup>th</sup> and F Streets, north on 10<sup>th</sup> to J Street; east on J Street to 11<sup>th</sup> Street; south on 11<sup>th</sup> Street to I Street; east on I street to 16<sup>th</sup> Street; then disband.

c. Responsibilities of the City

- 1) Barricades will be provided by the City of Modesto and will be placed by City staff.
- 2) City personnel will erect City's reviewing stand with canvas top on "I" Street close to the cannon in the Courthouse Park prior to 8:00 a.m. and will remove said reviewing stand thereafter.
- 3) The City will supply three (3) street sweepers for the parade route.

d. Responsibilities of the Committee

- 1) Committee is granted permission to use a public address system at the reviewing stand for the parade. Said public address system shall be furnished by the Committee at its expense.
- 2) Committee may place other public address systems along the parade route at its expense.

**2. Picnic in the Park**

a. The Committee is granted permission to use Graceada Park relating to the Picnic in the Park Fourth of July celebration, subject to the following conditions:

- 1) The City shall allow the Committee the use of amplified instrumentation at the event during the designated event times at a volume not to disturb the adjoining neighborhoods.
- 2) The Committee shall adhere to all Alcoholic Beverage control requirements.



3) All alcoholic beverages shall remain within the enclosed "beer garden" sales area.

4) The Picnic in the Park Fourth of July Celebration shall not continue beyond the hour of 6:00 p.m. on the said date(s).

b. If the Fourth of July falls on Friday, Saturday, Sunday or Monday, the Fourth of July Celebration Committee has the option to use Graceada Park for two (2) consecutive days, one of which shall be the Fourth of July.

c. The City will waive all fees for use of facilities at Graceada Park, including, but not limited to, Mancini Bowl and the picnic area.

d. Responsibilities of the City

1) The City will provide barricades to be placed on the streets around the perimeter of Graceada Park to provide curbside parking for the Committee during park activities.

2) The City shall provide two (2) barbecue trailers to be located in Graceada Park at mutually agreed to locations.

3) The City shall provide a technician to connect the Committee's sound system to the electrical power at Mancini Bowl.

4) The City shall provide twenty (20) trash receptacles in Graceada Park and shall remove them following the event.

e. Responsibilities of the Committee

1) The Committee shall provide, at its expense, one (1) security guard that is licensed and insured to provide security for the beer garden from the time the beer garden is erected, during the event, and until the beer garden and contents are removed.

2) The Committee shall be responsible for providing a technician for electrical services for the food booths, sound systems and light systems.

3) The Committee shall supply a minimum of ten (10) chemical toilets for use in Graceada Park for the Picnic in the Park.

### **3. Fireworks Display**

a. The Committee is granted permission to use the bluff land adjacent to Dryden Park Golf Course (part of the Tuolumne River Regional Park) for display of fireworks on the evening of the Fourth of July, subject to the following conditions:

1) That the weather conditions will not create any fire hazard to the surrounding area;

2) That the City will be reimbursed for any damages which may occur to the bluff land adjacent to Dryden Park Golf Course, City's two (2) adjacent golf courses, and John Thurman Field;

3) That arrangements be cleared by the Parks, Recreation and Neighborhoods Department Director, Fire Chief and the Police Chief; and

4) That the fireworks display be conducted according to the requirements of the Fire Chief of the City of Modesto.

b. Responsibilities of the City

1) The City will provide two (2) standby fire trucks.

c. Responsibilities of the Committee

1) The Committee will provide, at its expense, twelve (12) chemical toilets to be situated at locations designated by the Park Operations Superintendent, or his designee.

2) The Committee shall require its Fireworks Display Contractor to maintain liability insurance in the amount of two million dollars (\$2,000,000.00) per occurrence/aggregate limits in a form satisfactory to the City. Such insurance must name the Fourth of July Celebration Committee, the City of Modesto and the Modesto Jaycees as “additionally insured”.

#### **4. General Provisions**

a. Dial-A-Ride service will operate on its regular schedule for handicapped and senior citizens on the Fourth of July.

b. For Fiscal Year 2005-06, the City has allocated \$8,750 in grant funds to the Committee for the Fourth of July Celebration. The City will continue to allocate funds to the Celebration, with the amount to be increased or decreased by the same percentage adopted by the City Council for other local organizations receiving funds under the Cultural Promotions budget organization.

c. The City will provide police assistance during the parade, picnic in the park and fireworks display as deemed necessary by the Police Chief.

d. The Committee will endeavor to secure sufficient funds to reimburse the City for its actual costs, except for grant funds specified above.

e. The City of Modesto shall indemnify and hold harmless the committee from any and all liability, costs, damages, or injuries to persons or damage to property, which may arise out of or in any way be connected with the ordinary and customary condition of City property and facilities, or which may arise out of the negligent acts or omissions of any officer, agent or employee of the City of Modesto.

f. The Committee shall indemnify, defend and hold harmless the City of Modesto, its officers, agents and employees from any and all liability, costs, damages or injuries to persons or damage to property which may arise out of or in any way be connected with the Committee's sponsored Fourth of July parade, use of the bluff land adjacent to Dryden Park Golf Course, City's two (2) adjacent golf courses and John Thurman Field, and the streets and areas adjacent thereto for the Committee's fireworks display and the use of City facilities for the Committee's parade and picnic in the park.

g. The Committee shall provide to the City Clerk current and valid certificate(s) of insurance that are in compliance with the City of Modesto Standard Insurance requirements. Such insurance, at a minimum, shall include Commercial General Liability coverage in a primary amount of not less than \$2,000,000 per occurrence; include the City of Modesto as additionally insured; provide the City with then (10) days written notice prior to cancellation, alteration or material change in coverage. The Committee shall also file acceptable verification of coverage for legal liquor liability. Such verifications shall be submitted to the Risk Manager and shall meet with Risk Management's approval one (1) week prior to the date of the event. Upon approval, said verification shall be filed with the City Clerk.

BE IT FURTHER RESOLVED that future Fourth of July Celebrations consisting of parades, picnics in the park and/or fireworks displays are hereby approved so long as each such event and activity complies with all ordinances, rules, regulations, orders, conditions or the like as the same now exists or as hereafter may be promulgated and all authorizations or approvals are first obtained from the City Manager, Police Chief, Fire

Chief, Parks, Recreation and Neighborhoods Department Director or such other City officers as may be appropriate.

BE IT FURTHER RESOLVED that the City Clerk shall furnish the Committee with a copy of this resolution. The Committee shall file a written acceptance of this resolution with the City Clerk, and no right shall be conferred hereby until said acceptance is filed.

BE IT FURTHER RESOLVED that Resolution No 96-308, adopted June 11, 1996, is hereby rescinded.

BE IT FURTHER RESOLVED that Resolution No. 2003-208, adopted April 22, 2003, is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of February 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-113**

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

Emergency Medical Services Coordinator

Said classification is being created to administer the emergency medical services program of the Fire Department. The job specification for the classification of Emergency Medical Services Coordinator, as shown on the attached Exhibit "A," which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. CLASSIFICATION AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the following classification:

Fire Division Chief

Said job specification is being amended to incorporate the Fire Marshal functions including emergency preparedness and other changes to more accurately reflect the requirements of this classification. The job specification for classification of Fire Division Chief, as shown on the attached Exhibit "B", which is hereby made a part of this resolution by reference, is hereby amended and made part of the Position Classification Plan of the City of Modesto.

SECTION 3. CLASSIFICATION DELETED. The Position Classification Plan of the City of Modesto is hereby amended to delete the following classification:

Fire Marshal

Said classification is no longer being used.

SECTION 4. EFFECTIVE DATE. This resolution shall become effective on and after February 28, 2006.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 28th day of February 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney



## EMERGENCY MEDICAL SERVICES COORDINATOR

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

### DEFINITION

To administer emergency medical services (EMS) programs of the Fire Department including training, equipment, certifications, legislative requirements, vaccinations, medical exposures and EMS contracts.

### SUPERVISION RECEIVED AND EXERCISED

Receives general direction from a Fire Division Chief.

May exercise direct supervision over assigned staff.

### ESSENTIAL AND MARGINAL FUNCTION STATEMENTS

Essential and other important responsibilities and duties may include, but are not limited to, the following:

#### Essential Functions:

Develop, implement, administer and evaluate operations and activities of EMS programs; recommend improvements and modifications; prepare various reports on operations and activities.

Ensure all EMS programs, operations and personnel comply with State and local laws, regulations, protocols, licensure and accreditation requirements; assist Emergency Medical Technicians (EMTs) and Paramedics with re-certification needs.

Provide and coordinate the department's continuous EMS education program in accordance with State and local regulations.

Coordinate and provide training for the cardio pulmonary resuscitation (CPR) program for department personnel and the public.

Track, maintain records and generate reports regarding certification, re-certification and other educational licensing requirements.

Essential Functions: (Continued)

Implement and monitor the Department's continuous quality improvement program for Basic Life Support (BLS) and Advanced Life Support (ALS).

Develop, implement, review, monitor and revise training courses and manuals for BLS and ALS to ensure Fire Department personnel meet established standards.

Observe patient care provided by Paramedics, including furnishing Paramedics with training, counseling and orientation as needed.

Participate in evaluating Paramedic personnel to ensure performance standards compliance; may provide technical expertise regarding Paramedic performance in disciplinary actions.

Review and update the Department's exposure control program. This may include assisting with drafting policies and procedures, providing training, and writing exposure follow-up reports. Work with the Risk Division on required "Designated Officer" duties and responsibilities.

Analyze and interpret relevant legislation, regulations and local protocols that may impact Paramedic, EMT or other department EMS programs; make written recommendations as necessary.

Evaluate, select and purchase equipment and supplies used in EMS programs; maintain equipment and supply inventory.

Attend various City Council, Commission, board and other governmental meetings; prepare and present agenda items to the City Council.

Answer questions and provide information to the public, outside agencies and City staff; investigate complaints and recommend corrective action as necessary to resolve complaints.

Assist in developing and implementing an EMS public education program; coordinate, schedule and participate in presenting public awareness and educational programs.

Recommend goals and objectives; assist in the development of policies and procedures.

Assist in the preparation, review and monitoring of the EMS budget.

Exhibit "A"

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles, terminology, procedures, medications and equipment used in the administration of emergency medical response, including advanced life support services.

Principles and practices of emergency medicine, including clinical assessment techniques and the principles of patient prioritization and stabilization.

Principles and practices related to the development, management and administration of EMS systems and quality assurance programs.

State and local statutes and regulations pertaining to EMS training, service delivery and quality improvement.

Effective training techniques and learning processes.

Principles and practices of budget preparation and administration.

Ability to:

Coordinate and effectively manage all aspects of an EMS quality assurance program.

Monitor, evaluate and provide feedback regarding the work performance of EMTs and Paramedics.

Plan, develop, coordinate and conduct EMS training based upon a continuous quality improvement plan.

Coordinate, develop and conduct a variety of training programs for department staff and the public.

Research and analyze operational and technical issues and develop appropriate recommendations for action.

Exhibit "A"

Ability to: (Continued)

Interpret, explain and apply applicable laws, codes, regulations, standards, policies and procedures.

Develop and maintain accurate record keeping systems.

Use a computer and applicable software programs.

Communicate clearly and concisely, both orally and in writing; make effective oral presentations.

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

EXPERIENCE AND TRAINING GUIDELINES

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

Experience:

Three years of progressively responsible supervisory or administrative experience in the field of health care services or hospital administration.

Two years academic training or clinical experience in the practice of emergency medicine or pre-hospital care in the last five years is desirable.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major coursework in health administration or related field.

License or Certificate:

Possession of, or the ability to obtain an appropriate, valid California driver's license.

Must possess the following valid, current certificates:

License or Certificate: (Continued)

- American Heart Association (AHA) CPR and Automatic External Defibrillator (AED) Instructor
- Basic Life Support Instructor

The following certificates are desirable:

- Advanced Cardiac Life Support (ACLS) Instructor
- Pediatric Advanced Life Support (PALS) Instructor

Based on departmental approval, equivalent certification may be accepted in lieu of the above.

California licensure as a registered nurse or physician assistant or certification as an EMT-Paramedic is desirable.

WORKING CONDITIONS

Environmental Conditions:

Office and field environment. Travel from site to site. Exposure to temperature swings from indoors to outdoors; extreme noise of sirens and emergency equipment; working outdoors at emergency scenes with Paramedics and EMTs.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time; traveling to and from sites and attending meetings. May be required to squat, stand, lift and carry equipment (weighing up to 25 pounds) occasionally. May be required to use various office equipment including a computer screen and keyboard.

## FIRE DIVISION CHIEF

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 manage, direct and coordinate the activities of a major division including Support Services, and Operations and the Fire Prevention Bureau; to coordinate division activities with other divisions and departments; and to provide highly complex staff assistance to the Fire Chief.

### SUPERVISION RECEIVED AND EXERCISED

Receives direction from the Fire Chief.

Exercises direct supervision over lower level division staff.

### EXAMPLES OF DUTIES ESSENTIAL AND MARGINAL FUNCTION STATEMENTS -

Essential and other important responsibilities and duties may include, but are not limited to, the following:

#### Essential Functions:

Recommend goals and objectives; assist in the development of policies and procedures.

Direct, oversee and participate in the development of the Division work plan; assign work activities, projects and programs; monitor workflow; implement policies and procedures; review and evaluate work products, methods and procedures.

Prepare the Division budget; assist in budget implementation; participate in the forecast of additional funds needed for staffing, equipment, materials, and supplies; administer the approved budget.

Participate in recommending the appointment of personnel; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures; recommend employee terminations.

Direct the development, implementation and coordination of training programs and standards of assigned personnel to learn and maintain technical competency.

Answer questions and provide information to the public; investigate complaints and recommend corrective action as necessary to resolve complaints.

Essential Functions: (Continued)

Respond to emergencies as required.

When assigned to Support Services:

Manage, direct and organize Support Services Division activities, including community emergency preparedness, equipment repair, supply and maintenance, purchasing and budget control, fire station maintenance, mapping and run cards, affirmative action, public information, and other programs as assigned.

When assigned to the Fire Prevention Bureau:

Supervise, direct and organize fire prevention activities, including community emergency preparedness, inspection of residential, commercial, industrial, institutional, public assembly, and public lodging facilities to obtain compliance with all applicable Federal, State and local laws and ordinances; investigation of all fires to determine cause, origin, and damages; investigation of all suspected arson fires to pursue to conclusion; maintenance of records of fire losses, inspections, investigations, fire deaths, and injuries; plan check of building fire suppression and detection systems; inspection and control of hazardous materials; review of annexations and subdivisions; and other programs as assigned.

When assigned to Fire Suppression:

Manage, direct and organize Fire Suppression Division activities, including: Suppression of all fires; abatement of hazardous material incidents; delivery of first responder emergency medical services; department training programs; company fire prevention programs; communications; personnel coordination; fire hydrant maintenance; and other programs as assigned.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Applicable Federal, State and local laws and ordinances and fire safety standards.

Budget preparation and administration. ing procedures and techniques:

Principles and practices of supervision, training and personnel management.

Exhibit "B"

Knowledge of: (Continued)

Modern principles of Fire Department administration.

Modern principles and practices of fire suppression and prevention.

Use and maintenance of fire fighting equipment and apparatus.

Building, electrical, mechanical and fire codes.

Safe work practices.

Effective methods of preparation and presentation of information for and to the public, the City Council, and other community groups.

Technical reports writing procedures and procedures for writing proposals and contracts.

Personal computers and relevant software programs.

Ability to:

Organize, direct and implement a variety of division programs.

Work with and control sensitive, ~~Handle delicate and confidential information, and matters.~~

Prepare and administer a division budget.

Select, ~~s~~Supervise, train, coach and evaluate assigned staff.

Develop requests for proposals and contracts.

Meet and deal tactfully, and establish and maintain cooperative working relationships with the public, news media, and other governmental agencies.

Effectively represent the department before the Council, Council Committees, boards, commissions, public agencies and private groups.

~~Appear before the City Council, boards, commissions and numerous civic groups representing the Department.~~

Operate personal computers and software to produce spreadsheets, charts, and graphs for presentations and maintaining statistical data.

Exhibit "B"



Ability to: (Continued)

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

Communicate clearly and concisely, both orally and in writing.

Make sound decisions in a manner consistent with job duties and departmental or City policies.

EXPERIENCE AND TRAINING GUIDELINES

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

Experience:

One year of increasingly responsible experience comparable to that of a Fire Battalion Chief.

Training:

Equivalent to a Bachelor or Associate of Arts degree from an accredited college or university with major course work in fire science, public administration, business administration or a related field.

License or Certificate

Possession of, or ability to obtain, an appropriate, valid California driver's license.

WORKING CONDITIONS

Environmental Conditions:

Office and field environment.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time; traveling to and from sites, attending meetings and using a personal computer and other office equipment.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-114**

**A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION  
NO. 2005-494 TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED  
MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO CREATE  
THE CLASSIFICATION OF EMERGENCY MEDICAL SERVICES  
COORDINATOR AT RANGE 435 (\$4,967 - \$6,052/MONTH) AND TO DELETE  
THE CLASSIFICATION OF FIRE MARSHAL FROM RANGE 441 OF THE  
CLASS RANGE TABLE**

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2005-494, which approved the Class Range Table for Represented Management and Non-Sworn Classes,

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2005-494. Resolution No. 2005-494 effective October 4, 2005, 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 February 28, 2006", which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" establishes the salary range for Emergency Medical Services Coordinator at Range 435 (\$4,967 - \$6,052 per month) and deletes the Fire Marshal from Range 441 of the Class Range Table.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after February 28, 2006.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 28th day of February 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

CITY OF MODESTO  
CLASS RANGE TABLE  
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES  
Effective February 28, 2006

---

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	Senior Administrative Office Assistant (Confidential) Secretary
416	
417	
418	Legal Secretary Systems Technician I
419	Public Information Technician (Confidential)
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (Represented) Legal Services Technician
421	

Exhibit "A"

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

Exhibit "A"

RANGE      TITLE

---

- 432    Communications Specialist  
      Customer Services Supervisor  
      Neighborhood Preservation Supervisor  
      Operations and Maintenance Supervisor  
      Recreation Supervisor II  
      Senior Accountant  
      Water Quality Control Maintenance Supervisor  
      Water Quality Control Operations Supervisor
- 433    Organizational Development Specialist
- 434    Assistant Civil Engineer  
      Assistant Traffic Engineer  
      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  
      Senior Personnel Analyst  
      Weed and Seed Program Coordinator
- 436    Electrical Supervisor  
      Senior Planner
- 437

Exhibit "A"

RANGE      TITLE

---

438    Budget Officer  
      Events Supervisor  
      Fire Business Services Analyst  
      Housing Program Supervisor  
      Land Surveyor  
      Property Agent  
      Senior Business Analyst  
      Software Analyst III  
      Systems Engineer II

439    Administrative Services Officer  
      Community Facilities Districts Administrative Officer

440    Associate Civil Engineer  
      Associate Traffic Engineer  
      Transportation Planner

441    Airport Manager  
      Building Maintenance Superintendent  
      Fleet Manager  
      Housing and Urban Development Manager  
      Parks Operations Superintendent  
      Parks Planning and Development Manager  
      Purchasing Manager  
      Recreation Superintendent  
      Streets Superintendent  
      Urban Forestry Superintendent  
      Wastewater Collections Superintendent  
      Water Superintendent

442    Customer Services Division Manager  
      Manager of Budget and Financial Analysis  
      Software Analyst IV  
      Supervising Building Inspector  
      Supervising Construction Inspector  
      Systems Engineer III

443

Exhibit "A"

RANGE      TITLE

---

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

Exhibit "A"



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-115**

**A RESOLUTION AUTHORIZING SEVERANCE PAY, HEALTH BENEFITS,  
INTERVIEW LEAVE AND JOB QUALIFICATIONS FOR EMPLOYEES  
SUBJECT TO AN AUTHORIZED REDUCTION IN FORCE, SUBJECT TO A  
SIGNED AGREEMENT WITH GROVER LANDSCAPE SERVICES FOR  
OUTSOURCING OF THE PARKS LANDSCAPING FUNCTION AND SUBJECT  
TO INDIVIDUAL EMPLOYEE SETTLEMENT AGREEMENTS, TO SUNSET  
120 DAYS AFTER THE INITIAL NOTICES OF LAYOFF TO AFFECTED  
EMPLOYEES**

WHEREAS, by Resolution No. 2005-581 which was adopted November 22, 2005, the City Council directed staff to negotiate a landscape maintenance service agreement with Grover Landscape Services, Inc. for parks, sound walls and public landscaping owned and/or maintained by the City of Modesto, and

WHEREAS, this Council action followed a managed competition process as outlined by Council policy, and

WHEREAS, once this agreement is negotiated, it will result in the reduction of fourteen (14) authorized positions in the classification of Maintenance Worker II in the Parks, Recreation and Neighborhoods Department, and

WHEREAS, this reduction in force may result in the lay off of current, regular City employees, and

WHEREAS, current Personnel Rules and the Modesto City Employees' Association Implementation Document of 2005-2007 provide that employees who are laid off receive only those benefits to which any departing employee would be entitled, and

WHEREAS, City staff is recommending to the Council that laid off employees should receive Severance Pay equivalent to a minimum of four (4) weeks of the

employee's salary and City health contribution upon the effective date of the layoff and thereby provide a limited cash payment to assist the laid off employee who is faced with loss of job and income, and

WHEREAS, City staff is recommending that in addition, employees with six (6) or more full years of service are eligible for additional severance as follows: severance pay in the amount of one (1) week of salary for each complete year of service in excess of five (5) full years of service, to a maximum of four (4) additional weeks, and

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

WHEREAS, City staff is recommending that where an employee volunteers to be laid off and is in the classification or the approved bumping chain of a position authorized for layoff, the City Manager may authorize said employee to be laid off, with all rights to receive severance benefits, and

WHEREAS, employees unable to pass the 100-pound lifting requirement of the Maintenance Worker positions in Public Works will engage in a discussion with management and other appropriate personnel on a case-by-case basis (in the same manner as other reasonable accommodation requests) and,

WHEREAS, any accommodation reached will be consistent with state and federal guidelines, and

WHEREAS, each employee who receives a notice of layoff and who elects to accept severance benefits upon layoff shall enter into a settlement agreement with the City, which includes the employees written release in favor of the City.

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

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

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

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

A. Severance pay equivalent to forty (40) work hours of salary for each completed year of service in excess of five (5) completed years of service, up to a maximum of one hundred and sixty (160) work hours. Additional severance pay shall be calculated based upon the employee's regular base pay, excluding acting pay, assignment pay, shift differential, or other special pays.

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

SECTION 5. Eligibility for Health Contribution: Employees who receive severance pay shall also be eligible to receive the City's contribution to health, dental and vision premiums for a period of four (4) to eight (8) weeks following layoff. The amount of this contribution shall be the same as that provided to active employees, except that the amount shall not include the equivalent of any in-lieu deferred compensation. The duration of the premium contributions shall be for the same number of weeks as the severance pay provision (4-8 weeks depending on years of service). The contribution shall be paid directly to the insurance carriers.

SECTION 6. Eligibility for Counseling Benefit: Employees who receive severance pay shall also be eligible for an extension of the City's Employee Assistance Program (EAP) benefit for a period of six (6) months from date of layoff. Said benefit shall provide for a maximum of six (6) EAP visits per family.

SECTION 7. Eligibility for Interview Leave: All non-sworn employees in regular positions in the classified service who are provided notice by his/her Department

Director that the employee may be laid off due to a reduction in force shall be entitled, prior to separation, to a maximum of fifteen (15) work hours of paid leave time for purposes of participating in employment interviews or examinations with any other employer.

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

SECTION 8. Job Qualifications: Employees unable to pass the 100-pound lifting requirement of the Maintenance Worker positions in Public Works will engage in a discussion with management and other appropriate personnel on a case-by-case basis (in the same manner as other reasonable accommodation requests). Any accommodation reached will be consistent with state and federal guidelines.

SECTION 9. Voluntary Layoff: The City Manager may authorize any employee in a regular position in the classified service who volunteers to be laid off, and is in the classification or the approved bumping chain of a position authorized for layoff, to be laid off, with all rights to receive severance pay, health contributions and interview leave as provided herein.

SECTION 10. Written Release: Each eligible employee who receives a notice of layoff and elects to take advantage of the severance benefits upon layoff, which are authorized by this resolution, shall execute a settlement agreement with the City, which

includes a written release in favor of the City and an acknowledgment by their Employee Association representative, in a form approved the City Attorney. The City Manager is hereby authorized to execute said settlement agreements.

SECTION 11. Agreement with MCEA: Prior to execution of any settlement agreements as set forth in Section 10, above, the City shall execute an agreement with the Modesto City Employees' Association in a form approved by the City Attorney, agreeing to the provision of severance benefits as authorized herein.

SECTION 12 Term: Severance benefits, as set forth in this Resolution shall terminate effective 120 days after the initial notices of layoff to affected employees, unless extended by resolution of the Modesto City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of February 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-116**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005-2006 BUDGET TO  
RECOGNIZE AND APPROPRIATE NEW CONGESTION MITIGATION AND  
AIR QUALITY (CMAQ) GRANT REVENUES OF \$4,510,404 FOR FISCAL  
YEAR 2005-2006**

WHEREAS, on May 3, 2005, Council approved the City's applications for  
Congestion Mitigation and Air Quality (CMAQ) grant funding, and

WHEREAS, CMAQ funds are awarded to the City by StanCOG and are dispersed  
both competitively and based upon population, and

WHEREAS, the City received notification of its fiscal year 2005-2006 CMAQ  
award, which totals \$5,094,781, and

WHEREAS, the City's matching share for the CMAQ projects is \$584,377 all of  
which is currently budgeted within the existing CIP, and

WHEREAS, the Economic Development Committee (EDC) at its February 13,  
2006, meeting reviewed the CMAQ projects and recommended that City Council approve  
the projects,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto  
that it hereby approves amending the Fiscal Year 2005-2006 Annual Budget to recognize  
and appropriate new Congestion Mitigation and Air Quality (CMAQ) grant revenues of  
\$4,510,404,

BE IT FURTHER REVOLVED that the Council hereby authorizes the Finance  
Director 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 28<sup>th</sup> day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-117**

**A RESOLUTION AMENDING THE 2005-2006 CAPITAL IMPROVEMENT  
PROGRAM (CIP) TO INCLUDE CMAQ-FUNDED CIP PROJECTS**

WHEREAS, on May 3, 2005, Council approved the City's applications for Congestion Mitigation and Air Quality (CMAQ) grant funding, including competitive projects submitted for funding, and

WHEREAS, CMAQ funds may be used to fund up to 88.53% of covered project costs, and

WHEREAS, the Economic Development Committee (EDC) at its February 13, 2006, meeting reviewed the CMAQ projects and recommended Council approval, and

WHEREAS, acceptance and appropriation of the CMAQ funding requires amending the City's CIP to include the CMAQ projects, and

WHEREAS, the new projects are classified as secondary projects and fall beneath primary projects already approved by Council, and

WHEREAS, primary projects serve as the budgetary control device within the CIP, and

WHEREAS, secondary projects are related projects, which fall beneath the primary project category, and

WHEREAS, the City Manager has authority to move funds between secondary projects within a single primary project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the 2005-2006 Capital Improvement Program (CIP) to include CMAQ-funded CIP projects and authorizes the City Manager to move funds

between secondary projects within a single primary project to include CMAQ-funded CIP projects.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-118**

**A RESOLUTION APPROVING A NEW FIVE-YEAR LEASE AGREEMENT  
BETWEEN THE CITY OF MODESTO AND THE CALIFORNIA CENTRAL  
VALLEY SQUADRON OF THE COMMEMORATIVE AIR FORCE (CAF) FOR  
AIRPORT HANGAR NO. 1 AT THE ESTABLISHED ANNUAL RATE OF  
\$17,172.00, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE,  
TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY**

WHEREAS, the Airport Hangar No. 1, one of the oldest aircraft storage hangars in California, is currently vacant, and

WHEREAS, the California Central Valley Squadron of the Commemorative Air Force (CAF) has been a tenant at Modesto City-County Airport for the past 18 years, and

WHEREAS, the CAF wishes to lease all of Airport Hangar No. 1 for use as an air museum and as a hub for their local CAF activities while preserving and maintaining the Hangar in its historic 1928 condition, and

WHEREAS, the CAF presented a bid package containing financial information and references for review and was subsequently determined to be the preferred lessee for Hangar No. 1, and

WHEREAS, the lease agreement is expected to provide revenues of approximately \$17,172.00 a year to the Airport Enterprise Fund Revenue Account No. 6310-440-5412-4413, and

WHEREAS, on December 21, 2005 the Airport Advisory Committee unanimously agreed with staff's recommendation to lease Hangar No. 1 to the CAF, and

WHEREAS, the Economic Development Committee, at its February 13, 2006 meeting, approved the prospective lease of Hangar No. 1 to the CAF,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a five- year Airport Lease Agreement between the City of Modesto and the Commemorative Air Force (CAF) for the use of Hangar No. 1.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute the Airport Lease Agreement 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 28<sup>th</sup> day of February 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-119**

**A RESOLUTION APPROVING AN EXTENSION OF THE AIRPORT GROUND  
LEASE AGREEMENT FOR HANGAR NO. 7 BETWEEN THE CITY OF  
MODESTO AND JAMES C. SORENSEN FOR AN ADDITIONAL 15- YEAR  
PERIOD AT THE ESTABLISHED ANNUAL RATE OF \$828.00 AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE  
THE LEASE AGREEMENT ON BEHALF OF THE CITY**

WHEREAS, the City of Modesto entered into a 20-year ground lease with James C. Sorenson in 1982 for development of an airport hangar (now known as Hangar No. 7), and

WHEREAS, the original 20-year lease has been in a holdover status since February 2002, and

WHEREAS, James C. Sorensen has requested a lease extension for a period of an additional 15 years, and

WHEREAS, in recent years the City has granted 35-year leases to other ground lease tenants for development of land parcels with aircraft hangars, and

WHEREAS, Hangar No. 7 is the home of an air museum which displays classic aircraft and is a frequent venue for airport hospitality functions and school tours, and

WHEREAS, the lease agreement is expected to continue providing annual revenues of \$828.00 to the Airport Enterprise Fund Revenue Account 6310-440-5412-6201, and

WHEREAS, the Economic Development Committee, at its February 13, 2006 meeting, recommended approval of this ground lease extension,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an extension of the Airport Ground Lease Agreement for Hangar No. 7 between the City of Modesto and James C. Sorensen for an additional 15-year period at the established annual rate of \$828.00.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Airport Ground Lease Agreement 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 28<sup>th</sup> day of February 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-120**

**A RESOLUTION REJECTING THE TWO BIDS FOR THE PROJECT TITLED  
"SHADE STRUCTURES FOR MODESTO PARKS" AND AUTHORIZING  
STAFF TO RE-ADVERTISE THE PROJECT AT A FUTURE DATE**

WHEREAS, the bids received for Shade Structures for Modesto Parks were opened at 11:00 a.m. on January 17, 2006, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, during the bid evaluation process staff determined that the two bids for the project unreasonably exceeded the consultant architect's estimate. Therefore, staff recommends the bids be rejected and staff be allowed to re-advertise the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the two bids received for "Shade Structures for Modesto Parks," opened in the office of the City Clerk on January 17, 2006, are hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project at a future date.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of February 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-121**

**A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT  
WITH ROSS G. STEPHENSON ASSOCIATES, INC., IN THE AMOUNT OF  
\$30,253, EXPANDING THE SCOPE OF WORK BY EXPANDING THE LIMITS  
OF THE PROJECT TITLED "ROSELLE & FLOYD INTERSECTION  
WIDENING," AND AUTHORIZING THE DISTRICT ADMINISTRATOR TO  
EXECUTE THE AMENDMENT**

WHEREAS, on October 26, 2004, the City Council approved a Professional Services Agreement with Ross G. Stephenson Associates, Inc., in the amount of \$92,385, to develop engineering plans for the design of the Roundabout at the Floyd & Roselle Intersection, and

WHEREAS, the City has requested that the contract be modified to allow for additional roadway widening on Roselle from the Roundabout at Floyd to Belharbour, and on Floyd from the Roundabout at Roselle to approximately 300' east, and

WHEREAS, widening on Floyd Avenue, east of Oakdale Road, the construction of the new Enochs High School, and continued residential and commercial development in the area will ease traffic congestion, and

WHEREAS, widening the roadways with one construction project will keep from waiting for development and constructing in phases, and

WHEREAS, all construction funds are programmed in the Community Facilities District 2004-1 (Village One #2), and

WHEREAS, modifying the design contract with Ross G. Stephenson Associates, Inc., will have a financial impact to the project of \$30,253.00 for the cost of additional scope of work, and

WHEREAS, Ross G. Stephenson Associates, Inc., will expedite the completion of the design of the expanded Floyd & Roselle Intersection Widening project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendment to Agreement with Ross G. Stephenson Associates, Inc., in the amount of \$30,253, expanding the scope of work by expanding the limits of the project titled "Roselle & Floyd Intersection Widening."

BE IT FURTHER RESOLVED that the District Administrator, 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 28<sup>th</sup> day of February 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-122**

**A RESOLUTION APPROVING THE FINAL MAP OF SCENIC BEND ESTATES  
SUBDIVISION IN THE CITY OF MODESTO AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH JAMES E.  
COLEMAN AND SUSANN G. COLEMAN**

WHEREAS, JAMES E. COLEMAN AND SUSANN G. COLEMAN, Husband and Wife as community property, are possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 4.75 acres, known as SCENIC BEND ESTATES ("SUBDIVISION"), and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 14<sup>th</sup> day of February, 2005, 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 securities, as set forth in Section 4-4.605 of the Modesto Municipal Code, which shall secure the obligations set forth in Section 66499.3 of the Government Code of the State of California. Said securities shall be in forms acceptable to the City Attorney and in the amounts required by the City Engineer.

BE IT FURTHER RESOLVED that the City Manager and the City Clerk be authorized to execute and attest, respectively, an agreement with subdivider as required by Section 4-4.604(c) of the Modesto Municipal Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of February 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-123**

**A RESOLUTION ACCEPTING THE STAFF REPORT ON WASTE  
MANAGEMENT'S PERFORMANCE DURING THE PERIOD OF JANUARY 1,  
2004 THROUGH DECEMBER 31, 2005, AND AUTHORIZING STAFF TO  
ENTER INTO NEGOTIATIONS WITH WASTE MANAGEMENT FOR A NEW  
LONGER-TERM SERVICE AGREEMENT**

WHEREAS, on November 1, 1997, the City executed a Service Agreement with Modesto Garbage Company, Inc., D.B.A. Modesto Disposal Service, which was then a subsidiary of USA Waste of California, which later acquired Waste Management and changed the name of the corporate parent to Waste Management, for a term through January 1, 2007, and

WHEREAS, while the term of this Service Agreement with Waste Management was for 10 years, due to concerns about the corporation's problems in other cities, the City Council added a provision to the Service Agreement to allow the City to terminate the agreement on January 1, 2004, if the City found the company did not meet certain performance standards to the satisfaction of the City, and

WHEREAS, pursuant to Modesto Municipal Code Section 5-5.33, the City Council held a public hearing, on Thursday, November 13, 2003, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, at which hearing the Council heard a report from City staff detailing that over a 3-year period, the company had violated multiple provisions of Section b.1. of their Service Agreement, and

WHEREAS, at said hearing, having considered evidence presented by staff as well as testimony from the Company and members of the public, the Council terminated the Service Agreement with Waste Management (D.B.A. Modesto Disposal Service)

effective January 1, 2004, authorized the City Manager to execute a one (1) year Interim Agreement with Waste Management allowing them to continue providing service through January 2005, authorized the City Manager to extend the Interim Agreement for a total of two (2) one-year extensions if the company fully complied with the service requirements of the City, and required Waste Management to compensate the City for staff time expended in the resolution of customer service complaints, and

WHEREAS, the Interim Agreement required the City to review Waste Management's performance at 9-month intervals to determine whether the company was making progress in complying with the terms and conditions of the Agreement, and

WHEREAS, as a result of the first 9-month review, the Interim Agreement was extended through January 2006, and

WHEREAS, as a result of the second 9-month review, the Interim Agreement was extended through January 2007, and staff was directed to conduct a final performance review covering the period through December 31, 2005, and

WHEREAS, staff has conducted the final review, and believes that the performance improvements reflected by the service logs and the improved operations at Waste Management's transfer station warrant entering into a longer-term agreement with Waste Management, and

WHEREAS, staff presented a recommendation to the Economic Development Committee at its February 13, 2006, that staff be authorized to enter into negotiations on a longer term agreement with Waste Management, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby authorizes staff to enter into negotiations with Waste Management on a new longer term contract.

The foregoing resolution was introduced at a public meeting of the Council of the City of Modesto held on the 28th day of February 2006, 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:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**RESCINDED**

MAR - 7 2006

THIS RESOLUTION WAS  
RESUBMITTED TO THE  
MODESTO CITY COUNCIL  
RESOLUTION MOTION

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-124**

**A RESOLUTION APPROVING AUDIT COMMITTEE RECOMMENDATIONS  
TO ACCEPT THE AUDITOR'S REPORT ON PUBLIC WORKS DEPARTMENT  
WASTEWATER DIVISION OPERATIONS, TO REQUEST THE CITY  
ATTORNEY TO REVIEW THE CITY CHARTER AND MUNICIPAL CODE  
FOR VIOLATIONS LISTED IN THE AUDITOR'S REPORT, AND TO  
PERFORM AN AUDIT OF THE PUBLIC WORKS DEPARTMENT  
WASTEWATER DIVISIONS UTILIZING AN EXTERNAL AUDIT FIRM**

WHEREAS, at its April 5, 2005, meeting the Modesto City Council, by motion, assigned to the City Clerk & Auditor's Office an engagement to perform agreed-upon-procedures in the Public Works wastewater divisions, and

WHEREAS, the report on this assignment was presented to the Audit Committee on February 1, 2006,

WHEREAS, the Audit Committee accepted the report, and made the following three recommendations to the Modesto City Council:

- 1) to accept the Senior Auditor's report on this engagement,
- 2) to request the Interim City Attorney to review the City Charter and Municipal Code for possible violations listed in the auditor's report, and
- 3) to perform an audit of the Public Works Department utilizing services of an external audit firm, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby 1) accepts the auditor's report on agreed-upon procedures performed in the Public Works Department Wastewater Divisions, 2) requests the City Attorney to review the City Charter and Municipal Code for possible violations listed in the auditor's report, and to determine responsible parties for those violations, and 3) authorizes Gary



Nienhuis, Senior Auditor, to obtain proposals from external audit firms for a financial audit of the Public Works Department Wastewater Operations, commencing with the date of formation of the Public Works Department by integration of the former Operations and Maintenance Department and the former Engineering and Transportation Department.

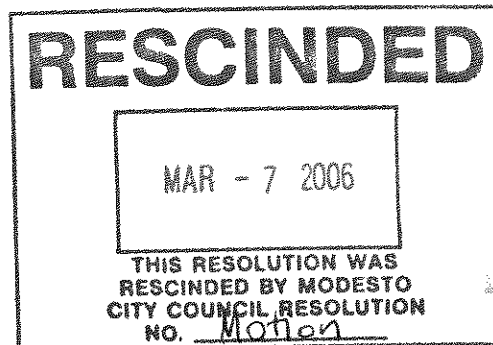
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of February 2006, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-124A**

**A RESOLUTION APPROVING THE ISSUANCE OF A 30-DAY INTENT TO  
TERMINATE LETTER AND TERMINATION OF THE AGREEMENT  
BETWEEN THE CITY OF MODESTO AND FORESIGHT CONSULTING**

WHEREAS, the City entered into an agreement for the preparation of a study to determine water, waste water and connection fees with Foresight Consulting in December 2003; and

WHEREAS, a review of the actual requirements for the preparation of the wastewater user fees and wastewater connection fees has established that a firm with more staffing and software resources is needed to complete the studies of these fees; and

WHEREAS, the City Council has determined that it is in the best interests of the City to terminate the agreement with Foresight Consulting by issuing a 30-day Intent to Terminate Letter as provided for in the agreement;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Finance Director to issue a 30-day Intent to Terminate Letter to Foresight Consulting immediately.

BE IT FURTHER RESOLVED that the agreement with Foresight Consulting will terminate at the end of the 30-day period prescribed in the Intent to Terminate Letter.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of February 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: Keating, O'Bryant

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-125**

**A RESOLUTION APPROVING THE APPEAL BY CHARLES EVINS, ON  
BEHALF OF THE NEW BETHANY MISSIONARY BAPTIST CHURCH, TO AN  
ADMINISTRATIVE DECISION BY THE CITY ATTORNEY'S OFFICE  
REQUIRING THE RECORDATION OF A PARKING COVENANT TO SATISFY  
OFF-STREET PARKING REQUIREMENTS**

WHEREAS, on February 26, 2004, by Resolution No. 2004-07, the Board of Zoning Adjustment approved in concept a proposal by the New Bethany Missionary Baptist Church ("Church") to construct a 300-seat auditorium on property located at 315 6<sup>th</sup> Street; and

WHEREAS, Condition No. 2 of Resolution No. 2004-07 requires that prior to issuance of a building permit for the expansion, the Church shall submit revised plans showing all off-street parking as required by Article 20 of the Modesto Municipal Code; and,

WHEREAS, the Church is required to provide a total of 38 off-street parking spaces for the proposed expansion, 4 of which can be accommodated on the Church's property; and

WHEREAS, the Church has proposed to provide the additional 34 off-street parking spaces through a joint use parking arrangement on property owned by Wille Electric, a neighboring business; and,

WHEREAS, Modesto Municipal Code Section 2.2002(h) allows joint use parking arrangements between properties owned by different parties provided a covenant is recorded against the property on which the parking is located, in a form consistent with the requirements set forth in Section 2.2002(h) and in a form approved by the City Attorney; and,

WHEREAS, in December 2005, Reverend Charles Evins, on behalf of the Church, verbally requested that the City Attorney's office waive the requirement that the parking covenant be recorded; and,

WHEREAS, on December 15, 2005, the City Attorney's Office issued a letter denying Reverend Evins' request and advised him of his right to appeal the decision to the Board of Zoning Adjustment; and,

WHEREAS, on January 13, 2006, Reverend Evins filed a timely appeal to the decision of the City Attorney's Office pursuant to Modesto Municipal Code Section 10-2.2801; and,

WHEREAS, on February 2, 2006, at 10:00 a.m. or as soon thereafter as the matter could be heard, at the Council Chambers, 1010 Tenth Street, Modesto, California, the Board of Zoning Adjustment heard and considered the appeal by Reverend Evins at which hearing evidence both oral and documentary was received and considered; and,

WHEREAS, at the close of the hearing, the Board of Zoning Adjustment determined that the appeal should be referred to the City Council for a final determination, with a recommendation that the appeal be denied; and,

WHEREAS, on February 28, 2006, at 5:30 p.m. or as soon thereafter as the matter could be heard, at the Council Chambers, 1010 Tenth Street, Modesto, California, the City Council held a duly noticed public hearing to consider the above-mentioned appeal at which hearing evidence both oral and documentary was received and considered.

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

1. The foregoing recitals are true and correct.

2. The Council has received and considered all oral and documentary evidence as presented at the appeal.
3. The Council finds and determines that The New Bethany Missionary Church is located in an existing building which has been on the site for over 100 years, that the Church is located in the downtown area and that it is a nonprofit use.
4. Based on the above findings and considerations, the Council hereby grants the appeal of Charles Evins, on behalf of the New Bethany Missionary Church, to the administrative decision by the City Attorney's Office requiring the recordation of a parking covenant to satisfy off-street parking requirements for the proposed expansion of the Church.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of February 2006, by Councilmember Dunbar, who moved its adoption which motion being duly seconded by Councilmember Olsen, which upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Marsh, O'Bryant, Olsen

NOES: Councilmembers: Hawn, Keating, Mayor Ridenour

ABSENT: Councilmembers: None

ATTEST: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By [Signature]  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-126**

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF  
JAMES DAVIS FROM THE AIRPORT ADVISORY COMMITTEE**

WHEREAS, JAMES DAVIS was appointed a member of the Airport Advisory Committee on March 23, 2004, and

WHEREAS, JAMES DAVIS has tendered his resignation from the aforementioned committee, and

WHEREAS, JAMES DAVIS 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 JAMES DAVIS 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 JAMES DAVIS 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 7<sup>th</sup> day of March 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

~~APPROVED AS TO FORM:~~

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-127**

**A RESOLUTION APPROVING AMENDMENT NO. 2 TO THE AGREEMENT  
BETWEEN THE CITY OF MODESTO AND JONES AND STOKES  
ASSOCIATES FOR WORK ON AN ENVIRONMENTAL IMPACT REPORT  
FOR A PROPOSED COMMERCIAL/OFFICE PROJECT, THE PROMENADE,  
AND AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT  
NO. 2 TO THE AGREEMENT IN AN AMOUNT NOT TO EXCEED \$41,626**

WHEREAS, Setrok Limited Partnership has applied for a general plan amendment and rezoning to a planned development zone to allow 198,350 square feet of specialty retail shops and restaurants, a 68,000 square foot multi-screen theater, 91,350 square feet of offices and a 108-room, three-story hotel on property located on the west side of Dale Road, north of the Vintage Faire Mall (The Promenade), 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 is required for the proposed Promenade project, and

WHEREAS, on December 10, 2002, the City Council approved a list of environmental service providers, including the firm of Jones and Stokes, to assist with the preparation of environmental impact reports and other environmental documents, and

WHEREAS, City staff selected Jones and Stokes to prepare the environmental impact report for The Promenade because they had an organized project team at the time of the selection interviews and the sub-consultant they had selected to do the traffic analysis had just completed work in this quadrant of the City for the Kaiser Medical Center project, and



WHEREAS, on July 13, 2004, the City Council adopted Resolution No. 2004-349, approving an agreement with Jones and Stokes Associates for work on an environmental impact report ("EIR") for a proposed commercial/office project, the Promenade, in an amount not to exceed \$173,552 ("Agreement"), and

WHEREAS, on May 24, 2005, the City Council adopted Resolution No. 2005-260, approving Amendment No. 1 for additional traffic analysis and services beyond the scope of the Agreement to provide consistency between the Promenade and Kaiser Environmental Impact Reports, in an amount not to exceed \$59,956, and

WHEREAS, additional issues have arisen in providing focused analyses at key intersections and access points to the center and in coordinating the EIR with the update to the City's Master utility documents that require services beyond the scope of Amendment No. 1, requiring a second amendment in an amount not to exceed \$41,626,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Amendment No.2 to the Agreement between the City of Modesto and Jones and Stokes to perform additional tasks related to the preparation of the Draft EIR, in an amount not to exceed \$41,626, is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute Amendment No. 2 to the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7<sup>th</sup> day of March 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-128**

**A RESOLUTION AUTHORIZING APPROVAL OF THE FIRST DRINKING WATER AGREEMENT BETWEEN THE CITY OF MODESTO AND THE TURLOCK IRRIGATION DISTRICT (TID) FOR DESIGN, ENVIRONMENTAL REVIEW, PERMITTING, LAND PURCHASES, AND RELATED ACTIVITIES ASSOCIATED WITH TID'S PROPOSED REGIONAL SURFACE WATER SUPPLY PROJECT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Turlock Irrigation District (TID) has solicited interest from the City, as well as other local communities, for participation in their proposed Regional Surface Water Supply Project (RSWSP), and

WHEREAS, a report entitled the "Proposed Regional Surface Water Supply Project" (Brown and Caldwell, 2003), provides a program level description of the project, and

WHEREAS, additional water is needed in the South Modesto area because the current local groundwater supply is not sufficient to meet existing demands, and

WHEREAS, this project would be expected to provide existing users with a reliable water source and keep pace with the City's projected growth in the South Modesto area, and

WHEREAS, the execution of the proposed "First Drinking Water Agreement" between the City and TID will allow work on the project to proceed up to construction, and allow City to reimburse TID for their expenses incurred to that point, and

WHEREAS, the cities of Ceres, Turlock, and Hughson have entered into the same agreement with TID, securing their participation in the project, and

WHEREAS, the treatment plant would be owned and operated by TID, with each participating community contributing their fair-share of the project's costs, and

WHEREAS, West-Yost and Associates prepared a report in June 2003, that projected a water supply requirement from the proposed RSWSP for the South Modesto area of 11.5 million gallons per day, and

WHEREAS, TID developed preliminary cost estimates for various alternatives (depending on which agencies participate) that put the City's share of the Phase 1, 2, & 3 costs between \$2 and \$3 million dollars, and

WHEREAS, Phase 1 of the RSWSP primarily includes preliminary design, water rights issues, and environmental review. Phase 2 includes final design, permitting, land purchases, right-of-ways acquisitions, legal review, and preparatory financial work.

Phase 3 includes final financing work and obtaining construction bids, and

WHEREAS, opting out at any time after execution of the "First Drinking Water Agreement" would require the City to reimburse TID for the City's fair share of costs incurred to that point, and

WHEREAS, a subsequent "Water Sales Agreement" would be entered into at the conclusion of Phase 3 that will address a number of the outstanding issues the First Drinking Water Agreement does not, and

WHEREAS, TID is currently seeking a commitment from the City for participation in Phases 1, 2, & 3 of the project, and

WHEREAS, TID is not asking for any funds from the City until the plant is up and running and water is being delivered. At that point (in approximately five years), all

of the City's fair-share costs incurred to that point would be rolled into an annual financing plan, and

WHEREAS, prior to the City's commitment to proceed with the project beyond the end of Phase 3 (i.e. into construction), the City would need to reevaluate the existing utility rates and connection fees because neither of them included the cost for construction of the proposed project in their derivation, and

WHEREAS, this project has been discussed at the Economic Development Committee (April 2003 and January 2004), Finance Committee (November 2005), and Council (January 2004) with direction given to staff each time to continue working with TID regarding the City's potential participation in the RSWSP, and

WHEREAS, the specifics of the proposed "First Drinking Water Agreement" was recently discussed at the February 16, 2006, Finance Committee where a favorable recommendation was given to be forwarded to the Council for their review, and

WHEREAS, the proposed "First Drinking Water Agreement" is not considered a "project", subject to environmental review; therefore, the California Environmental Quality Act (CEQA) does not apply, and

WHEREAS, the environmental review and documentation for the RSWSP would be prepared by TID as part of the Phase 1 work, and the related downstream improvement projects will be evaluated in the same or a parallel environmental document, and

WHEREAS, additional downstream improvements will be needed to convey and fully integrate surface water from a new TID treatment plant with the City's existing distribution system in the South Modesto area,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the "First Drinking Water Agreement" with respect to the design, environmental review, permitting, land purchases, and related activities for the Turlock Irrigation District's proposed Regional Surface Water Supply Project between the City of Modesto and the Turlock Irrigation District.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7<sup>th</sup> day of March 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-129**

**A RESOLUTION AUTHORIZING THE SOLICITATION OF PROPOSALS  
FROM QUALIFIED CONSULTING FIRMS TO PERFORM WORK FOR THE  
ASSOCIATED DOWNSTREAM FACILITIES NEEDED TO CONVEY AND  
FULLY INTEGRATE ANY SURFACE WATER FROM A NEW TID  
TREATMENT PLANT WITH THE CITY'S EXISTING DISTRIBUTION  
SYSTEM IN ACCORDANCE WITH APPROVED PROCEDURES**

WHEREAS, the Turlock Irrigation District (TID) has solicited interest from the City, as well as other local communities, for participation in their proposed Regional Surface Water Supply Project (RSWSP), and

WHEREAS, a report entitled the "Proposed Regional Surface Water Supply Project" (Brown and Caldwell, 2003), provides a program level description of the project, and

WHEREAS, additional water is needed in the South Modesto area because the current local groundwater supply is not sufficient to meet existing demands, and

WHEREAS, this project would be expected to provide existing users with a reliable water source and keep pace with the City's projected growth in the South Modesto area, and

WHEREAS, the execution of the proposed "First Drinking Water Agreement" between the City and TID will allow work on the project to proceed up to construction, and allow City to reimburse TID for their expenses incurred to that point, and

WHEREAS, the cities of Ceres, Turlock, and Hughson have entered into the same agreement with TID, securing their participation in the project, and

WHEREAS, additional downstream improvements will be needed to convey and fully integrate surface water from a new TID treatment plant with the City's existing distribution system in the South Modesto area, and

WHEREAS, it is important that the City proceed in parallel with TID's RSWSP to identify, plan, and design the downstream facilities that will be needed to fully integrate a future surface water supply with the City's existing system in the South Modesto area, and

WHEREAS, it is equally important that those downstream facilities be on a financing and construction schedule ahead of the treatment plant so that they are in place prior to the plant becoming fully operational, and

WHEREAS, staff requests authorization to solicit proposals from qualified consulting firms to perform work for the associated downstream facilities needed to convey and fully integrate any surface water from a new TID treatment plant with the City's existing distribution system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the solicitation of proposals from qualified consulting firms to perform work for the associated downstream facilities needed to convey and fully integrate any surface water from a new TID treatment plant with the City's existing distribution system, including design, environmental review, permitting, land purchases, and other related activities, in accordance with approved procedures.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7<sup>th</sup> day of March 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-130**

**A RESOLUTION APPROVING AN AMENDMENT TO THE AGREEMENT  
WITH CAROLLO ENGINEERS FOR THE PROVISION OF ADDITIONAL  
PROFESSIONAL ENGINEERING SERVICES IN SUPPORT OF PHASE 2 OF  
THE WASTEWATER MASTER PLAN (WWMP) UPDATE IN THE AMOUNT  
OF \$91,888, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE,  
TO EXECUTE THE AMENDMENT TO THE AGREEMENT**

WHEREAS, on October 4, 2005 the City Council approved an agreement in the amount of \$379,200 with Carollo Engineering to prepare Phase 2 of the Wastewater Master Plan (WWMP) Update, and

WHEREAS, the Phase 2 scope of work included an evaluation of the City's wastewater treatment and disposal systems, and

WHEREAS, much of the data obtained during the WWMP update is being utilized as part of a separate, but related effort to update the wastewater system rates and connection fees, and

WHEREAS, recent FEMA flood maps show that much of the Sutter Avenue primary plant is located within a flood zone and the City's current National Pollutant Discharge Elimination System (NPDES) permit requires that flood protection be provided for all treatment facilities, and

WHEREAS, an analysis is required to compare the alternatives of providing flood protection at Sutter Avenue versus abandoning the existing primary treatment facilities and constructing new primary facilities at the Jennings Road site, and

WHEREAS, because funds from the "Wastewater Engineering/Planning Support" task of the original budget were expended after staff and the consultant were directed, at the November 29, 2005 Finance Committee meeting, to work with the food processing

dischargers to investigate preliminary impacts of providing additional capacity for the food processing dischargers, additional unidentified work may be required under this scope, and

WHEREAS, the additional work was not included in the original October 4, 2005 scope of work and the total cost for additional services provided as part of this proposed amendment to the Phase 2 original agreement is \$91,888, and

WHEREAS, the Finance Committee, at its January 23, 2006 meeting, recommended approval of this amendment to the agreement to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendment to the Agreement with Carollo Engineering in the amount of \$91,888 to provide professional engineering services in support of Phase 2 of the Wastewater Master Plan (WWMP) Update.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of March 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-131**

**A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT  
BUDGET IN ORDER TO FULLY FUND THE AGREEMENT WITH CAROLLO  
ENGINEERS BY APPROPRIATING \$101,077 FROM ACCOUNT 6210-800-8000-  
8003 (SEWER RESERVES) TO CIP ACCOUNT 6210-430-A208 (WASTEWATER  
MASTER PLAN UPDATE)**

WHEREAS, the CIP account 6210-430-A208 (Wastewater Master Plan Update) only provides \$379,200 for the Original Agreement with Carollo Engineers for consultant engineering services for Phase 2 scope of work, and

WHEREAS, based on recent FEMA flood maps, additional analysis is required to compare the alternatives of providing flood protection at Sutter Avenue versus abandoning the existing primary treatment facilities and constructing new primary facilities at the Jennings Road site, and

WHEREAS, funds were expended under the “Wastewater Engineering/Planning Support” task of the original budget, after staff and the consultant were directed, at the November 29, 2005 Finance Committee meeting, to work with the food processing dischargers to investigate preliminary impacts of providing additional capacity for the food processing dischargers, and an amendment to reauthorize funds for this task is being requested to cover additional scope items not identified at this time, and

WHEREAS, the original engineer’s report was based on a preliminary evaluation of treatment and effluent disposal needs for the future, and additional work will be required to update and finalize the Engineer’s Report to reflect the more detailed analysis that is being developed within the Phase 2 Master Plan, and

WHEREAS, certain budgetary transactions are necessary to fully fund said Amendment to the Agreement in the amount of \$91,888 for consultant engineering services, including additional meetings, and \$9,189 for contract administration by City staff for a total of \$101,077, and

WHEREAS, the total amount of \$101,077 is to be transferred from account 6210-430-8000-8003 (Sewer Reserves) into CIP account 6210-430-A208 (Wastewater Master Plan Update),

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the transfer of funds as set forth herein to fully fund the Amendment to Agreement with Carollo Engineers for consultant engineering services for the Phase 2 of the Wastewater Master Plan Update project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of March 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-132

**A RESOLUTION ACCEPTING THE WORK BY JVD, INC., FOR THE PROJECT TITLED "ROTARY CENTENNIAL JUNCTION INFRASTRUCTURE PROJECT" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$208,666.01. TOTAL PROJECT COST IS \$248,621.90, WHICH INCLUDED CONSTRUCTION CONTINGENCY, AND CONSTRUCTION ADMINISTRATION**

WHEREAS, a report has been filed by the Public Works Director that the project titled "Rotary Centennial Junction Infrastructure Project" has been completed by JVD, Inc., in accordance with the contract agreement dated December 14, 2004,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "Rotary Centennial Junction Infrastructure Project" is hereby accepted as complete from said contractor, JVD, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$208,666.01, as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of March 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-133**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE CELESTE/ROSE/SCENIC SANITARY SEWER IMPROVEMENT PROJECT, ACCEPTING THE BID AND APPROVING A \$3,707,105 CONTRACT WITH CALIFORNIA TRENCHLESS, INC., FOR THE PROJECT TITLED, "CELESTE/ROSE/SCENIC SANITARY SEWER IMPROVEMENT PROJECT", AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, plans and specifications have been prepared for the "Celeste/Rose/Scenic Sanitary Sewer Improvement Project" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "Celeste/Rose/Scenic Sanitary Sewer Improvement Project" were opened at 11:00 a.m. on January 17, 2006, 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 \$3,707,105 received from California Trenchless, Inc., be accepted as the lowest responsible bid and the contract be awarded to California Trenchless, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the "Celeste/Rose/Scenic Sanitary Sewer Improvement Project".

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of \$3,707,105.00, and hereby awards California Trenchless, Inc., the contract titled "Celeste/Rose/Scenic Sanitary Sewer Improvement Project."

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



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of March 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard R. Rudnansky  
RICHARD R. RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-134**

**A RESOLUTION APPROVING A LANDSCAPE MAINTENANCE SERVICE AGREEMENT FOR A PERIOD OF FIVE (5) YEARS, WITH THE OPTION TO RENEGOTIATE ONE (1) ADDITIONAL FIVE (5) YEAR PERIOD WITH GROVER LANDSCAPE SERVICES, INC. AT THE SOLE DISCRETION OF THE CITY, FOR PARKS, RIGHT-OF-WAYS AND PUBLIC LANDSCAPING OWNED AND/OR MAINTAINED BY THE CITY OF MODESTO, WITH AN ANNUAL CONSIDERATION OF \$1,737,981.00 IN YEARS 1 THROUGH 3 OF THE AGREEMENT \$1,790,120.43 IN YEAR 4 AND \$1,843,924.04 IN YEAR 5, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND AUTHORIZING THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT DIRECTOR TO NEGOTIATE ANY INCREASES TO THE AGREEMENT UP TO \$50,000 ANNUALLY**

WHEREAS, the City of Modesto's Parks, Recreation and Neighborhoods Department, Parks Services Division provides landscape maintenance services to over 530 acres of landscaping for 66 parks and about 150 other landscaped sites including public buildings, street medians, sound walls, traffic islands and other miscellaneous sites, and

WHEREAS, funding for this maintenance is provided primarily by the City's General Fund, although a number of sites are funded from other sources including the Tuolumne River Regional Park JPA, Parking Fund, Storm Drain Fund and several Community Facility Districts, and

WHEREAS, over the past four to five years there has been a dramatic decline in landscape maintenance service levels, and

WHEREAS, in order to evaluate the potential to reduce costs and/or improve the level of service, City management staff recommended that consideration be given to issuing a Request for Proposals for the purpose of improving landscape maintenance standards, and

WHEREAS, on December 14, 2004, Council approved Resolution No. 2004-691, authorizing the Purchasing Supervisor to formally solicit Request for Proposals (RFP) for Landscape Maintenance Services for all parks, right-of-ways and public landscaping owned and/or managed by the City of Modesto for a five (5) year period with an option to renegotiate for an additional five (5) year period at an estimated annual cost of \$1,200,000, and

WHEREAS, an evaluation committee was formed, and the formal bid process was followed, with a proposers' conference and several follow-up meetings with the 2 proposers, Grover Landscape Services, Inc. (Grover) and the Modesto City Employees Association (MCEA), and

WHEREAS, Best and Final Offers from the 2 proposers were received on September 6, 2005, and

WHEREAS, based on the evaluation criteria, the determination that MCEA was unresponsive regarding "B" sites, and the proposed costs, the evaluation committee recommended that staff be authorized to negotiate an agreement with Grover Landscape Services, Inc., and

WHEREAS, on November 22, 2005, by Resolution No. 2005-581, the City Council adopted a resolution authorizing the award of proposal for the furnishing of landscape maintenance services to Grover Landscape Services, Inc. and directed staff to negotiate a landscape maintenance service agreement (Agreement) with Grover Landscape Services, Inc. for parks, right-of-ways and public landscaping owned and/or maintained by the City of Modesto, and

WHEREAS, during negotiations, staff identified additional sites that were not included in the original RFP site lists and requested that the maintenance level be increased at some sites, which increased the final consideration to \$1,737,981.00 in years 1 through 3 of the Agreement \$1,790,120.43 in year 4 and \$1,843,924.04 in year 5, and

WHEREAS, staff has negotiated a final agreement with Grover Landscape Services, Inc., a copy of which is attached hereto as Exhibit "1" and incorporated herein by reference, and

WHEREAS, the Finance Committee met on October 24, 2005, and supported the recommendation to award the proposal for landscape maintenance services to Grover Landscape Services, Inc. and to direct staff to negotiate an agreement with Grover Landscape Services Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a landscape maintenance service agreement for a period of five (5) years, with the option to renegotiate one (1) additional five (5) year period with Grover Landscape Services, Inc. at the sole discretion of the City, for parks, right-of-ways and public landscaping owned and/or maintained by the City of Modesto, with an annual consideration of \$1,737,981.00 in years 1 through 3 of the Agreement \$1,790,120.43 in year 4 and \$1,843,924.04 in year 5.

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

BE IT FURTHER RESOLVED that the Parks, Recreation and Neighborhoods Department Director is hereby authorized to negotiate any increases to the Agreement up to \$50,000 annually.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7<sup>th</sup> day of March 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Marsh

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

Letter of Agreement  
Between  
City of Modesto  
And  
Modesto City Employees' Association

Whereas, the parties acknowledge that in accordance with the provisions of Article 40 ((Layoff and Demotion) of the MCEA Implementation Document of 2005-2007, some MCEA-represented employees may be notified that their positions will be eliminated as part of the Parks Landscaping Managed Competition process,

Whereas, the parties have met and conferred in good faith on issues relating to the impact of these possible lay offs,

Therefore, the parties agree to the following:

**Order of Lay Off**

Evaluations due on or before January 23, 2006 will be used to establish order of layoff for positions eliminated with the implementation of the Parks Managed Competition outsourcing.

**Severance Package**

**Employees in this Bargaining Unit:**

- ❖ Shall be paid Severance Pay in the amount of two (2) pay periods base salary upon layoff
- ❖ With six (6) or more years of service are eligible for additional Severance Pay in the amount of one week (40 hours) of base salary for each complete year of service in excess of five (5) full years of service, to a maximum of four (4) additional weeks
- ❖ Who receive Severance Pay shall also be eligible to receive the City's contribution to health, dental and vision in the same manner as active employees, except that the amount shall not include the equivalent of any in-lieu deferred compensation. The duration of the premium contributions shall be for the same number of weeks as the severance pay provision noted above.

**"Catch" Positions**

- ❖ A "catch" position is a vacant position in the same classification or a classification at a lower Salary Range than that of the employee subject to layoff, that is in their customary promotional progression.
- ❖ The order by which employees are given "catch" positions is decided by their total City service, mitigated by performance evaluations per MOU Article 40F, regardless of classification and across department and bargaining unit lines, within a reasonable and/or customary promotional progression. If two or more employees qualify for a "catch" to a single vacancy and that vacancy is in one of

- the employee's current department, that employee has claim to that position first.
- ❖ The City will attempt to provide "underfill" positions, when available, to catch employees subject to layoff. If several employees are in underfill positions and a Maintenance Worker vacancy occurs, the most senior Maintenance Worker in the overfill position will have the first right of refusal to the position.
  - ❖ Employees offered an underfill position are only guaranteed that continued underfill opportunity for one year from the date of the initial layoff notice (assuming no future layoffs are required within that year).

### **Interview Leave**

- ❖ Will be granted to employees who have been notified that they may be laid off or to employees who elect to demote in lieu of layoff.
- ❖ This leave will be available upon notification to the employee by his/her Department Director that they may be laid off.
- ❖ An employee may be granted up to fifteen (15) hours of paid leave for the purpose of participating in employment interviews or examinations with other employers. As with other leave requests, Interview Leave is subject to approval, in advance, by the supervisor. Employees must provide supervisors with sufficient advance notice and employees may be required to provide verification of the scheduled interview or examination.
- ❖ Interview Leave in excess of fifteen (15) hours may be granted with the written approval of the Department Director

### **Employee Assistance Program (EAP)**

- ❖ The EAP counseling benefit will be extended to the laid off employee and/or spouse for a period of six (6) months from date of layoff, not to exceed six (6) visits per family. This benefit will be at no cost to the employee.

### **Reinstatement**

- ❖ Employees who are laid off shall have their names placed on a departmental reinstatement list, by classification and by reverse order of layoff. Vacant positions within the department and the classification series (customary promotional progression) shall first be offered to employees on the appropriate classification reinstatement list for that department. Employees who are laid off will also be considered for vacancies in other departments. Employees on a reinstatement list will be strongly considered for vacancies, Citywide, for their specific classification, and may be given preference prior to the City considering applicants on a valid eligible list for that classification.
- ❖ If the "new" vacancy is an employee's former position, he/she has claim to that position.
- ❖ If two employees qualify for reinstatement to a single vacancy and that vacancy is in one of the employee's "home" department, that employee has claim to that position first.

- ❖ If two employees qualify for reinstatement to a single vacancy and that vacancy is not in either of the employees' "home" departments, total City service will be considered for who has first claim to the position.
- ❖ The eligibility of individuals on the reinstatement list shall extend for a period of two (2) years from date of layoff. Eligibles not responding to a written notification of an opening within fourteen (14) calendar days shall have their names removed from the reinstatement list. It is the individual's responsibility to keep the City of Modesto Personnel Department informed of any change of address.
- ❖ The City encourages Departments to consider employees on these reinstatement lists for interviews when filling vacancies that would be considered lateral moves or demotions for the employee (where the vacancy is at the same, or lower, Salary Range as the employee, where the employee holds the minimum knowledges, skills, abilities, experience and/or education of the vacant position, but where the vacant position is not in the customary promotional progression of the laid off employee).

### **Job Qualifications**

- ❖ Employees unable to pass the 100-pound lifting requirement of the Maintenance Worker positions in Public Works will engage in a discussion with management and other appropriate personnel on a case-by-case basis (in the same manner as other reasonable accommodation requests).
- ❖ Any accommodation reached will be consistent with state and federal guidelines.

### **Transition and Timing**

- ❖ Upon approval of the City Manager, up to three months transition time (for cross-training, redistributing work, etc) from the date an employee is notified of a layoff until the layoff or bumping takes place.

### **Volunteers for Lay-Off**

- ❖ If an employee volunteers to be laid off and is in the classification or the approved bumping chain of a position authorized for layoff, the City Manager may authorize said employee to be laid off, with all rights to receive severance benefits.

### **2004 Reorganization of O&M, E&T and PRN – Effects on Bumping:**

Any employee in the Parks, Recreation and Neighborhood Department assigned to the Parks Operation Organization, the Building Services Organization, or the Solid Waste Division (now or at the time of any future reduction in FY 06) will have the ability to bump into any position in the Public Works Department and/or the "opposite" Organization in PR&N.

Any employee in the Public Works Department (now or at the time of any future reduction in FY 06) will have the limited ability to bump into any position in the Parks,



Recreation & Neighborhood Department in the Parks Operation Organization, the Building Services Organization or the Solid Waste Division only.

Should the Meter Reading/Repair function of the Public Works Department be transferred to the Finance Department on or before June 30, 2006, the above effects on bumping will be extended to the employees involved in this function, assigned to the Finance Department.

**Sunset:**

Unless otherwise noted in this document, provisions Sunset 120 days after the initial notices of layoff to affected employees.

**This Agreement becomes effective on February 6, 2006.**

For the City of Modesto

For the Modesto City Employees' Association

\_\_\_\_\_  
Janice Stewart  
Deputy Director – Personnel

\_\_\_\_\_  
W. Robert Phibbs  
Attorney at Law

\_\_\_\_\_  
Carolyn Eubank  
Administrative Services Officer

\_\_\_\_\_  
Tom McCarthy  
MCEA President

\_\_\_\_\_  
Jana McCarron  
Administrative Services Officer

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-135**

**A RESOLUTION APPROVING THE TRANSFER OF APPROXIMATELY \$440,000 IN FUNDS FROM THE FLEET FUND TO THE PARK FUND RESERVE; AMENDING THE CAPITAL IMPROVEMENT PROGRAM BUDGET TO APPROPRIATE \$340,000 FROM THE PARK FUND RESERVE TO A NEW PROJECT, PARK SYSTEM IMPROVEMENTS; APPROVING THE ALLOCATION OF \$100,000 FROM THE PARK FUND RESERVE TO THE STANISLAUS COMMUNITY FOUNDATION, SUBJECT TO THE ABILITY OF THE FINANCE DIRECTOR TO ARRANGE SUITABLE INVESTMENTS AND OVERSIGHT OF THIS DEPOSIT, TO ESTABLISH A PARK SYSTEM MAINTENANCE ACCOUNT; AND USING THE PROCEEDS FROM THE SALE OF THE SURPLUS VEHICLES TO OFFSET A PORTION OF THE FLEET FUND LOAN TO THE GENERAL FUND**

WHEREAS, on November 22, 2005, by Resolution No. 2005-581, the City Council adopted a resolution authorizing the award of proposal for the furnishing of landscape maintenance services to Grover Landscape Services, Inc. and directed staff to negotiate a landscape maintenance service agreement (Agreement) with Grover Landscape Services, Inc. for parks, right-of-ways and public landscaping owned and/or maintained by the City of Modesto, and

WHEREAS, staff has successfully negotiated an agreement with Grover Landscape Services, Inc., and

WHEREAS, as a result of the implementation of said agreement, some of the vehicles assigned to the Parks Services Division will no longer be needed and will therefore be surplus and sold, and

WHEREAS, the funds that have been paid into the Fleet Replacement Fund (Fund 7210) will not be needed to replace this equipment, and

WHEREAS, in a report dated November 22, 2005, which was accepted by Council, staff recommended that the revenue from the sale of said vehicles be used to off-

set a portion of a loan from the Fleet Fund to the General Fund, and that the funds in the Fleet Replacement Fund be used for park-system capital projects, and

WHEREAS, staff is recommending that the estimated \$440,000 in Fleet Replacement Funds that has been collected for vehicles no longer needed by the Parks Services Division be transferred to the Park Fund (Fund 1400) reserve, and

WHEREAS, staff is further recommending that \$100,000 of those funds be placed with the Stanislaus Community Foundation to establish a park fund to be used for future infrastructure needs, subject to the ability of the Finance Director to arrange suitable investments and oversight of this deposit, and

WHEREAS staff is recommending that the balance to be used to establish a new Capital Improvement Program Project to be used for design of non-potable wells at Beyer, Davis and Downey Community Parks, to construct at least one well (based on final costs) to decrease future landscape water costs, and to provide for improvements to the park system's infrastructure, with Mancini Bowl seating replacement as the highest priority, with other projects to include replacement of leaking restroom roofs, drinking fountains and irrigation systems,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the transfer of the funding collected in the Fleet Replacement Fund for vehicles that are being surplused and sold as a result of the landscape maintenance agreement, estimated at \$440,000, from the Fleet Fund to the Park Fund Reserve.

BE IT FURTHER RESOLVED that the Council hereby approves amending the Capital Improvement Program budget to appropriate \$340,000 from the Park Fund Reserve to a new project, Park System Improvements.

BE IT FURTHER RESOLVED that the Council hereby approves the allocation of \$100,000 from the Park Fund Reserve to the Stanislaus Community Foundation, subject to the ability of the Finance Director to arrange suitable investments and oversight of this deposit, to establish a park system maintenance account.

BE IT FURTHER RESOLVED that the Council hereby approves using the proceeds from the sale of the surplus vehicles to offset a portion of the Fleet Fund Loan to the General Fund.

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 7<sup>th</sup> day of March 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Marsh

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-136**

**A RESOLUTION APPROVING THE TRANSFER OF APPROXIMATELY \$36,658 FROM THE FLEET FUND TO THE TUOLUMNE RIVER REGIONAL PARK CAPITAL FUND RESERVE; ESTIMATING APPROXIMATELY \$2,570 IN REVENUE FROM THE SALE OF SURPLUS VEHICLES; AND APPROPRIATING APPROXIMATELY \$2,570 IN REVENUE TO THE TUOLUMNE REGIONAL PARK CAPITAL FUND RESERVE**

WHEREAS, on November 22, 2005, by Resolution No. 2005-581, the City Council adopted a resolution authorizing the award of proposal for the furnishing of landscape maintenance services to Grover Landscape Services, Inc. and directed staff to negotiate a landscape maintenance service agreement (Agreement) with Grover Landscape Services, Inc. for parks, right-of-ways and public landscaping owned and/or maintained by the City of Modesto, and

WHEREAS, staff has successfully negotiated an agreement with Grover Landscape Services, Inc., and

WHEREAS, as a result of the implementation of said agreement, some of the vehicles assigned to the Tuolumne River Regional Park will no longer be needed and will therefore be surplus and sold, and

WHEREAS, the funds that have been paid into the Fleet Replacement Fund (Fund 7210) will not be needed to replace this equipment, and

WHEREAS, staff is recommending that the that total amount paid into the Fleet Replacement Funds that has been collected for vehicles no longer needed by the Tuolumne River Regional Park, estimated at \$36,658, be transferred to the Tuolumne River Regional Park Capital Fund (Fund 8910) reserve, and

WHEREAS, staff is recommending that the proceeds from the sale of these vehicles, estimated at \$2,570, be allocated to the Tuolumne River Regional Park Capital Fund (Fund 8910) reserve,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the transfer of the funding collected in the Fleet Replacement Fund for vehicles that are being surplused and sold as a result of the landscape maintenance agreement, estimated at \$36,658, from the Fleet Fund to the Tuolumne River Regional Park Capital Fund Reserve.

BE IT FURTHER RESOLVED that the Council hereby approves estimating approximately \$2,570 in revenue from the sale of surplus vehicles and appropriating approximately \$2,570 in revenue to the Tuolumne Regional Park Capital Fund Reserve.

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 7<sup>th</sup> day of March 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Marsh

ABSENT: Councilmembers: None

Attest: Jean Zahr  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-137**

**A RESOLUTION APPROVING THE PLANS & SPECIFICATIONS FOR THE  
TWIN PONDS PUMP STATIONS AT PRESCOTT AND SNYDER, ACCEPTING  
THE BID AND APPROVING A \$1,570,354.40 CONTRACT WITH TNT  
INDUSTRIAL CONTRACTORS, INC., FOR THE PROJECT TITLED, "TWIN  
PONDS PUMP STATIONS AT PRESCOTT AND SNYDER" AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, City staff has recommended approval of the plans and specifications for the "Twin Ponds Pump Stations at Prescott and Snyder" project, and

WHEREAS, the bids received for "Twin Ponds Pump Stations at Prescott and Snyder" were opened at 11:00 a.m. on January 17, 2006, 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 \$1,570,354.40 received from TNT Industrial Contractors, Inc., be accepted as the lowest responsible bid and the contract be awarded to TNT Industrial Contractors, 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.

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of TNT Industrial Contractors, Inc., in the amount of \$1,570,354.40, and hereby awards TNT Industrial Contractors, Inc., the contract titled "Twin Ponds Pump Stations at Prescott and Snyder".

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of March 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-138**

**A RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION  
(SCH #2005062110) AND A MITIGATION MONITORING AND REPORTING  
PROGRAM FOR THE TWIN PONDS PUMP STATIONS PROJECT**

WHEREAS, Section 15070 of the CEQA Guidelines relating to Initial Study/Mitigated Negative Declarations permits a lead agency to prepare an Initial Study/Mitigated Negative Declaration on any proposed Project to analyze whether the Project may cause any significant effect on the environment, and

WHEREAS, the proposed Twin Ponds Pump Stations project located on the west side of Prescott Road between Snyder Avenue and Pelandale Avenue consists of two new storm water pump stations that pump storm water runoff from two existing detention basins into the Modesto Irrigation District's Lateral #6, and

WHEREAS, Stantec Consulting Inc., under contract with the City, prepared an Initial Study, Mitigated Negative Declaration and Mitigation Monitoring Plan (SCH #2005062110) for the Twin Ponds Pump Stations Project, which identified potentially significant impacts from the proposed Project, which could be mitigated to a level of insignificance by incorporating feasible mitigation measures into the Project, and

WHEREAS, feasible mitigation measures were incorporated into the Project and agreed to by the City before the Initial Study/Mitigated Negative Declaration was released for public review, which measures will avoid or mitigate the identified effects to a point where clearly no significant effects will occur, and

WHEREAS, a 30-day public review period for the proposed Initial Study/Mitigated Negative Declaration began on June 21, 2005 and ended on July 20, 2005, and

WHEREAS, the City did not receive any public comments on the draft Initial Study/Mitigated Negative Declaration so, following the public review, there were no comments to respond to or suggested technical revisions to be made to the document or any of the proposed mitigation measures, and

WHEREAS, the Mitigation Monitoring Plan (MMP) is included and described within the Initial Study/Mitigated Negative Declaration,

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 and Mitigation Monitoring Plan prepared for the Twin Ponds Pump Stations Project, and based on the substantial evidence provided in said Initial Study/Mitigated Negative Declaration makes the following findings:

1. The recitals set forth above are true and correct.
2. The Initial Study/Mitigated Negative Declaration prepared for the proposed project has identified additional potentially significant environmental effects. These additional potentially significant effects are potential impacts to aesthetics, air quality, biological resources, cultural resources, hydrology and water quality, noise, transportation/traffic, utilities and service systems.
3. 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.
4. There is no substantial evidence, in light of the whole record before the public agency, that the project, as revised, may have a significant effect on the environment (Public Resources Code Section 21064.5(2)).

5. The Initial Study/Mitigated Negative Declaration reflects the independent judgment of the lead agency.
6. As required by Public Resources Code Section 21081.6 et seq., the Mitigation Monitoring and Reporting Program is hereby adopted, a copy of which is included in the Mitigated Negative Declaration, which is on file with the City Clerk.
7. The Initial Study/Mitigated Negative Declaration, Environmental Assessment (EA/PW 2005-14, SCH No. 2005062110) 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 Initial Study/Mitigated Negative Declaration (SCH No. 2005062110), 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 7th day of March 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-139**

**A RESOLUTION AMENDING THE FY 05-06 CIP BUDGET BY DECREASING THE APPROPRIATION FOR THE SNYDER AVENUE WIDENING PROJECT (A102) BY \$456,000 AND RETURNING THOSE FUNDS TO RESERVES, THEN REAPPROPRIATING \$538,425 FROM RESERVES AND INCREASING THE APPROPRIATION TO THE TWIN PONDS PUMP STATIONS PROJECT (Q318) BY \$538,425 TO FULLY FUND THE TWIN PONDS PUMP STATION PROJECT**

WHEREAS, on October 25, 2005, Council Resolution No. 2005-537 adopted the 2005/2006 Capital Improvement Program, and

WHEREAS, the 2005/2006 Capital Improvement Program included a project titled "Storm Drain Basins Pump Stations (Q318)," and

WHEREAS, concurrent with this resolution, by Resolution No. 2006-137 Council approved the plans and specifications, accepted the bid and approved a \$1,570,354.40 contract with TNT Industrial Contractors, Inc., for the project titled, "Twin Ponds Pump Stations," and

WHEREAS, the budgeted amount for construction, contingency and construction administration for the Twin Ponds Pump Station Project was \$1,366,000 and the current estimate is \$1,904,425, and

WHEREAS, staff recommends reducing the Snyder Avenue Widening Project (A102) by \$456,000 and appropriating the \$456,000 plus an additional \$82,425 from Pelandale-Snyder CFD reserves to fully fund the Twin Ponds Pump Station project (Q318),

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves amending the FY 05-06 CIP budget by decreasing the appropriation for the Snyder Avenue Widening Project (A102) by \$456,000 and returning

those funds to reserves, then reappropriating \$538,425 from Pelandale-Snyder CFD reserve funds and increasing the appropriation to the Twin Ponds Pump Stations project (Q318) by \$538,425 to fully fund the Twin Ponds Pump Station Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 7th day of March 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-140**

**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 February 27, 2006 and recommended appointment of TOM BERGLUND 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. TOM BERGLUND, as representative of the Planning Commission, is hereby appointed to the Board of Zoning Adjustment with a term expiration of January 1, 2007.

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 14<sup>th</sup> day of March 2006, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-141**

**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 February 27, 2006, 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, 2007.

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 14<sup>th</sup> day of March 2006, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-142**

**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 February 27, 2006, 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, 2007.

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 14<sup>th</sup> day of March 2006, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-143**

**A RESOLUTION AMENDING THE  
FISCAL YEAR 2005-2006 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 2005-2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2005-2006 budget have been adjusted as shown in Schedule A.

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 14<sup>th</sup> day of March 2006, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

~~APPROVED AS TO FORM:~~

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

MONTHLY BUDGET ADJUSTMENTS  
February-06

From	Centre Plaza Reserve Fund #6700-800-8000-8003	-\$150,000
To	Office Equipment/Furniture Acct #6700-340-3412-5500	\$150,000
From	Airport Operating Fund Reserve Fund #6110-800-8000-8003	-\$101,000
To	Airport Operating Acct #6320-440-M275-6010	\$20,000
	Airport Operating Acct #6320-440-M275-6060	\$50,000
	Airport Operating Acct #6320-440-M275-6050	\$31,000
From	Streets, Traffic & Forestry Fund #0700-700-N059-7230	-\$815
To	Project N059 in Capital Grants Fund #2300-700-N059-9230	\$815



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-144**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR FOURTEEN (14), NEW, CURRENT YEAR/MODEL TRUCKS TO THE FOLLOWING VENDORS: MELROSE FORD OF OAKLAND, CALIFORNIA, FOR FIVE (5) VEHICLES FOR A PURCHASE PRICE OF APPROXIMATELY \$85,282.59; AMERICAN CHEVROLET OF MODESTO CALIFORNIA, FOR TWO (2) VEHICLES FOR A PURCHASE PRICE OF APPROXIMATELY \$39,879.68; AND COALINGA MOTORS INC, OF COALINGA, CALIFORNIA, FOR SEVEN (7) VEHICLES FOR A PURCHASE PRICE OF APPROXIMATELY \$142,103.30. THE APPROXIMATE TOTAL AMOUNT FOR ALL FOURTEEN (14), NEW, CURRENT YEAR/MODEL TRUCKS IS \$267,265.57.**

WHEREAS, the Public Works Department-Fleet Services Division has requested the purchase of fourteen (14), new, current year/model trucks, and

WHEREAS, the vehicles requested consist of and will be used as follows:

- Two (2), ¾ ton, regular cab, long bed, 2WD pickups-These trucks are to replace two (2) current pickups in the Curbs, Gutters and Sidewalks Department. The old trucks are being replaced because they have reached the end of their service life, and were on the scheduled replacement list approved by Council.
- One (1), ¾ ton, regular cab, long bed, 4WD pickup-This truck is a new addition to the Water Quality Lab vehicles.
- One (1), ¾ ton, crew cab, long bed, 2WD pickup-This truck is to replace a current pickup in the Water Department. The old truck is being replaced because it has reached the end of its service life, and was on the scheduled replacement list approved by Council.
- One (1), ½ ton, extended cab, full size, short bed, 2WD pickup-This truck is to replace a current pickup in the Field Operations Division. The old truck is being replaced because it has reached the end of its service life, and was on the scheduled replacement list approved by Council.
- One (1), ½ ton, extended cab, full size, short bed, 2WD pickup-This truck is to replace a current pickup in the Streets Department. The old truck is being replaced because it has reached the end of its service life, and was on the scheduled replacement list approved by Council.

- One (1), ½ ton, regular cab, full size, 2WD pickup-This truck is to replace a current pickup in the Transportation Transit Division. The old truck is being replaced because it has reached the end of its service life, and was on the scheduled replacement list approved by Council.
- One (1), ½ ton, crew cab, mid size, 2WD pickup- This truck is a new addition to the Water Operations Department. This vehicle will be used for an added position in the department.
- One (1), ½ ton, extended cab, full size, short bed, 2WD pickup- This truck is to replace a current pickup in the Curbs, Gutters and Sidewalk Department. The old truck is being replaced because it has reached the end of its service life, and was on the scheduled replacement list approved by Council.
- Two (2), ½ ton, extended cab, mid size, 2WD pickups-These trucks are to replace two (2) current pickups in the Construction Administration Department. The old trucks are being replaced because they have reached the end of their service life, and were on the scheduled replacement list approved by Council.
- One (1), ½ ton, extended cab, short bed, 2WD pickup- This truck is to replace a current pickup in the Electrical Division. The old truck is being replaced because it has reached the end of its service life, and was on the scheduled replacement list approved by Council.
- One (1), ½ ton, regular cab, full size, 2WD pickup- This truck is to replace a current pickup in the Modesto Centre Plaza Department. The old truck is being replaced because it has reached the end of its service life, and was on the scheduled replacement list approved by Council.
- One (1), ½ ton, crew cab, mid size, 2WD pickup- This truck is to replace a current pickup in the City Hall Motor Pool. The old truck is being replaced because it has reached the end of its service life, and was on the scheduled replacement list approved by Council, and

WHEREAS, Resolution No. 2005-381 authorized the Purchasing Supervisor to solicit bids for new vehicles and heavy equipment throughout FY 05/06 through various competitive processes, with the Purchasing Division coming back to Council for award and authorization, and

WHEREAS, the Purchasing Division solicited formal bids for fourteen (14) new, current year/model trucks on Request for Bid (RFB) 0506-18, and

WHEREAS, Seventy-seven (77) vendors were solicited of which ten (10) were local vendors, and

WHEREAS, out of seventy-seven (77) vendors solicited, seven (7) chose to respond to for the RFB, and

WHEREAS, the 2% local vendor preference was a factor in determining the lowest responsive and responsible bidder on two (2) of the fourteen (14), new, current year/model trucks, and

WHEREAS, the Purchasing Division and Public Works-Fleet Services Division staff evaluated bids, and

WHEREAS, Melrose Ford of Oakland, California was deemed to be the lowest responsive and responsible bidder for the following vehicles:

- One (1),  $\frac{3}{4}$  ton, regular cab, long bed, 4WD pickup;
- One (1),  $\frac{1}{2}$  ton, crew cab, mid-size, 2WD pickup;
- Two (2),  $\frac{1}{2}$  ton, extended cab, mid- size, 2WD pickups;
- One (1),  $\frac{1}{2}$  ton, crew cab, mid-size pickup,

in the approximate amount of \$85,282.59, and

WHEREAS, American Chevrolet of Modesto, California was deemed to be the lowest responsive and responsible bidder for the following vehicles:

- One (1),  $\frac{1}{2}$  ton, extended cab, full size, short bed, 2WD, short bed pickup;
- One (1),  $\frac{1}{2}$  ton, extended cab, 2WD pickup,

in the approximate amount of \$39,879.68, and

WHEREAS, Coalinga Motors, Inc. of Coalinga, California was deemed to be the lowest responsive and responsible bidder for the following vehicles:

- Two (2), ¾ ton, regular cab, long bed, 2WD pickups;
- One (1), ¾ ton, crew cab, long bed, 2WD pickup; one (1), ½ ton, extended cab, full size, 2WD pickup;
- One (1), ½ ton, regular cab, full-size, long bed, 2WD pickup;
- One (1), ½ ton, extended cab, short bed, 2WD pickup;
- One (1), ½ ton, regular cab, full-size, 2WD pickup,

in the approximate amount of \$142,103.30, and

WHEREAS, the total cost of the fourteen (14), new, current year/model, trucks is approximately \$267,265.57 including freight and sales tax, and

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

WHEREAS, the code also states that purchase whose total maximum cost to the City exceeds \$50,000 shall receive preliminary approval of Council (MCC 8-3.203(a)), and

WHEREAS, the fourteen (14), new, current year/model trucks received said approval with Resolution No. 2005-381, and

WHEREAS, this Request for Bid (RFB) process conforms to City Code, and

WHEREAS, funds are available in account number 7210-480-5814-5281 (Fleet Equipment, Replacement), 7210-480-5814-5282 (Fleet Equipment, Replacement), 6210-480-5215-5700 (Sewer Operations Fund), 7210-1480-5814-5280 (Fleet Equipment,

Replacement), 7210-480-5814-5293 (Water Fund), 7210-480-5814-5318 (Fleet Equipment, Replacement), 7210-480-5814-5316 (Fleet Equipment, Replacement), 7210-480-5814-5242 (Fleet Equipment, Replacement), 7210-480-5814-5284 (Fleet Equipment, Replacement), 7210-480-5814-5301 (Fleet Equipment, Replacement), 7210-480-5814-5302 (Fleet Equipment, Replacement), 0100-480-1961-5500 (General Fund), 7210-480-5814-5317 (Fleet Equipment, Replacement), 6100-480-5012-5700 (Water Fund) in the amount of \$313,500.00 for fourteen (14), new, current year/model trucks,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for fourteen (14) new, current year/model trucks in the total approximate amount of \$267,265.57 to the following vendors:

Melrose Ford of Oakland, California for the following vehicles:

- One (1),  $\frac{3}{4}$  ton, regular cab, long bed, 4WD pickup;
- One (1),  $\frac{1}{2}$  ton, crew cab, mid-size, 2WD pickup;
- Two (2),  $\frac{1}{2}$  ton, extended cab, mid- size, 2WD pickups;
- One (1),  $\frac{1}{2}$  ton, crew cab, mid-size pickup,

in the approximate amount of \$85,282.59.

American Chevrolet of Modesto, California for the following vehicles:

- One (1),  $\frac{1}{2}$  ton, extended cab, full size, short bed, 2WD, short bed pickup;
- One (1),  $\frac{1}{2}$  ton, extended cab, 2WD pickup,

in the approximate amount of \$39,879.68

Coalinga Motor, Inc. of Coalinga, California for the following vehicles:

- Two (2),  $\frac{3}{4}$  ton, regular cab, long bed, 2WD pickups;

- One (1), ¾ ton, crew cab, long bed, 2WD pickup; one (1), ½ ton, extended cab, full size, 2WD pickup;
- One (1), ½ ton, regular cab, full-size, long bed, 2WD pickup;
- One (1), ½ ton, extended cab, short bed, 2WD pickup;
- One (1), ½ ton, regular cab, full-size, 2WD pickup,

in the approximate amount of \$142,103.30.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue purchase orders for fourteen (14) new, current year/model trucks as set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:


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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-145

**AMENDED**  
on August 6, 2008  
By Resolution 2008-432

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO PURCHASE COMPUTER EQUIPMENT, SOFTWARE, LICENSES AND PROFESSIONAL SERVICES FROM DELL CORPORATION UNDER THE STATE OF CALIFORNIA DEPARTMENT OF GENERAL SERVICES AND THE WESTERN STATES CONTRACTING ALLIANCE (WSCA) CONTRACT, FOR A TOTAL ESTIMATED COST OF \$330,000 FOR STARTUP AND YEARLY REOCCURRING COSTS OF \$160,000 FOR AN INITIAL 5-YEAR COMMITMENT**

WHEREAS, the City of Modesto standardized on Novell products for their file, print, messaging and overall systems management platform, and

WHEREAS, Novell was the industry leader, with over 80% of the market share and, Novell's products offered functionality and features that were not available from other vendors, and

WHEREAS, over the next decade, Novell and other vendors continued to improve on their products and offer advanced features, however Novell's maturity and proven products insured its continued use by the City, and

WHEREAS, after the year 2000, Novell's strengths in management and stability began to be matched by its weaknesses in mobile computing and internet-centric product offerings, and

WHEREAS, during this same timeframe, the City of Modesto moved from a traditional "file-and-print, inside-user-centric" environment to more dynamic "internet-based, mobile computing, citizen-centric" model, and

WHEREAS, the City began to require additional, more robust functionality, and Novell began to become weaker in these exact areas, and

AMENDED

~~WHEREAS~~, the recent release of Microsoft's Active Directory and Exchange in late 2003 provided the City the ability to evaluate its newer, more robust and secure capabilities, and

WHEREAS, City staff findings resulted in the determination that Microsoft's products have matured sufficiently on both manageability and security to warrant implementation in the City's environment, and

WHEREAS, the Modesto Municipal Code (MMC) generally requires all purchases exceeding \$50,000 for material and equipment of this type to be formally bid, and

WHEREAS, per MMC Section 8-3.204(d) the Purchasing Supervisor 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, at its February 16<sup>th</sup>, 2006, meeting the Finance Committee recommended that Staff go before the full Council for approval to issue an RFP for the Microsoft platform migration, and

WHEREAS, by piggybacking off the Western States Contracting Alliance (WSCA) contract, this purchase will conform to MMC Section 8-3.204(d), and

WHEREAS, cost estimates for the migration of the City's directory and messaging platforms are \$330,000 for startup, and yearly reoccurring costs of \$160,000 for an initial 5-year commitment, and

WHEREAS, funding has been earmarked for this project in the Technology Reserve Fund,



NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the acquisition and migration of City's current Novell-based software system to a Microsoft based system through a State of California pre-negotiated WSCA contract and authorizes the City Manager to execute the contract.

BE IT FURTHER RESOLVED that the Purchasing Division is hereby authorized to prepare a purchase order for computers, software, licenses and professional services from Dell Corporation under the State of California, Department of General Services and the Western States Contracting Alliance (WSCA) contract for a total estimated start-up cost of \$330,000 and yearly reoccurring costs of \$160,000 for an initial 5-year commitment,

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of March 2006, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-146**

**A RESOLUTION AMENDING THE BUDGET TO APPROPRIATE 330,000  
FROM THE IT RESERVE FUND 7130-80-8000-8003 TO THE CIP TO  
PURCHASE COMPUTER EQUIPMENT, SOFTWARE, LICENSES AND  
PROFESSIONAL SERVICES FROM DELL CORPORATION UNDER THE  
STATE OF CALIFORNIA, DEPARTMENT OF GENERAL SERVICES AND  
THE WESTERN STATES CONTRACTING ALLIANCE (WSCA) CONTRACT  
FOR A TOTAL ESTIMATED COST OF \$330,000 FOR STARTUP AND YEARLY  
REOCCURRING COSTS OF \$160,000 FOR AN INITIAL 5-YEAR  
COMMITMENT**

WHEREAS, the Information Technology Department (IT) has requested the purchase of computer equipment, software, licenses and professional services from Dell Corporation under the State of California, Department of General Services and the Western States Contracting Alliance (WSCA) contract, and

WHEREAS, the Microsoft migration exchange project is crucial to the City's daily business functions, and

WHEREAS, under the State of California, Department of General Services and the Western States Contracting Alliance (WSCA) contract, the City of Modesto is guaranteed the lowest cost for these products and services, and

WHEREAS, Dell Corporation is a participant in the WSCA contract and has provided the City of Modesto with the lowest bid at an estimated cost of \$330,000 for computer equipment, software, licenses and professional services, and

WHEREAS, Council desires to amend the budget for said purchase,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Finance Department to amend the budget to appropriate \$330,000 from the IT Reserve Fund 7130-80-8000-8003 to the CIP to purchase computer equipment, software, licenses and professional services from Dell Corporation under the

State of California Department of General Services and the Western States Contracting Alliance (WSCA) contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-147**

**A RESOLUTION APPROVING THE TIMELINE FOR CITIZEN  
PARTICIPATION CALENDAR OF EVENTS FOR 2006-2007 HUD ANNUAL  
ACTION PLAN, AND CDBG AND ESG PUBLIC SERVICE GRANTS**

WHEREAS, the Department of Housing and Urban Development (HUD) regulations require that the City of Modesto have a Citizen Participation Plan that contains the City's procedures for community participation in development of the Annual Action Plan and use of Community Development Block Grant (CDBG), HOME, and Emergency Shelter Grant (ESG) funds, and

WHEREAS, the Fiscal Year 2006-2007 public service process was separated into two stages to allow for a strengthened public outreach campaign to the full Modesto community concerning the priorities and goals for the utilization of HUD funding, and

WHEREAS, the first stage in the Citizen Participation Plan was originally brought to the CH&CDC on October 28, 2005; it identified the process for the Public Service Grant and Emergency Shelter Grant for the Fiscal Year 2006-2007, and

WHEREAS, the second stage of this process is the formulation of the Annual Action Plan to include the required citizen participation meetings and public outreach campaign, and

WHEREAS, the Citizen Participation Plan will contain the Annual Action Plan, public advertisement dates, and public service grant activities recommended by the CH&CDC at its February 24, 2006, meeting, and

WHEREAS, the Citizens Housing and Community Development Committee met on February 24, 2006, and supported the recommended Timeline for the Citizen

Participation Calendar of Events for 2006-2007 HUD Annual Action Plan, and CDBG  
And ESG Public Service Grants,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the timeline for the Citizen Participation Calendar of Events for the Annual Action Plan, and the CDBG and ESG Public Service Grants, for Fiscal Year 2006-2007, a copy of which is 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 14<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**City of Modesto**  
**HUD Programs - Fiscal Year 2006-2007**  
**Citizen Participation Calendar of Events**

	Date	Time
Public Service Timeline Approved by the CH&CDC	28 Oct 05 (Tuesday)	12:00 noon
Application Period for Public Service Grants opens (25 Jan to 24 Feb)	25 Jan 06 (Wednesday)	12:00 noon
Ad placed in local English Language Newspaper	27 Jan 06 (Friday)	
Ad placed in local Spanish Language Newspaper	01 Feb 06 (Wednesday)	
Staff Technical Assistance Workshop for CDBG Public Service Grants Room 3001, Tenth Street Place	02 Feb 06 (Thursday)	10:00 am
Room 2008, Tenth Street Place	03 Feb 06 (Friday)	10:00 am
CH&CDC to review the draft timeline for the Annual Action Plan for 2006-2007 & Citizen Participation Calendar of Events	24 Feb 06 (Friday)	12:00 noon
Application due for funding requests for Public Service Grants	24 Feb 06 (Friday)	5:00 pm
Analysis of Public Service funding requests by staff and Review Committee	27 Feb to 10 Mar 06	
Public Service Grant Review Committee to review grant requests	09 Mar 06 10 Mar 06	8 am to noon 8 am to noon
City Council Meeting to approve the draft timeline for Public Service Grants, Annual Action Plan for 2005-2006 & Citizen Participation Calendar of Events Council Chambers, Tenth Street Place	14 Mar 06 (Tuesday)	5:30 pm
Ad to be placed in local English and Spanish Language Newspaper	15 Mar 06 to 19 Mar 06	
Community meetings to obtain input on Consolidated Plan & Annual Action Plan: (Spanish translators will be available at all meeting)	22 Mar 06 to 24 Mar 06	
CH&CDC Meeting and public hearing to consider funding requests for Public Service Applications, Council Chambers, Tenth Street Place	24 Mar 06 (Friday)	12:00 noon
City Council Study Session, City Council Chambers	04 Apr 06 (Tuesday)	5:30 pm
30-day Public notice announcing availability of final draft of 2006-2007 Annual Action Plan for review and comments (06 Apr to 06 May)	05 Apr 06 (Wednesday)	
City Council Meeting to consider and approve funding recommendations for Public Service Grants, Council Chambers, Tenth Street Place	11 Apr 06 (Tuesday)	5:30 pm
CH&CDC Meeting to consider final draft of 2006-2007 Annual Action Plan Room 3001, Tenth Street Place	21 Apr 06 (Friday)	12:00 noon
City Council Meeting and public hearing to consider and approve recommendations for the Consolidated Plan & 2006-2007 Annual Action Plan Council Chambers, Tenth Street Place	09 May 06 (Tuesday)	5:30 pm
2006-2007 Annual Action Plan due to HUD	31 May 06 (Wednesday)	

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-148**

**A RESOLUTION APPROVING AN AGREEMENT WITH PACIFIC DESIGN ASSOCIATES, INC., IN THE AMOUNT OF \$5,000.00, FOR CONSULTANT SERVICES FOR THE 1029 9<sup>TH</sup> STREET BUILDING ESTIMATE, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, in the next year, City staff anticipates using consultant, Pacific Design Associates, Inc., (Pacific Design), to aid the City in negotiating the insurance settlement on the 1029 9<sup>th</sup> Street Building project in the not to exceed amount of \$5,000.00, and

WHEREAS, on November 24, 2004, the City entered into an agreement with Pacific Design, a local architectural firm, to evaluate the fire damage to said building and create preliminary estimates for insurance purposes, and

WHEREAS, out of the negotiations, Driver Alliant Insurance Services (DAIS) requested that further analysis be done to justify the cost of the damaged kitchen equipment, and

WHEREAS, recently, DAIS has requested further negotiations with the City, and the City's Risk Manager has requested that Pacific Design attend the meetings for assistance, and

WHEREAS, Staff recommends a new agreement with Pacific Design to include future meetings, and estimate analysis that may result from upcoming negotiations, and

WHEREAS, Pacific Design calculated the City's current estimates for the value of the 1029 9<sup>th</sup> Street Building, therefore, their presence during negotiations is important. In addition, using outside professional services will enable negotiations to be completed in a timely manner, and

WHEREAS, based on the City's previous experience, Pacific Design has rendered satisfactory services to the City in past projects, and

WHEREAS, City desires to pay the Agreement for consultant services with Pacific Design on a time and materials basis in a total amount not to exceed \$5,000.00 in full remuneration of performing mediation services to aid the City in negotiating the insurance settlement on the 1029 9<sup>th</sup> Street Building project and to execute the Agreement for Consultant Services with Pacific Design in said amount,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Pacific Design, in the not to exceed amount of \$5,000.00, for consultant services to aid the City in negotiating the insurance settlement for the 1029 9<sup>th</sup> Street Building project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-149**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE ROSE/CELESTE SEWER LIFT STATION PROJECT, ACCEPTING THE BID AND APPROVING A \$1,505,875.00 CONTRACT WITH PRESTON PIPELINES, INC., FOR THE PROJECT TITLED, "ROSE/CELESTE SEWER LIFT STATION PROJECT," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, plans and specifications have been prepared for the "Rose/Celeste Sewer Lift Station Project" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "Rose/Celeste Sewer Lift Station Project" were opened at 11:00 a.m. on January 10, 2006, 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 \$1,505,875.00 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/Celeste Sewer Lift Station Project".

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of \$1,505,875.00, and hereby awards Preston Pipelines, Inc., the contract titled "Rose/Celeste Sewer Lift Station Project."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, ~~Interim City Attorney~~

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-150**

**A RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION  
(SCH #2005092032) AND A MITIGATION MONITORING AND REPORTING  
PROGRAM FOR THE ROSE/CELESTE SEWER LIFT STATION PROJECT**

WHEREAS, Section 15070 of the CEQA Guidelines relating to Initial Study/Mitigated Negative Declarations permits a lead agency to prepare an Initial Study/Mitigated Negative Declaration on any proposed Project to analyze whether the Project may cause any significant effect on the environment, and

WHEREAS, the Rose/Celeste Sewer Lift Station was last upgraded in 1979, the two - 10 horsepower pumps are continuously operating for 12-14 hours per day with one pump running 90% of the time, the lift station is located in the middle of the Rose/Celeste intersection, 20 feet deep, with no standby power, and

WHEREAS, Stantec Consulting Inc., under contract with the City, prepared an Initial Study, Mitigated Negative Declaration and Mitigation Monitoring Plan (SCH #2005092032) for the Rose/Celeste Sewer Lift Station Project, which identified potentially significant impacts from the proposed Project, which could be mitigated to a level of insignificance by incorporating feasible mitigation measures into the Project, and

WHEREAS, feasible mitigation measures were incorporated into the Project and agreed to by the City before the Initial Study/Mitigated Negative Declaration was released for public review, which measures will avoid or mitigate the identified effects to a point where clearly no significant effects will occur, and

WHEREAS, a 30-day public review period for the proposed Initial Study/Mitigated Negative Declaration began on September 8, 2005 and ended on October 10, 2005, and

WHEREAS, the City did not receive any public comments on the draft Initial Study/Mitigated Negative Declaration so, following the public review, there were no comments to respond to or suggested technical revisions to be made to the document or any of the proposed mitigation measures, and

WHEREAS, the Mitigation Monitoring Plan (MMP) is included and described within the Initial Study/Mitigated Negative Declaration,

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 and Mitigation Monitoring Plan prepared for the Rose/Celeste Sewer Lift Station Project, and based on the substantial evidence provided in said Initial Study/Mitigated Negative Declaration makes the following findings:

1. The recitals set forth above are true and correct.
2. The Initial Study/Mitigated Negative Declaration prepared for the proposed project has identified additional potentially significant environmental effects. These additional potentially significant effects are potential impacts to aesthetics, air quality, biological resources, cultural resources, hydrology and water quality, noise, transportation/traffic, utilities and service systems.
3. 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.
4. There is no substantial evidence, in light of the whole record before the public agency, that the project, as revised, may have a significant effect on the environment (Public Resources Code Section 21064.5(2)).

5. The Initial Study/Mitigated Negative Declaration reflects the independent judgment of the lead agency.
6. As required by Public Resources Code Section 21081.6 et seq., the Mitigation Monitoring and Reporting Program is hereby adopted, a copy of which is included in the Mitigated Negative Declaration, which is on file with the City Clerk.
7. The Initial Study/Mitigated Negative Declaration, Environmental Assessment (EA/PW 2005-15, SCH No. 2005092032) 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 Initial Study/Mitigated Negative Declaration (SCH No. 2005092032), 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 14<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-151**

**A RESOLUTION AMENDING THE FY 05/06 CIP BUDGET BY INCREASING  
THE ROSE/CELESTE SEWER LIFT STATION APPROPRIATION BY  
\$1,289,141 BY MOVING \$1,289,141 FROM ACCOUNT 6210-800-8000-8003  
WASTEWATER CONTINGENCY RESERVES TO FULLY FUND THE  
ROSE/CELESTE SEWER LIFT STATION PROJECT**

WHEREAS, on October 25, 2005, Council Resolution No. 2005-537 adopted the 2005/2006 Capital Improvement Program, and

WHEREAS, the 2005/2006 Capital Improvement Program included a project titled "Rose/Celeste Sewer Lift Station," and

WHEREAS, bid were opened and Preston Pipelines, Inc. was the apparent low bidder in the amount of \$1,505,875.00, and

WHEREAS, the apparent low bid was 36% higher than the consultant engineer's construction estimate, and

WHEREAS, a budget adjustment appropriating \$1,289,141 from Account 6210-800-8000-8003 Wastewater Contingency Reserves is needed to fully fund the Rose/Celeste Sewer Lift Station Project,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves funding transfers as set forth herein to fully fund the Rose/Celeste Sewer Lift Station Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

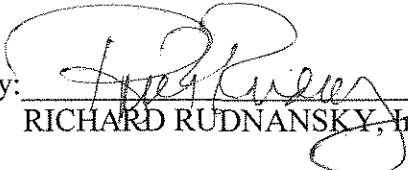
AYES: Councilmembers: Dunbar, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-152**

**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. 11)**

WHEREAS, this Council did, on February 7, 2006, adopt its Resolution No. 2006-066 (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 ("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, 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. 11 of Community Facilities District No. 2004-1 ("Village One #2) of the City of Modesto, County of Stanislaus, State of California," was recorded on February 9, 2006, 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 36; and

WHEREAS, at the time and date set for the hearing (March 14, 2006) pursuant to the Resolution of Intention to Annex, this Council held the public hearing on Tuesday, March 14, 2006, 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.

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 14th day of March 2006. 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 noon, Pacific Time. If all qualified electors have voted prior to such time, the election shall be closed.

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 14th of March 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**SAMPLE  
OFFICIAL BALLOT**

BALLOT NO. \_\_\_\_\_

**CITY OF MODESTO  
COMMUNITIES FACILITIES DISTRICT NO. 2004-1  
(VILLAGE ONE #2)**

**ANNEXATION NO. 11**

**SPECIAL TAX ELECTION**

March 14, 2006

\_\_\_\_% OF LAND IN TERRITORY PROPOSED TO BE ANNEXED TO DISTRICT  
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. 2006-066, 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. 11)" adopted by the City Council of the City of Modesto on February 7, 2006, 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. \_\_\_\_\_

\_\_\_\_% of land in territory proposed to be annexed to District  
THIS BALLOT HAS A VALUE OF \_\_\_\_ VOTES

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-153**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO  
CANVASSING THE RESULTS OF THE MARCH 14, 2006, 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. 11)**

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. 2006-066, 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. 11)" adopted on February 7, 2006, 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. 2006-?, adopted on March 14, 2006, and, as a result, this Council called an election within the territory proposed to be annexed to the District (the "Election") for March 14, 2006, or as soon thereafter as practicable, relative to the foregoing; and

WHEREAS, on March 14, 2006, 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 owners of the territory proposed to be annexed is 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, JEAN ZAHR, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2006-153, 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. 11) adopted on February 7, 2006, by the City Council of the City of Modesto, I did conduct the Special Tax Election on March 14, 2006, 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. 2006-066, 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. 11)” adopted by the City Council of the City of Modesto on February 7, 2006, 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 \_\_\_\_      NO \_\_\_\_

\_\_\_\_\_  
Jean Zahr  
City Clerk of the City of Modesto

Dated: \_\_\_\_\_, 2006

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. 2006-066 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 14<sup>th</sup> day of March 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-154

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF  
WILLIAM GLICK FROM THE CITIZENS ADVISORY COMMITTEE ON  
RECYCLING**

WHEREAS, WILLIAM GLICK was appointed a member of the Citizens  
Advisory Committee on Recycling on February 24, 2004; and

WHEREAS, WILLIAM GLICK has tendered his resignation from the Citizens  
Advisory Committee on Recycling; and

WHEREAS, WILLIAM GLICK 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 WILLIAM  
GLICK from the Citizens Advisory Committee on Recycling 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 WILLIAM GLICK 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 28<sup>th</sup> day of March 2006, by Councilmember Dunbar,  
who moved its adoption, which motion being duly seconded by Councilmember  
O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-155**

**A RESOLUTION OF THE CITY OF MODESTO AUTHORIZING AN  
APPLICATION TO THE HOUSING AND COMMUNITY DEVELOPMENT  
DEPARTMENT OF THE STATE OF CALIFORNIA FOR AN ENTERPRISE  
ZONE EXPANSION**

WHEREAS, the Housing & Community Development Department of the State of California (“HCD”) oversees an Enterprise Zone Program with the goal of stimulating growth in economically depressed areas of the State, and

WHEREAS, on November 16, 2005, HCD approved the Stanislaus Enterprise Zone which includes approximately 8,134 acres located within the City limits, and

WHEREAS, current law allows for a total of a fifteen percent (15%) acreage expansion within Stanislaus County, and

WHEREAS, in response to said Enterprise Zone expansion opportunity, the City has determined that certain properties meet the qualification for expansion by virtue of their location in areas zoned for either commercial or industrial uses and interest has been expressed by certain business owners within said areas, and

WHEREAS, based on this determination, the City will submit an application to HCD for a Stanislaus Enterprise Zone expansion encompassing approximately 1,327 acres located within City limits, and

WHEREAS, the City has jurisdiction over a portion of the application area and is adopting this resolution for those certain areas located within the City limits as shown on Exhibit A - “Stanislaus Enterprise Zone: Modesto Expansion Map”, which is attached hereto and made a part hereof by this reference, and

WHEREAS, the City acknowledges that the Stanislaus Economic Development and Workforce Alliance (“The Alliance”) shall be designated as the agency responsible for the submission of the expansion application, under the oversight of the member cities of Modesto, Turlock, Ceres, and the County.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that the boundary of the proposed Enterprise Zone expansion is hereby approved as shown in Exhibit A - “Stanislaus Enterprise Zone: Modesto Expansion Map”.

BE IT FURTHER RESOLVED that, should HCD approve the expansion application, the City agrees to complete all actions as required by HCD.

BE IT FURTHER RESOLVED that the City understands and acknowledges that there are other qualifying areas within Stanislaus County that are not currently described, and that inclusion of these areas in the Stanislaus Enterprise Zone would provide significant economic benefit to all communities within Stanislaus County, and therefore the City agrees to work cooperatively and expeditiously with other members of the Stanislaus Enterprise Zone to obtain approval of future expansion requests as they are submitted.

BE IT FURTHER RESOLVED that the Director of Community & Economic Development or designee, is hereby authorized and directed to execute and submit all required documentation, including the application, memorandum of understanding, and other necessary documents, on behalf of the City of Modesto, subject to any minor conforming technical or clarifying changes approved by the City Attorney, to the

California Housing & Community Development Department for review and approval of the Enterprise Zone boundary expansion as shown in Exhibit A.

The forgoing resolution was introduced in a regular meeting of the City Council of the City of Modesto held on the 28<sup>th</sup> day of March, 2006 by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

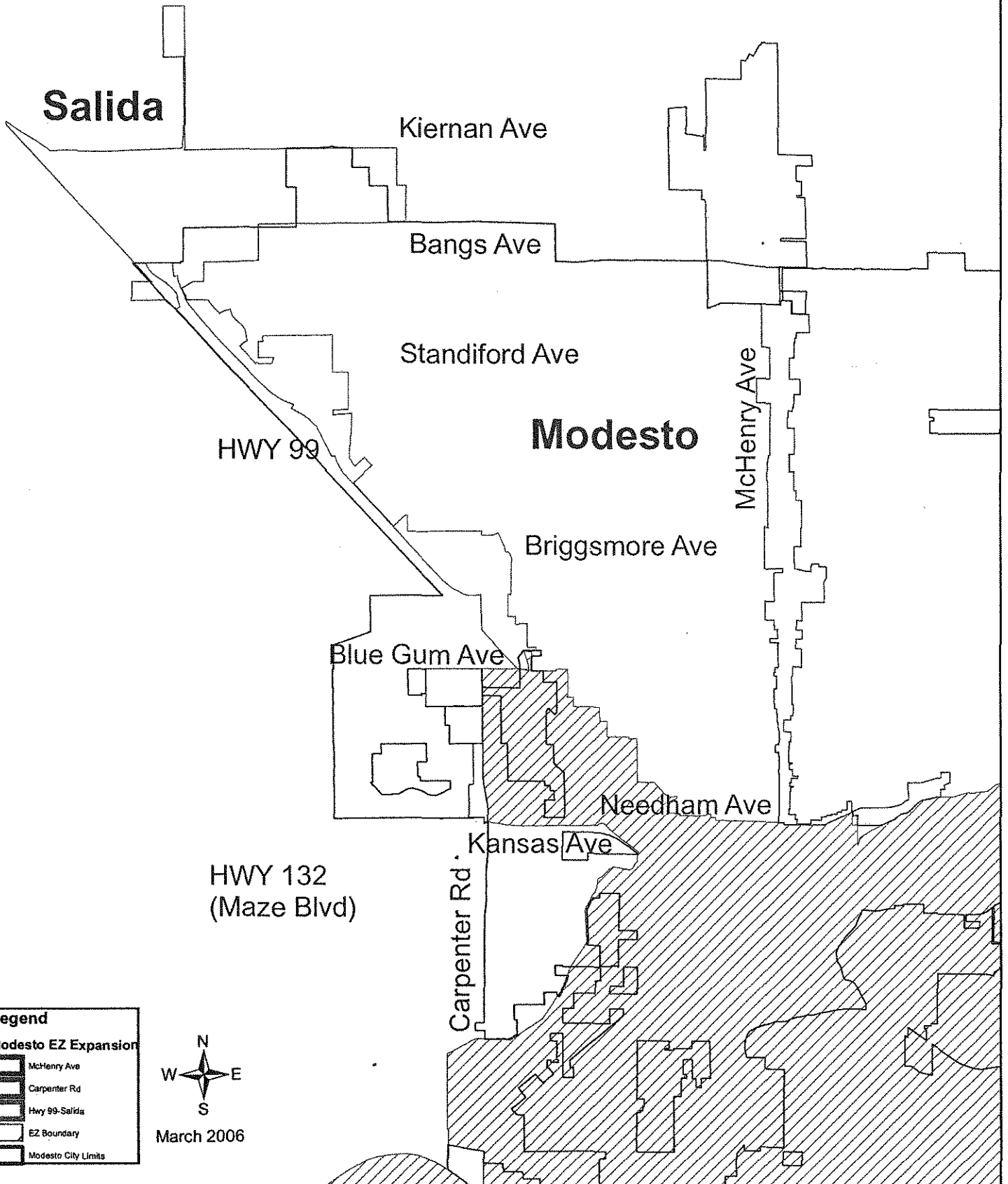
ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



# Stanislaus Enterprise Zone: Modesto Expansion Map



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-156**

**A RESOLUTION APPROVING AMENDMENT NO. 3 TO THE AGREEMENT  
BETWEEN THE CITY OF MODESTO AND TURNSTONE CONSULTING  
CORPORATION FOR THE PREPARATION OF A MARKET ANALYSIS ON  
THE PROPOSED REGIONAL COMMERCIAL DEVELOPMENT FOR THE  
TIVOLI (FORMERLY ROSELLE NEIGHBORHOOD) SPECIFIC PLAN  
ENVIRONMENTAL IMPACT REPORT, AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE AGREEMENT IN AN AMOUNT NOT TO  
EXCEED \$44,725**

WHEREAS, Dave Romano, P.E./AICP, of Russell A. Newman P.L.C., has applied for a specific plan, referred to as the Tivoli (formerly Roselle Neighborhood) Specific Plan, to allow for the orderly and future development within the approximate 454-acre planning area bounded by Sylvan Avenue on the south, the extension of Claratina Avenue on the north, Roselle Avenue on the east and Oakdale Road on the west, and

WHEREAS, the Tivoli Specific Plan will also involve the following associated entitlements: rezoning to a Specific Plan-Overlay (SP-O) Zone; Annexation of the project site into the City of Modesto including approval by the Local Agency Formation Commission; adoption of a specific plan; a General Plan Amendment to 1) reclassify two sites consisting of approximately 67 acres from Village Residential to Regional Commercial, 2) allow Village Residential designation in TSP to exceed the recommended 5.1 units per gross acre, 3) allow commercial development for the Village Residential designation in TSP to exceed the recommended 4%, 4) allow for the TSP neighborhood center focus that combines a neighborhood park and elementary school, 5) reclassify Claratina Avenue from Oakdale Road to Roselle Avenue from a four-lane Expressway to a Principal Arterial with a Class I bike path, 6) reclassify Sylvan Avenue from east of Oakdale Road to Roselle Avenue from a Principal Arterial to a Minor Arterial, 7) amend

Oakdale Road from Sylvan Avenue to Claribel Avenue as a Principal Arterial to include Class 2 Bike Lanes, one lane on each side of the street; adoption of a Facilities Master Plan and a Infrastructure Finance Plan for the Tivoli Specific Plan area; formation of a Community Facilities District to fund the construction of “backbone” public infrastructure, maintenance of applicable public facilities, and applicable public services; approval of a Development Agreement to guide development within the Tivoli Specific Plan area; and subsequent entitlements, including abandonment of a portion of Mable Avenue, approval of Area Plans , Final Development Plans, tentative maps, Conditional Use Permits, and other City entitlement 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 is required for the proposed Tivoli Specific Plan project and related applications, and

WHEREAS, by Resolution No. 2002-622, adopted on December 10, 2002, the City Council approved a list of environmental service providers, including the firm of Turnstone Consulting Corporation, to assist with the preparation of environmental impact reports and other environmental documents, and

WHEREAS, City staff selected Turnstone Consulting Corporation to prepare the environmental impact report for the Tivoli Specific Plan because of their extensive experience on similar projects in other jurisdictions, and

WHEREAS, the City Council adopted Resolution Number 2005-014 on January 4, 2005, approving an agreement with Turnstone Consulting Corporation for the preliminary work on the Environmental Impact Report for the Tivoli Specific Plan, and

WHEREAS, the City Council adopted Resolution Number 2005-184 on April 26, 2005, approving Amendment No. 1 to the agreement with Turnstone Consulting Corporation for the Biological Study and Traffic Study for the Tivoli Specific Plan, and

WHEREAS, the City Council adopted Resolution Number 2005-502 on October 11, 2005, approving Amendment No. 2 to the agreement with Turnstone Consulting Corporation for the preparation of the Draft Environmental Impact Report on the Tivoli Specific Plan, and

WHEREAS, City staff has negotiated a scope of work for a third amendment to the contract, involving the preparation of a market analysis on the proposed regional commercial development for the Tivoli Specific Plan Environmental Impact Report in an amount not to exceed \$44,725.00, and

WHEREAS, City staff will be returning to Council for a fourth contract amendment for preparation of the Final EIR,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 3 to the Agreement between the City of Modesto and Turnstone Consulting Corporation for the preparation of a market analysis on the proposed regional commercial development for the Tivoli Specific Plan Environmental Impact Report in an amount not to exceed \$44,725.00, a copy of which is on file in the City Clerk's office.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute Amendment No. 3 to the Agreement and the City Clerk is hereby authorized to attest thereto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-157**

**A RESOLUTION APPROVING A POLICY FOR INVESTMENT OF PUBLIC  
FUNDS, POLICY NO. 1.019**

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, PFM has reviewed the City’s Investment Policy and is not recommending changes to the City’s general investment philosophy, and

WHEREAS, 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 Policy for Investment of Public Funds, Policy No. 1.019.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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


NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

		
<p><b>SUBJECT: INVESTMENT POLICY</b></p>		

**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



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.

#### **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:

- 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 in the conduct of their annual audit of the City.

## APPENDIX A - GLOSSARY

### Bankers Acceptances (BAs)

Bankers Acceptance is a time bill of exchange drawn on and accepted by a commercial bank to<sup>1</sup> 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.

### 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's 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.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-158**


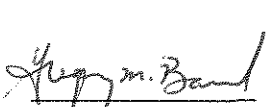

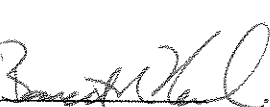
**A RESOLUTION AUTHORIZING INVESTMENT OF CITY MONIES IN THE  
LOCAL AGENCY INVESTMENT FUND**

**WHEREAS**, pursuant to Chapter 730 of the statutes of 1976, Section 16429.1 was added to the California Government Code to create a Local Agency Investment Fund in the State Treasury for the deposit of money of a local agency for purposes of investment by the State Treasurer; and

**WHEREAS**, the City Council does hereby find that the deposit and withdrawal of money in the Local Agency Investment Fund, in accordance with the provisions of Section 16429.1 of the Government Code, for the purpose of investment as stated therein as in the best interests of the City of Modesto.

**NOW THEREFORE, BE IT RESOLVED**, that the City Council does hereby authorize the deposit and withdrawal of City monies in the Local Agency Investment Fund in the State Treasury in accordance with the provisions of Section 16429.1 of the Government Code for the purpose of investment as stated therein, and verification by the State Treasurer's Office of all banking information provided in that regard.

**BE IT FURTHER RESOLVED**, that the following City of Modesto officers **or their successors in office** shall be authorized to order the deposit or withdrawal of monies in the Local Agency Investment Fund:

			
M. Wayne Padilla Finance Director	Gregory M. Baird Deputy Finance Dir	Cheryl Detmar Deputy Finance Dir	Barry Newlin Accounting Div Mgr

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

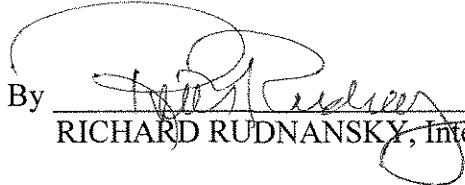
AYES: Councilmembers: Dunbar, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-159**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT TO  
HERITAGE FORD OF MODESTO, CALIFORNIA FOR FIFTEEN (15) NEW,  
CURRENT YEAR/MODEL, CHP CLASS "E" POLICE INTERCEPTOR SEDANS  
IN THE APPROXIMATE AMOUNT OF \$392,110.58**

WHEREAS, the Public Works Department-Fleet Services Division has requested the purchase of fifteen (15) new, current year/model, CHP Class "E" Police Interceptor sedans, and

WHEREAS, delivery of these vehicles will be coordinated to coincide with the lifecycles of the current patrol fleet in order to meet the replacement needs over the next twelve (12) months, and

WHEREAS, Resolution No. 2005-381 authorizes the Purchasing Supervisor to solicit formal bids for new vehicles and heavy equipment throughout FY 05/06 through various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, the Purchasing Division solicited formal bids for fifteen (15) new, current year/model, CHP Class "E" Police Interceptor sedans on Request for Bid (RFB) 0506-26, and

WHEREAS, eighteen (18) vendors were solicited, one (1) of which was a local vendor, and

WHEREAS, out of eighteen (18) vendors solicited, three (3) chose to respond, and

WHEREAS, the City's 2% local vendor preference was not a factor in determining the lowest responsive and responsible bidder for the CHP, Class "E", Police Interceptor sedans, and

WHEREAS, the Purchasing Division and the Public Works Department-Fleet Services staff evaluated the bids, and

WHEREAS, the approximate cost of the fifteen (15) new, current year/model, CHP, Class "E", Police Interceptor sedans is approximately \$392,110.58 including freight and sales tax, and

WHEREAS, Heritage Ford of Modesto, California was deemed to be the lowest responsive and responsible bidder, and

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

WHEREAS, the Code states that purchases whose total maximum cost to the City exceeds \$50,000 shall receive preliminary approval of the Council (MMC 8-3.203(a)), and

WHEREAS, this request for award of bid and contract conforms to City Code, and

WHEREAS, funds are available in the following accounts: 7210-480-5814-5323, 7210-480-5814-5326 and 7210-480-5814-5324 (Fleet Equipment, Replacement), 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 fifteen (15) new, current

year/model, CHP, Class "E" Police Interceptor sedans to Heritage Ford of Modesto, California in the approximate amount of \$392,110.58.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue a purchase order to Heritage Ford of Modesto, California for fifteen (15) new, current year/model, CHP, Class "E", Police Interceptor sedans in the approximate amount of \$392,110.58.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-160**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT TO  
JM SQUARED ASSOCIATES, INC. OF CONCORD, CALIFORNIA FOR TWO  
(2) NEW FAIRBANKS MORSE VERTICAL PROPELLER PUMPS FOR A  
TOTAL APPROXIMATE AMOUNT OF \$133,980.38**

WHEREAS, the Public Works Department-Secondary Treatment Plant, located at 7007 Jennings Road, Modesto, California has requested the purchase of two (2) new Fairbanks Morse Vertical Propeller pumps, and

WHEREAS, the two (2) pumps at the secondary treatment facility are nearing the end of their life cycle and need to be replaced, and

WHEREAS, these pumps are used to move water from facultative ponds into Storage Pond No. 1 as part of the process to moving treated water received from the Primary Treatment Facility, and

WHEREAS, the treatment process involves moving water from the facultative pond into the storage pond, and

WHEREAS, there are currently four (4) pumps in a series that are alternated when moving the water, and

WHEREAS, over the past three (3) years staff has replaced two (2) of the four (4) pumps as they reached the end of their life cycle, and

WHEREAS, the two (2) pumps were replaced with the same Fairbank pump staff is requesting authorization to purchase for the remaining two (2) pumps, and

WHEREAS, it is necessary to replace the last two (2) original Flygt Submersible pumps in the Storage Pond Forebay at the Secondary Treatment Plant with two (2) new

Fairbanks Morse Vertical Propeller pumps to match the existing of Fairbanks Morse Vertical Propeller pumps, and

WHEREAS, the two (2) new pumps need to match the existing vertical propeller pumps at this site for the following reasons:

- By having four (4) pumps at this site confirming exactly to each other will allow for one (1) spare shaft, impeller, split mechanical seal and motor.
- This reduction in spare parts will minimize the capital cost, storage space, and operational cost for training employees to operate and maintain only one (1) brand of pump for this system.
- These replacement parts cost approximately \$25,000.
- The propeller is 24 inches in diameter and weighs approximately 500 pounds.
- The shaft is approximately 15 feet long.

WHEREAS, JM Squared Associates Inc. of Concord, California is the only authorized Fairbanks Morse pump distributor for OEM parts and pumps in the Northern California territory, and

WHEREAS, Modesto Municipal Code 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 Supervisor may 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, this request for authorization to do a "sole source" award will conform to code, and

WHEREAS, the City Council has appropriated funds for two (2) new Fairbanks Morse pumps in account number 6210-480-B589-6070 (R&R STOR POND1 LSPMP1 SECONDARY),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for two (2) new Fairbanks Morse Vertical Propeller pumps to JM Squared Associates, Inc. of Concord, California for a total approximate amount of \$133,980.38.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order to JM Squared, Inc. for two (2) new Fairbanks Morse Vertical Propeller pumps as set forth herein.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-161**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR SEVEN (7) NEW, CURRENT YEAR/MODEL TRUCKS TO THE FOLLOWING VENDORS: ALTEC INDUSTRIES OF DIXON, CALIFORNIA FOR ONE (1) VEHICLE FOR A PURCHASE PRICE OF APPROXIMATELY \$89,074.01; WESTERN TRUCK PARTS & EQUIPMENT COMPANY OF SACRAMENTO, CALIFORNIA FOR TWO (2) VEHICLES FOR A PURCHASE PRICE OF APPROXIMATELY \$328,990.56; AND COALINGA MOTORS INC. OF COALINGA, CALIFORNIA FOR FOUR (4) VEHICLES FOR A PURCHASE PRICE OF APPROXIMATELY \$114,942.79. THE APPROXIMATE TOTAL AMOUNT FOR ALL SEVEN (7) TRUCKS IS \$533,007.36**

WHEREAS, the Public Works Department-Fleet Services Division has requested the purchase of seven (7) new, current year/model trucks, and

WHEREAS, the vehicles requested consist of and will be used as follows:

One (1), one (1) ton, DRW utility truck-This truck is to replace a current pickup in Electrical Department. The old truck is being replaced because it has reached the end of its service life, and was on the scheduled replacement list approved by council.

Two (2), trucks with packer body-These trucks are to replace (2) current trucks in the Pruned Refuse Department. The old trucks are being replaced because they have reached the end of their service life, and were on the scheduled replacement list approved by council.

One (1), truck with Aerial Bucket Altec AT37-G, Ford Super Duty F550-This truck is to replace a current pickup in the Electrical Department. The old truck is being replaced because it has reached the end of its service life, and was on the scheduled replacement list approved by council.

Two (2), ¾ ton, extended cab, chassis with low profile utility body trucks-These two trucks are a new addition to the Water Department. These trucks were approved in the supplemental budget update for added work crews.

One (1), ¾ ton, regular cab, long bed, 2WD pickup-This truck is a new addition to the Water Department. This truck was approved in the supplemental budget update for added work crews.

WHEREAS, Resolution No. 2005-381 authorize the Purchasing Supervisor to solicit bids for new vehicles and heavy equipment throughout FY 05/06 using various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, the Purchasing Division solicited formal bids for seven (7) new, current year/model trucks on Request for Bid (RFB) 0506-20, and

WHEREAS, Sixty-seven (67) vendors were solicited of which nine (9) were local vendors, and

WHEREAS, out of sixty-seven (67) vendors solicited, six (6) chose to respond to the RFB, and

WHEREAS, the 2% local vendor preference was a factor in determining the lowest responsive and responsible bidder for one (1) of the seven (7) trucks, and

WHEREAS, the two (2) trucks with packer bodies received consideration for the 2% local vendor preference, and

WHEREAS, the Purchasing Divisions and Public Works-Fleet Service Division staff evaluated the bids, and

WHEREAS, Altec Industries of Dixon, California was deemed to be the lowest responsive and responsible bidder for the following vehicle:

- One (1), truck with Aerial Tower Altec AT37-G, Ford Super Duty F550 truck,

in the approximate amount of \$89,074.01, and

WHEREAS, Western Truck Parts & Equipment Company of Sacramento, California was deemed to be the lowest responsive and responsible bidder for the following vehicle:

- Two (2), trucks with packer bodies, options two (2) and five (5)

in the approximate amount of \$328,990.56, and

WHEREAS, Coalinga Motors Inc. of Coalinga, California was deemed to be the lowest responsive and responsible bidder for the following vehicles:

- One (1), one (1) ton, DRW utility trucks;
- Two (2), ¾ ton, extended cab, chassis with low profile utility body trucks;
- One (1), ¾ ton, regular cab, long bed, 2WD pickup,

in the approximate amount of \$114,942.79, and

WHEREAS, the approximate amount for seven (7) new, current year/model trucks is \$533,007.36, and

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

WHEREAS, the Code states that purchases whose total maximum cost to the City exceeds \$50,000 should receive preliminary approval of Council (MCC 8-3.203(a)), and

WHEREAS, this request for award of bid and contract conforms to City Code, and

WHEREAS, funds are available in the following accounts: 7210-480-5814-5258 (Fleet Equipment, Replacement); 7210-480-5814-5277 (Fleet Equipment, Replacement); 7210-480-5814-5278 (Fleet Equipment, Replacement); 7210-480-5814-5319 (Fleet

Equipment, Replacement); 6100-480-5013-5700 (Water Fund); and 6100-480-5013-5700 (Water Fund) in the amount of \$555,000 for seven (7) new, current year/model trucks,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for seven (7) new, current year/model trucks in the approximate total amount of \$532,944.68 to the following vendors:

Altec Industries of Dixon, California for the following vehicle:

- One (1), truck with Aerial Tower Altec AT37-G, Ford Super Duty F550 truck,

in the approximate amount of \$89,074.01, and

Western Truck Parts & Equipment Company of Sacramento, California for the following vehicle:

- Two (2), trucks with packer bodies, options two (2) and five (5)

in the approximate amount of \$328,990.56,

Coalinga Motors Inc. of Coalinga, California for the following vehicles:

- One (1), one (1) ton, DRW utility truck;
- Two (2), ¾ ton, extended cab, chassis with low profile utility body trucks;
- One (1), ¾ ton, regular cab, long bed, 2WD pickup,

in the approximate total amount of \$114,942.79.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue purchase orders for seven (7) new, current year/model trucks as set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of March 2006, by Councilmember Dunbar,

who moved its adoption, which motion being duly seconded by Councilmember

O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-162**

**A RESOLUTION APPROVING DOWNTOWN ROCKS, TO BE HOSTED BY  
THE PRODUCING GROUP, LLC, IN DOWNTOWN MODESTO ON FOUR  
EVENINGS BETWEEN JUNE 1, 2006, AND SEPTEMBER 30, 2006**

WHEREAS, during the summer of 2004, the State Theatre sponsored a summer concert series in downtown Modesto called Downtown Rocks, and

WHEREAS, these family-oriented concerts were successful in bringing thousands of people to downtown Modesto to enjoy quality music, and

WHEREAS, because of changes at the State Theatre, the concert series was not repeated in the summer of 2005, and

WHEREAS, Chris Ricci Presents, Inc., is requesting that Downtown Rocks be revived for the summer of 2006, and

WHEREAS, Chris Ricci has formed a new entertainment partnership called The Producing Group, LLC that is proposing to present up to four headliner concerts between the dates of June 1 and September 30, 2006, and

WHEREAS, Chris Ricci Presents, Inc. has been the promoter of the successful Xclamation Fest, held in July in downtown Modesto, for the last six years, and

WHEREAS, as with Xclamation Fest, the cost of producing Downtown Rocks would be assumed by the promoters, and

WHEREAS, the use of City staff and/or equipment would be reimbursed by The Producing Group, LLC and in addition, the City of Modesto would receive 10% of the gross ticket sales, and

WHEREAS, the Safety and Communities Committee met on March 6, 2006, and supported the recommendation to approve Downtown Rocks, with the particular dates for the event to be coordinated with the Police Department in relation to other events occurring in downtown Modesto, and the location be coordinated with the Police Department, Public Works Department and Parks, Recreation and Neighborhoods Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Downtown Rocks, to be hosted by The Producing Group, LLC, in downtown Modesto on four evenings between June 1, 2006, and September 30, 2006.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-163**

**A RESOLUTION APPROVING A REQUEST FROM THE LIVING WATER  
BIBLE CHURCH FOR USE OF AMPLIFIED MUSIC AT MANCINI BOWL FOR  
A WORSHIP CONCERT TO BE HELD ON JUNE 2, 2006**

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department has received a letter from the Living Water Bible Church, requesting use of amplified music at Mancini Bowl on Friday, June 2, 2006, from 5:00 p.m. to 10:00 p.m. for a worship concert, and

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

WHEREAS, the Safety and Communities Committee met on March 6, 2006, and supported the request for amplified music,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a request from the Living Water Bible Church for the use of amplified music at Mancini Bowl for a worship concert event on June 2, 2006 from 5:00 p.m. to 11:00 p.m.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-164**

**A RESOLUTION SUPPORTING OPPOSITION TO THE SIGNIFICANT  
REDUCTION OF COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG)  
FUNDING IN THE PRESIDENT'S 2007 BUDGET PROPOSAL, AND  
AUTHORIZING STAFF TO SEND LETTERS SUPPORTING THE OPPOSITION  
TO THE RESPECTIVE LEGISLATIVE COMMITTEES**

WHEREAS, in early February, President Bush released his budget proposal for fiscal year 2007, and

WHEREAS, although the proposed budget covers various funding proposals, of particular concern for the City of Modesto is the proposed reduction in funding of the Community Development Block Grant (CDBG) program, and

WHEREAS, while details regarding the 2007 budget proposal are still under study, it appears that the CDBG program would be reduced nationwide by \$1 billion, which represents a potential reduction of 27% in program funding, and

WHEREAS, the President's proposed budget is a real investment in building a society based on ownership and reaching out to those people and places in need to make sure every American has a place to call home, and formula changes will be proposed to direct more of the program's base funding to communities that cannot meet their own needs, and bonus funds will be available to communities that demonstrate the greatest progress in expanding homeownership and opportunity for their residents, and

WHEREAS, it appears that the President's budget proposal will meet significant resistance, and

WHEREAS, in 2006, the President attempted to eliminate the CDBG program and met immense opposition and many groups rallied to save the CDBG program last year and new groups are mobilizing opposition efforts to the reductions, and

WHEREAS, the CDBG Program has served communities for 30 years as a resource to help cities, counties and States meet their community development, affordable housing, and economic development needs, and

WHEREAS, as an entitlement area, the City of Modesto will receive \$2,428,846 in funding for Fiscal Year 2006-2007 (this represents a 10% reduction from the current year), and

WHEREAS, the proposed 27% cut in funding could significantly reduce the City's capacity to assist some of Modesto's most vulnerable citizens, including persons who are homeless, low-income seniors and families, children, victims of domestic violence, persons with HIV/AIDS and persons who are victims of Fair Housing discrimination, and

WHEREAS, if the proposed reduction percentage was applied across the board, a loss of \$655,788 would result for the City of Modesto in CDBG funding, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on February 24, 2006, and supported staff's recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby supports the opposition to the significant reduction of Community Development Block Grant (CDBG) funding in the President's 2007 Budget Proposal.

BE IT FURTHER RESOLVED that the Council hereby authorizes staff to send letters supporting the opposition to the reduction of Community Development Block

Grant (CDBG) funding in the President's 2007 Budget Proposal to the respective legislative committees.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-165**

**A RESOLUTION APPROVING A SIXTY (60) DAY EXTENSION TO A 6-MONTH PROVISIONAL APPOINTMENT FOR DESIRREE ABSHIRE, SENIOR COMMUNITY DEVELOPMENT PROGRAM SPECIALIST**

WHEREAS, the Parks, Recreation and Neighborhoods Department has a vacancy for the position of Senior Community Development Program Specialist, and

WHEREAS, Desirree Abshire was provisionally appointed as Senior Community Development Program Specialist on October 4, 2005, and

WHEREAS, a successful recruitment for the Senior Community Development Program Specialist is nearing completion, and

WHEREAS, the Parks, Recreation and Neighborhoods Department desires to extend the provisional appointment of Desirree Abshire to this position until a successful candidate can be hired, 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 Desirree Abshire to the position of Senior Community Development Program Specialist is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-166**

**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 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 Supervising Animal Control Officer. The job specification for this classification is being amended to change the required experience to include additional enforcement experience not specific to animal control. The job specification for the classification of Supervising Animal Control Officer, 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 March 28, 2006.



The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 28th day of March, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney

## SUPERVISING ANIMAL CONTROL OFFICER

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

Plan, organize and supervise Animal Control operations; *to protect citizens from dangerous or hazardous animals*; to ensure proper enforcement of City and local ordinances governing the care and keeping of domestic and wild animals in the City; to capture and impound animals, as appropriate, to promote responsible pet ownership and to perform a variety of community relations, administrative and technical duties.

Note: When working in a field setting, the Supervising Animal Control Officer is required to carry a firearm and wear a ballistic vest.

### DISTINGUISHING CHARACTERISTICS

Supervising Animal Control Officer is the supervisory level in the Animal Control Officer series. The position is a working supervisor, with responsibility for supervising Animal Control Officers and assigned technical and administrative staff, while also functioning as a technically experienced field officer. This class is distinguished from Animal Control Officer II in that the latter is a journey level class, while Animal Control Supervisor is the supervisory level.

### SUPERVISION RECEIVED AND EXERCISED

Receives direction from a Police Lieutenant or other management staff. Exercises direct and indirect supervision over Animal Control Officers and assigned technical and administrative staff.

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

#### Essential Functions:

Supervise, evaluate and coach assigned staff; maintain discipline and ensure all rules, policies and procedures are enforced; advise and counsel subordinates; prepare performance evaluations; follow up on problems and complaints; participate in selection of staff.

Essential Functions: (Continued)

Schedule personnel for shifts, ensure sufficient shift coverage and adjust shift schedules to fill vacancies, determine overtime needs and authorize overtime; prioritize calls and assignments.

Oversee training and orientation of new staff; train department personnel on animal control techniques, animal handling, tranquilizing, animal behavior, and common diseases of animals, human behavior, handling stress, crisis intervention, and report writing.

Interpret animal control laws, regulations, ordinances policies and procedures; recommend, coordinate and implement unit policy and procedures; advise Animal Control Officers on complex issues or calls.

Investigate reports or complaints of dogs, cats or other animals creating nuisances, use tactical communication style to de-escalate situations and use mediation techniques to reconcile various complaints.

Investigate reports of animal cruelty or abuse, and take appropriate action.

Patrol City streets, roads and parks; search for stray or abandoned animals; capture and confine animals using appropriate procedures; impound and quarantine animals, as appropriate; enforce City animal control and licensing laws; issue citations for violations of animal control and licensing ordinances.

Administer vaccines and provide first aid medical treatment to animals; may euthanize severely injured animals.

Write incident reports, gather evidence, prepare and present cases at administrative hearings; prepare and maintain a variety of records and reports; maintain inventories of medications supplies.

Maintain contact with citizens regarding animal control issues and problems and preserve good relationships with the general public; explain ordinances relating to the care and keeping of animals to the public; provide information regarding policies and procedures used by Animal Control Officers; conduct educational seminars and presentations promote and provide education to the public regarding the keeping and caring of pets.

Work with other department personnel, city staff and the public in the areas of assigned functional responsibilities.

Essential Functions: (Continued)

Attend meetings and respond to questions and complaints; receive and investigate complaints, resolve or recommend resolutions of complaints; implement corrective actions, policy amendments or other actions to address complaints.

May assist Police Officers on high risk operations including dynamic and tactical entries, searches, and in serving arrest warrants, when vicious dogs may be present.

May make warrantless arrests related to penal code 830.9; interview victims, complainants and witnesses.

Present and maintain a positive and professional image of the police department; participate in community oriented policing.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles and practices of supervision and training; basic principles of public sector personnel management.

~~Applicable rules and regulations relating to laws and regulations governing the licensing, quarantine, impounding, care, release and disposal of animals.~~

~~PC 830 and 832 related to animal control, powers of arrest and use of firearms.~~

Principles and practices of humane apprehension and care of animals.

Physical and behavioral characteristics of common breeds of domestic animals.

Police protocols and standard operating procedures.

First aid and CPR procedures and practices.

~~Symptoms of common animal diseases.~~

~~Methods and equipment used in handling various types of animals and reptiles.~~

Exhibit "A"

Knowledge of: (Continued)

General safety requirements.

Procedures and techniques for working with the public in a tactful but firm manner.

Basic personal computer operation.

Ability to:

Supervise, train, plan, organize and review the work of assigned staff; coach and counsel staff.

Learn applicable rules and regulations relating to laws and regulations governing the licensing, quarantine, impounding, care, release and disposal of animals.

Learn PC 830 and 832 related to animal control, powers of arrest and use of firearms.

Identify symptoms of common animal diseases.

Learn methods and equipment used in handling various types of animals and reptiles.

Exercise independent judgment and make sound decisions in emergency situations.

Communicate clearly and concisely, both orally and in writing; write defensible reports.

Evaluate and establish priorities; handle simultaneous events effectively.

Establish and maintain effective working relationships with coworkers, subordinates and supervisors, other departments, outside agencies and the public including the ability to resolve conflicts.

Interact with the public displaying a high degree of courtesy, tact, compassion and poise.

Administer humane euthanasia to animals, as necessary.

Maintain neat and accurate logs, records, and related forms; maintain inventories of supplies, medications and drugs

Exhibit "A"

Ability to: (Continued)

Perform a variety of animal control activities such as animal handling, capturing, and confining including mitigating the most complex cases.

Enforce animal regulations and ordinances.

Provide high level of expertise in conduct of investigations into more involved problems, i.e. animal abuse/cruelty cases.

Interpret and apply applicable laws, ordinances and regulations.

Learn the operation of standard equipment required for job performance including the use of a computer and police radio.

Use maps and learn City geography.

Use and care for firearms.

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:

License or Certificate:

Possession of an appropriate, valid driver's license at time of application; valid California driver's License by time of appointment.

Possession of a POST approved P.C. 832 Certificate is required by the end of probationary period.

Possession of level one and level two certificates of completion from the National Animal Control Association (NACA) Training Academy is required by the end of probationary period. Failure to obtain the required certificates will result in release from probation.

Possession of a level three certificate of completion from the National Animal Control Association (NACA) Training Academy is desirable.

Experience:

Three years of progressively responsible experience in a governmental animal control agency or humane society performing animal control responsibilities including a minimum of one (1) year as a lead worker or supervisor.

OR

Three years of progressively responsible public contact experience in a public agency interpreting or enforcing codes and regulations at a level comparable to Police Clerk I/II, Community Service Officer, Code Enforcement Officer or a related field. Experience including lead responsibility is highly desirable.

Training:

Equivalent to the completion of the twelfth grade.

WORKING CONDITIONS

Environmental Conditions:

Field environment; travel from site to site. Hot and cold temperatures; inclement weather.

Physical Conditions:

Essential and marginal functions may require gaining and maintaining control of large and often aggressive animals; lifting/carrying medium-heavy objects of up to 75 lbs. of weight, maintaining physical condition necessary for standing, squatting, twisting, running, stooping and walking for prolonged periods of time; operating motor vehicle and other equipment.

Work Assignment:

Wear a Police Department approved uniform and related equipment including firearm and ballistic vest. Subject to irregular work shifts including evening, weekend and holiday shift assignments.

Must be able to pass a police background investigation.

Exhibit "A"

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-167

**A RESOLUTION APPROVING A STANDARD AGREEMENT FOR  
CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND BOB  
MURRAY AND ASSOCIATES TO CONDUCT AN EXECUTIVE  
RECRUITMENT FOR THE POSITION OF COMMUNITY AND ECONOMIC  
DEVELOPMENT DIRECTOR AT A COST OF \$24,700 AND AUTHORISING  
THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the current Community and Economic Development Director, Brad Kilger, is resigning effective April 7, 2006,

BE IT RESOLVED by the Council of the City of Modesto that the Standard Agreement for Consultant Services between the City of Modesto and Bob Murray and Associates to conduct the recruitment for Community and Economic Development Director be, and it 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 28<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-168**

**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, 2006 THROUGH DECEMBER 31, 2006, WITH AN OPTION  
TO EXTEND THE AGREEMENT FOR AN ADDITIONAL TWELVE (12)  
MONTHS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE,  
TO EXECUTE THE AGREEMENT**

WHEREAS, the Housing Authority of Stanislaus County operates the Westview Gardens federal housing complex in Modesto, California, and

WHEREAS, by agreement, the Modesto Police Department has assigned a Police Officer to the complex for fourteen (14) years, and

WHEREAS, the Housing Authority is desirous to continue this special police service which will provide for the presence of the same police officer for thirty (30) hours per week for patrol, investigation, response to calls for police service, 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 non-enforcement services of the City, and

WHEREAS, the term of this agreement is January 1, 2006 through December 31, 2006, and

WHEREAS, the agreement shall be automatically be renewed for one (1) year, until December 31, 2007, unless terminated by a 30-day written notice by either party, and

WHEREAS, the cost of providing this special police service to the Westview Gardens Housing Complex is \$52,183 and will be paid for by the Housing Authority of Stanislaus County, and

WHEREAS, this special police service benefits the City of Modesto in reducing calls for police service to the Westview Gardens Housing Complex,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with the Housing Authority of Stanislaus County in the amount of \$52,183 for special police services for the Westview Gardens Housing Complex for a period of twelve (12) months, from January 1, 2006 through December 31, 2006, with an option to extend the agreement for twelve (12) months.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-169**

**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, since the City's latest ACIP was submitted to the FAA the Airport Master Plan is in the process of being updated; however, a new airport layout plan has been published with the FAA, 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 March 13, 2006 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 28<sup>th</sup> day of March 2006, by Councilmember Dunbar, 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: Councilmember: Dunbar, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmember: None

ABSENT: Councilmember: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-170**

**A RESOLUTION APPROVING THE SUBMITTAL OF A FEDERAL AIRPORT  
IMPROVEMENT PROGRAM (AIP) GRANT APPLICATION IN THE AMOUNT  
OF \$1 MILLION TO THE FEDERAL AVIATION ADMINISTRATION (FAA),  
AND AUTHORIZING THE 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 March 13, 2006 meeting recommended approval of the submittal of a AIP grant application for \$1 million to the FAA, and

WHEREAS, the Federal grant application is consistent with the City's approved revised ACIP, and

WHEREAS, the AIP includes projects totaling \$1.052 million, and

WHEREAS, the \$1 million Federal AIP Grant will pay 95% of the total projects and Passenger Facility Charges (PFCs) collected by the airlines from enplaning passengers will pay the remaining 5%,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves submitting a Federal AIP grant application in the amount of \$1 million to the FAA.

BE IT FURTHER RESOLVED that the 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 28<sup>th</sup> day of March 2006, by Councilmember Dunbar, 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: Councilmember: Dunbar, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmember: None

ABSENT: Councilmember: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-171**

**A RESOLUTION AUTHORIZING THE TRANSFER OF FUNDS IN THE  
AMOUNT OF \$381,800 FROM COLLECTION SYSTEM REHABILITATION  
PROJECT (B574) TO TUOLUMNE RIVER BANK EROSION PROJECT (B447)  
TO COVER THE COSTS OF THIS PROJECT**

WHEREAS, due to recent rains, erosion on a portion of the Tuolumne River embankment near Neece Drive occurred, and

WHEREAS, this erosion has left a gravity sewer pipe undermined and unsupported in two locations of approximately two (2) linear feet each, and

WHEREAS, at one of these locations a manhole's concrete footing is partially exposed and unsupported as well, and

WHEREAS, the same conditions exist for approximately 200 feet upstream and 100 feet downstream along the river's edge, and

WHEREAS, HDR Engineering was contracted through an existing On-Call Engineering contract to review repairs needed to permanently fix the problem, and

WHEREAS, the magnitude of repairs recommended by HDR requires this to be a public works project, and

WHEREAS, the estimated cost to complete this new project is \$381,800, and

WHEREAS, funds are available in the Collection System Rehabilitation Project (6210-480-B574) in the amount of \$381,800 and it is necessary to transfer these funds to the new project titled Tuolumne River Bank Erosion Project (6210-480-B447) to perform the necessary repairs, and

WHEREAS, the Economic Development Committee considered this item at its March 13, 2006 meeting and recommended approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the transfer of funds in the amount of \$381,800 from Collection System Rehabilitation Project (B574) to Tuolumne River Bank Erosion Project (B447) to cover the cost of this new project.

BE IT FURTHER RESOLVED that City staff is hereby authorized to make the necessary budget adjustments in coordination with the Finance Department.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-172**

**A RESOLUTION AUTHORIZING AWARD OF A CONTRACT TO  
KLEINFELDER IN THE AMOUNT OF \$61,800, WITH CONTINGENCY FUNDS  
IN THE AMOUNT OF \$20,000, FOR PERMITTING ASSISTANCE AND  
ENVIRONMENTAL REVIEW SUPPORT FOR THE TUOLUMNE RIVER BANK  
EROSION PROJECT, AND AUTHORIZE THE CITY MANAGER, OR HIS  
DESIGNEE, TO EXECUTE THE CONTRACT**

WHEREAS, due to recent rains, erosion on a portion of the Tuolumne River embankment near Neece Drive occurred, and

WHEREAS, this erosion has left a gravity sewer pipe undermined and unsupported in two locations of approximately two (2) linear feet each, and

WHEREAS, at one of these locations a manhole's concrete footing is partially exposed and unsupported as well, and

WHEREAS, the same conditions exist for approximately 200 feet upstream and 100 feet downstream along the river's edge, and

WHEREAS, HDR Engineering was contracted through an existing On-Call Engineering contract to review repairs needed to permanently fix the problem, and

WHEREAS, the magnitude of repairs recommended by HDR requires this to be a public works project, and

WHEREAS, several permits and an environmental review will be required because the improvement and restoration repairs will affect the river directly, and

WHEREAS, quotations were requested from more than 80 environmental consultants because this will be a complicated and time-consuming process, and

WHEREAS, six (6) proposals were received and Kleinfelder was selected at a cost of \$61,800, with a contingency of \$20,000 for any additional studies or permits required, and

WHEREAS, contingency funds will require Deputy Director approval in writing before any funds are used, and

WHEREAS, funds are budgeted in the Tuolumne River Bank Erosion Project (B447) after transfer of funds to this project from Collection System Rehabilitation Project (B574) which has been authorized under a separate resolution, and

WHEREAS, the Economic Development Committee considered this item at its March 13, 2006 meeting and recommended approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes award of a contract to Kleinfelder in the amount of \$61,800, with a contingency fund in the amount of \$20,000, for permitting assistance and environmental review support for the Tuolumne River Bank Erosion 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 28<sup>th</sup> day of March, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-173**

**A RESOLUTION AUTHORIZING THE SOLICITATION OF A REQUEST FOR  
PROPOSALS (RFPs) FOR PERFORMANCE OF THE TUOLUMNE RIVER  
BANK EROSION PROJECT**

WHEREAS, due to recent rains, erosion on a portion of the Tuolumne River embankment near Neece Drive occurred, and

WHEREAS, this erosion has left a gravity sewer pipe undermined and unsupported in two locations of approximately two (2) linear feet each, and

WHEREAS, at one of these locations a manhole's concrete footing is partially exposed and unsupported as well, and

WHEREAS, the same conditions exist for approximately 200 feet upstream and 100 feet downstream along the river's edge, and

WHEREAS, HDR Engineering was contracted through an existing On-Call Engineering contract to review repairs needed to permanently fix the problem, and

WHEREAS, the magnitude of repairs recommended by HDR requires this to be a public works project, and

WHEREAS, the Public Works Department desires to solicit a Request for Proposals (RFPs) for construction service for the Tuolumne River Bank Erosion Project, and

WHEREAS, funds are budgeted in the Tuolumne River Bank Erosion Project (B447) after transfer of funds to this project from Collection System Rehabilitation Project (B574) which has been authorized under a separate resolution, and

WHEREAS, the Economic Development Committee considered this item at its March 13, 2006 meeting and recommended approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes solicitation of Request for Proposals (RFPs) for construction service for the Tuolumne River Bank Erosion Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of March, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-174**

**A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM  
(CIP) BUDGET TO INCREASE THE EXPENDITURE APPROPRIATION OF  
MY-2300-160-N064, "EXPAND ATMS COLLEGE AVE," TO REFLECT THE  
INCREASE OF CONSTRUCTION COSTS BY AN APPROPRIATION  
TRANSFER FROM 0700-700-N064, IN THE AMOUNT OF \$65,610**

WHEREAS, the bids received for the "Expand ATMS-College Avenue" project were opened at 11:00 a.m., on January 31, 2006, 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 \$119,076.43 received from Adesta Limited Partnership be accepted as the lowest responsible bid, and the contract be awarded to Adesta Limited Partnership, and

WHEREAS, the City has obtained CMAQ funding to pay for up to \$135,989.68, of the project costs and the remaining portion of \$17,618.91, is matching funds from Gas Tax, and

WHEREAS, \$7,526 in additional local matching funds is required to fully fund the construction of this project, and

WHEREAS, there are sufficient funds in the Gas Tax account to fully fund 2300-160-N064,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the CIP budget is hereby amended to increase the expenditure appropriation of 2300-160-N064, to reflect the anticipated increase of the construction costs.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of March 2006, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Marsh

Attest: Jean Morris  
JEAN ZAHR, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-175**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS AND  
AWARDING THE BID AND APPROVING A \$119,076.43 CONSTRUCTION  
CONTRACT WITH ADESTA LIMITED PARTNERSHIP FOR THE PROJECT  
ENTITLED "EXPAND ATMS-COLLEGE AVENUE," AND AUTHORIZING  
THE CITY MANAGER TO EXECUTE THE CONTRACT AGREEMENT**

WHEREAS, City staff has reviewed the plans and specifications for the project entitled, "Expand ATMS-College Avenue" and recommends approval to the City Council, and

WHEREAS, the bids received for the "Expand ATMS-College Avenue" project were opened at 11:00 a.m., on January 31, 2006, 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 \$119,076.43 received from Adesta Limited Partnership be accepted as the lowest responsible bid, and the contract be awarded to Adesta Limited Partnership,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the "Expand ATMS-College Avenue" project.

BE IT FURTHER RESOLVED that the Council accepts the bid of Adesta Limited Partnership in the amount of \$119,076.43, and hereby awards Adesta Limited Partnership the contract for "Expand ATMS-College Avenue."

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 28<sup>th</sup> day of March 2006, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn, Marsh

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-176**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE  
REQUEST FOR PROPOSALS (RFP) TO ANALYTICAL LABORATORIES FOR  
RECEIVING WATER AND EFFLUENT DATA TESTING AND ALLOWING  
THE CONTINUED USE OF CALTEST LABORATORY FOR ANALYTICAL  
TESTING SERVICES DURING THE RFP PROCESS TO MEET NPDES  
PERMIT REQUIREMENTS**

WHEREAS, On September 10, 2001, the Regional Water Quality Control Board (Regional Board) issued a Water Code Section 13267 letter to the City requiring submittal of ambient receiving water and effluent data regarding priority pollutants, and

WHEREAS, the 13267 letter requirements are in addition to the City's existing National Pollution Discharge Elimination System (NPDES) permit requirements for ambient and effluent monitoring, and

WHEREAS, all samples required by the Regional Board must be Environmental Laboratory Accreditation Program certified, and

WHEREAS, staff evaluated contracting options for analytical work in 2001 and chose Caltest Analytical as the lead analytical work for this monitoring plan, and

WHEREAS, Caltest has performed the City's lead analytical work for the past several years because they have been able to meet our NPDES testing requirements relating to testing criteria and time constraints, and

WHEREAS, Purchasing approved Caltest in 2001, as a sole source vendor; and staff has continued to use them for the NPDES required monitoring and testing, and

WHEREAS, during a recent internal review of expenditures, it was determined that Caltest costs were over \$50,000, and

WHEREAS, after this review, staff identified other laboratories within the Western United States that may be able to meet our testing requirements, and

WHEREAS, staff is requesting authorization for the Purchasing Manager to issue a Request for Proposals to insure we are receiving the best price for this service, and

WHEREAS, as Caltest is currently meeting our analytical testing, holding times, and reporting requirements, staff is also requesting that we be allowed to continue to use Caltest until a vendor is selected and a contract in place, and

WHEREAS, the Economic Development Committee considered this item at its March 13, 2006 meeting and recommended approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue Request for Proposals (RFPs) for Analytical Laboratories for Receiving Water and Effluent Data Testing, and

BE IT FURTHER RESOLVED by the Council of the City of Modesto also authorizes the continued use of Caltest Laboratory for analytical testing services during the RFP process to meet NPDES Permit requirements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-177**

**A RESOLUTION APPROVING A WATER MAIN REIMBURSEMENT  
AGREEMENT BETWEEN THE CITY OF MODESTO AND JOSEPH  
PIMENTEL, PETER REECE, AND STEPHEN HUGHES, RELATED TO THE  
INSTALLATION OF 1623 LINEAL FEET OF A 12" WATER MAIN IN THE  
AMOUNT NOT TO EXCEED \$133,692.00 AND AUTHORIZING THE CITY  
MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, JOSEPH PIMENTEL, PETER REECE, AND STEPHEN HUGHES ("Developer"), are in the process of developing a commercial property located at the southwest corner of Sylvan Avenue and Claus Road, commonly known as Village Corners, and

WHEREAS, in connection with the development of said Village Corners, Developer is required to install 1623 linear feet of a 12" water main and appurtenances thereto, located at the southwest corner of Sylvan Avenue and Claus Road ("Improvements"). The Improvements are designed to serve a large portion of the Village One Specific Plan area, and

WHEREAS, the Improvements will serve other properties in addition to this development and, the other properties have or will pay fees to the City to assist in paying the cost of constructing the Improvements and the owners of said other properties have not participated in constructing the Improvements, and

WHEREAS, Modesto Municipal Code Section 4-4.802.1 authorizes the City to enter into an agreement with the Developer for reimbursement of costs of improvements, and

WHEREAS, Developer has requested, and City has agreed, that Developer be reimbursed for the actual costs in the amount of \$133,692.00 required to construct the Improvements, and

WHEREAS, City will inspect the construction of the Improvements and will accept the Improvements as part of City's public water system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the water main reimbursement agreement between the CITY OF MODESTO and JOSEPH PIMENTEL, PETER REECE, AND STEPHEN HUGHES related to the installation of 1623 lineal feet of 12" water main in the amount not to exceed \$133,692.00.

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 28<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-178**

**A RESOLUTION APPROVING THE PARCEL MAP OF EASTGATE CENTER  
LOCATED AT THE SOUTHWEST CORNER OF BRIGGSMORE AVENUE AND  
OAKDALE ROAD IN THE CITY OF MODESTO AND AUTHORIZING THE  
CITY MANAGER TO EXECUTE A PARCEL MAP AGREEMENT WITH  
WARNER M. SOELLING, A SINGLE MAN AS HIS SOLE AND SEPARATE  
PROPERTY**

WHEREAS, WARNER M. SOELLING (“Subdivider”), is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 4.36 acres, known as EASTGATE CENTER (“PARCEL”), and

WHEREAS, a tentative map of said tract was approved by the Planning Commission of the City of Modesto on the 1st day of March, 2004, 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 PARCEL 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 parcel 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 Engineer be authorized to certify the map of said tract on behalf of the City of Modesto after the fees and deposits required by the Modesto Municipal Code in amounts determined by the City Engineer have been paid and after

SUBDIVIDER has furnished securities, as set forth in Section 4-4.605 of the Modesto Municipal Code, which shall secure the obligations set forth in Section 66499.3 of the Government Code of the State of California. Said securities shall be in forms acceptable to the City Attorney and in the amounts required by the City Engineer.

BE IT FURTHER RESOLVED that the City Manager and the City Clerk be authorized to execute and attest, respectively, an agreement with Warner M. Soelling, a single man as his sole and separate property as regulated by Section 4-4.503(f) and 4-4.605(a) 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 28<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-179**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE  
“CONSTRUCT FLUSH LINE FOR WELL 63 AT MILDRED PERKINS PARK  
PROJECT”, ACCEPTING THE BID AND APPROVING A \$102,437.00  
CONTRACT WITH RICHARD TOWNSEND CONSTRUCTION INC., FOR THE  
PROJECT TITLED, “CONSTRUCT FLUSH LINE FOR WELL 63 AT MILDRED  
PERKINS PARK PROJECT,” AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE THE CONTRACT**

WHEREAS, plans and specifications have been prepared for the “Construct Flush Line for Well 63 at Mildred Perkins Park Project” and City staff recommends approval to the City Council, and

WHEREAS, the bids received for “Construct Flush Line for Well 63 at Mildred Perkins Park Project” were opened at 11:00 a.m. on January 17, 2006, 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 \$102,437.00 received from Richard Townsend Construction, Inc., be accepted as the lowest responsible bid and the contract be awarded to Richard Townsend 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 “Construct Flush Line for Well 63 at Mildred Perkins Park Project.”

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of \$102,437.00, and hereby awards Richard Townsend Construction, Inc., the contract titled “Construct Flush Line for Well 63 at Mildred Perkins Park 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 28<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-180

**A RESOLUTION ACCEPTING THE WORK BY GEORGE REED, INC., FOR THE PROJECT TITLED "ENCINA AVENUE ROUNDABOUT IMPROVEMENTS" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$279,824.20. TOTAL PROJECT COST IS \$395,426.24, WHICH INCLUDED CONSTRUCTION CONTINGENCY AND CONSTRUCTION ADMINISTRATION**

WHEREAS, a report has been filed by the Public Works Director that the project titled "Encina Avenue Roundabout Improvements" has been completed by George Reed, Inc., in accordance with the contract agreement dated February 22, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "Encina Avenue Roundabout Improvements" is hereby accepted as complete from said contractor, George Reed, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$279,824.20, as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-181**

**A RESOLUTION DENYING THE APPEAL OF GRACE  
LUTHERAN CHURCH AND SCHOOL FOR MODIFICATION OF  
CAPITAL FACILITIES FEES**

WHEREAS, on January 24, 2006, the Modesto City Council adopted Resolution No. 2006-61 updating its Capital Facilities Fee (CFF) program for the establishment and collection of fees for future capital facilities, and

WHEREAS Resolution No. 2006-61 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 churches with schools the daycare rate for multi-purpose rooms 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 December 8, 2005, a request was received from Grace Lutheran Church and School to collect CFF at the church rate rather than the daycare rate for the for the proposed 17,520 square foot multi-purpose building, and

WHEREAS, on December 14, 2005, Grace Lutheran Church and School was notified by letter from Amy Gedney, Infrastructure Financing Program Administrative Officer, that the CFF Committee had determined that CFF for a multi-purpose room should be collected at the daycare rate, and

WHEREAS, by letter from Grace Lutheran Church and School dated March 6, 2006, to Jean Morris, City Clerk, Grace Lutheran Church and School appealed the City's determination that multi-purpose rooms for churches with schools should be charged CFF at the daycare rate, and

WHEREAS, said appeal was set for a public hearing on March 28, 2006 at 5:30 p.m., before the City Council at its regular meeting place in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, at which date and time said duly noticed public hearing was held and 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 reviewed Grace Lutheran Church & School's request based on traffic data and has determined that churches with schools fall within the normal range for daycare 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.

2. Said appeal should be denied as recommended because churches with schools fall within the normal range for daycare uses as outlined in the CFF program.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the appeal of Grace Lutheran Church and School regarding modification of Capital Facilities Fees for churches with schools is hereby denied and the decision of the CFF Committee is hereby affirmed for the reasons set forth above.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of March 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Olsen

ABSENT: Councilmembers: Marsh

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-182**

**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 5-4-9 OF THE ZONING MAP  
TO REZONE FROM PLANNED DEVELOPMENT ZONE, P-D(37), TO LOW-  
DENSITY RESIDENTIAL ZONE, R-1, PROPERTY LOCATED AT 819 SUNSET  
AVENUE (SPORTSMEN OF STANISLAUS COUNTY)**

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, Sportsmen of Stanislaus County has proposed that the zoning designation for the property located on the west side of Sunset Avenue south of the Rouse Avenue intersection, be amended to rezone from Planned Development Zone, P-D(37), to Low-Density Residential, (R-1), 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. 2006-14 (“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, the Planning Commission, by Resolution No. 2006-13 recommended to the City Council approval of the application of Sportsmen of Stanislaus County to amend section 5-4-9 of the zoning map to rezone from Planned Development Zone, P-D(37), to Low-Density Residential, (R-1), for the property located on the west side of Sunset Avenue south of Rouse Avenue as set forth in said Resolution No. 2006- , and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on March 28, 2006, 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 R-1 Low-Density Residential, 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 Modesto Urban Area General Plan Master EIR (MEIR).
2. All applicable policies, regulations, and mitigation measures identified in the MEIR have been applied to the project or otherwise made conditions of approval of the project.
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.
5. The Initial Study, Environmental Assessment No. EA/C&ED 2006-14, provides the substantial evidence to support finding numbers 3-4, noted above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of 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 28<sup>th</sup> day of March 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

~~APPROVED AS TO FORM:~~

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

EXHIBIT A

Initial Study

EA/C&ED No. 2006-14

**City of Modesto**

**Finding of Conformance to  
General Plan Master EIR:**

**Initial Study C&ED No. (2006- 14)**

**For the proposed:**

**Amendment to Planned Development P-D(37) and Rezone  
P-PDA-05-013 & P-RZN-05-001, SOS Club**

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

**2/07/06**

**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 & Planned Development Zone Amendment – SOS Club
- B. Address or Location: West side of Sunset Avenue South of the Rouse Avenue intersection, 819 Sunset Ave.
- C. Applicant: Sportsmen of Stanislaus County, 819 Sunset Ave., Modesto, CA. 95353
- D. City Contact Person: Daniel De La O

Project Manager: Daniel De La O  
Department: Community and Economic Development Department  
Phone Number: (209) 577-5267  
E-mail address: ddelao@modestogov.com

- E. Current General Plan Designation(s): "MU" Mixed Use Land Use
- F. Current Zoning Classification(s): P-D(37), Planned Development Zone
- G. Surrounding Land Uses: North: Residential Units (R-2 Zone Properties)  
South: Golf Course (R-1 Zone Property)  
East: Residential Units (R-2 Zone Properties)  
West: Residential Units (R-1 & R-2 Zone Properties)

- 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 proposal comprises two components: (1) A rezone of the northern portion of the SOS site and (2) an Amendment P-D(37) for the expansion of the existing parking lot. The rezone involves the northern parcel of P-D(37). This property will be rezoned to R-1 (Low-Density Residential). The SOS Facility is removing this property from the P-D Zone to allow for the development of a residential subdivision. Located on the property currently are two ball fields, and additional parking that serve the facility. The Second component of this proposal consists of an amendment to the Planned Development Zone P-D(37) to allow the expansion of the existing parking lot adjacent to the main building. The expansion will replace the parking that will be eliminated by the development of the future subdivision to the north.

- 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.

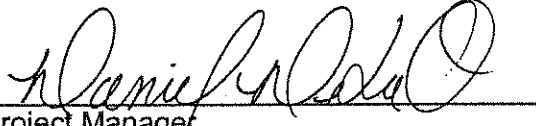
C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

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      2/19/06  
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   | <input type="checkbox"/> |
| (2) City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. | X   | <input type="checkbox"/> |
| (3) Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).  | X   | <input type="checkbox"/> |
| (4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.  | X   | <input type="checkbox"/> |
| (5) The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.  | X   | <input type="checkbox"/> |
| (6) Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.  | X   | <input type="checkbox"/> |

#### 5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "No" response must be discussed.

- |   | YES | NO                       |
|---|-----|--------------------------|
| (1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.  | X   | <input type="checkbox"/> |
| (2) This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings: | X   | <input type="checkbox"/> |
| (3) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.  | X   | <input type="checkbox"/> |

- (4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available. X
- (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:**

This is an application to rezone a portion of an existing planned development zone and expansion of an existing parking lot (P-D amendment). The addition of the project is compatible with the existing surrounding mix use of residential development and recreational uses located along this area. Because the project is consistent with the surrounding mix use, the proposed land use will not change to a level that will cause a change to the existing road capacities or levels of service.

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

Traffic and Circulation mitigation measures that may be pertinent to this project are found on MEIR pages V-1-15 through V-1-21. All feasible measures appropriate to the project – including any new measures - will be incorporated into or made conditions of approval of this project and will be listed in Section IV, *Mitigation Measures Applied to Project*.

**c. Project-Specific Effects**

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

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

	YES	NO
(1) Does the project contribute one hundred (100) or more peak hour trips to or from the site during the adjacent roadway's peak hour or the development's peak hour, to adjoining roads and generates more trips than assumed for their general plan land use category and zoning in the Master EIR.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Note:

If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.

- |     |  | YES                      | NO |
|-----|--|--------------------------|----|
| (2) | Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment). | <input type="checkbox"/> | X  |
| (3) | Result in inadequate emergency access.   | <input type="checkbox"/> | X  |
| (4) | Result in inadequate parking capacity.   | <input type="checkbox"/> | 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, as conditioned, 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 project has been evaluated for compliance to the City of Modesto Parking regulations. 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-significant unless:

	YES	NO
(1) The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	<input type="checkbox"/>	X
(2) The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	<input type="checkbox"/>	X
(3) The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(4) The project would expose sensitive receptors to substantial pollutant concentrations.	<input type="checkbox"/>	X
(5) The project would create objectionable odors affecting a substantial number of people.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.
- (2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).
- (3) Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).
- (4) The project is not a significant contributor to pollution levels in that it involves only a building addition for an existing church. 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-significant unless:

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	<input type="checkbox"/>	X
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	X
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	<input type="checkbox"/>	X

**DISCUSSION:**

- (1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.
- (2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan for projects within the baseline-developed area are incorporated into the conditions of approval for the project.
- (3) The only permanent noise levels produced by the project would be associated with traffic. The 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 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-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project will directly result in the development of land outside the March 2003 planning area boundaries.	<input type="checkbox"/>	X
(3) The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	<input type="checkbox"/>	X
(4) The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	<input type="checkbox"/>	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-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	<input type="checkbox"/>	X

DISCUSSION:

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

- (2) The project was referred to Engineering and Transportation for comment and there was no determination that there is insufficient capacity to serve the project.

## 6. SANITARY SEWER SERVICES

### a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to sanitary sewer services:

Effect: The City has already begun to implement the provisions of the Wastewater Master Plan (WMP) to meet future demand for sanitary sewer services. As City wastewater treatment facilities are expanded to meet the needs of the Baseline Developed, Redevelopment, and Planned Urbanizing Areas, the City will obtain the necessary wastewater discharge and NPDES permits from the Central Valley RWQCB, as required under Urban Area General Plan Policy V-D.2(a). Implementing the WMP, requirement of Best Management Practices for post-construction activities, as well as the Urban Area General Plan policy cited above, will avoid violation of wastewater discharge requirements. *As a result, this impact would be less-than-significant.*

Effect: The City has adopted the WMP specifically to ensure that sewer capacity will match the level of growth projected by the Urban Area General Plan. Development within the Baseline Developed and the Planned Urbanizing Areas that is consistent with the Urban Area General Plan will not have a significant effect on capacity. Urban Area General Plan Policy III-D.1(d) will ensure that development in the Planned Urbanizing Area will fund the necessary improvements. *This is a less-than-significant impact.*

Note on the WMP Master EIR. The WMP Master EIR identified a number of impacts and mitigation measures. Its mitigation measures have been adopted by the City and are being implemented by the City under the WMP. Those impacts are being independently addressed under that Master EIR and do not need to be considered under this Initial Study. Refer to the WMP Master EIR for details.

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

Sewer Service mitigation measure(s) pertinent to the project being analyzed in this Initial Study, are found on pages V-6-4 through V-6-7 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

### DISCUSSION:

There are no mitigation measures applicable to this project.

### c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.



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

- |   | YES                      | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (2) The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments. | <input type="checkbox"/> | X  |

**DISCUSSION:**

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

**7. SENSITIVE WILDLIFE AND PLANT HABITAT**

**a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to sensitive wildlife and plant habitat:

Effect: Although many sensitive species live in riparian habitats within the planning area, the policies of the plan will ensure that impacts of the Urban Area General Plan will be less-than-significant.

Effect: Requiring higher residential density than the suburban norm and a compact pattern of growth within the designated planning area to the year 2025 will minimize the City's contribution to the cumulative loss of habitat. Nonetheless, this is a significant and unavoidable impact.

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

Wildlife and Plant Habitat mitigation measure pertinent to the project being analyzed in this Initial Study are found on pages V-7-19 through V-7-21. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

**DISCUSSION:**

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

### c. Project-Specific Effects

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

- |   | YES                      | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species. | <input type="checkbox"/> | X  |
| (3) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.  | <input type="checkbox"/> | X  |

#### DISCUSSION:

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

### 8. ARCHAEOLOGICAL OR HISTORICAL SITES

#### a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions

such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

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

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR.

DISCUSSION:

Mitigation Measures applicable to this project include: AH-8, Master EIR.

**c. Project-Specific Effects**

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	<input type="checkbox"/>	X

DISCUSSION:

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

**9. STORM DRAINAGE**

**a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered *less-than-significant*.

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

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

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8.

DISCUSSION:

Mitigation measures appropriate to this project include: SD-7, MEIR. This mitigation measure is addressed by conditions of approval.

**c. Project-Specific Effects**

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	<input type="checkbox"/>	X
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	<input type="checkbox"/>	X

## DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan 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 the conditions of approval.

DISCUSSION:

Mitigation measures appropriate to this project include: FWQ-14, MEIR. This mitigation measure is addressed by conditions of approval.

**c. Project-Specific Effects**

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

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

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	<input type="checkbox"/>	X
(3) The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	<input type="checkbox"/>	X
(4) The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan 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 measures 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-significant unless:

YES NO

- (1) The project is inconsistent with the Modesto Urban Area General Plan.  YES  NO

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan 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-significant unless:

- |   | YES                      | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (2) The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools. | <input type="checkbox"/> | X  |



DISCUSSION:

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

**13. POLICE SERVICES**

**a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to police services:

Effect: The 1995 Master EIR identified two impacts on the demand for police services; however, it concluded that no significant impact, based on the mitigation measures identified in the 1995 Master EIR, would occur. Those mitigation measures are now policies of the Urban Area General Plan. *The impact is less-than-significant.*

Effect: Within the Planned Urbanizing Area, complying with the Urban Area General Plan policies, particularly the policy that requires a long-range financing strategy for each Comprehensive Plan Area, will allow the City to provide the resources necessary to extend service to the newly growing Planned Urbanizing areas. *These policies reduce the impact to a less-than-significant level.*

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

Police Services mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-13-3 and V-13-4 MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

**c. Project-Specific Effects**

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

- |  | YES                      | NO |
|--|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.  | <input type="checkbox"/> | X  |
| (2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. | <input type="checkbox"/> | X  |

## DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan 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-significant unless:

- |  | YES                      | NO |
|--|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.  | <input type="checkbox"/> | X  |
| (2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. | <input type="checkbox"/> | X  |

**DISCUSSION:**

- (1) The project is consistent with the Modesto Urban Area General Plan 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-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan 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.	<input type="checkbox"/>	X
(2) The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	<input type="checkbox"/>	X
(3) The project contains a contaminated site not identified as of March 2003.	<input type="checkbox"/>	X
(4) The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	<input type="checkbox"/>	X
(5) The project would be located on a site, which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.
- (2) The project 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-significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2)	The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project is consistent with the General Plan in both land use and intensity.
- (2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

**18. ENERGY**

**a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. *Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.*

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. *The impact is less-than-significant.*

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

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

**c. Project-Specific Effects**

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/> X

DISCUSSION:

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

**19. PLANNING AND LAND USE**

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

**a. Project-Specific Effects**

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-significant unless:

- |  | YES                      | NO |
|--|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.                | <input type="checkbox"/> | X  |
| (2) The project includes a substantive amendment to the Modesto Urban Area General Plan. | <input type="checkbox"/> | X  |
| (3) The project would physically divide an established community                         | <input type="checkbox"/> | X  |

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan 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-significant unless:



		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2)	The project would have a substantial adverse effect on a scenic vista.	<input type="checkbox"/>	X
(3)	The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	<input type="checkbox"/>	X
(4)	The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	<input type="checkbox"/>	X

**DISCUSSION:**

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

**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 land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.
2. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

### **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 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:**

N/A

**Schools Measures:**

N/A

**Police Services:**

N/A

**Fire Services:**

N/A

**Generation of Solid Waste**

N/A

**Generation of Hazardous Materials**

N/A

**Potential for Landslides and Seismic Activity**

N/A

**Energy**

N/A

**Planning and Land Use**

N/A

**Aesthetics**

N/A

**B. New or Additional Mitigation Measures or Alternatives Required**

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: **None**.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-183**

**A RESOLUTION RESCINDING MODESTO CITY COUNCIL RESOLUTION  
NOS. 2003-513, 2002-391, AND 94-671**

WHEREAS, in December 2005, the Governor of the State of California signed into law Assembly Bill 1234 (AB 1234), and

WHEREAS, AB 1234 establishes new requirements for expense reimbursements for local appointed and elected officials, and

WHEREAS, these new requirements cause the City of Modesto to update various policies and procedures related to the reimbursement of expenses for elected and appointed officials, and

WHEREAS, it is the determination of the Interim City Attorney that these changes should be codified as part of the Modesto Municipal Code, and

WHEREAS, it is necessary to rescind prior City Council Resolutions 2003-513, 2002-391, and 94-671 which addressed reimbursement or expense allowances for public officials,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby rescinds Resolution Nos. 2003-513, 2002-391, and 94-671 effective upon the date Ordinance No. 3406-C.S. goes into effect.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto, held on the 28<sup>th</sup> day of March 2006, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-184**

**A RESOLUTION APPROVING A FIFTH AMENDMENT TO AGREEMENT  
FOR AUDITOR SERVICES WITH MAZE & ASSOCIATES, AN  
ACCOUNTANCY CORPORATION, TO EXTEND THE CONTRACT TERM  
TWO YEARS, FOR A TOTAL OF FIVE YEARS, AT A COST NOT TO EXCEED  
\$149,679 FOR FISCAL YEAR 2006 AUDIT AND \$154,167 FOR FISCAL YEAR  
2007 AUDIT, AND, AUTHORIZING THE 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, Auditor has made a proposal to City to conduct financial statement audits for Fiscal Year 2006 at a cost not to exceed \$149,679, and for Fiscal Year 2007 at a cost not to exceed \$154,167, and

WHEREAS, the Audit Committee, at its February 1, 2006, meeting recommended Council approve a two-year extension of said contract, to have Maze & Associates perform the Fiscal Year 2006 and Fiscal Year 2007 financial statement audits,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Fifth Amendment to Agreement for Auditor Services with Maze & Associates to extend the contract term two years, for a total of five years, perform these services at a price not to exceed \$149,679 for Fiscal Year 2006, and for Fiscal Year 2007 at a cost not to exceed \$154,167.

BE IT FURTHER RESOLVED that the 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 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-185**

**A RESOLUTION APPROVING A REIMBURSEMENT AGREEMENT WITH  
STANISLAUS COUNTY AND STANISLAUS COUNCIL OF GOVERNMENTS  
(STANCOG) FOR THE COST OF PROJECT COORDINATION SERVICES FOR  
THE SR 219 WIDENING AND DALE/KIERNAN INTERSECTION  
IMPROVEMENT PROJECTS WITH THE COST TO THE CITY NOT TO  
EXCEED \$60,000, AND AUTHORIZING THE CITY MANAGER TO EXECUTE  
THE AGREEMENT**

WHEREAS, Plans to widen State Route 219 (Kiernan Avenue) from two lanes to a four lane expressway have been in development for several years, and

WHEREAS, due to state financial troubles and escalating right-of-way acquisition costs the California Department of Transportation has struggled to move this project forward, and

WHEREAS, with the development of the new Kaiser hospital on Dale Road and the prospect of future development the intersection at Dale Road and Kiernan Avenue requires widening and signalization, and

WHEREAS, increased traffic requires the widening of Kiernan Avenue to a four lane expressway from State Route 99 to the Dale Road/Kiernan Avenue intersection, and

WHEREAS, in order to expedite the construction of these critical projects, representatives from the City, County and StanCOG recommend that the firm of Gray, Bowen and Company be retained to assist StanCOG in managing the project development and delivery process, in partnership with Caltrans, for these important projects with an overall goal of beginning construction as quickly as possible, and

WHEREAS, Gray, Bowen and Company, Inc. has had considerable success with expediting the delivery of high profile Caltrans projects in partnership with local agencies, and

WHEREAS, example projects include the widening of State Route 41 across the San Joaquin River for Madera County (needed for Valley Children's Hospital) and the addition of the I-680 High Occupancy Vehicle lane over the Sunol Grade for the Alameda County Congestion Management Agency, and

WHEREAS, Representatives from the City of Modesto, Stanislaus County, and StanCOG have met and agreed to the following arrangement,

- 1) StanCOG will prepare an Agreement with Gray, Bowen and Company, Inc. that details the project coordination services which shall be provided by Gray, Bowen and Company, Inc. for the SR 219 widening and the Dale Road/Kiernan Avenue intersection projects.
- 2) The StanCOG Executive Director will provide monthly update reports to the City and County Chief Executive Office on the progress of the SR 219 widening project and the Dale Road/Kiernan Avenue intersection project.
- 3) The City and the County will pay to StanCOG, on a 50/50 cost-sharing basis, the sum not to exceed \$120,000 (\$60,000.00 for City; \$60,000.00 for County) to pay for the services of Gray, Bowen and Company, Inc. through the contractual relationship between StanCOG and Gray, Bowen and Company, Inc.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a reimbursement agreement with Stanislaus County and Stanislaus Council of Governments (StanCOG) for the cost of project coordination services for the SR 219 Widening and Dale/Kiernan intersection improvement projects with the cost to the City not to exceed \$60,000,

BE IT FURTHER RESOLVED by the Council that the City Manger 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 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-186**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF  
MODESTO AND GOODWIN CONSULTING GROUP, INC. FOR  
PREPARATION OF A FISCAL IMPACT ANALYSIS, IN AN AMOUNT NOT TO  
EXCEED \$28,500 PLUS 10% CONTINGENCY, AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE SAID AGREEMENT**

WHEREAS, the City Council is desirous of identifying both long and short term funding options for police and fire services, and

WHEREAS, a fiscal impact analysis will allow the City to review the costs associated with police and fire services and potential tax rates associated therewith, and

WHEREAS, a Request for Proposals for a fiscal impact analysis was issued and five proposal were received, and

WHEREAS, staff from the City Manager's Office and Finance Department, and Councilmember Dunbar, who participated as an observer, interviewed the five firms, and

WHEREAS, Goodwin Consulting Group Inc. was selected to prepare the fiscal impact analysis,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Goodwin Consulting Group, Inc. in an amount not to exceed \$28,500 plus 10% contingency, for preparation of a fiscal impact analysis.

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 4<sup>th</sup> day of April 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudansky  
RICHARD RUDANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-187**

**A RESOLUTION AMENDING THE FISCAL YEAR 05-06 OPERATING  
BUDGET AND APPROVING AN APPROPRIATION TRANSFER OF \$28,500  
FROM GENERAL FUND RESERVES (0100-800-8000-8003) TO THE CITY  
MANAGER'S OPERATING BUDGET (0100-020-0201-0235) FOR THE  
PREPARATION OF A FISCAL IMPACT ANALYSIS BY GOODWIN  
CONSULTING GROUP, INC.**

WHEREAS, the City Council is desirous of identifying both long and short term funding options for police and fire services, and

WHEREAS, a fiscal impact analysis will allow the City to review the costs associated with police and fire services and potential tax rates associated therewith, and

WHEREAS, a Request for Proposals for a fiscal impact analysis was issued, and

WHEREAS, Goodwin Consulting Group Inc. was selected to prepare the fiscal impact analysis in an amount not to exceed \$28,500, plus a 10% contingency for preparation of the analysis, and

WHEREAS, the 2005-2006 fiscal year budget did not contemplate preparation of a fiscal impact analysis, and

WHEREAS, staff proposes allocating \$28,500 from General Fund Reserves (0100-800-8000-8003) to the City Manager's Operating Budget (0100-020-0201-0235), and

WHEREAS, at its meeting of March 27, 2006, the Finance committee approved this request and further recommended approval to the City Council,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that the following appropriation is hereby approved to provide the funding for said fiscal impact analysis:

Appropriations

FROM: 0100-800-8000-8003 \$ 28,500.00  
TO: 0100-020-0201-0235 \$ 28,500.00

BE IT FURTHER RESOLVED that City staff is hereby authorized to make the necessary budget adjustments in coordination with the Finance Department 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 4<sup>th</sup> day of April 2006, Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-188**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF  
MODESTO AND CRAWFORD MULTARI & CLARK ASSOCIATES FOR THE  
PREPARATION OF COMMERCIAL AND INDUSTRIAL DESIGN GUIDELINES IN  
AN AMOUNT NOT TO EXCEED \$49,680.00 AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto is experiencing substantial increases in requests for non-residential development, which has raised concerns that new development should have some guidance to meet acceptable design standards, and

WHEREAS, the Economic Development Committee of the City Council at its February 13, 2006, meeting recommended the City Council consider an agreement between the City of Modesto and Crawford Multari & Clark Associates for the preparation of Commercial and Industrial Design Guidelines, and

WHEREAS, City staff recommends Crawford Multari & Clark Associates to prepare Commercial and Industrial Design Guidelines because of their extensive experience on similar projects in other jurisdictions, and

WHEREAS, City Staff anticipates that the Commercial and Industrial Design Guidelines will involve one phase in an amount not to exceed \$49,680,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the agreement between the City of Modesto and Crawford Multari & Clark Associates to prepare Commercial and Industrial Design Guidelines is hereby approved in an amount not to exceed 49,680.00.

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 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-189**

**A RESOLUTION AMENDING THE  
FISCAL YEAR 2005-2006 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 2005-2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2005-2006 budget have been adjusted as shown in Schedule A.

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 4<sup>th</sup> day of April 2006, 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 votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

## SCHEDULE A

From:	Finance Dept Operating Acct #0100-120-1205-0235	\$(68,877.30)
To:	Water Fund Reserve Account #0100-800-8000-8003	\$ 68,877.30
From:	Parks, Planning & Develop Operating Acct #0100-310-3120-5900	\$(117,800)
To:	Capital Project Acct #1350-310-P331-6052	\$ 117,800
From:	EBF Administrative Reserve Acct #7520-800-8000-8003	\$(5,000)
To:	Non-Insurance Benefits Citywide Acct #7510-030-6051-0301	\$ 5,000
From:	Life Insurance Reserve Fund Acct #7380-800-8000-8003	\$(600,000)
To:	Workers Compensation Fund Acct #7320-800-8000-8003	\$ 600,000
From:	CFD Reserve Acct #2670-800-8000-8203	\$(15,731)
To:	CFD Operating Acct #2670-020-0203-0231 (maintenance)	\$ 3,500
To:	CFD Operating Acct #2670-020-0203-0255 (staff costs)	\$ 12,231
From:	Fleet Services Contingency #7200-800-8000-8003	\$(155,000)
To:	Fleet Services Corp Yard #7200-48-0-5812-0330	\$ 92,000
To:	Fleet Services DTG Shop #7200-480-5813-0330	\$ 63,000

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-190**

**A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND  
CONTRACT FOR THE PURCHASE OF AN AUTOMATED METER READ  
(AMR) SYSTEM TO BADGER METER, INC., MILWAUKEE, WI, 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 \$432,800**

WHEREAS, the implementation of an Automated Meter Read System (AMR), installed with the fifteen (15) year Meter Installation Plan, will allow Water Operations to:

- More effectively manage: The additional workload resulting from the increase in the number of meters that will be read and billed on a monthly basis will require better technology than the City currently uses. The City's current collection method of meter reading is fifteen (15) years old and the technology has reached it maximum capacity.
- Minimize staffing requirements: Under the City's current meter reading practices significant staffing would be required to read the entire water system. Through more efficient and accurate methods, AMR will allow the City to read the increasing number of meters without adding personnel that would be required with a manual reading system.
- Aid water conservation efforts: The deployment of AMR technology will also give the City advanced leak detection capabilities. With AMR the City will have the ability to identify and address potential leaks. The AMR's leak detection capability and reading accuracy will contribute to the City's conservation efforts. City staff anticipates many customers will make a concerted effort to conserve

water once their bill is based on actual usage.

- Improved efficiency: With AMR City staff will be able to increase the number of daily meter reads. The current daily average manually performed by a Meter Reader is 350. With AMR the City will be able to increase the number of reads to 8 to 10 thousand reads per day. Automated reading also will result in fewer errors, providing more accurate billing data and less staff time tracking down erroneous reads, and

WHEREAS, on December 7, 2004, Council approved Resolution No. 2004-653 authorizing the Purchasing Supervisor to formally solicit Request for Proposals (RFP) for the purchase of an AMR System to be installed as part of the Water Meter Installation program, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, and

WHEREAS, the Purchasing Division solicited RFP No. 0405-07 for the purchase of an AMR System to forty (40) prospective proposers, five (5) of which were local companies, posted the proposal on the City's web site, and formally advertised as required by law, and

WHEREAS, on February 22, 2005, RFP's were formally opened in the City Clerk's office. Of the forty (40) prospective proposers solicited, four (4) companies chose to respond, of which, three (3) companies furnished responsive and responsible proposals, and

WHEREAS, RFP language requires proposers to sign Exhibit "A" and Exhibit "B" of their proposal submittal, thereby acknowledging, that they are in full compliance with all requirements of RFP No. 0405-07, and any addendum to such proposal, and that

failure to comply shall result in disqualification, and

WHEREAS, one (1) company did not sign the "Proposal Acknowledgement" Exhibit "A", and

WHEREAS, the company's proposal submittal was disqualified and received no consideration, and

WHEREAS, on April 15, 2005, an evaluation committee was formed comprised of five (5) City staff personnel to evaluate the proposals, and

WHEREAS, the Purchasing Division facilitated the evaluation process and took no active role in evaluating the proposals, and

WHEREAS, on April 19, 2005, the evaluation committee met and proposal evaluation packets were given to committee members for evaluation. After the meeting the committee members individually evaluated and scored the proposals, and

WHEREAS, the evaluation committee rated and scored the proposals based on the following evaluation categories:

<u>Evaluation Category</u>	<u>Possible Points</u>
• Completeness of Response	5
• Understanding of the Project	20
• Relevant Experience	15
• Warranty Program	15
• Equipment, Maint. and System Training Program	20
• Cost	25
• Value Add	<u>5</u>
• Total Possible Points:	<u>105</u>

The following is a breakdown of the committee's average score for each proposer:

Category	Possible Points	Badger Meter, Inc.	Itron, Inc.	Itron, Inc./ USM&T
Completeness of Response	5	5	4.8	4.8
Understanding of the Project	20	19.4	19	17.6
Relevant Experience	15	12.8	12.2	13.2
Warranty Program	15	15	12.2	13.2
Equip, Maint. & Sys Training Prog.	20	17	18	19
Cost	25	25	22	19
Value Add	5	4.6	3.8	2.6
<b>Total:</b>	<b>105</b>	<b>98.8</b>	<b>92</b>	<b>89.4</b>

WHEREAS, Badger Meter, Inc. is the City's current supplier for water meters, and.

WHEREAS, the City is currently in the third year of a five-year contract with Badger Meter, Inc., and

WHEREAS, Badger Meter, Inc. *Orion* AMR system is designed to be compatible with other meter manufactures. The register is the key interface component with the meter, and

WHEREAS, if the City were to award future bids to another meter manufacturer, interface with this AMR system will be specifically required, and

WHEREAS, the City currently has meters in the ground from several different manufacturers, and

WHEREAS, many of these meters can be attached to the *Orion* AMR system

through their registers, and

WHEREAS, wherever possible, these meters will be retrofitted with registers from their manufacturers that are compatible with the *Orion* AMR, and

WHEREAS, however, due to the age of many of the existing meters, some will require a complete change out to new meters with AMR, as the City would not plan to attach new technology with a life of 15 to 20 years, to a 15-year-old meter, and

WHEREAS, this AMR system will result in all new meter installs and a retrofit or replacement program for existing meters in the system, and

WHEREAS, on November 18, 2005, a letter was received by one of the proposers, US Metering & Technology (USM&T), citing that they were not afforded competitive pricing from Badger Meter, Inc. on Badger Meter registers, and

WHEREAS, at the proposers conference the representative of Badger Meter, Inc. stated that pricing would be afforded to all companies, and

WHEREAS, because USM&T was no longer an authorized distributor of Badger Meter, Inc. products due to termination of their authorized Badger Meter, Inc. distributorship in December 2004, Badger Meter, Inc. could not legally quote USM&T a competitor meter dealer, and

WHEREAS, according to Badger Meter, Inc. they informed USM&T of this fact prior to the proposal opening date, and

WHEREAS, USM&T did submit pricing on two (2) City proposed AMR System options, Option 3 and Option 4, however their pricing was not competitive, and



WHEREAS, USM&T's proposed annual price for each of the two (2) options was 29% higher than the lowest proposed price, which was provided by Badger Meter, Inc., and

WHEREAS, USM&T submitted the highest pricing of all three (3) proposers, and

WHEREAS, additionally, when cost is removed from the rating equation Badger Meter, Inc. still scored highest in overall rating by the Evaluation Committee, and

WHEREAS, based on ranking in total evaluation criteria, the Evaluation Committee's recommendation for award of proposal and contract for the purchase of an AMR System to Badger Meter, Inc. specifically noting that Badger Meter, Inc. AMR equipment:

- Meets the needs of the City.
- Can interface to a fixed base system.
- Is the most cost effective equipment for the City.
- Has a G.P.S. system, which can interface with the City's map guide.

WHEREAS, based on being the most responsive and responsible proposal, City staff recommends the award of RFP No. 0405-07 and contract for the purchase of an Automated Meter Read System to Badger Meter, Inc., Milwaukee, WI, for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, at an estimated annual cost of \$432,800,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards RFP No. 0405-07 and contract for the purchase of an Automated Meter Read System to Badger Meter, Inc., Milwaukee, WI, for a two (2) year agreement

with three (3) one-year extension options at the sole discretion of the City, at an estimated annual cost of \$432,800.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase agreement to Badger Meter, Inc., for a two (2) year agreement with three (3) one-year extension options at the sole discretion of the City, at an estimated annual cost of 432,800.

BE IT FURTHER RESOLVED that City staff is hereby directed to prepare an implementation plan to begin installation of the Automated Meter Read System within sixty (60) days of contract award.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



US METERING & TECHNOLOGY

November 18, 2005

Mr. Ken Masasso  
Senior Buyer  
Finance Department  
City of Modesto  
1010 Tenth Street  
Suite 5300  
Modesto, CA 95353

Re: RFP NO. 0405-07 – Automated Meter Read System

Dear Mr. Masasso,

It has come to the attention of US Metering and Technology that the City of Modesto is planning to award the Automated Meter Read System RFP to Badger Meter, Inc. during the City Council meeting on November 22, 2005.

This award raises several concerns to us at US Metering & Technology and may be in direct conflict of the spirit and intent of the RFP and the high standards in which the City conducted the RFP process.

As indicated in the RFP (page 7, section 1.2) in which it is stated "*It is not the City's intent to specify equipment and/or software unique to a single manufacture*" as well at the Proposer's Conference on January 7, 2005 in which it was stated that the city's did not prefer to sole source through the specification of the RFP.

It is our contention at US Metering & Technology that our response was greatly diminished by being incomplete on three out of the five pricing options. As discussed at the January 7<sup>th</sup> Proposer Conference it was a concern of US Metering & Technology as well as that of Groeniger & Company that the Request for Proposal was somewhat sole sourcing in nature. This topic was discussed and it was proposed by Brian Helphand of Badger Meter Company that his company would make available any and all required registers for this project to all interested parties at a competitive cost. This promise was made in front the representatives from the City of Modesto, Groeniger & Company and US Metering & Technology.

Subsequent to the Proposer Conference US Metering & Technology made several requests to Badger Meter Company for pricing for RTR and ADE registers as outlined in Exhibit B. Badger meter was contacted by email and refused to fulfill the agreed-upon request (copies of the emails and "read notifications" are available upon request) and made no pricing or products available to US Metering & Technology.



US METERING & TECHNOLOGY

Two additional concerns of US Metering & Technology are in section **1.3 Hardware and Software Minimum Requirements** of the City of Modesto's RFP.

*"Requirement number 1.3.24. The AMR system shall adapt to future advanced meter-reading technologies and convert to a fixed network system, without changing the endpoint hardware".*

Badger Meter Company's Orion's AMR endpoint does not migrate to Badger's own stand-alone fixed network system which could be owned and operated by the City of Modesto. The only fixed networks that the Orion can migrate to, or is compatible with, is the DCSI TWACS power line carrier for electric meters or the Hunt Technology Turtle power line carrier for electric meters. Both of which require a substantial investment with a third party electric utility. The Orion clearly does not meet the minimum of this requirement.

*"Requirement number 1.3.49. The AMR transmitter shall be capable of being installed on existing or new major meter manufacturers' water meters"*

The Badger Orion literature states compatibility with other meters, of various major manufacturers. The Orion product has not been tested nor approved by other meter manufactures. This constitutes a one way acceptance, which without approval other meter manufactures may not honor their respective warranty of either the water meter or register. And, to this point it is unknown if there are other water utilities that have meters other than Badger installed with Orion.

In light of the aforementioned concerns US Metering & Technology request that the City of Modesto either reevaluate US Metering & Technology response or reissue the RFP. If you have any question or if we can be of any further assistance, please do not hesitate in contacting US Metering & Technology.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Ross Thomson'.

Ross Thomson  
US Metering & Technology  
4748 Engle Rd  
Carmichael, CA 95608

Phone: (916) 481-5541  
Fax: (916) 914-2469  
E-mail: [rthomson@usmandt.com](mailto:rthomson@usmandt.com)



**BadgerMeter, Inc.**

1905 TO 2005 -- A CENTURY OF



FLOW MEASUREMENT SOLUTIONS

4545 West Brown Deer Road  
Milwaukee, Wisconsin 53223

P.O. Box 245036  
Milwaukee, WI 53224-9536

(414) 355-0400

February 9, 2006

Mr. Ken Masasso  
Senior Buyer  
City of Modesto  
1010 10<sup>th</sup> Street  
Modesto, CA 95354

Subject: Automatic Meter Reading System - RFP 040-07

Dear Mr. Masasso,

Below, please find additional information per the above referenced RFP and my letter dated 2-8-05.

Badger Meter provided Badger RTR/ADE register pricing to both Datamatic and Itron directly. Due to legal contractual agreements with our existing exclusive Badger Meter Distributor in California called National Meter and Automation Inc. Badger Meter could NOT legally quote USM&T a competitive meter distributor. USM&T was no longer an authorized distributor of Badger Meter products due to the termination of their authorized Badger Meter distributorship in December of 2004. Badger Meter did inform USM&T of this fact before the bid.

Per spec Section 1.3.24 about migrating to a Fixed Based Network:

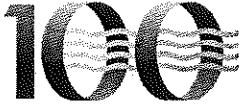
Badger Meter developed the ability for Orion to connect our meters with both established and emerging fixed base network technologies including power line carrier (PLC), broadband over power line (BPL) and municipal Wi-Fi Fixed Based Systems. This will allow many options for the City of Modesto to migrate their Orion AMR system into multiple fixed based systems with their existing Orion products. Please see our website under product news at [www.badgermeter.com](http://www.badgermeter.com) to find out additional information. Modesto Irrigation district is currently piloting a Power Line Carrier System. Badger's RFP response included additional information about Fixed Based Networks and Orion.

Per spec Section 1.3.49 about radio transmitters must work with all major meter manufacturers and their encoders:



**BadgerMeter, Inc.**

1905 TO 2005 ~ A CENTURY OF



FLOW MEASUREMENT SOLUTIONS

4545 West Brown Deer Road  
Milwaukee, Wisconsin 53223

P.O. Box 245036  
Milwaukee, WI 53224-9536

(414) 355-0400

Most major meter manufacturers use the same meter encoder protocol (identical sequenced data streams). The Orion radio transmitter is compatible with such encoders with this industry standard protocol. Badger Meter will stand behind this statement.

The radio transmitter just receives the data from the encoder and transmits the water meter reading to the Orion reading equipment. Badger Meter has done numerous tests with all major meter manufacturers' encoders to ensure connectivity, again something Badger Meter stands behind.

Please call me if you have any questions.

Sincerely,

Rick Green  
Regional Manager  
Badger Meter, Inc.  
Phone: 414-371-7240  
E-mail: [rgreen@badgermeter.com](mailto:rgreen@badgermeter.com)  
<http://www.badgermeter.com>

cc: Bill Bergum, Badger Meter – General Counsel  
Brian Helphand, Badger Meter – Account Manager

Attachment B

RFP No. 0405-07 Automated Meter Read (AMR) System

**Award Option 1**

Item/Description	Badger Meter, Inc.	Itron, Inc.	US Metering & Technology
AMR System – Transmitter (Including Badger Meter Record-all Transmitter Register).	\$432,800	No Bid	No Bid

**Option 2**

Item/Description	Badger Meter, Inc.	Itron, Inc.	US Metering & Technology
AMR System – Transmitter (Including Badger Meter Absolute Digital Encoder Register).	\$432,800	No Bid	No Bid

**Option 3**

Item/Description	Badger Meter, Inc.	Itron, Inc.	US Metering & Technology
AMR System – Transmitter with In-line Connection (Operate with Badger Meter Record-all Transmitter Register).	\$267,841	\$299,563	\$347,641

**Option 4**

Item/Description	Badger Meter, Inc.	Itron, Inc.	US Metering & Technology
AMR System – Transmitter with In-line Connection (Operate with Badger Meter Absolute Digital Encoder Register).	\$267,841	\$299,563	\$347,641

**Option 5**

Item/Description	Badger Meter, Inc.	Itron, Inc.	US Metering & Technology
Badger Record-all Transmitter Register with In-line Connection.	\$230,898	\$262,227	No Bid

**Option 6**

Item/Description	Badger Meter, Inc.	Itron, Inc.	US Metering & Technology
Badger Absolute Digital Encoder Register with In-line Connection.	\$230,898	\$262,227	No Bid

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-191**

**A RESOLUTION DECLARING AS SURPLUS FROM FEBRUARY 1, 2006 THROUGH JANUARY 31, 2007 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, AND 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**

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), and surplus City vehicles, and

WHEREAS, by Resolution Number 2001-423, the current auction agreement calls for auctioneering services to be provided by the Auction House; and

WHEREAS, public auctions are conducted at their facility located at 824 W. Kiernan Avenue in Modesto, and

WHEREAS, The Auction House will pick up the surplus items and advertise them in the Modesto Bee along with the time and dates of the auction, and

WHEREAS, they also advertise with flyers and by television promotion, and

WHEREAS, historically, the estimated gross revenue to be received from the sale of surplus property ranges from \$100,000.00 to 175,000, and



WHEREAS, as of December 29, 2005, the City has sold \$161,693 of surplus property, 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 per (MCC 2-7.08), and

WHEREAS, the current auctioneer, The Auction House, charges a 6.75% Commission Fee on all rolling stock, (motor drive vehicles), and a 15% Commission Fee for miscellaneous surplus or non-rolling stock (bicycles, office furniture, computers, etc.), and

WHEREAS, by authorizing the Purchasing Division to process property, as items become surplus, from February 1, 2006 through January 31, 2007, without returning to City Council for subsequent approvals, the City will save substantial staff and processing time and be compliant with City Charter and Modesto Municipal Code (MMC), and

WHEREAS, additionally, this streamlined process, which has been in place for a number of years, will improve delivery of surplus property to The Auction House, the City's auctioneer, and

WHEREAS, the list of property to be sold will be on file with the City Clerk, and

WHEREAS, the City could sell all surplus as scrap or choose to donate it to charitable organizations, and

WHEREAS, after the auction, the Purchasing Division will prepare a recap memorandum to account for the items sold and the proceeds obtained from the auction, and

WHEREAS, the Purchasing Division on a routine basis coordinates the management of surplus property with both City staff and Central Stores,

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 (MMC), and hereby declares as surplus from February 1, 2006, through January 31, 2007, the property items set forth above.

SECTION 2. The City Manager, or his 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 online or on a sealed bid 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 Resolution No. 2003-423. 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, on a sealed bid basis, 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 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-192**

**A RESOLUTION APPROVING A ONE (1) YEAR TRIAL AGREEMENT WITH  
PUBLICSURPLUS.COM OF PROVO, UTAH FOR ONLINE AUCTIONING OF  
SELECTED SURPLUS PROPERTY FOR THE PERIOD OF FEBRUARY 1, 2006  
THROUGH JANUARY 31, 2007**

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), and surplus City vehicles, and

WHEREAS, by Resolution No. 2001-423, the current auction agreement calls for auctioneering services to be provided by the Auction House, and

WHEREAS, the Purchasing Division would like to explore selling 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, PublicSurplus.com is an Internet auction service company, and

WHEREAS, the Public Surplus Internet auction system was created with unique capabilities exclusively for public agencies, and

WHEREAS, the City of Tucson conducted a competitive Request for Proposal (RFP) process for online auction services, and

WHEREAS, the award of contract went to PublicSurplus.com, and

WHEREAS, this contract has a clause to allow other agencies to “piggyback” on it, and

WHEREAS, Agencies can use the system to organize, automate, and manage their entire surplus inventory operations, and

WHEREAS, System capabilities includes the following:

- PublicSurplus.com helps agencies comply with State, and Local Regulations and policies by automatically maintaining audit records, and
- PublicSurplus.com is able to attract larger numbers of buyers from an Agency’s own community, as well as specialty buyers from across the United States, and
- There is no cost to Agencies for registering, listing or re-listing items for sale, and
- There is an 8% fee payable only when items sell, and
- No commitment is required and use by an agency is solely at their discretion, and

WHEREAS, historically, the estimated gross revenue to be received from the sale of surplus property ranges from \$100,000.00 to 175,000, and

WHEREAS, as of December 29, 2005, the City has sold \$161,693 of surplus property, 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 per (MCC 2-7.08), and

WHEREAS, the current auctioneer, The Auction House charges a 6.75% Commission Fee on all rolling stock, (motor drive vehicles), and a 15% Commission Fee fro miscellaneous surplus or non-rolling stick (bicycles, office furniture, computers, etc.), and

WHEREAS, PublicSurplus.com will charge an 8% commission fee only when the item has sold, and

WHEREAS, the buyer is responsible for freight costs, and

WHEREAS, exploring other means of surplus property sales will help to ensure that the City takes full advantage of its surplus revenue recovery options, and

WHEREAS, the list of property to be sold will be on filed with the City Clerk, and

WHEREAS, the City could sell all surplus as scrap or choose to donate it to charitable organizations, and

WHEREAS, after the auction, the Purchasing Division will prepare a recap memorandum to account for the items sold and the proceeds obtained from the auction, and

WHEREAS, the Purchasing Division on a routine basis coordinates the management of surplus property with both City staff and Central Stores, and

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

SECTION 1. A one (1) year trial agreement with PublicSurplus.com of Provo, Utah for online auctioning of selected surplus property for the period of February 1, 2006 through January 31, 2007 is hereby approved.

SECTION 2. The City Manager or his designee, is hereby authorized to execute said one-year trial agreement with PublicSurplus.com for the online auctioning of selected surplus property for the period of February 1, 2006 through January 31, 2007.

SECTION 3. The Central Stores Manager is hereby authorized to contact PublicSurplus.com to coordinate the online sale of 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 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

~~APPROVED AS TO FORM:~~

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-193**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
FORMALLY SOLICIT REQUEST FOR BIDS (RFB) FOR ONE (1)  
HORIZONTAL GRINDER, WITH PREVENTATIVE MAINTENANCE, FOR AN  
ESTIMATED ANNUAL COST OF \$128,000, AND A TOTAL ESTIMATED COST  
OVER FIVE (5) YEARS OF \$640,000**

WHEREAS, the Parks, Recreation & Neighborhoods Department Solid Waste Division has requested the lease/purchase of one (1) horizontal grinder, and

WHEREAS, this unit will replace the current tub grinder at the City's Composting Facility that has become unreliable and costly to keep operational, and

WHEREAS, this unit has met its life expectancy and funds are available to begin the lease-purchase, and

WHEREAS, a grinder is an important piece of equipment used to produce compost, and

WHEREAS, the material to be composted must be ground into chips before it is placed into long rows similar to hay when it is harvested, and

WHEREAS, these long rows are called windrows, and

WHEREAS, a windrow turner machine is then used to mix the composting material, and

WHEREAS, this helps stimulate the microorganisms in the material, which break down coarse organic matter into compost, and

WHEREAS, it is important that the material in the windrows is small enough to break down rapidly in order to help the material mature into a high quality-composting product, and to be in compliance with the facility permit, and



WHEREAS, staff currently operates a tub grinder at its composting site on Jennings Road, which was purchased in 1996 and has been used heavily from that point forward, and

WHEREAS, at this time the grinder is worn down and in need of constant repairs, and

WHEREAS, since 2002 over \$137,000 has been expended for needed repairs just to keep the machine running, and

WHEREAS, the grinder clutch recently failed and had to be replaced, the feed mill area had to be patched and rebuilt, and other major components have failed or could fail at any time, and

WHEREAS, since this piece of equipment is a key component to the success of the composting operation, it is imperative that staff have access to a reliable grinder, and

WHEREAS, in addition to being very expensive to operate, the breakdowns also impact staff productivity and efficiency, and

WHEREAS, on many occasions staff has been forced to cease producing compost to make the necessary repairs to the grinder, and

WHEREAS, this is an inefficient use of time and adds greatly to the compost production costs, and

WHEREAS, the tub style of grinder currently used by the City also has a slower production rate than the current generation of horizontal grinders, and

WHEREAS, with the current inbound loading rate at the facility on the increase, facility staff has had to operate the tub grinder every day, instead of only a couple of days a week, and

WHEREAS, this also affects the ability to carry out other operations at the site, such as transporting material to the windrows, turning the windrows, pushing up alleys, pulling finished material off the field, screening, and loading outbound trucks, and

WHEREAS, when the City initially began composting operations, tub grinders were considered to be more versatile than horizontal grinders because they could handle the larger materials such as stumps and large logs, and

WHEREAS, however, they are also much more dangerous to operate than the horizontal grinders because they tend to eject large pieces of material into the air, which is a consideration not only for employee safety, but also for the safety of delivery and transport vehicles entering and leaving the site, and

WHEREAS, horizontal grinder technology has also changed greatly over the last eight (8) years, and

WHEREAS, some of the new machines have a much faster throughput and superior performance in handling the materials that come in from containerized yard waster (which makes up the majority of the materials handled at the facility), and

WHEREAS, they are also better at handling hard-to-grind materials such as palm fronds, and can accommodate other organic materials mixed in with the green waste, such as cardboard or paper, and

WHEREAS, this flexibility in processing other materials will be important to the City in meeting waste diversion mandates, as the amount of organic materials that are diverted through composting needs to be increased to meet the mandates, and

WHEREAS, the new generation of horizontal grinders is also able to process larger materials, and

WHEREAS, for any materials such as very large stumps or large logs that cannot be processed by the horizontal grinder, staff is proposing to stockpile these materials on site and contract with an orchard removal company to periodically come in and grind them, and

WHEREAS, required features for the new horizontal grinder the City lease/purchases are as follows: 1,000 hp engine; throughput of 175 tons per hour; minimum gross weight of 99,000 pounds; heavy duty, pin style mill; replaceable plates in all wear areas; 70 inch wide mill to accommodate large wood from tree removals; large hopper area behind the mill to prevent plugging with wet materials, and, 60 inch wide discharge conveyor, and

WHEREAS, the existing tub grinder will be declared surplus and sold via sealed bid, with a minimum sealed bid price, and

WHEREAS, the 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, this Request for Bid conforms to the Municipal Code, and

WHEREAS, funds are available in accounts: 7210-800—8000-8003 (FLEET SERVICES-REPLACEMENT/GRINDER) and 7210-800-8000-8003 (FLEET SERVICES-REPLACEMENT/LOADERS), and

WHEREAS, funds have continued to be set aside in the Fleet Services account for the replacement of two (2) loaders used at the facility, although the facility currently has a lease/purchase arrangement for this equipment, and funds are already allocated in the operating budget to make the lease payments, and

WHEREAS, staff is therefore proposing to use a portion of the \$80,000 in replacement funds available for the loader to make up the balance of the first annual payment for the grinder, and

WHEREAS, the proformas for future budget years have built in the additional cost of the annual lease/purchase payments for the grinder on an on-going basis, and

WHEREAS, at its November 7, 2005, meeting the Economic Development Committee considered the lease/purchase of a grinder in Fiscal year 2006-2007 as part of their considerations for the continued operations of the Compost Facility, and concurred with the staff recommendations that the facility continue operations,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Supervisor is hereby authorized to solicit formal Request for Bids for the lease/purchase of one (1) horizontal grinder for the City of Modesto Compost Facility for an estimated annual cost of \$128,000, and a total estimated cost over five (5) years as follows:

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for the lease/purchase of one (1) horizontal grinder for the City of Modesto Compost Facility for an estimated annual cost of \$128,000, and a total estimated cost over five (5) years of \$640,000 to be opened in the office of the City Clerk, 1010 10<sup>th</sup> 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 bids are opened, they shall be tabulated and analyzed and a report submitted to the Council.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-194**

**A RESOLUTION AUTHORIZING THE FINANCE DEPARTMENT TO TRANSFER \$128,000 FROM ACCOUNT NUMBER 7120-800-8000-8003 TO ACCOUNT NUMBER 6290-480-5222-5900, AND TO AMEND THE BUDGET TO APPROPRIATE THESE FUNDS FOR THE LEASE/PURCHASE OF A HORIZONTAL GRINDER, WITH PREVENTIVE MAINTENANCE, FOR AN ESTIMATED ANNUAL COST OF \$128,000, AND A TOTAL ESTIMATED COST OVER FIVE (5) YEARS OF \$640,000**

WHEREAS, the Parks, Recreation & Neighborhoods Department Solid Waste Division has requested the lease/purchase of one (1) horizontal grinder, and

WHEREAS, this unit will replace the current tub grinder at the City's Composting Facility that has become unreliable and costly to keep operational, and

WHEREAS, this unit has met its life expectancy and funds are available to begin the lease-purchase, and

WHEREAS, fund are available in accounts: 7210-800—8000-8003 (FLEET SERVICES-REPLACEMENT/GRINDER) and 7210-800-8000-8003 (FLEET SERVICES-REPLACEMENT/LOADERS), and

WHEREAS, funds have continued to be set aside in the Fleet Services account for the replacement of two (2) loaders used at the facility, although the facility currently has a lease/purchase arrangement for this equipment, and funds are already allocated in the operating budget to make the lease payments, and

WHEREAS, staff is therefore proposing to use a portion of the \$80,000 in replacement funds available for the loader to make up the balance of the first annual payment for the grinder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a resolution authorizing the Finance Department to transfer

\$128,000 from account 7210-800-8000-8003 to account 6290-480-5222-5900, and to amend the budget to appropriate said funds for the lease/purchase of a horizontal grinder, with preventative maintenance, for an estimated annual cost of \$128,000, and a total estimated cost over five (5) years of \$640,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-195**

**A RESOLUTION CONSENTING TO THE AMENDMENT OF THE ENERGY  
AGREEMENT BETWEEN CONVANTA STANISLAUS, INC. AND PACIFIC  
GAS AND ELECTRIC COMPANY (PG&E)**

WHEREAS, the City of Modesto and the County of Stanislaus (the Contracting Communities) are joint partners in the Waste-to-Energy Facility with Covanta Stanislaus, Inc., and

WHEREAS, in the mid-1980's, the Contracting Communities entered into a long-term Service Agreement with Covanta Stanislaus, Inc. (then Ogden Martin Systems of Stanislaus) for the construction and operation of the facility, and

WHEREAS, the "Power Purchase Agreement For Long-Term Energy and Capacity Between Stanislaus Waste Energy Company (Covanta) and Pacific Gas and Electric Company" (Energy Agreement), a "Standard Offer #4 Agreement", is incorporated as Schedule 11 in the Service Agreement, and

WHEREAS, pursuant to Section 9.03 of the Service Agreement, no amendment to the Energy Agreement (Standard Offer # 4 Power Purchase Agreement) shall be made without the consent of the Contracting Communities, and

WHEREAS, such consent of the Contracting Communities shall not be unreasonably withheld, and

WHEREAS, in July, 2001, the Contracting Communities adopted resolutions consenting to the amendment of the Energy Agreement between Covanta and PG&E for a 5-year, fixed price term at \$0.0537 per kilowatt plus a capacity payment, and

WHEREAS, the term of the amended Agreement expires on July 15, 2006, and



WHEREAS, the Independent Energy Producers Association, to which the Contracting Communities belong, has negotiated the terms of a new amendment to the Energy Agreement on behalf of its members, which will have a new energy price of \$0.0645 per kilowatt, and

WHEREAS, starting on the day one year after commencement of the Fixed Price Period, the fixed energy price shall be escalated 1% and annually thereafter at each anniversary of the commencement of the Fixed Price Period, and

WHEREAS, PG&E will continue to pay the Capacity Payments, and

WHEREAS, the cumulative impact of the increase in the base energy payments will be an increase in energy revenues to the project of approximately \$1.3 million per year, and

WHEREAS, City and County staff have evaluated the potential benefits of consenting to the execution of a long-term, fixed-price contract, and have determined that such a contract would be beneficial to the ratepayers of the City and County in that the fixed prices will minimize risk and add stability to the finances of the project, and the additional revenues generated by the new contract would be set aside in the reserves for rate stabilization, capital projects, and for end-of-contract contingencies, and

WHEREAS, at its March 23, 2006 meeting, the Waste-to-Energy Executive Committee directed staff to bring a recommendation to the City Council and Board of Supervisors to adopt resolutions consenting to the amendment of the Energy Agreement Between Covanta Stanislaus, Inc. and Pacific Gas and Electric Company,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby consents to the amendment of the Energy Agreement between Covanta

Stanislaus, Inc. and Pacific Gas and Electric Company, under the terms negotiated by the Independent Energy Producers Association as described herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

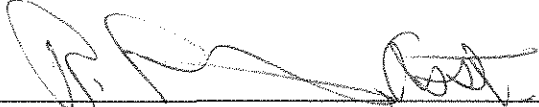
AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-196**

**A RESOLUTION THAT NO ACTION BE TAKEN AT THIS TIME TO CALL THE HOUSING MAINTENANCE PROGRAM LOAN TO MS. GENEVA TITTLE, SECURED BY REAL PROPERTY AT 417 YOSEMITE AVENUE, DUE AND PAYABLE, AND THAT THE STATUS OF THE LOAN BE REVIEWED ON OR BEFORE MARCH 10, 2011, ON CONDITION THAT STAFF MAY REVIEW THE LOAN STATUS AT ANYTIME BEFORE MARCH 10, 2011, AND RECOMMEND OPTIONS TO COUNCIL INCLUDING PURSUIT OF REMEDIES TO CALL THE LOAN OR ENFORCE LOAN PROVISIONS INCLUDING FORECLOSURE PROCEEDINGS**

WHEREAS, in March 1986, a deferred payment 20-year Housing Maintenance Program Loan at 3% interest was made to Ms. Geneva Tittle for rehabilitation of her home at 417 Yosemite Avenue, and

WHEREAS, this loan required owner occupancy, and

WHEREAS, since that time Ms. Geneva Tittle has passed away, and

WHEREAS, legal title to the property remains in Ms. Geneva Tittle's name, and

WHEREAS, Ms. Geneva Tittle's son, Mr. Charles Tittle, has resided in the home since Ms. Geneva Tittle's death and continues to reside in the home, and

WHEREAS, staff is recommending that no action be taken now to call the loan due and payable, and

WHEREAS, staff recommends that the status of the loan be reviewed on or before March 10, 2011, on the condition that staff may review the loan anytime before March 10, 2011, and recommend options to Council including the initiation of remedies to call the loan due and payable or enforce loan provisions, including foreclosure proceedings, and

WHEREAS, the Housing Rehabilitation Loan Committee met on March 2, 2006, and supported staff's recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that no action be taken at this time to call the loan made to Ms. Geneva Tittle secured by the residential property at 417 Yosemite Avenue.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the status of the loan be reviewed on or before March 10, 2011, on condition that staff may review the loan at anytime before March 10, 2011, and recommend options to Council including pursuit of remedies to call the loan due and payable or enforce loan provisions, including foreclosure proceedings.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-197**

**A RESOLUTION APPROVING A CODE ENFORCEMENT MEMORANDUM OF  
UNDERSTANDING (MOU) BETWEEN THE CITY OF MODESTO AND THE  
COUNTY OF STANISLAUS FOR THE WEED AND SEED AREA**

WHEREAS, on June 1, 2005, the City of Modesto (City) and County of Stanislaus (County) were officially, and jointly, designated as an official U.S. Department of Justice Weed and Seed area; the U.S. Department of Justice created the Weed and Seed Program in 1991 and started with three pilot sites, and

WHEREAS, due to the success in those three pilot sites, the number of designated sites has quickly risen to over 250 sites throughout the United States, and

WHEREAS, there are 19 sites in the State of California, including sites in Sacramento and Fresno, and

WHEREAS, the Executive Office of Weed and Seed (EOWS) currently oversees the grant management, technical assistance, training programs and resources to support designated Weed and Seed sites, and

WHEREAS, the City and County Weed and Seed designated area is from State Route 99 Southwest on H Street/Paradise Road to Carpenter Road; from Carpenter Road south to the Tuolumne River, the River east to State Route 99 and State Route 99 north to H Street, and

WHEREAS, the Weed and Seed strategy is a community based multi-agency approach to law enforcement, crime prevention and neighborhood restoration, with the "Weeding" aspect of the strategy consists of law enforcement and prosecutors' efforts to weed out criminals who participate in violent crime and illegal drug activity through

enforcement, prosecution, and adjudication and supervision efforts and the “Seeding” involving bringing in prevention, intervention, treatment and neighborhood revitalization services to the area, and

WHEREAS, the Steering Committee of residents within the designated Weed and Seed area, as well as County and City jurisdictions have been operating since a meeting held on February 28, 2003, and have approved the Steering Committee, the designated area and the Strategic Plan, and

WHEREAS, one of the important elements of the Weed and Seed strategy is code enforcement, and

WHEREAS, the purpose of this MOU is to facilitate cooperation between the County's “Code Enforcement Unit” and the City’s “Neighborhood Preservation Unit” and to enhance the quality of life for the residents within the Project Area pro-actively, rather than reactively, by enforcing the parties’ respective ordinances, cleaning blighted neighborhoods, and removing or boarding-up abandoned and dilapidated homes or structures, and

WHEREAS, the City and the County acknowledge that working together is the most efficient way to attain neighborhood restoration, with both the City and the County committed to the Weed and Seed area, and

WHEREAS, both agencies have started initial education and enforcement within the boundaries of the Weed and Seed area, and

WHEREAS, the MOU attached hereto and incorporated herein by reference will solidify each agency’s commitment to this project and outlines cooperative efforts between both agencies, and

WHEREAS, the Safety and Communities Committee met on March 6, 2006, and supported the establishment of the MOU,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a Code Enforcement Memorandum of Understanding (MOU) between the City of Modesto and the County of Stanislaus for the Weed and Seed area.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager to execute the MOU.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

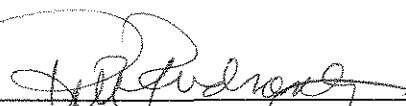
Attest:



JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:

  
RICHARD RUDNANSKY, Interim City Attorney

**MEMORANDUM OF UNDERSTANDING**

**STANISLAUS COUNTY  
DEPARTMENT OF ENVIRONMENTAL RESOURCES  
CODE ENFORCEMENT UNIT  
AND  
CITY OF MODESTO  
PARKS, RECREATION and NEIGHBORHOODS DEPARTMENT  
NEIGHBORHOOD PRESERVATION UNIT**

**WEED AND SEED PROJECT**

MODESTO AREA WEED AND SEED PROJECT

This Memorandum of Understanding (MOU) is made and entered into by and between the County of Stanislaus (the "County") and the City of Modesto (the "City") on \_\_\_\_\_, 2006.

INTRODUCTION

Weed and Seed is a neighborhood restoration project combining the resources of many agencies and local residents to create a grassroots movement to "weed" out crime and blight of the neighborhood and "seed in activities, programs and training that will keep the "weeds" out.

Weed and Seed is a 5-year, community-based, multi-agency approach to law enforcement, crime prevention, and neighborhood restoration. "Weeding" consists of law enforcement and prosecutorial efforts to weed out criminals who participate in violent crime and illegal drug activity through enforcement, adjudication, and prosecution and supervision efforts. "Seeding" brings prevention, intervention, treatment, and neighborhood revitalization services to the Project Area.

The Project Area is depicted in the map attached hereto as Exhibit "A" and consists of the area south of "H" Street and Paradise Road, east of Carpenter Road, north of the Tuolumne River, and west of State Route 99. Within the boundaries are Marshall Park, César Chávez Park, Tuolumne River Regional Park, Bellenita Park, Dryden Golf Course, Municipal Golf Course, Fire House #2; and the Southwest Police Department. The Project Area includes incorporated and unincorporated areas. (The "Project Area")



NOW, THEREFORE, the parties agree as follows:

## 1. PURPOSE

The City of Modesto Parks, Recreation and Neighborhoods Department's Neighborhood Preservation Unit (the "NPU") and the Stanislaus County's Code Enforcement Unit (the "CEU") are tasked with code enforcement for their respective entities. The purpose of this MOU is to facilitate cooperation between the parties' code enforcement units and to enhance the quality of life for the residents within the Project Area by pro-actively, rather than reactively, enforcing the parties' respective ordinances, cleaning blighted neighborhoods, and removing or boarding-up abandoned and dilapidated homes or structures. The City and the County acknowledge that working together is the most efficient way to attain neighborhood restoration.

## 2. OBLIGATION OF THE CITY

The NPU will supply at least one staff member to perform code enforcement in the incorporated areas of the City within the Project Area for a minimum of twelve hours per week.

## 3. OBLIGATION OF THE COUNTY

The CEU will supply at least one staff member to perform code enforcement in the unincorporated County areas within the Project Area for a minimum of twelve hours per week.

## 4. MUTUAL OBLIGATIONS

4.1 The CEU and NPU staff members will work together in the Project Area by visiting problem properties in the area together and will assist each other by, among other things, being a resource of information. The CEU and NPU staff members will jointly designate a time and a place for assembly each day enforcement activities are to take place in the Project Area.

4.2 The CEU and NPU staff members will meet at least once a month with law enforcement personnel assigned to the Project area to discuss problem properties.

4.3 Costs associated with staffing the Project Area under this MOU shall be the responsibility of the respective employer.

4.4 All costs associated with code enforcement shall be the responsibility of the party having jurisdiction where the violations have occurred.

5. TERMINATION

This MOU will terminate after five years from the date entered above. However, either party may terminate this MOU upon 30 days written notice to the other party.

6. INDEMNITY

Neither party, nor any of its officers or employees, shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by the other party under or in connection with any work delegated to that party under this MOU. The parties further agree, pursuant to Government Code section 895.4, that each party shall fully indemnify and hold harmless the other party and its agents, officers, employees and contractors from and against all claims, damages, losses, judgments, liabilities, expenses and other costs, including litigation costs and attorney fees, arising out of, resulting from, or in connection with any work delegated to or action taken or omitted to be taken by such party under this MOU.

In Witness Whereof, the parties hereto have executed this MOU on the date and year first written above.

CITY OF MODESTO:

\_\_\_\_\_  
Sonya Harrigfeld, Director  
Department of Environmental Resources  
Stanislaus County

by \_\_\_\_\_  
George W. Britton  
Modesto City Manager

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-198**

**A RESOLUTION APPROVING CHANGES TO THE COMMUNITY  
DEVELOPMENT BLOCK GRANT (CDBG) POLICY AND PROCEDURES  
MANUAL FOR THE HOUSING MAINTENANCE PROGRAM (HMP)**

WHEREAS, the Housing Maintenance Program was established by City Council in 1976 to ensure that an entire selected area, known as a Target Area, would be brought to compliance with the Modesto Housing Code, and

WHEREAS, a Target Area is a geographic area, located in a low-income census tract that is in need of substantial revitalization to preserve the existing housing stock, and

WHEREAS, any Target Area recommended by City staff must meet specific requirements defined by California Health and Safety Code sections 33030 and 33320.1, and

WHEREAS, the Target Area was approved by the City Council on January 18, 1994, Resolution No. 94-42, and

WHEREAS, the philosophy of a Target Area is that, through revitalization and on-going maintenance, not only will existing housing stock be preserved, but also an entire neighborhood will become safer and more attractive, and

WHEREAS, the CDBG Policy and Procedures Manual was last revised and approved by City Council Resolution No. 99-148 on April 13, 1999, and

WHEREAS, in December 2005, the San Francisco Office of the Department of Housing and Urban Development (HUD) recommended the City of Modesto update its

current guidelines to affirm the intent of service and assistance to Modesto's low- and moderate-income community, and

WHEREAS, HUD eligibility requires that every CDBG-funded activity must meet one of three national objectives:

1) Provide a benefit to low- and moderate-income persons;

2) Prevent or eliminate slum or blight; and 3) Meet an urgent community development need that threatens the health or welfare of the community, and

WHEREAS, currently, the Housing Maintenance Program Target Area program falls under HUD's first objective, which is to benefit low- and moderate-income persons, that is households with incomes less than 80% of MAI, and

WHEREAS, recommended changes for the Housing Maintenance Program are:

1. Limit funding of Housing Maintenance Program Loans to households with income less than 80% of MAI, and

2. Provide one-time maximum recommended loans in the amount of \$7,500 per household for incomes between 80% and 120% MAI to correct Notice and Order violations only in the existing Highway Village mandatory Target Area, and

WHEREAS, this information was presented to the Housing Rehabilitation and Loan Committee (HRLC) on February 2, 2006, and the Citizens Housing and Community Development Committee (CH&CDC) on February 24, 2006, and

WHEREAS, both the HRLC and the CH&CDC recommended these changes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the following changes to the Community Development

Block Grant (CDBG) Policy and Procedures Manual for the Housing Maintenance Program (HMP):

1. Limit funding of Housing Maintenance Program Loans to households with income less than 80% of MAI, and
2. Provide one-time maximum recommended loans in the amount of \$7,500 per household for incomes between 80% and 120% MAI to correct Notice and Order violations only in the existing Highway Village mandatory Target Area.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-199**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005/2006 CAPITAL IMPROVEMENT PROGRAM TO 1) TRANSFER \$30,000 FROM 2300-310-M182-6060, MADDUX YOUTH CENTER, CONSTRUCTION ADMINISTRATION, TO 2300-310-M182-6070, EQUIPMENT; 2) TRANSFER \$3,217 FROM 2300-310-M182-6040, MADDUX YOUTH CENTER, CONSTRUCTION, TO 2300-310-M182-6070, EQUIPMENT; AND 3) RE-ALLOCATE \$70,000 IN ROBERTI-Z'BERG-HARRIS BLOCK GRANT FUNDING FROM THE STATE OF CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS AND COASTAL PROTECTION BOARD ACT OF 2002 (PROPOSITION 40) IN PROJECT 2330-310-P500-6040, KING-KENNEDY KITCHEN AND AUDITORIUM CONSTRUCTION TO 2300-310-M182-6070, MADDUX YOUTH CENTER EQUIPMENT**

WHEREAS, the Parks, Recreation & Neighborhoods Department, Parks Planning & Development Division, has requested amending the Fiscal Year 2005/2006 Capital Improvement Program to purchase necessary furnishings, i.e., fitness equipment, office and lounge furniture and member card scanner, to appropriately furnish the newly remodeled Maddux Youth Center for the building opening in spring 2006, and

WHEREAS, the appropriation transfer request is as follows:

- Transfer \$30,000 from 2300-310-M182-6060, Maddux Youth Center, Construction Administration, to 2300-310-M182-6070, Equipment; and
- Transfer \$3,217 from 2300-310-M182-6040, Maddux Youth Center, Construction, to 2300-310-M182-6070, Equipment; and
- Re-allocate \$70,000 in Roberti-Z'Berg-Harris Block Grant funding from the State of California Clean Water, Clean Air, Safe Neighborhood Parks and Central Protection Bond Act of 2002 (Proposition 40) in project 2330-310-P500-6040, King-Kennedy Kitchen and Auditorium

Construction to 2300-310-M182-6070, Maddux Youth Center

Equipment, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a transfer of \$30,000 from 2300-310-M182-6060, Maddux Youth Center, Construction Administration, to 2300-310-M182-6070, Equipment; a transfer of \$3,217 from 2300-310-M182-6040, Maddux Youth Center, Construction, to 2300-310-M182-6070, Equipment; and a reallocation of \$70,000 in Roberti-Z' Berg-Harris Block Grant funding from the State of California Clean Water, Clean Air, Safe Neighborhood Parks and Central Protection Bond Act of 2002 (Proposition 40) in project 2330-310-P500-6040, King-Kennedy Kitchen and Auditorium Construction to 2300-310-M182-6070, Maddux Youth Center Equipment,

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-200**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO  
SOLICIT AND AWARD INFORMAL REQUEST FOR BIDS (RFB) FOR THE  
PURCHASE OF FURNISHINGS, FIXTURES AND EQUIPMENT (DEFINED IN  
SIX (6) GROUPS) FOR THE MADDUX YOUTH CENTER, AT AN ESTIMATED  
TOTAL COST OF \$87,806**

WHEREAS, the Maddux Youth Center was built in 1952 and is located in the existing Cesar Chavez Park; the old center housed a gym, a weight room, and offices for staff, and

WHEREAS, on March 8, 2005, City Council approved Resolution No. 2005-123 authorizing the renovation, expansion and remodel of the youth center to meet the needs of the neighborhood and the community's youth; as such a 2,500-square-foot addition on the south side of the building will be utilized for a computer lab, as well as additional restrooms, and a multi-purpose room, and

WHEREAS, a 3,500-square-foot addition to the northeast side of the building would accommodate the activities of the Police Activities League (PAL) Youth Boxing Program; renovation to the existing 9,451-square-foot structure includes a new roof with skylights, a new air handling system, replacement of interior and exterior doors, enclosure of existing windows, abatement of the asbestos in the flooring, and installation of new flooring in the facility, excluding the gym, and

WHEREAS, on January 10, 2006, Council approved Resolution No. 2006-027, authorizing the use of funds for necessary furnishings and equipment for the Maddux Youth Center; however, there was no language in the Resolution authorizing the Purchasing Manager to solicit bids for the furnishings and equipment, and



WHEREAS, currently, the Maddux Youth Center is under the last phase of construction and slated to be opened in early summer 2006; City staff has prepared specifications for the necessary furnishings, i.e., fitness equipment, office and lounge furniture and membership card scanner, to appropriately furnish the building for the opening, and

WHEREAS, the Modesto Municipal Code, MMC 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 (8-3.204 (d)), allows for the Purchasing Manager, in his/her discretion, to use a process other than the formal bid procedure to procure items for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, based on the nature of this request, the Purchasing Manager evoked that exception for this purchase; the solicitation of informal competitive bids for the purchase of furnishing, fixtures and equipment for the Maddux Youth Center will conform to MMC Section 8-3.203 and demonstrate that a competitive process was met,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes the Purchasing Manager to solicit informal competitive bids for the purchase of furnishings, fixtures and equipment for the Maddux Youth Center, evaluate bid responses for the best overall value to the City, and issue purchase orders to the selected vendors, at an estimated total cost of \$87,806.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-201**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005-06 CAPITAL  
IMPROVEMENT PROGRAM TO ESTABLISH A CIP PROJECT, COMPOST  
MAINTENANCE BUILDING, AND TRANSFERRING \$35,000 FROM THE  
COMPOST FUND RESERVE, 6290-800-8000-8003 TO THE NEW PROJECT TO  
COMPLETE THE COMPOST MAINTENANCE BUILDING**

WHEREAS, in FY 2005-2006, engineered foundations and a concrete slab were poured and a 50 by 60 foot metal building was erected at the City's Compost Facility on Jennings Road, and

WHEREAS, the purpose of this building was to be able to perform daily maintenance on the heavy equipment and trucks used in composting operations, and

WHEREAS, previously, staff at the site was maintaining this expensive equipment outside on a paved area of the Compost site, which created traffic and weather related safety hazards and also subjected employees to unacceptable working conditions, as they had no shelter from wet weather during the winter or heat during the summer, while they were working on the equipment, and

WHEREAS, this maintenance building was purchased and constructed over a period of two years, and should have been included in the CIP, and

WHEREAS, the total cost of the metal building and the foundation and slab exceeded the \$50,000 limit for public works projects and should have been put out to formal competitive bid, with the successful bid awarded by the City Council, and

WHEREAS, informal bids were solicited for the metal building and the foundation/slab, bids for each component were solicited separately, and did not receive Council approval, and

WHEREAS, this project became the subject of an internal audit report, which found that the construction of the building did not comply with the City Charter and Municipal Code with regard to obtaining bids for public works projects, and

WHEREAS, work on the building was halted until the work needed to complete the maintenance building was in compliance with the Charter and Municipal Code, and

WHEREAS, the remaining work on the exterior of the maintenance building is the installation of heavy-duty, motorized roll-up doors to secure the building and provide a weather-tight work area, and

WHEREAS, preliminary estimates for these doors and the motors indicate that completion of this work will be approximately \$20,000, and

WHEREAS, in addition, the interior of the building needs to be completed, including the installation of storage cabinets, workbenches, and shelving, and the purchase of a welder and various tools for working on the equipment, and

WHEREAS, preliminary estimates for the completion of the interior indicate that this work will cost approximately \$15,000, and

WHEREAS, staff is therefore requesting that the City Council approve amending the Fiscal Year 2005-06 Capital Improvement Program to establish a CIP project, Compost Maintenance Building, and transferring \$35,000 from the Compost Fund Reserve, 6290-800-8000-8003 to the new project to complete the Compost Maintenance Building, and

WHEREAS, following Council approval, bids will be obtained for the remaining work, and

WHEREAS, the Economic Development Committee met on March 13, 2006, and supported the recommendation to amend the Fiscal Year 2005-06 Capital Improvement Program to establish a CIP project, Compost Maintenance Building, and transferring \$35,000 from the Compost Fund Reserve, 6290-800-8000-8003 to the new project to complete the Compost Maintenance Building,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2005-06 Capital Improvement Program to establish a CIP project, Compost Maintenance Building, and transferring \$35,000 from the Compost Fund Reserve, 6290-800-8000-8003 to the new project to complete the Compost Maintenance Building.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:


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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-202**

**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 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

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

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

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

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

Compost Facility Supervisor

The job specification for this classification is being created to serve as a first level supervisor to the compost facility. The job specification for the classification of Compost Facility Supervisor, 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 4, 2006.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 4th day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



## COMPOST FACILITY SUPERVISOR

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 assign and supervise the work of crews engaged in compost site operations, maintenance, repair and/or construction work; and to provide staff assistance to higher-level management staff.

### SUPERVISION RECEIVED AND EXERCISED

Receives direction from higher level supervisory and management staff.

Exercises direct supervision over compost facility staff.

May provide supervision to technical support staff.

### ESSENTIAL AND MARGINAL FUNCTION STATEMENTS

Essential and other important responsibilities may include, but are not limited to, the following:

#### Essential Functions:

Plan, prioritize, assign, supervise, and review the work of staff involved in the operations, maintenance, repair and construction of City compost facility activities, infrastructure, equipment, grounds, and land.

Assist in estimating and scheduling work to be done and in determining type and quantities needed for such work.

Assist in project management.

Develop and maintain preventative maintenance, asset and equipment inventory programs.

Supervise the use of special equipment involved in composting.

Maintain accurate and up-to-date records and conduct monitoring and testing programs as required by state and federal laws and regulations.

## Exhibit "A"

Essential Functions: (Continued)

Coach and evaluate subordinate staff on work performance.

Evaluate composting operations and activities, recommend improvements and modifications; prepare various reports on operations, maintenance, and activities.

Assist in developing and administering work unit and/or Division budget.

Participate in the selection of staff; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures.

Answer questions and provide information to the public; investigate complaints and recommend corrective action as necessary to resolve complaints.

Coordinate work unit safety program including ensuring that training is provided as appropriate.

Provide training for staff in the full range of compost facility operations, maintenance, repair, and construction.

Oversee operation of a full range of heavy and light equipment as needed such as grinders, screens, windrow turners, backhoes, loaders, dump trucks, and various trucks.

Provide technical advice and assistance to subordinate staff.

Maintain time, material, and equipment use records.

Requisition supplies and materials.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Materials, methods, practices, equipment and elements of compost facility operations.

Types and level of operations, maintenance and repair activities generally performed in a compost operation.

Exhibit "A"

Knowledge of: (Continued)

Principles of supervision, training, and performance evaluation.

Safe work practices.

Pertinent sections of health & safety, labor codes, and state and federal laws and regulations pertaining to compost facility operations.

Word processing and spreadsheet applications, and Internet usage necessary for job performance.

Report writing.

Cost accounting.

Ability to:

Plan, estimate, direct, coordinate, schedule and review the work of others.

Operate and maintain equipment and tools used in the field.

Identify and implement effective courses of action to complete assigned work.

Keep records and make reports.

Supervise, train and evaluate assigned staff.

Communicate clearly and concisely, both orally and in writing.

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

Coordinate work assignments with other divisions, departments, agencies and volunteer groups.

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:

Exhibit "A"

Experience:

Five years of increasingly responsible experience performing compost facility operations, construction, repair and maintenance work, including two years of supervisory or four years of lead or journey responsibility.

Training:

Equivalent to completion of the twelfth grade.

License or Certificate:

Possession of a valid Class A or Class B Commercial California Driver's License with specific endorsements, as assigned, is required within 45 days of appointment. Failure to obtain the required license may result in release from probation or termination.

When assigned, possession of a valid crane operators certificate, issued by the National Commission of Crane Operators is required within six months of assignment.

WORKING CONDITIONS

Environmental Conditions:

Field environment, hot and cold temperatures, and inclement weather; exposure to noise, dust, grease, smoke, fumes, gasses and potentially hazardous chemicals; work with wastewater bio-solids.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for walking or standing for prolonged periods of time, and operating vehicles.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-203**

**A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION  
NO. 2005-494 TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED  
MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO ADD  
COMPOST FACILITY SUPERVISOR AT SALARY RANGE 432**

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2005-494, which approved the Class Range Table for Represented Management and Non-Sworn Classes,

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2005-494 Exhibit "A" entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective October 4, 2005", attached to Resolution No. 2005-494, 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 4, 2006", which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" adds the classification of Compost Facility Supervisor at Salary Range 432 (\$4,612 - \$5,620 per month).

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after April 4, 2006.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, City Attorney

CITY OF MODESTO  
CLASS RANGE TABLE  
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES  
Effective April 4, 2006

---

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	Senior Administrative Office Assistant (Confidential) Secretary
416	
417	
418	Legal Secretary Systems Technician I
419	Public Information Technician (Confidential)
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (Represented) Legal Services Technician
421	

---

RANGE	TITLE
422	Office Supervisor Utility Dispatch Supervisor Workers' Compensation Claims Examiner I Systems Technician II
423	Custodian Supervisor
424	Assistant Planner Buyer Police Facilities Coordinator
425	Administrative Analyst I
426	Supervising Animal Control Officer Police Civilian Supervisor Stores Manager Systems Technician III
427	Assistant City Clerk/Auditor Legal Services Administrator Workers' Compensation Claims Examiner II
428	Accountant II (Represented) Senior Buyer
429	
430	Associate Planner Community Services Supervisor Events Coordinator Junior Civil Engineer Junior Traffic Engineer 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  
      Neighborhood Preservation Supervisor  
      Operations and Maintenance Supervisor  
      Recreation Supervisor II  
      Senior Accountant  
      Water Quality Control Maintenance Supervisor  
      Water Quality Control Operations Supervisor
  
- 433    Organizational Development Specialist
  
- 434    Assistant Civil Engineer  
      Assistant Traffic Engineer  
      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  
      Senior Personnel Analyst  
      Weed and Seed Program Coordinator
  
- 436    Electrical Supervisor  
      Senior Planner
  
- 437

RANGE      TITLE

---

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

RANGE      TITLE

---

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

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2006-204**

**A RESOLUTION ACCEPTING A MINI-GRANT IN THE AMOUNT OF \$64,996  
FROM THE CALIFORNIA OFFICE OF TRAFFIC SAFETY FOR THE  
CALIFORNIA SEAT BELT COMPLIANCE CAMPAIGN MINI-GRANT, CLICK  
IT OR TICKET, FOR OVERTIME SEAT BELT ENFORCEMENT, AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE  
THE NECESSARY DOCUMENTS**

WHEREAS, the Modesto Police Department submitted an application in the amount of \$64,996 from the California Office of Traffic and Safety for a California Seat Belt Compliance Campaign Mini-Grant, Click It or Ticket, and

WHEREAS, the program is for a 3-week period and allows for overtime seat belt enforcement, and

WHEREAS, the Police Department, in a combined effort with the California Highway Patrol, and California Office of Traffic Safety's strategy is to focus public information and enforcement on persons who fail to use seat belts during the May 2006 Buckle Up America/Operation, 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 project will be \$64,996 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 mini-grant in the amount of \$64,996 from the California Office of Traffic and Safety a California Seat Belt Compliance Campaign Mini-Grant, Click It or Ticket for overtime seat belt enforcement.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2006-205**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005/06 BUDGET TO  
APPROPRIATE \$64,996 FOR REVENUE AND EXPENSE FROM THE  
CALIFORNIA OFFICE OF TRAFFIC SAFETY FOR THE CALIFORNIA SEAT  
BELT COMPLIANCE CAMPAIGN MINI-GRANT, CLICK IT OR TICKET, FOR  
OVERTIME SEAT BELT ENFORCEMENT**

WHEREAS, the City of Modesto Police Department was awarded funding in the sum of \$64,996 from the California Office of Traffic Safety for the California Seat Belt Compliance Campaign Mini-grant, Click It or Ticket, and

WHEREAS, the federal award funds were made available for overtime seat belt enforcement, and

WHEREAS, the Police Department wishes to enforce seat belt compliance, and

WHEREAS, the total grant project will be \$64,996, with no local match required of the City, and

WHEREAS, the Council of the City of Modesto authorized the City Manager, or his designee, to accept the California Seat Belt Compliance Campaign, Click It or Ticket, mini-grant funding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that the 2005/06 Operating Budget is hereby amended as follows:

Appropriate:

To:	0410-190-2904-0130	\$64,996	Overtime
-----	--------------------	----------	----------

Revenue:

To:	0410-190-2904-3490	\$64,996	Click It or Ticket Mini-Grant
-----	--------------------	----------	-------------------------------

BE IT FURTHER RESOLVED that the Finance Director, or her 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 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-206**

**A RESOLUTION APPROVING SENIOR POLICE MANAGEMENT  
(LIEUTENANTS AND ABOVE) TO ATTEND HOMELAND SECURITY  
MASTER OF ARTS DEGREE PROGRAM ON CITY OF MODESTO TIME**

WHEREAS, The Naval Postgraduate School (NPS) is offering a Master of Arts Degree in Homeland Security, and

WHEREAS, the Homeland Security graduate program is sponsored by the Department of Homeland Security (DHS) Office for Domestic Preparedness (ODP), and

WHEREAS, this fully accredited program provides leaders with the knowledge and skills to develop strategies, plans and programs to prevent terrorist attacks within the United States and reduce America's vulnerability to terrorism, and

WHEREAS, the degree program requires 18 months of continuous enrollment and coursework and a thesis, and

WHEREAS, each quarter requires only two weeks in residence at the NPS campus, located in Monterey, California and the remainder of the coursework is completed via distance learning, and

WHEREAS, the Modesto Police Department feels the experience and training gained in this program would benefit the City of Modesto and the Police Department in our Homeland Security capabilities, and

WHEREAS, the Police Department will send senior police management (Lieutenants and above) to attend this course on City of Modesto time, and

WHEREAS, DHS/ODP will pay all tuition, books, travel and lodging during each two week in residence session at NPS, and

WHEREAS, there is no fiscal impact to the City of Modesto, and



WHEREAS, all applicants accepted into the program must serve in a Homeland Security capacity for at least two years following graduation (this may be the applicant's current position, or one accepted after participating in the program, so long as it is related to Homeland Security), and

WHEREAS, the Safety and Communities Committee unanimously supported this action at its meeting of March 6, 2006,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves senior police management employees (Lieutenants and above) to attend Homeland Security Master of Arts Degree Program on City of Modesto time.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary documents 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 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-207**

**A RESOLUTION APPROVING AN AGREEMENT WITH STANISLAUS  
COUNTY OFFICE OF EDUCATION IN THE AMOUNT OF \$25,000 TO  
PROVIDE A JUNIOR CADET PROGRAM AT CAPISTRANO ELEMENTARY  
SCHOOL, MUNCY ELEMENTARY SCHOOL AND C.F. BROWN  
ELEMENTARY SCHOOL, AND AUTHORIZING THE CITY MANAGER, OR  
HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, Stanislaus County Office of Education, in partnership with the Modesto Police Department, would like to provide a Junior Cadet Program to 5<sup>th</sup> and 6<sup>th</sup> graders at Capistrano Elementary School, Muncy Elementary School and C.F. Brown Elementary School, and

WHEREAS, the Modesto Police Department has developed a Junior Cadet Program to educate our youth about law enforcement and the possibilities and responsibilities associated with a law enforcement career, and

WHEREAS, the City shall be compensated \$25,000 for the services of Modesto Police Officers to provide the Junior Cadet Program, and

WHEREAS, there is no fiscal impact to the City of Modesto, and

WHEREAS, the term of this agreement is February 28, 2006 to December 31, 2006, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Stanislaus County Office of Education in the amount of \$25,000 to provide a Junior Cadet Program to Capistrano Elementary School, Muncy Elementary School, and C.F. Brown Elementary School.

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 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-208**

**A RESOLUTION AMENDING THE 2005/2006 OPERATING BUDGET TO  
RECOGNIZE REVENUE AND APPROPRIATE FUNDS FOR OVERTIME  
POLICE OFFICERS AND PROGRAM COSTS**

WHEREAS, Stanislaus County Office of Education, in partnership with the Modesto Police Department, would like to provide a Junior Cadet Program to 5<sup>th</sup> and 6<sup>th</sup> graders at Capistrano Elementary School, Muncy Elementary School and C.F. Brown Elementary School, and

WHEREAS, the Modesto Police Department has developed a Junior Cadet Program to educate our youth about law enforcement and the possibilities and responsibilities associated with a law enforcement career, and

WHEREAS, the City shall be compensated \$25,000 for the services of Junior Cadet Program Officers, and

WHEREAS, there is no fiscal impact to the City of Modesto, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2005/2006 Operating Budget is hereby amended as follows:

Appropriate:

To:	0100-190-1941-0130	\$25,000	Officers' Overtime Hour Cost
-----	--------------------	----------	------------------------------

Revenue:

To:	0100-190-1941-3733	\$25,000	School Contribution/Junior Cadet 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 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-209**

**A RESOLUTION APPROVING AN AGREEMENT WITH STANISLAUS COUNTY OFFICE OF EDUCATION IN THE AMOUNT OF \$13,750 FOR THE PROVISION OF CLERICAL, SALARIES AND ASSOCIATED COSTS BEYOND WHAT THE CURRENT CONTRACT INCLUDES FOR THE GANG AWARENESS AND PREVENTION PROGRAM (GAPP) / WAKE-UP PROGRAM AT CHRYSLER ELEMENTARY SCHOOL, PRESCOTT JUNIOR HIGH SCHOOL AND SCHOOLS WITHIN STANISLAUS COUNTY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, Stanislaus County Office of Education has entered into an agreement with the City of Modesto which allows Modesto Police Officers to provide, supervise and facilitate the Gang Awareness and Prevention Program (GAPP)/WAKE-UP Program, at Chrysler Elementary, Prescott Junior High School and schools within Stanislaus County, and

WHEREAS, the Modesto Police Department has developed a juvenile education, prevention and intervention program called "GAPP" to work with juveniles developing or exhibiting behaviors associated with gang or violence/hate, and

WHEREAS, juveniles developing or exhibiting incorrigible behavior can be referred to the WAKE-UP Program, and

WHEREAS, the Modesto Police Department can provide specially trained, uniformed police officers to provide prevention and intervention programs, and

WHEREAS, the officers' presence with the students provides mentoring and protection of youth in our community, and

WHEREAS, clerical support is needed to assist with this program, and wasn't included in the original agreement, and

WHEREAS, the term of this agreement is January 1, 2006, to June 30, 2006, and

WHEREAS, the City shall be compensated \$13,750 for the services of clerical, salaries, and associated costs beyond what the current contract specifies, 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 agreement with Stanislaus County Office of Education in the amount of \$13,750 for the provision of clerical, salaries and associated costs beyond what the current contract includes for Police Department staff involved with the GAPP and WAKE-UP programs.

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 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-210**

**A RESOLUTION AMENDING THE 2005/2006 OPERATING BUDGET TO  
RECOGNIZE REVENUE AND APPROPRIATE FUNDS FOR THE GANG  
AWARENESS AND PREVENTION PROGRAM (GAPP) WAKE-UP PROGRAM**

WHEREAS, Stanislaus County Office of Education has entered into an agreement with the City of Modesto which allows Modesto Police Officers to provide, supervise and facilitate the Gang Awareness and Prevention Program (GAPP)/WAKE-UP Program at Chrysler Elementary School, Prescott Junior High School and schools within within Stanislaus County, and

WHEREAS, the Modesto Police Department has developed a juvenile education, prevention and intervention program called "GAPP" to work with juveniles developing or exhibiting behaviors associated with gang or violence/hate, and

WHEREAS, juveniles developing or exhibiting incorrigible behavior can be referred to the WAKE-UP Program, and

WHEREAS, the Modesto Police Department can provide specially trained, uniformed police officers to provide prevention and intervention programs, and

WHEREAS, the officers' presence with the students provides mentoring and protection of youth in our community, and

WHEREAS, the term of this agreement is January 1, 2006, to June 30, 2006, and

WHEREAS, the City shall be compensated \$13,750 for the services of clerical, salaries and associated costs beyond what the current contract includes for the Gang Awareness Prevention Program (GAPP) / WAKE-UP Program, and

WHEREAS, there is no fiscal impact to the City of Modesto,



NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2005/2006 Operating Budget is hereby amended as follows:

Appropriate:

To: 0100-190-1921-0130 \$13,750 Officers' Overtime Hours Cost

Revenue:

From: 0100-190-1921-3730 \$13,750 School District Contribution

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 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-211**

**A RESOLUTION AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE,  
TO APPLY TO THE STANISLAUS COUNCIL OF GOVERNMENTS FOR  
FEDERAL CONGESTION MITIGATION AND AIR QUALITY (CMAQ) FUNDS  
FOR VARIOUS PROJECTS RELATING TO THE REDUCTION OF AIR  
POLLUTION AND AUTHORIZING THE CITY MANAGER, OR HIS  
DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS TO OBTAIN  
SAID FUNDING**

WHEREAS, on February 8, 2006, the Stanislaus Council of Governments (StanCOG) Policy Board approved guidelines to allocate Congestion Mitigation and Air Quality (CMAQ) program funds to eligible proposers for the Federal Fiscal Year 2007/08 and 2008/09, and

WHEREAS, on February 13, 2006, StanCOG staff distributed a call for CMAQ project nominations to local jurisdictions, further stipulating that \$13,097,360 of CMAQ funding was available for distribution among local agencies County-wide, and

WHEREAS, pursuant to StanCOG guidelines for distribution to local governments in Stanislaus County, including an estimate of funds available to each, the City of Modesto anticipates \$2,587,345 in funds for eligible projects of its own choosing, and can also compete for as much as \$6.28 million available for projects that do the most to reduce air pollution in the county, and

WHEREAS, City staff has identified 16 projects for funding which will contribute to the attainment of national ambient air quality standards, and

WHEREAS, the Economic Development Committee reviewed said projects generally at its meeting on March 13, 2006, and recommended approval of the projects for CMAQ funding, and

WHEREAS, CMAQ grants require an 11.47% local match of funds, and

WHEREAS, the match required for many of the projects may be funded out of Local Gas Tax Funds, Local Transportation Funds, or Transit Fare Box Revenues, and

WHEREAS, applications for each project are required to be submitted to the Stanislaus Council of Governments by April 10, 2006, and

WHEREAS, the Stanislaus Council of Governments will make a recommendation to the StanCOG Policy Board for project funding,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager, or his designee, to apply to the Stanislaus Council of Governments for Federal Congestion Mitigation and Air Quality (CMAQ) funds to be used for various projects set forth in the attached Exhibit "A", recommended by City staff which will reduce air pollution.


BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all applications and documents necessary to obtain said funding.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

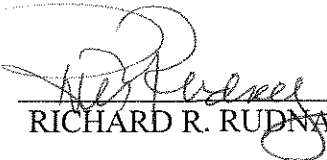
AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest:   
JEAN MORRIS, City Clerk

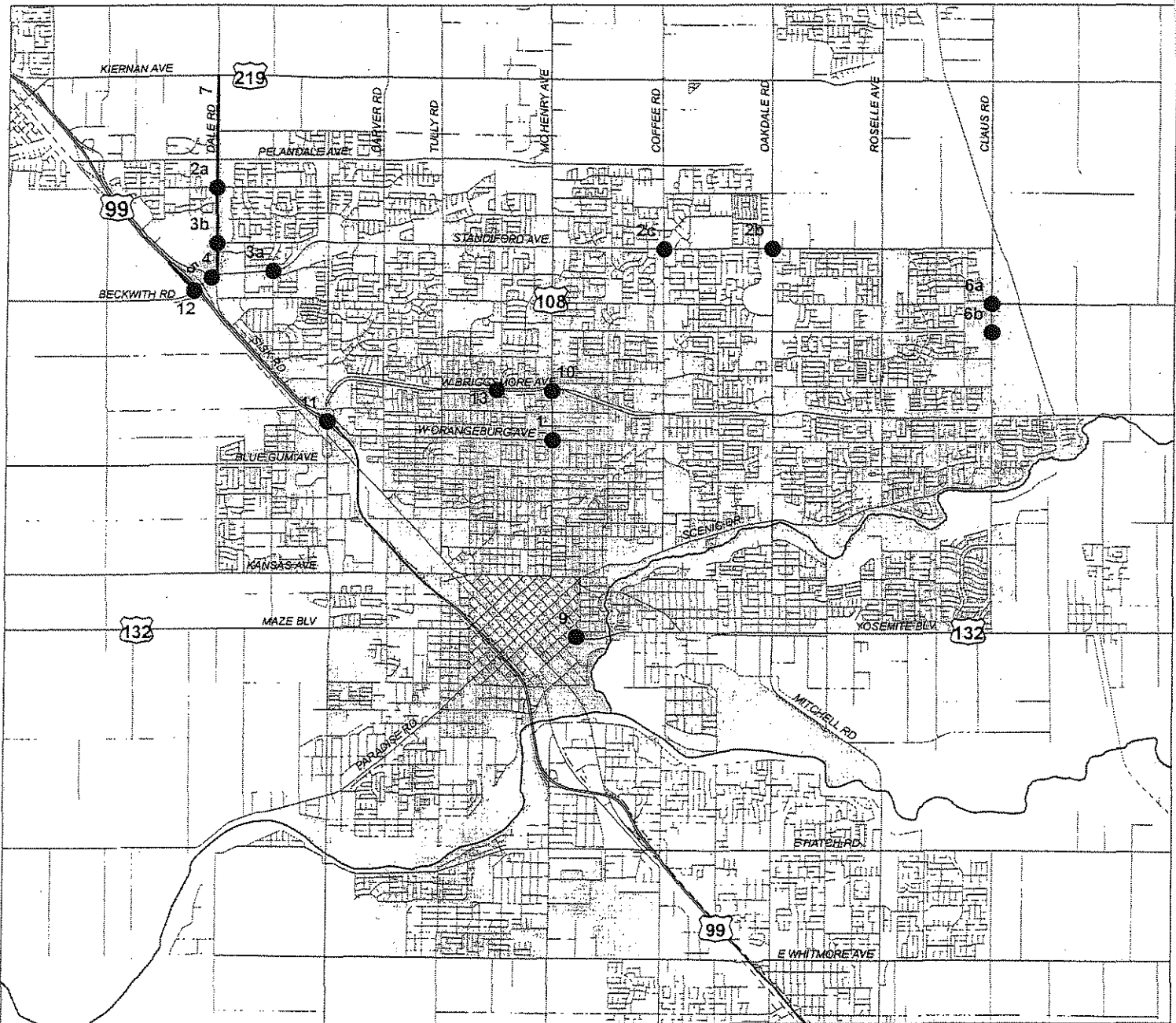
APPROVED AS TO FORM:

By:   
RICHARD R. RUDNANSKY, Interim City Attorney

Proposed 2007/08 & 2008/09 CMAQ Projects

<u>Priority</u>	<u>Funding Category</u>	<u>General Improvements</u>	<u>Total Cost</u>	<u>CMAQ</u>	<u>City Match</u>
		Right-turn Lane - N/B McHenry to Orangeburg	\$550,000	\$486,915	\$63,085
		Right-turn Lanes - Dale to Snyder, Oakdale/Sylvan, & Sylvan/Coffee, Sylvan/Boyce	\$975,000	\$863,168	\$111,833
		Intersection Improvements - Standiford/ Conant Dale/Veneman	\$820,000	\$725,946	\$94,054
		Right-turn Lane EB Standiford to Sisk	\$1,170,000	\$1,035,801	\$134,199
		Standiford/SR99 SB Off-ramp add Second LTL	\$550,000	\$486,915	\$63,085
		<b><u>Signals</u></b>			
		New Signals-2008 Claus/Milnes, Claus /Floyd,	\$450,000	\$398,385	\$51,615
		Upgrade Signals 2008 Upgrade to coded preemption equipment	\$450,000	\$398,385	\$51,615
		<b><u>ATMS</u></b>			
		Dale Rd CCTV Cameras Standiford to Kieman & Upgrade Existing CCTV Cameras/Equipment	\$350,000	\$309,855	\$40,145
		<b><u>Roundabouts</u></b>			
		Collector Roundabouts	\$500,000	\$442,650	\$57,350
		Yosemite/D Street Roundabout	\$1,500,000	\$1,327,950	\$172,050
		<b><u>Feasibility Studies</u></b>			
		McHenry/Briggsmore Interchange	\$110,000	\$97,383	\$12,617
		Carpenter/Briggsmore Interchange	\$150,000	\$132,795	\$17,205
		Standiford/Beckwith Interchange	\$100,000	\$88,530	\$11,470
		<b><u>Pedestrian/Bicycle Facilities</u></b>			
		Bike Overpass - Briggsmore Avenue @ Virginia Corridor	\$500,000	\$442,650	\$57,350
		<b><u>Transit</u></b>			
		Employee Rideshare	\$130,000	\$115,089	\$14,911
		Purchase Buses	\$1,320,000	\$1,168,596	\$151,404
		<b>Total Project Costs</b>	<b>\$9,625,000</b>	<b>\$8,521,013</b>	<b>\$1,103,988</b>

# Proposed 2007-08 & 2008-09



## Proposed 2007/2008 & 2008/2009 CMAQ Projects

**General Improvements**

1. Right-Turn Lane - N/B Mc Henry to Orangeburg
2. Right-Turn Lanes
  - a. Dale to Snyder
  - b. Oakdale/Sylvan
  - c. Sylvan/Coffee
3. Intersection Improvements
  - a. Standiford/Conant
  - b. Dale/Veneman
4. Right-Turn Lane EB - Standiford to Sisk
5. Realign Standiford/Beckwith off-ramp

**Signals**

6. New Signals - 2008
  - a. Claus/Milnes
  - b. Claus/Floyd

**ATMS**

7. Dale Rd CCTV Cameras - Standiford to Kiernan & Upgrade Existing CCTV Cameras/Equipment

**Roundabouts**

8. Collector Roundabout (Not Shown)
9. Yosemite/D St Roundabout

**Feasibility Studies**

10. Mc Henry/Briggsmore Interchange
11. Carpenter/Briggsmore Interchange
11. Standiford/Beckwith Interchange
- Pedestrian/Bicycle Facilities
- 13 Bike Overpass - Briggsmore @ Virginia Corridor



March 16, 2006

# City of Modesto CMAQ Projects



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-212**

**A RESOLUTION APPROVING AN AGREEMENT WITH ALTERNATE STREET DESIGN, IN AN AMOUNT NOT TO EXCEED \$2,800, TO PERFORM DESIGN SERVICES FOR THE CLARATINA AND LITT ROUNDABOUT, AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, staff is currently in design of the Claratina Avenue Plan Line from McHenry Avenue to the Burlington Northern Santa Fe Railroad tracks, and

WHEREAS, the Plan Line will indicate where future right-of-way will be reserved for the extension of Claratina Avenue, and

WHEREAS, when the Plan Line is nearing completion Council will be asked to review and approve the alignment, and

WHEREAS, during Plan Line design, staff determined that a preliminary layout for a roundabout should be prepared at the Claratina Avenue and Litt Road intersection, and

WHEREAS, a proposal was solicited to design the preliminary layout for the roundabout and Alternate Street Design submitted a proposal in an amount not to exceed \$2,800.00, to prepare the preliminary layout of the proposed roundabout, and

WHEREAS, Capital Improvement Services (CIS) staff recommends the consulting firm of Alternate Street Design be awarded a contract to perform the design services as current workload and experience levels do not provide for timely in-house solutions/responses, and

WHEREAS, the Florida firm of Alternate Street Design is deemed the most qualified to provide the requested design services, has excellent knowledge of roundabout design and has demonstrated satisfactory services to the City on past projects, and

WHEREAS, City desires to enter into an Agreement with Alternate Street Design, for a contract in an amount not to exceed \$2,800.00 to perform design services for a roundabout at the Claratina Avenue and Litt Road Intersection,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Alternate Street Design, in an amount not to exceed \$2,800.00, for design services for the Claratina Avenue and Litt Road roundabout project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-213**

**A RESOLUTION APPROVING AN AGREEMENT WITH COLE  
MANAGEMENT & ENGINEERING, INC., IN THE AMOUNT OF \$205,784.00,  
TO PERFORM CONSTRUCTION MANAGEMENT SERVICES FOR THE  
CELESTE/ROSE/SCENIC SANITARY SEWER IMPROVEMENTS PROJECT,  
AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE  
AGREEMENT**

WHEREAS, on March 7, 2006, City Council awarded a construction contract in the amount of \$3,707,105.00 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 will require augmentation of the City's capacity to provide construction management and inspection, and

WHEREAS, in accordance with Administrative Directive 3.1, Capital Improvement Services (CIS) staff mailed a Request for Proposals to four specialized construction management firms and only two submitted proposals, and

WHEREAS, City's Selection Committee reviewed the proposals submitted and held interviews with both firms, and the firm of Cole Management & Engineering, Inc., was deemed the most qualified to provide construction management services, and

WHEREAS, the firm of Cole Management & Engineering, Inc., has excellent knowledge of pipe reaming and specializes in construction management and inspection, and

WHEREAS, CIS staff recommends the consulting firm of Cole Management & Engineering, Inc., be awarded a contract to perform the construction management services as current workload and experience levels do not provide for timely in-house solutions/responses, and

WHEREAS, City desires to enter into an Agreement with Cole Management & Engineering, Inc., for a contract in an amount not-to-exceed \$205,784.00 to perform construction management services for the Celeste/Rose/Scenic Sanitary Sewer Improvements Project, and

WHEREAS, the consultant will be paid on a time and materials basis for actual hours required performing individual tasks at a set rate,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement with Cole Management & Engineering, Inc., in an amount not-to-exceed \$205,784.00, for construction management services for the Celeste/Rose/Scenic Sanitary Sewer Improvements Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of April, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard R. Rudnansky  
RICHARD R. RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-214**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE  
"2006 CAPE SEALS", ACCEPTING THE BID AND APPROVING AN \$880,840.64  
CONTRACT WITH BOND BLACKTOP, INC., FOR THE PROJECT TITLED,  
"2006 CAPE SEALS," AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE THE CONTRACT**

WHEREAS, plans and specifications have been prepared for the "2006 Cape Seals" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "2006 Cape Seals" were opened at 11:00 a.m. on March 14, 2006, 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 \$880,840.64 received from Bond Blacktop, Inc., be accepted as the lowest responsible bid and the contract be awarded to Bond Blacktop, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the "2006 Cape Seals."

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of \$880,840.64, and hereby awards Bond Blacktop, Inc., the contract titled "2006 Cape Seals."

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of April 2006, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-215**

**A RESOLUTION AUTHORIZING THE TRANSFER OF FUNDS IN THE  
AMOUNT OF \$55,000 FROM ANNUAL R & R PRIMARY SITE (B576) TO  
REPLACEMENT OF STAIRCASES – PRIMARY TREATMENT PLANT (B462)  
TO COVER THE COST OF THIS NEW PROJECT**

WHEREAS, the Primary Treatment Plant's Digester #1 was originally built in 1969 and has the original staircase that has low rails on the sides and does not have a landing, and

WHEREAS, California Code of Regulations Title 8, Section 1626 states, "handrails, when used in connection with stairs, shall be not be less than thirty-four (34) inches or more than thirty-eight (38) inches above the tread nosing," and

WHEREAS, the current staircase handrails are only twenty-seven (27) inches above the tread nosing, creating a safety hazard and do not meet current Cal-OSHA Regulations, and

WHEREAS, due to this safety hazard and the necessity to be Cal-OSHA compliant, a new staircase needs to be installed at this facility, and

WHEREAS, the Influent Screw Pump Pit was built in 1997 and currently has a ladder for entry, causing this to be considered a "confined space" location, and

WHEREAS, Clarifiers #1 and #2 do not have staircases and/or ladders available for use and are also classified as "confined spaces," and

WHEREAS, California Code of Regulations, Title 8, Section 5158 states, "Confined Space: A space defined by the concurrent existence of the following conditions: a) Existing ventilation is insufficient to remove dangerous air contamination, oxygen enrichment and/or oxygen deficiency which may exist or develop; b) Ready

access or egress for the removal of suddenly disabled employee is difficult due to the location and/or size of the opening,” and

WHEREAS, the Influent Screw Pump Pit and Clarifiers #1 and #2 all qualify as “confined spaces” and require personnel to wear rescue air tanks, gas detectors, and harnesses each time work is necessary within these locations, and

WHEREAS, confined space entry also requires retrieval systems be available, notification to the Fire Department for standby rescue services, and there must also be two people at the top for every one person down in the space, and

WHEREAS, installation of a permanent staircase at the Influent Screw Pump Pit will allow for easier removal of a suddenly disabled employee and the pit will no longer be considered a confined space, and

WHEREAS, purchasing a portable staircase to be moved between Clarifiers #1 and #2 would provide for the easy removal of a suddenly disabled employee and these clarifiers would no longer be considered confined spaces, and

WHEREAS, these three staircases would also improve staff’s ability to work at these facilities; and, by eliminating the “confined space” designation, reduce staff and equipment costs when working at these sites, and

WHEREAS, the estimated cost to complete this new project is \$55,000, and

WHEREAS, funds are available in the Annual R & R Primary Site (B576) in the amount of \$55,000 and it is necessary to transfer these funds to the new project titled Replacement of Staircases – Primary Treatment Plant (B462) to cover the cost of the project, and

WHEREAS, the Economic Development Committee considered this item at its March 13, 2006 meeting and recommended approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the transfer of funds in the amount of \$55,000 from Annual R & R Primary Site (B576) to Replacement of Staircases – Primary Treatment Plant (B462) to cover the cost of this new project.

BE IT FURTHER RESOLVED that City staff is hereby authorized to make the necessary budget adjustments in coordination with the Finance Department.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of April, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-216**

**A RESOLUTION AUTHORIZING THE SOLICITATION OF A REQUEST FOR PROPOSALS TO REPLACE TWO EXISTING STAIRCASES AND ADD ONE ADDITIONAL STAIRCASE AT THREE SEPARATE LOCATIONS AT THE PRIMARY TREATMENT PLANT**

WHEREAS, the Primary Treatment Plant's Digester #1 was originally built in 1969 and has the original staircase that has low rails on the sides and does not have a landing, and

WHEREAS, California Code of Regulations Title 8, Section 1626 states, "handrails, when used in connection with stairs, shall be not be less than thirty-four (34) inches or more than thirty-eight (38) inches above the tread nosing," and

WHEREAS, the current staircase handrails are only twenty-seven (27) inches above the tread nosing, creating a safety hazard and do not meet current Cal-OSHA Regulations, and

WHEREAS, due to this safety hazard and the necessity to be Cal-OSHA compliant, a new staircase needs to be installed at this facility, and

WHEREAS, the Influent Screw Pump Pit was built in 1997 and currently has a ladder for entry, causing this to be considered a "confined space" location, and

WHEREAS, Clarifiers #1 and #2 do not have staircases and/or ladders available for use and are also classified as "confined spaces," and

WHEREAS, California Code of Regulations, Title 8, Section 5158 states, "Confined Space: A space defined by the concurrent existence of the following conditions: a) Existing ventilation is insufficient to remove dangerous air contamination, oxygen enrichment and/or oxygen deficiency which may exist or develop; b) Ready



access or egress for the removal of suddenly disabled employee is difficult due to the location and/or size of the opening,” and

WHEREAS, the Influent Screw Pump Pit and Clarifiers #1 and #2 all qualify as “confined spaces” and require personnel to wear rescue air tanks, gas detectors, and harnesses each time work is necessary within these locations, and

WHEREAS, confined space entry also requires retrieval systems be available, notification to the Fire Department for standby rescue services, and there must also be two people at the top for every one person down in the space, and

WHEREAS, installation of a permanent staircase at the Influent Screw Pump Pit will allow for easier removal of a suddenly disabled employee and the pit will no longer be considered a confined space, and

WHEREAS, purchasing a portable staircase to be moved between Clarifiers #1 and #2 would provide for the easy removal of a suddenly disabled employee and these clarifiers would no longer be considered confined spaces, and

WHEREAS, these three staircases would also improve staff’s ability to work at these facilities; and, by eliminating the “confined space” designation, reduce staff and equipment costs when working at these sites, and

WHEREAS, the Public Works Department desires to solicit a Request for Proposals (RFPs) to replace these three staircases, and

WHEREAS, funds are budgeted in the Replacement of Staircases – Primary Treatment Plant (B462) after transfer of funds to this project from the Annual R & R Primary Site (B576) which has been authorized under a separate resolution, and

WHEREAS, the Economic Development Committee considered this item at its March 13, 2006 meeting and recommended approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes solicitation of Request for Proposals (RFPs) for replacement of two staircases and addition of one staircase at three separate locations at the Primary Treatment Plant.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of April, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-217**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE  
“NEIGHBORHOOD CENTER AT MARSHALL PARK”, ACCEPTING THE BID  
AND APPROVING A \$4,580,000 CONTRACT WITH MCFADDEN  
CONSTRUCTION, INC., FOR THE PROJECT TITLED, “NEIGHBORHOOD  
CENTER AT MARSHALL PARK,” AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, plans and specifications have been prepared for the “Neighborhood Center at Marshall Park” and City staff recommends approval to the City Council, and

WHEREAS, the bids received for “Neighborhood Center at Marshall Park” were opened at 11:00 a.m. on March 14, 2006, 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 \$4,580,000.00 received from McFadden Construction, Inc., be accepted as the lowest responsible bid and the contract be awarded to McFadden 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 “Neighborhood Center at Marshall Park.”

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of \$4,580,000.00, and hereby awards McFadden Construction, Inc., the contract titled “Neighborhood Center at Marshall Park.”

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of April 2006, by Councilmember O'Bryant, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-218**

**A RESOLUTION AMENDING THE FY 05-06 OPERATING AND CAPITAL IMPROVEMENT PROGRAM BUDGET TO DECREASE 0100-800-8000-8003 GENERAL FUND RESERVE BY \$500,000 ONE-TIME ALLOCATION, DECREASING 1350-800-8000-8003 PARKS CFF FUND RESERVE BY \$35,483, AND INCREASING NEIGHBORHOOD CENTER AT MARSHALL PARK CIP FUND 1300-310-M163 BY \$535,483.00**

WHEREAS, the Parks, Recreation & Neighborhoods Department, Parks Planning & Development Division has requested amending the Fiscal Year 2005-2006 Capital Improvement Program to fully fund the construction project for the Neighborhood Center at Marshall Park, and

WHEREAS, the appropriation transfer requests are as follows:

- Decrease \$500,000 from the General Fund Reserve (0100-800-8000-8003)
- Decrease \$35,483 from Parks CFF Fund Reserve (1350-800-8000-8003)
- Increase \$535,483 to the Neighborhood Center at Marshall Park Capital Improvement Project (1300-310-M163),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a reduction of \$500,000 from the General Fund Reserve (0100-800-8000-8003), a reduction of \$35,483 from Parks CFF Fund Reserve (1350-800-8000-8003), an increase of \$535,483 to the Neighborhood Center at Marshall Park Capital Improvement Project (1300-310-M163).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4th day of April 2006, by Councilmember O'Bryant, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-219**

**A RESOLUTION TO APPROVE REQUESTING A PROPOSAL FROM MAZE &  
ASSOCIATES TO CONDUCT A BROAD-SCOPE AGREED-UPON  
PROCEDURES ENGAGEMENT IN THE ENTIRE PUBLIC WORKS  
DEPARTMENT, WITH THE FIRM TO PROVIDE IN ITS REPORT  
RECOMMENDATIONS FOR FOLLOW-UP AUDITS OR CONSULTANT  
MANAGEMENT REVIEWS, WHERE WARRANTED, TO COVER FISCAL  
YEARS 2003, 2004, AND 2005**

WHEREAS, on February 28, 2006, the Council received a report from the City Clerk & Auditor's Senior Auditor on certain improper activities in the wastewater operations divisions of the City of Modesto Public Works Department, and

WHEREAS, at its March 7, 2006, meeting, Council, by motion, directed its Audit Committee to propose to Council the type and extent of an engagement by an external audit firm, designed to find possible improper activities in the entire Public Works Department, and

WHEREAS, the Audit Committee agreed at its March 20, 2006, meeting to recommend to Council a broad-scope agreed-upon procedures engagement by an external audit firm, to cover Fiscal Years 2003, 2004, and 2005, with the firm to recommend follow-up audits or management reviews where warranted, and

WHEREAS, as a result of a selection process in 2003, Council selected Maze & Associates (Auditor) as the City's external financial audit firm, and

WHEREAS, Auditor has the qualifications for the proposed work, and is familiar with the City's financial systems,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves requesting a proposal from Maze & Associates to conduct a

broad-scope agreed-upon procedures engagement in the entire Public Works Department, with the firm to provide recommendations to Council for follow-up audits or consultant management reviews where warranted, covering Fiscal Years 2003, 2004, and 2005., and

BE IT FURTHER RESOLVED that the City Clerk & Auditor, is hereby authorized to request a proposal from Auditor for these services.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of April 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-220**

**A RESOLUTION ACCEPTING THE DOMESTIC WASTEWATER NEAR-TERM CAPACITY STUDY PREPARED BY CAROLLO ENGINEERS AND ADOPTING THE ASSUMPTIONS AND RECOMMENDATIONS INCLUDED THEREIN AND DIRECTING STAFF TO PURSUE AND DEVELOP A FINANCING PROGRAM TO FUND THE PROPOSED IMPROVEMENTS IDENTIFIED IN THE DOMESTIC WASTEWATER NEAR-TERM CAPACITY STUDY**

WHEREAS, the City of Modesto awarded Carollo Engineers of Walnut Creek, California the contract to update the City's 1995 Wastewater Master Plan (WWMP), which is typically updated every five to seven years, and

WHEREAS, during the process of developing the WWMP, it was determined that due to the changing regulatory climate and the limitations of current treated wastewater disposal into the San Joaquin River, it is anticipated that the City will need to ultimately plan for the implementation of advanced wastewater treatment facilities, and

WHEREAS, the controlling factor for disposal of treated wastewater is based on the availability of river flow during the allowable discharge period, which is based on both climatic conditions and management of upstream facilities, and

WHEREAS, the City needs to plan for additional disposal capacity, to limit the risks of exceeding current Waste Discharge Requirements (WDRs) and the National Pollution Discharge Elimination System (NPDES) permit during a low river flow year, and

WHEREAS, due to the lengthy process for permitting, design and construction of a full-scale advanced treatment facility, effluent disposal improvements that could be reasonably implemented within a short timeframe will be required to allow continued

development, and Carollo was directed to develop a Domestic Wastewater Near-Term Capacity Study (Capacity Study) to analyze short-term solutions for effluent disposal, while continuing to develop and implement long-term solutions, and

WHEREAS, a five-year time period was defined as the timeframe, within which the City could continue to allow new connections with the initial phase projects, and

WHEREAS, the Capacity Study considered six (6) alternatives for the five-year time period, and

WHEREAS, discussions with Regional Water Quality Control Board staff on March 10, 2006, indicated that requirements for additional river discharge would become more stringent and that permitting for year round discharge of tertiary treatment could be incorporated into the permit update process that is currently underway, and

WHEREAS, based on the outcome of the Regional Board meeting, Alternative 2, Tertiary Treatment Year Round with Dissolved Air Flotation (DAF), is considered the most feasible, and least costly alternative, which provides an acceptable level of risk, and

WHEREAS, this item was reviewed at the Finance Committee meeting on March 16, 2006, and a favorable recommendation was made to forward the Capacity Study, including its assumptions and recommendations, and to direct staff to pursue and develop a financing program to fund the proposed improvements identified in the Capacity Study to the Council for acceptance,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Domestic Wastewater Near-Term Capacity Study and adopts its assumptions and recommendations.

BE IT FURTHER RESOLVED that the Council hereby directs City staff to pursue development of a financing program to fund the proposed improvements identified in the Domestic Wastewater Near-Term Capacity Study.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-221**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AND DELIVER A LETTER TO THE REGIONAL WATER QUALITY CONTROL BOARD INDICATING THE CITY'S INTENTIONS OF IMPLEMENTING THE RECOMMENDATIONS IN THE DOMESTIC WASTEWATER NEAR-TERM CAPACITY STUDY, REQUESTING THE INCLUSION OF YEAR ROUND TERTIARY RIVER DISCHARGE IN THE CITY'S UPDATED NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT AND INDICATING THE CITY'S INTENT TO UPGRADE ITS CURRENT SECONDARY TREATED DISCHARGE TO TERTIARY TREATED DISCHARGE IN THE FUTURE**

WHEREAS, the City of Modesto is currently updating its 1995 Wastewater Master Plan (WWMP), and

WHEREAS, during the process of developing the WWMP it was determined that due to the changing regulatory climate and the limitations of current treated wastewater disposal into the San Joaquin River, it is anticipated that the City will need to ultimately plan for the implementation of advanced wastewater treatment facilities, and

WHEREAS, due to the lengthy process for permitting, design, and construction of a full-scale advanced treatment facility, a Domestic Wastewater Near-Term Capacity Study (Capacity Study) to analyze short-term solutions for effluent disposal, was developed to allow continued sewer connections, and

WHEREAS, the Capacity Study considered six (6) alternatives that could be developed within a short time period, and

WHEREAS, the City is currently undergoing its regularly scheduled 5 year National Pollution Discharge Elimination System (NPDES) permit update with the Regional Water Quality Control Board (RWQCB), and

WHEREAS, staff met with RWQCB staff on March 10, 2006, to discuss the permit issues and challenges for each of the alternatives being considered, and

WHEREAS, from these discussions it was evident that Alternative 2-year round tertiary treatment with Dissolved Air Flotation (DAF) would be much easier to permit in a short time frame than other alternatives, and

WHEREAS, the Regional Board staff also recommended that City present a letter to the RWQCB indicating the City's intent to transition to tertiary treatment with the current update process, which could save a considerable amount of time when compared to requesting an amendment to the permit at a later date, and

WHEREAS, the Finance Committee reviewed the draft letter and Final Draft of the Domestic Wastewater Near-Term Capacity Study at its March 27, 2006, meeting and recommended approval to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the City Manager to sign and deliver a letter to the Regional Water Quality Control Board indicating the City's intentions of implementing the recommendations in the Domestic Wastewater Near-Term Capacity Study, requesting the inclusion of year round tertiary river discharge in the City's updated NPDES permit and indicating the City's intent to upgrade its current secondary treated discharge to tertiary treated discharge in the future.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-222**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005/06 BUDGET TO  
TRANSFER \$285,000 FROM THE TRAFFIC SAFETY RESERVE FOR  
PAYMENT TO REDFLEX FOR RED LIGHT PHOTO ENFORCEMENT  
EQUIPMENT AND MAINTENANCE**

WHEREAS, on June 8, 2004, Council approved Resolution 2004-301 implementing the automated red light enforcement program and approved a five-year base contract with Redflex Traffic Systems, and

WHEREAS, Redflex was contracted to install red light photo enforcement equipment and maintenance services at up to ten (10) City designated intersections under a phased implementation plan, and

WHEREAS, costs for the red light photo enforcement equipment and maintenance service is \$6,030 per month for each camera location by Redflex, and

WHEREAS, the City of Modesto currently has four intersections with one camera system for a total expense of \$24,120 per month, and

WHEREAS, there is a cost neutrality clause in the City's contract with Redflex that if City revenues collected do not pay for the expenses during the first twelve-month period, then Redflex will reimburse any excess expense, and

WHEREAS, based on current information it is anticipated that the revenue will meet or exceed the expenses during the initial twelve-month period, and

WHEREAS, the Traffic Safety Reserve has monies available for this service,

WHEREAS, at its February 6, 2006, meeting the Safety and Communities Committee recommended consideration of this item by the full Council.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2005/06 Operating Budget is hereby amended as indicated below:

Appropriate:

From: 0600-800-8000-8003 \$285,000 Traffic Safety Reserve

To: 0600-190-1906-0235 \$285,000 Traffic Safety/Professional Services

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 4<sup>th</sup> day of April 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-223**

**A RESOLUTION APPROVING THE AIRLINE REVENUE GUARANTEE  
AGREEMENT BETWEEN THE CITY OF MODESTO AND SKYWEST  
AIRLINES TO PROVIDE NEW AIR SERVICE BETWEEN MODESTO AND  
LOS ANGELES, AND AUTHORIZING THE CITY MANAGER, OR HIS  
DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, Modesto City-County Airport is a commercial service airport with current air service operated by SkyWest Airlines as United Express, flying between Modesto and San Francisco, and

WHEREAS, SkyWest Airlines has agreed to provide a minimum of three (3) scheduled flights between Modesto (MOD) and Los Angeles (LAX) airports daily, and

WHEREAS, direct air service between Modesto and Los Angeles is expected to serve approximately 1.2 million local travelers, and

WHEREAS, a determined level of revenue is guaranteed to the airline for LAX service, and

WHEREAS, an airline revenue agreement is pursuant to grant funds requirements provided by the U.S. Department of Transportation "Small Communities Air Service Grant" (DOT Grant) that was awarded to the Modesto City-County Airport in August 2005, and

WHEREAS, the Airport Enterprise Fund will guarantee a determined level of revenue (\$2,043 per segment) to Sky West Airlines, and

WHEREAS, if revenues fall short of the determined level, City will reimburse Sky West in an amount not to exceed \$550,000, and

WHEREAS, \$495,000 of this \$550,000 will be provided by DOT Grant funds,  
and

WHEREAS, \$55,000 will be pledged by City in non-Airport funds coming from  
the business community or the City's General Fund, and

WHEREAS, the Airport Enterprise Fund will also forego approximately \$45,000  
in additional landing fees for the year reflected in the following table as fee waivers "in-  
kind":

<b>Funding Action Plan for New Air Service to Los Angeles</b>						
<b>Description</b>			<b>Funding</b>			<b>Total</b>
	<b>US DOT</b>	<b>Airport</b>	<b>Airport</b>	<b>Non-Airport</b>	<b>Non-Airport</b>	
	<b>Cash</b>	<b>Cash</b>	<b>In-Kind</b>	<b>Cash</b>	<b>In-Kind</b>	
<b>Marketing:</b>						
Advertising/promotion	\$55,000	\$35,000	\$5,000	\$10,000		\$105,000
<b>Airline start-up support:</b>						
Revenue guarantee	\$495,000			\$55,000		\$550,000
Fee Waiver			\$45,000			\$45,000
<b>Staffing:</b>						
Program administration			\$5,000			\$5,000
<b>Total</b>	<b>\$550,000</b>	<b>\$35,000</b>	<b>\$55,000</b>	<b>\$65,000</b>		<b>\$705,000</b>

and,

WHEREAS, the Airport Advisory Committee met on February 15, 2006 and  
endorsed the addition of LAX flights by SkyWest Airlines, and

WHEREAS, the Economic Development Committee met on March 13, 2006 and  
supported the Airline Revenue Grant Agreement proposed for SkyWest Airlines to  
provide new air service between MOD and LAX,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Airline Revenue Guarantee Agreement between the City of Modesto and SkyWest Airlines to provide new air service between Modesto and Los Angeles.

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 4<sup>th</sup> day of April 2006, 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: Councilmember: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-224**

**A RESOLUTION AMENDING THE FISCAL YEAR 05-06 OPERATING  
BUDGET AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF  
\$55,000 FROM GENERAL FUND RESERVES (0100-800-8000-8003) TO THE  
PUBLIC WORKS OPERATING BUDGET (0100-430-4306-0264) TO CREATE A  
SET ASIDE ACCOUNT FOR THE NON-AIRPORT PORTION OF AIRLINE  
REVENUE GUARANTEES**

WHEREAS, Modesto City-County Airport is a commercial service airport with current air service operated by SkyWest Airlines as United Express, flying between Modesto and San Francisco, and

WHEREAS, SkyWest Airlines has agreed to provide a minimum of three (3) scheduled flights between Modesto (MOD) and Los Angeles (LAX) airports daily, and

WHEREAS, direct air service between Modesto and Los Angeles is expected to serve approximately 1.2 million local travelers, and

WHEREAS, a determined level of revenue is guaranteed to the airline for LAX service, and

WHEREAS, an airline revenue agreement is pursuant to grant funds requirements provided by the U.S. Department of Transportation "Small Communities Air Service Grant" (DOT Grant) that was awarded to the Modesto City-County Airport in August 2005, and

WHEREAS, the Airport Enterprise Fund will guarantee a determined level of revenue (\$2,043 per segment) to Sky West Airlines, and

WHEREAS, if revenues fall short of the determined level, City will reimburse Sky West in an amount not to exceed \$550,000, and

WHEREAS, \$495,000 of this \$550,000 will be provided by DOT Grant funds,  
and

WHEREAS, \$55,000 will be pledged by City in non-Airport funds coming from  
the business community or the City's General Fund, and

WHEREAS, staff proposes allocating \$55,000 from General Fund Reserves  
(0100-800-8000-8003) to the Public Works Department's Operating Budget (0100-430-  
4306-0264) to create a set aside account for the non-Airport portion of the airline revenue  
guarantee, and

WHEREAS, said \$55,000 will be returned to General Fund Reserve should the  
funding not be needed for the airline revenue guarantee,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto  
that it hereby approves amending the Fiscal Year 05-06 Operating Budget and approving  
a budget adjustment of \$55,000 from General Fund Reserves (0100-800-8000-8003) to  
the Public Works Department's Operating Fund (0100-430-4306-0264) to create a set  
aside account for the non-Airport portion of the airline revenue guarantee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 4<sup>th</sup> day of April 2006, 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: Councilmember: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-225**

**A RESOLUTION AMENDING RESOLUTION NO. 2006-087 TO AUTHORIZE  
THE SEVEN CHARTER REVIEW COMMITTEE MEMBERS APPOINTED BY  
THE CITY COUNCIL TO APPOINT FOUR ADDITIONAL COMMITTEE  
MEMBERS FROM THE COMMUNITY AND APPROVING THE FOUR  
APPOINTEES SELECTED BY THE CURRENT MEMBERS OF THE CHARTER  
REVIEW COMMITTEE**

WHEREAS, on February 14, 2006 the City Council adopted resolution no. 2006-087 authorizing the seven Council-appointed Charter Review Committee members to select and appoint three additional members from the community to serve on the Charter Review Committee, and

WHEREAS, on March 29, 2006 and March 30, 2006 the seven Council appointed Charter Review Committee members interviewed 24 members of the community to fill the final three vacancies on the committee, and

WHEREAS, after much deliberation and discussion the seven-committee members narrowed the field of applicants to the four individuals they felt were the most qualified to sit on the committee, and

WHEREAS, the seven Committee members would like to appoint the following four individuals to serve on the Charter Review Committee:

- 1) Solange G. Altman
- 2) Carolina Bernal
- 3) Jeremiah Williams
- 4) Sandra Lucas

NOW, THEREFORE, BE IT RESOLVED, that the Council of the City of Modesto hereby approves the appointments of Solange G. Altman, Carolina Bernal,

Jeremiah Williams, and Sandra Lucas to serve as voting members of the Charter Review Committee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-226**

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF  
TAMMY SPILLERS FROM THE CITIZENS HOUSING & COMMUNITY  
DEVELOPMENT COMMITTEE AND AS ALTERNATE TO THE HOUSING  
REHABILITATION LOAN COMMITTEE**

WHEREAS, TAMMY SPILLERS was appointed a member of the Citizens Housing & Community Development Committee on July 10, 2003, and

WHEREAS, TAMMY SPILLERS was selected by the Citizens Housing & Community Development Committee as its alternate to the Housing Rehabilitation and Loan Committee, and

WHEREAS, TAMMY SPILLERS has tendered her resignation from the Citizens Housing & Community Development Committee and the Housing Rehabilitation Loan Committee, and

WHEREAS, TAMMY SPILLERS 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 TAMMY SPILLERS from the Citizens Housing & Community Development Committee and the Housing Rehabilitation Loan Committee be, and hereby is accepted with regret.

BE IT FURTHER RESOLVED that the Council of the City of Modesto, on its own behalf, and on behalf of the citizens of this City, hereby expresses its sincere appreciation to TAMMY SPILLERS for her 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 25<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-227

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF  
DAVID LOPEZ FROM THE COMMUNITY QUALITIES FORUM

WHEREAS, DAVID LOPEZ was appointed a member of the Community  
Qualities Forum on October 17, 2000, and

WHEREAS, DAVID LOPEZ has tendered his resignation from the Community  
Qualities Forum, and

WHEREAS, DAVID LOPEZ 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 DAVID LOPEZ  
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 DAVID LOPEZ 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 April 2006, by Councilmember Hawn, who  
moved its adoption, which motion being duly seconded by Councilmember Keating, was  
upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

~~APPROVED AS TO FORM:~~

By: Richard Rudnansky  
RICHARD RUDNANSKY Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-228**

**A RESOLUTION 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. 12)**

WHEREAS, pursuant to Chapter 3.5 Division 2 of Title 5 (commencing with Section 53311) of the California Government Code, commonly known as the “Mello-Roos Community Facilities Act of 1982” (the “Act”), proceedings for the annexation of territory to an existing community facilities district may, pursuant to Chapter 3.5 of the Act, be instituted by the adoption by the legislative body of a resolution of intention to annex such territory, and

WHEREAS, pursuant to the Act, this Council did, by its Resolution No. 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, and

WHEREAS, this Council hereby determines that the public convenience and necessity require the annexation of certain territory to the District, and

WHEREAS, the territory to be annexed is within the City limits, 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 boundaries of the District are shown on a map entitled "Consolidation of Boundary Maps of Community Facilities District No. 2004-1 (Village One #2)", on file with the County Recorder of the County of Stanislaus, at Book 4 of Maps of Assessments of Community Facilities Districts, at Page 33, and 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.

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. 12 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 13, 2006, 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 25<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

EXHIBIT A

ANNEXATION NO. 12 TO  
COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2)

Proposed Boundary Map

A.P.N. 84-03-09

A.P.N. 84-03-10

A.P.N. 84-03-02

A.P.N. 14-19-03

A.P.N. 14-14-15

A.P.N. 85-49-16

PARCEL 2  
27-PM-39  
A.P.N. 85-01-58

PARCEL 1  
52-PM-11  
34,232.78 SF

PARCEL 2  
59-PM-11  
33,438.81

PARCEL 3  
92-PM-11  
132,579.75 SF

PARCEL 4  
52-PM-11  
39,861.10 SF

S 89°46'22" W 351.85'

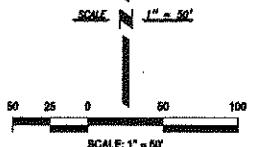
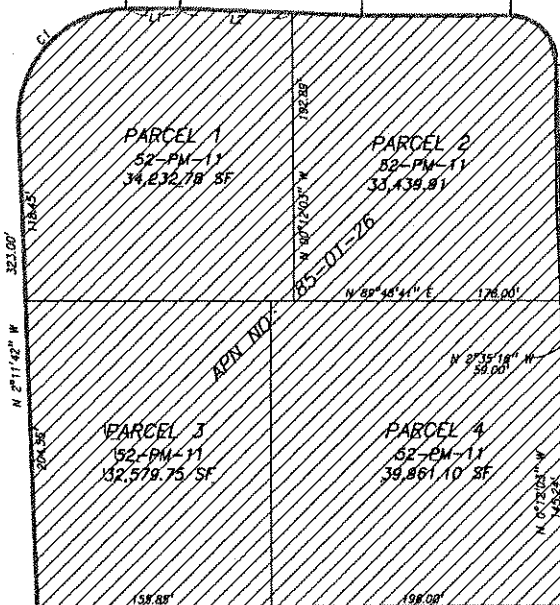
N 92°48'41" E 176.00'

N 27°35'18" W 59.00'

N 67°24'1" W 145.24'

158.85'

198.00'



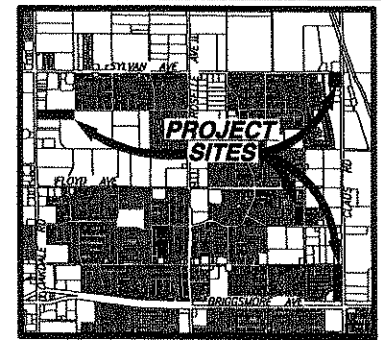
**CURVE TABLE**

CURVE	RADIUS	LENGTH	DELTA
C1	75.00'	120.44'	92°00'33"

**LINE TABLE**

LINE	BEARING	LENGTH
L1	S89°48'47" W	33.17'
L2	S87°48'08" E	74.38'

**BASIS OF BEARINGS**  
 A BEARING OF NORTH 00°03'12" EAST FOR THE LINE BETWEEN THE GPS CONTROL MONUMENT NO. 2628 AND GPS CONTROL MONUMENT NO. 2728 AS SHOWN ON THE AMENDED CITY OF MODESTO "GPS CONTROL NETWORK" (1992 ADJUSTMENT OF THE NORTH AMERICAN DATUM OF 1983), FILED FOR RECORD IN VOL. 22 OF SURVEYS, AT PAGE 51, STANISLAUS COUNTY RECORDS, WAS USED AS THE BASIS OF ALL BEARINGS SHOWN ON THIS MAP.  
 ALL DISTANCES ARE GROUND LEVEL DISTANCES.



**VICINITY MAP**

**ANNEXATION NO. 12 OF  
 COMMUNITY FACILITIES DISTRICT  
 NO. 2004-1  
 (VILLAGE ONE #2)**

CITY OF MODESTO, COUNTY OF STANISLAUS,  
STATE OF CALIFORNIA

THIS IS A MAP OF THE AREA PROPOSED TO BE ANNEXED TO CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2), CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA. THE CONSOLIDATED 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 THE COUNTY OF STANISLAUS, 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.

JEAN MORRIS, CITY CLERK

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MODESTO THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2006.

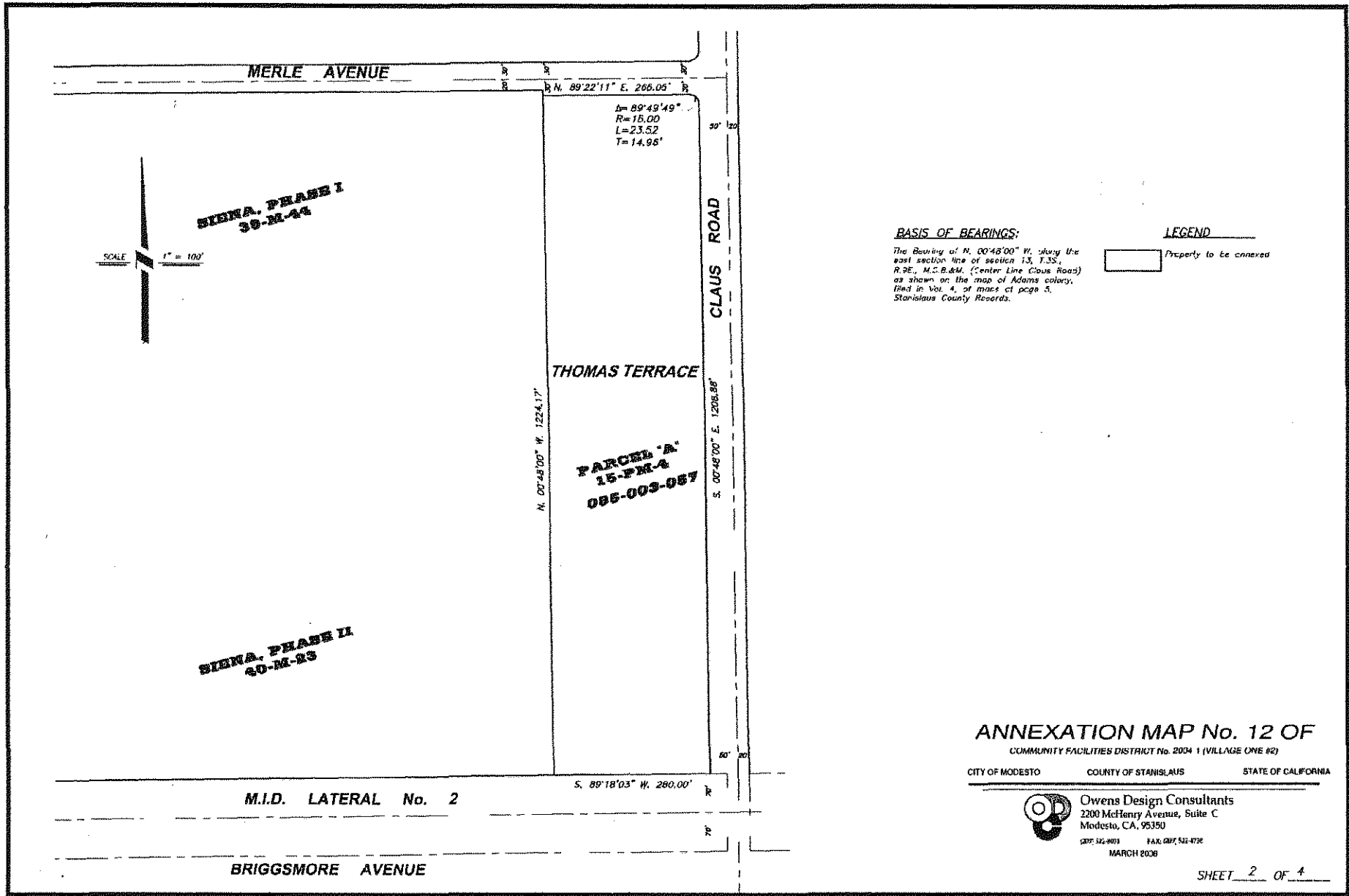
JEAN MORRIS, CITY CLERK

I HEREBY CERTIFY THAT THIS MAP SHOWING THE PROPOSED BOUNDARIES OF ANNEXATION NO. 12 OF 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 \_\_\_\_\_, 2006, BY ITS RESOLUTION NO. \_\_\_\_\_

JEAN MORRIS, CITY CLERK

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2006, 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 LUNDGREN, COUNTY RECORDER OF THE COUNTY OF STANISLAUS, STATE OF CALIFORNIA



N. 89°22'11" E. 266.05'

$\Delta = 89°43'49"$   
R = 18.00  
L = 23.52  
T = 14.95'

N. 00°48'00" W. 1224.17'

S. 89°18'03" W. 280.00'

S. 00°48'00" E. 1208.98'

**BASIS OF BEARINGS:**  
The Bearing of N. 00°48'00" W. along the east section line of section 13, T.3S., R.2E., M.C.B.M. (Center Line Claus Road) as shown on the map of Adams colony, filed in Vol. 4, of maps of page 5, Stanislaus County Records.

**LEGEND**  
Property to be annexed

**ANEXATION MAP No. 12 OF**  
COMMUNITY FACILITIES DISTRICT No. 2034 1 (VILLAGE ONE #2)

CITY OF MODESTO      COUNTY OF STANISLAUS      STATE OF CALIFORNIA

**Owens Design Consultants**  
2200 McHenry Avenue, Suite C  
Modesto, CA, 95350  
CITY: 522-9013      FAX: 522-4736  
MARCH 2008



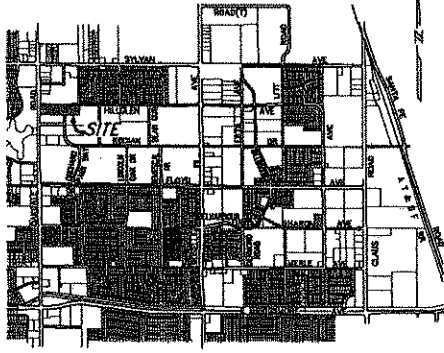
# ANNEXATION MAP NO.12 OF COMMUNITY FACILITIES DISTRICT NO.2004-1

CITY OF MODESTO,

COUNTY OF STANISLAUS,

STATE OF CALIFORNIA

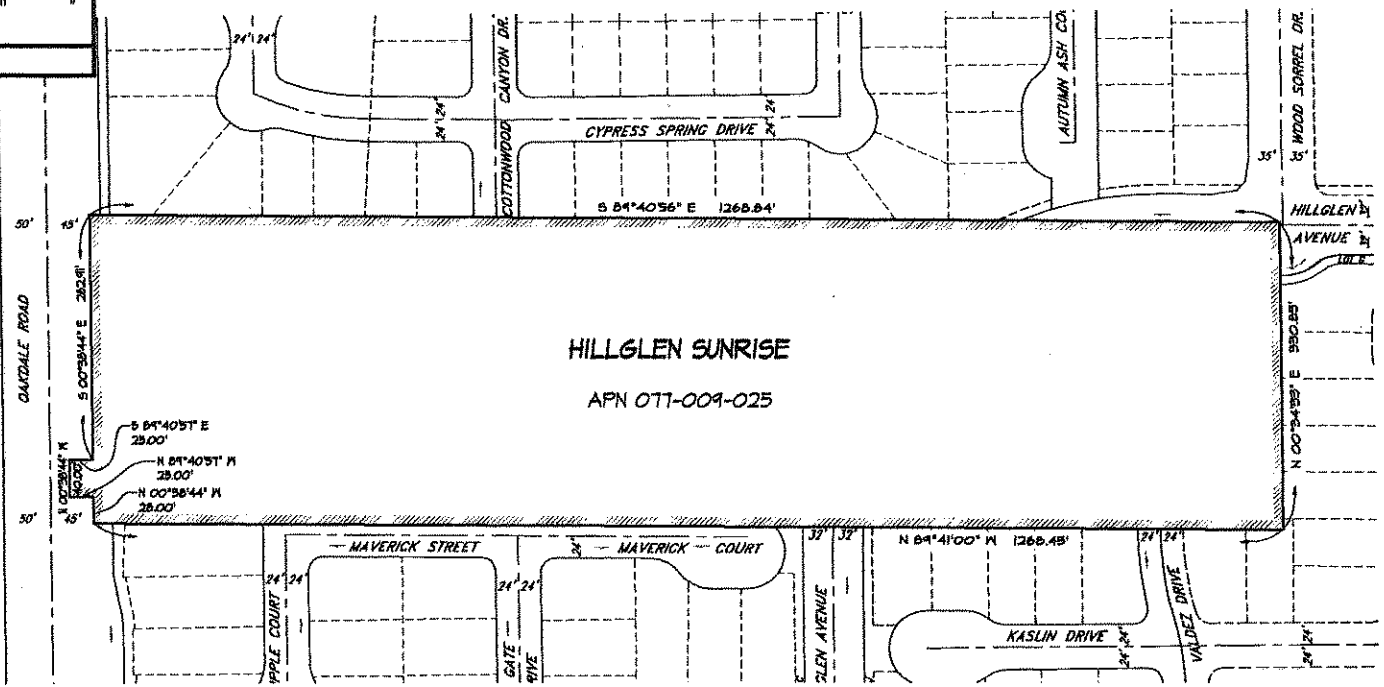
PREPARED BY:  
**df** **DELAMARE-FULTZ**  
ENGINEERING AND SURVEYING  
9481 TULLY ROAD SUITE 111 MODESTO, CA 95350  
TELEPHONE (209) 569-7450



VICINITY MAP  
NO. 2004-1

**LEGEND**  

 BOUNDARY OF PROPERTY TO BE ANNEXED



**HILLGLEN SUNRISE**  
APN 077-004-025

DATE PLOTTED: 10/20/04 11:58 AM  
 PLOTTER: HP DesignJet 5000  
 SCALE: 1" = 60'  
 SHEET: 4 OF 4

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-229**

**A RESOLUTION APPROVING A CFD TAX REIMBURSEMENT AGREEMENT  
BETWEEN THE CITY OF MODESTO AND PETER AND CHARLENE REECE,  
JOSEPH AND SHERYL PIMENTEL, AND STEPHEN AND KATHLEEN  
HUGHES AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID  
AGREEMENT**

WHEREAS, Peter and Charlene Reece, Joseph and Sheryl Pimentel, and Stephen and Kathleen Hughes (collectively "Owner"), own certain real property located within the City of Modesto, County of Stanislaus, State of California, more particularly described on Exhibit "A" and commonly known as Village Corners ("Property"), and

WHEREAS, in June 2001, Owner petitioned to have the Property annexed to City of Modesto Community Facilities District No. 1996-1, and

WHEREAS, on March 15, 2006, Owner obtained a building permit from City for the construction of three (3) commercial buildings (approximately 25,226 sq ft) and associated on-site and off-site improvements located at 3948 Sylvan Avenue, Modesto, California ("Project") in order to retain its vesting in the City of Modesto 1998 Capital Facilities Fees Program, and

WHEREAS, as a condition precedent to obtaining the building permit for the Project, Owner was required to pay the One-Time Facilities Tax obligation at the rate established for CFD No. 1996-1, and

WHEREAS, Owner desires to annex the Property into City of Modesto Community Facilities District No. 2004-1 (Village One #2) ("CFD No. 2004-1"), and

WHEREAS, the One-Time Facilities Tax obligation for the Property is higher in CFD No. 1996-1 than it would be in CFD No. 2004-1; and

WHEREAS, the Annual Maintenance Tax obligation for the Property is lower in CFD No. 1996-1 than it would be in CFD No. 2004-1; and

WHEREAS, CFD No. 2004-1 contains an Annual Facilities Tax component but CFD No. 1996-1 does not; and

WHEREAS Owner has made application with the City to annex the Property into CFD No. 2004-1 and paid the related annexation fee; and

WHEREAS, upon successful annexation of the Property into CFD No. 2004-1, the Property's tax obligation for CFD 1996-1 will cease and the City will remove the tax lien associated with CFD No. 1996-1; and

WHEREAS, Owner desires to be reimbursed by the City for the difference in the amount of the One-Time Facilities Tax between CFD 1996-1 and CFD 2004-1, after the Property has been annexed into CFD 2004-1,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a CFD Tax Reimbursement Agreement between the City of Modesto and Peter and Charlene Reece, Joseph and Sheryl Pimentel, and Stephen and Kathleen Hughes.

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 25<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDANSKY, Interim City Attorney

**EXHIBIT A**  
*(Legal Description)*

All that certain real property situated in a portion of the southeast quarter of Section 12, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, in the City of Modesto, County of Stanislaus, State of California, more particularly described as follows:

Parcels 1, 2, 3 and 4 of Parcel Map filed March 24, 2003 in Book 52 of Parcel Maps at Page 11 in official records of Stanislaus County, said map being a re-subdivision of Parcel 3 as shown on map filed August 30, 1996 in Book 2 of Parcel Maps at page 48, Stanislaus County Records.

A.P.N. 84-03-09

A.P.N. 84-03-10

A.P.N. 84-03-02

A.P.N. 14-13-03

A.P.N. 14-14-15

A.P.N. 85-49-16

PARCEL 2  
27-PM-39  
A.P.N. 85-01-58

PARCEL 1  
52-PM-11  
34,832.78 SF

PARCEL 2  
52-PM-11  
33,439.81

PARCEL 3  
52-PM-11  
32,579.75 SF

PARCEL 4  
52-PM-11  
39,861.10 SF

SYLVAN AVENUE

EXPRESSWAY

ROAD  
CLAUS

ROAD

CLAUS

5 89°46'22" W 351.85'

PARCEL 2  
27-PM-39  
A.P.N. 85-01-58

SCALE 1" = 50'



CURVE TABLE

CURVE	RADIUS	LENGTH	DELTA
CT	75.00'	120.44'	82°00'23"

LINE TABLE

LINE	BEARING	LENGTH
L1	S87°48'41" W	33.17'
L2	S87°48'26" E	74.56'

**BASIS OF BEARINGS**

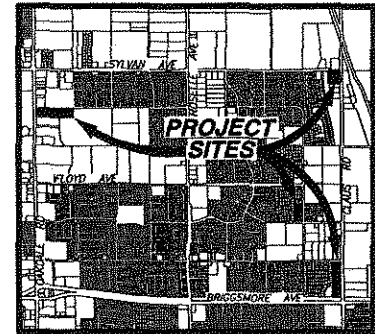
A BEARING OF NORTH 00°03'12" EAST FOR THE LINE BETWEEN THE GPS CONTROL MONUMENT NO. 2628 AND GPS CONTROL MONUMENT NO. 2728 AS SHOWN ON THE AMENDED CITY OF MODESTO "GPS CONTROL NETWORK" (1982 ADJUSTMENT OF THE NORTH AMERICAN DATUM OF 1983) FILED FOR RECORD IN VOL. 22 OF SURVEYS, AT PAGE 51, STANISLAUS COUNTY RECORDS, WAS USED AS THE BASIS OF ALL BEARINGS SHOWN ON THIS MAP.

ALL DISTANCES ARE GROUND LEVEL DISTANCES.



AREA TO BE ANNEXED

BOUNDARY OF AREA TO BE ANNEXED



**VICINITY MAP**

**ANNEXATION NO. 12 OF  
COMMUNITY FACILITIES DISTRICT  
NO. 2004-1  
(VILLAGE ONE #2)**

CITY OF MODESTO, COUNTY OF STANISLAUS,  
STATE OF CALIFORNIA

THIS IS A MAP OF THE AREA PROPOSED TO BE ANNEXED TO CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2), CITY OF MODESTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA, THE CONSOLIDATED 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 THE COUNTY OF STANISLAUS, 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.

JEAN MORRIS, CITY CLERK

FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF MODESTO THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2006

JEAN MORRIS, CITY CLERK

I HEREBY CERTIFY THAT THIS MAP SHOWING THE PROPOSED BOUNDARIES OF ANNEXATION NO. 12 OF 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 \_\_\_\_\_, 2006, BY ITS RESOLUTION NO. \_\_\_\_\_.

JEAN MORRIS, CITY CLERK

FILED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2006, 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 LUNDGREN, COUNTY RECORDER OF THE  
COUNTY OF STANISLAUS, STATE OF CALIFORNIA

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-230**

**A RESOLUTION APPROVING AN EXTENSION TO AN AGREEMENT  
BETWEEN THE CITY OF MODESTO AND BANK OF THE WEST FOR  
BANKING SERVICES INCLUDING PAYABLES, PAYROLL, CASHIERING  
AND INVESTMENTS AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE THE EXTENSION TO SAID AGREEMENT**

WHEREAS, by Resolution No. 94-734, the City of Modesto and Bank of the West entered into an agreement for banking services, and

WHEREAS, the current banking services agreement with Bank of the West expired on January 31, 1998, and

WHEREAS, City's purchasing policy and standard business practices call for the City to maintain an in-force agreement for banking services, and

WHEREAS, additional time is needed for the City of Modesto to evaluate banking service proposals through a formal bid process.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the banking extension agreement with Bank of the West.

BE IT FURTHER RESOLVED that the 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 25<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-231**

**A RESOLUTION AMENDING THE  
FISCAL YEAR 2005-2006 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 2005-2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2005-2006 budget have been adjusted as shown in Schedule A.

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 25<sup>th</sup> day of April 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

## SCHEDULE A

From:	Finance & Logistics Acct #0100-180-1810-5403	\$(692,500)
To:	Fire Station 1 Feasibility Studies and Architectural Design Acct #1300-180-F533-6010	\$ 692,500
From:	General Fund Reserve Account #0100-800-800-8003	\$(8,105)
To:	TRRP Joint Powers Authority Contribution #0100-390-3916-0466	\$ 8,105
From:	KKMC Furnishings Acct #1130-320-3254-0514	\$(30,000)
To:	King Kennedy Kitchen & Auditorium Acct #2300-310-P500-6040	\$ 30,000

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-232**

**A RESOLUTION AMENDING THE ORIGINAL AWARD OF BID AND CONTRACT TO MELROSE FORD OF OAKLAND, CA. FOR FIVE (5) VEHICLES AND RESTATING THE RESOLUTION TO AUTHORIZE THE AWARD OF BID AND CONTRACT FOR FIVE (5), NEW, CURRENT YEAR/MODEL TRUCKS TO THE FOLLOWING VENDORS: AMERICAN CHEVROLET OF MODESTO CALIFORNIA, FOR TWO (2) VEHICLES FOR A PURCHASE PRICE OF APPROXIMATELY \$43,117.59 AND COALINGA MOTORS INC, OF COALINGA, CALIFORNIA, FOR THREE (3) VEHICLES FOR A PURCHASE PRICE OF APPROXIMATELY \$48,279.02. THE APPROXIMATE TOTAL AMOUNT FOR ALL FIVE (5), NEW, CURRENT YEAR/MODEL TRUCKS IS \$91,396.61**

WHEREAS, the Public Works Department-Fleet Services Division has requested the purchase of five (5), new, current year/model trucks, and

WHEREAS, the vehicles requested consist of and will be used as follows:

- One (1), ¾ ton, regular cab, long bed, 4WD pickup-This truck is a new addition to the Water Quality Lab vehicles.
- One (1), ½ ton, crew cab, mid size, 2WD pickup- This truck is a new addition to the Water Operations Department. This vehicle will be used for an added position in the department.
- Two (2), ½ ton, extended cab, mid size, 2WD pickups-These trucks are to replace two (2) current pickups in the Construction Administration Department. The old trucks are being replaced because they have reached the end of their service life, and were on the scheduled replacement list approved by Council.
- One (1), ½ ton, crew cab, mid size, 2WD pickup- This truck is to replace a current pickup in the City Hall Motor Pool. The old truck is being replaced because it has reached the end of its service life, and was on the scheduled replacement list approved by Council, and

WHEREAS, Resolution No. 2005-381 authorized the Purchasing Supervisor to solicit bids for new vehicles and heavy equipment throughout FY 05/06 through various competitive processes, with the Purchasing Division coming back to Council for award and authorization, and



WHEREAS, the Purchasing Division solicited formal bids for fourteen (14) new, current year/model trucks on Request for Bid (RFB) 0506-18, with a bid opening date of January 24, 2006, and

WHEREAS, Seventy-seven (77) vendors were solicited of which ten (10) were local vendors, and

WHEREAS, out of seventy-seven (77) vendors solicited, seven (7) chose to respond to the RFB, and

WHEREAS, including the second lowest responsive and responsible bidders for the five vehicles awarded to Melrose Ford, the 2% local vendor preference was a factor in determining the lowest responsive and responsible bidder on two (2) of the five (5), new, current year/model trucks, and

WHEREAS, the Purchasing Division and Public Works-Fleet Services Division staff evaluated bids, and

WHEREAS, Resolution No. 2006-144 authorized the award of bid and contract to Melrose Ford, Oakland CA. for five (5) new, current year/model trucks, and

WHEREAS, Melrose Ford could not accept a purchase order because the manufacturer cut-off date of March 15 had expired, and they could not honor prices quoted for the five (5) vehicles, and

WHEREAS, American Chevrolet of Modesto, CA. is the second lowest responsive and responsible bidder for two (2) vehicles, item 6.0 and 11.0, and

WHEREAS, Coalinga Motors of Coalinga, CA. is the second lowest responsive and responsible bidder for three (3) vehicles, items 13.0 and 16.0, and

WHEREAS, the Purchasing Division and Public Works-Fleet Services Division staff evaluated bids, and

WHEREAS, American Chevrolet of Modesto, CA. was deemed to be the second lowest responsive and responsible bidder for the following vehicles:

- One (1), ¾ ton, regular cab, long bed, 4WD pickup;
- One (1), ½ ton, crew cab, mid-size, 2WD pickup,

In the approximate amount of \$43,117.59, and

WHEREAS, Coalinga Motors of Coalinga, CA. was deemed to be the second lowest responsive and responsible bidder for the following vehicles:

- Two (2), ½ ton, extended cab, mid- size, 2WD pickups;
- One (1), ½ ton, crew cab, mid-size, 2WD pickup,

in the approximate amount of \$48,279.02, and

WHEREAS, the total cost of the five (5) new, current year/model, trucks is approximately \$91,396.61 including freight and sales tax, and

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

WHEREAS, the code also states that purchases whose total maximum cost to the City exceeds \$50,000 shall receive preliminary approval of Council (MCC 8-3.203(a)), and

WHEREAS, the five (5) new, current year/model trucks received said approval with Resolution No. 2005-381, and

WHEREAS, this Request for Bid (RFB) process conforms to City Code, and

WHEREAS, funds are available in account number 7210-480-5814-5242 (Fleet Equipment, Replacement), 7210-480-5814-5301 (Fleet Equipment, Replacement), 7210-480-5814-5302 (Fleet Equipment, Replacement), 7210-480-5814-5310 (Fleet Equipment, Replacement), and 6100-480-5012-5700 (Water Fund) in the amount of \$92,980 for five (5) new, current year/model trucks,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for five (5) new, current year/model trucks in the total approximate amount of \$91,396.61 to the following vendors:

American Chevrolet of Modesto, CA. for the following vehicles:

- One (1),  $\frac{3}{4}$  ton, regular cab, long bed, 4WD pickup;
- One (1),  $\frac{1}{2}$  ton, crew cab, mid-size, 2WD pickup

in the approximate amount of \$43,117.59.

Coalinga Motors of Coalinga, CA. for the following vehicles:

- Two (2),  $\frac{1}{2}$  ton, extended cab, mid-size, 2WD pickups;
- One (1),  $\frac{1}{2}$  ton, crew cab, mid-size, 2WD pickup,

in the approximate amount of \$48,279.02.

BE IT FURTHER RESOLVED that the Purchasing Supervisor is hereby authorized to issue purchase orders for five (5) new, current year/model trucks as set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-233**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR TRAFFIC SIGNAL HARDWARE FOR AN INITIAL ONE (1) YEAR PERIOD, WITH ONE (1) YEAR CONTRACT EXTENSION PURCHASE OPTION, AT THE SOLE DISCRETION OF CITY, TO THE FOLLOWING VENDORS: TRAFFIC PARTS, INC. OF SPRING, TX. IN THE APPROXIMATE TOTAL ANNUAL AMOUNT OF \$2,680.08; WESTERN PACIFIC SIGNAL, LLC OF SAN LEANDRO, CA. IN THE APPROXIMATE TOTAL ANNUAL AMOUNT OF \$60,017.26; AND JAM SERVICES OF LIVERMORE, CA. IN THE APPROXIMATE TOTAL ANNUAL AMOUNT OF \$7,316.53. THE APPROXIMATE TOTAL ANNUAL PURCHASE AMOUNT FOR TRAFFIC SIGNAL HARDWARE IS \$70,013.87**

WHEREAS, the Public Works Department-Electrical Division has requested the purchase of traffic signal hardware, and

WHEREAS, traffic signal hardware will be utilized to restock necessary inventory, and

WHEREAS, the hardware is needed to replace or upgrade damaged or obsolete equipment such as: traffic signal framework and indications, pedestrian pushbuttons and assemblies, and walk/don't walk pedestrian signal indications, and

WHEREAS, for the most part, the traffic signal hardware must be upgraded periodically due to normal aging (wear and tear), and

WHEREAS, some traffic signal hardware is damaged in vehicular accidents, by trucks, or by vandals and graffiti, and

WHEREAS, upgrades also include routine maintenance change-outs of traffic signal indications from metal indications to polycarbonate indications, and

WHEREAS, the purchase of this equipment is necessary to properly maintain the City's traffic signal operations, and service our vehicular and pedestrian traffic safely, and

WHEREAS, Resolution No. 2005-572 authorized the Purchasing Supervisor to solicit bids for traffic signal hardware for an initial one-year period, with one-year contract extension options, and

WHEREAS, the Purchasing Division solicited formal bids for traffic signal hardware on Request for Bid 0506-17, with a bid opening date of February 28, 2006, and

WHEREAS, ten (10) vendors were solicited of which two (2) were local vendors, and

WHEREAS, out of ten (10) vendors solicited, five (5) chose to respond to the RFB, and

WHEREAS, two (2) bids were deemed to be non-responsive because the vendor did not submit two (2) signed original bid documents, and

WHEREAS, the 2% local vendor preference was not a factor in determining the lowest responsive and responsible bidder, and

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

WHEREAS, the code also states that purchases whose total maximum cost to the City exceeds \$50,000 shall receive preliminary approval of Council, MMC (8-3.203 (a)), and

WHEREAS, the traffic signal hardware received said approval with Resolution No. 2005-572, and

WHEREAS, this Request for Bid (RFB) process conforms to City Code, and

WHEREAS, the City Council has appropriated funds for traffic signal hardware in account numbers: 0700-160-1612-0365 (STREET, TRAFFIC & FORESTRY, ELECTRICAL DIVISION EQUIPMENT MAINTENANCE AND REPAIR), and 1410-160-E695-6040 (TULLY, MT VERNON, COLDWELL SIGNAL UPGRADES), and

WHEREAS, the Purchasing Division has coordinated the solicitation and evaluation of bids for traffic signal hardware with the Public Works Department-Electrical Division staff,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for an initial one-year period, with one-year contact extension option, at the sole discretion of City, in the approximate total annual amount of \$70,013.87 to the following vendors:

- Traffic Parts, Inc. of Spring, TX. in the approximate total annual amount of \$2,680.08;
- Western Pacific Signal, LLC of San Leandro, CA. in the approximate total annual amount of \$60,017.26;
- Jam Services of Livermore, CA. in the approximate total annual amount of \$7,316.53.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25<sup>th</sup> day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-234**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR  
NATIONAL ASSISTANCE TO FIREFIGHTERS GRANT PROGRAM FUNDS IN  
THE AMOUNT OF \$229,373 AND TO EXECUTE THE NECESSARY GRANT  
APPLICATION DOCUMENTS**

WHEREAS, the Congress, under Public Law 107-73, has authorized the establishment of the Federal Fire Protection and Control Act and has appropriated \$539.5 million dollars to carryout the Assistance to Firefighter's Grant Program, and

WHEREAS, the Department of Homeland Security, Office of Grants and Training is responsible for administration of the program, setting up necessary rules and procedures governing application by local agencies under the program, and

WHEREAS, said adopted procedures established by the Department of Homeland Security, Office of Grants and Training require the applicant to provide 20% local matching funds, and

WHEREAS, the City of Modesto and Modesto Fire Department qualify to submit a grant request,

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

1. Authorizes the filing of an application for Assistance to Firefighter's Grant Program funds in the amount of \$229,373.
2. Certifies that said agency has matching funds from the following source: Fire Department Operating Budget, and can finance 100 percent of the project, 80% of which will be reimbursed.

3. Authorizes the City Manager, or designee, as agent of the City to execute and submit the necessary grant application documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-235**

**A RESOLUTION APPROVING THE FORMATION OF A SOLID WASTE  
ADVISORY COMMITTEE AND DIRECTING STAFF TO PROCEED WITH  
THE RECRUITMENT OF CITIZEN REPRESENTATIVES TO SERVE ON THE  
COMMITTEE**

WHEREAS, in July 2004, the City Council adopted Resolution No. 2004-367 separating the Compost Facility from the Sewer Fund and establishing Compost Operations as a separate Enterprise Fund, and

WHEREAS, on January 3, 2006, by Resolution No. 2006-009A, the City Council approved the transfer of the Compost Facility from the Public Works Department, Wastewater Division to the Solid Waste Division of the Parks, Recreation and Neighborhoods Department, and

WHEREAS, with the shift of Compost Facility (Facility) operations and budget oversight to Solid Waste, staff recommends the formation of a Council-appointed Solid Waste Advisory Committee, and

WHEREAS, the Committee will be comprised of the Deputy City Manager, the Finance Director, the Public Works Director, two citizen/consumer representatives, and two citizen/non-profit representatives, and

WHEREAS, this Committee will provide a rate review function to ensure that modifications to the rate structures at the Facility receive both internal and external review, as well as input into future modifications or expansions of Facility operations as well as flow control to meet solid waste diversion needs, and

WHEREAS, the Committee will meet quarterly to address the needs of the Facility due to the fluctuation in the market, and

WHEREAS, the Committee will also ultimately participate in the review of proposed maximum garbage rates, and

WHEREAS, the Economic Development Committee considered this item at its November 7, 2005, meeting as part of the move of Compost operations from the Wastewater Division of the Public Works Department to the Solid Waste Division of the Parks, Recreation and Neighborhoods Department, and approved the recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the formation of a Solid Waste Advisory Committee.

BE IT FURTHER RESOLVED that the Council hereby directs staff to proceed with the recruitment of citizen representatives on the Committee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25<sup>th</sup> day of April 2006, by Mayor Ridenour, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-236**

**A RESOLUTION APPROVING THE INCREASE OF PAY RANGES OF VITAL  
PART-TIME EMPLOYEES IN THE PARKS, RECREATION AND  
NEIGHBORHOODS DEPARTMENT BY 7.5%, AND HOLDING THE PARKS,  
RECREATION AND NEIGHBORHOODS DEPARTMENT HARMLESS FROM  
INCREASES TO THESE PART-TIME SALARY CLASSIFICATIONS**

WHEREAS, the Parks, Recreation and Neighborhoods Department currently consists of eight different working divisions: Administration, Parks Planning and Development, Park Services, Building and Parking Services, Recreation and Neighborhood Services, Solid Waste, Tenth Street Place, and Cultural and Enterprise Services, and

WHEREAS, many divisions of the department are dependent on part-time employees to implement programs on a daily basis, and

WHEREAS, the Department budgets for and funds over \$1.4 million for salaries and benefits of part-time employees, and

WHEREAS, due to the number of part-time employees involved in the programs and the difficulty in recruiting and retaining qualified employees, the Parks, Recreation and Neighborhoods Department is requesting that the City Council consider part-time salary issues within two divisions of the department, Recreation and Neighborhood Services and Building and Parking Services, and

WHEREAS, the two issues are: 1) the need to increase the pay ranges of vital part-time employees by 7.5%, and 2) the impact to the Parks, Recreation and Neighborhoods Department budget from increases to these part-time salary classifications, and

WHEREAS, part-time employees are vital to many of the Parks, Recreation and Neighborhoods Department programs and functions, and without these part-time staff members, the City of Modesto would not be able to operate the majority of the programs within the Recreation work unit, such as youth camps, adult sports leagues, youth and adult aquatic programs, and programs for seniors, disabled clients, as well as pre-school programs, and after-school enrichment activities, and

WHEREAS, currently, the Parking Unit is dependent on garage attendants and lead garage attendants to collect fees at the city-owned parking structures, and

WHEREAS, in order to properly staff part-time employees who are of high quality and in the quantity needed, the City needs to be competitive in the employment market, and

WHEREAS, Parks, Recreation and Neighborhoods Department staff as well as staff in the Personnel Department believe that increasing the pay ranges of vital part-time employees by 7.5% will go a long way in helping the City become more competitive in the part-time employment arena, will also help the City remain at a competitive salary level, and will bring increases to vital classifications and help retain current quality employees and hopefully increase recruitment efforts in the future, and

WHEREAS, the proposed increase of 7.5% would raise the minimum wage paid to these employees to \$7.25, which would put all salaries at, or above, the proposed new minimum wage, if approved at the State level as shown on Exhibit "A", attached hereto and incorporated herein by reference, and

WHEREAS, the Parks, Recreation and Neighborhoods Department is requesting that its budget be “held harmless” from increases to these part-time salary classifications, and

WHEREAS, if the Department is not “held harmless” for part-time salary increases, as it is for full-time staff increases, the Department will need to cut \$52,349 from its General Fund budget, which would result in elimination of some programs, and

WHEREAS, the Finance Committee met on March 27, 2006, and recommended that the City Council approve an increase in the pay ranges of vital part-time employees in the Parks, Recreation and Neighborhoods Department by 7.5%, and

WHEREAS, the Finance Committee also supported holding the Parks, Recreation and Neighborhoods Department budget harmless from increases to these part-time salary classifications,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an increase in the pay ranges of vital part-time employees in the Parks, Recreation and Neighborhoods Department by 7.5% as shown on Exhibit “A”, attached hereto and incorporated herein by reference, effective July 1, 2006.

BE IT FURTHER RESOLVED that the Council hereby holds the Parks, Recreation and Neighborhoods Department budget harmless from increases to these part-time salary classifications in its Fiscal Year 06-07 operating budget.

BE IT FURTHER RESOLVED that the Personnel Director, or her designee, is hereby authorized to implement the proposed changes to the part-time salary schedule as shown on Exhibit “A”, 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 25<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**PROPOSED  
SALARY SCHEDULE  
Effective: July 1, 2006**

**CITY OF MODESTO  
PERSONNEL DEPARTMENT  
SALARY SCHEDULE FOR PART-TIME AND TEMPORARY POSITIONS**

**I. COMPENSATION PER HOUR (NO BENEFITS)**

**Job Class** **Rate Per Hour**

**Recreation and Centre Plaza**

8115	Recreation Coordinator (119)	\$17.2204	\$18.0814	\$18.9855	\$19.9348	\$20.9315
8145	Recreation Specialist (109)	\$13.4526	\$14.1252	\$14.8315	\$15.5731	\$16.3518
8150	Recreation Instructor/Lifeguard II (101)	\$11.0412	\$11.5933	\$12.1730	\$12.7817	\$13.4208
8157	Recreation Leader III (093)	\$9.0620	\$9.5151	\$9.9909	\$10.4904	\$11.0149
8155	Recreation Leader II (090)	\$8.4150	\$8.8358	\$9.2276	\$9.7415	\$10.2286
8160	Recreation Instructor/Lifeguard I (095)	\$9.5208	\$9.9968	\$10.4966	\$11.0214	\$11.5725
8165	Recreation Leader I (087)	\$7.8142	\$8.2049	\$8.6151	\$9.0459	\$9.4982
8169	Cashier (084)	\$7.2563	\$7.6191	\$8.0001	\$8.4001	\$8.8201

**Parking Garages**

8500	Lead Garage Attendant (092)	\$8.8410	\$9.2831	\$9.7473	\$10.2347	\$10.7464
8503	Garage Attendant (088)	\$8.0096	\$8.4101	\$8.8306	\$9.2721	\$9.7357

**II. COMPENSATION PER EVENT**

**Job Class** **Rate Per Event**

**Sports Officials – Adult**

		Entry	Journey	Senior	Master
	Adult Sports Scorekeeper	\$9.68	\$10.75	\$11.83	\$12.90
8370	Basketball				
	1. When two referees are assigned	\$17.20	\$19.35	\$21.50	\$23.65
	2. When one referee is assigned	\$27.95	\$30.10	\$32.25	\$34.40
8360	Softball (Slow Pitch)				
	1. When two umpires are assigned	\$16.13	\$17.20	\$18.28	\$19.35
	2. When one umpire is assigned Softball (Fast Pitch)	\$21.50	\$23.65	\$25.80	\$27.95
	3. When two umpires are assigned	\$19.35	\$21.50	\$23.65	\$25.80
	4. When one umpire is assigned	\$30.10	\$32.25	\$34.40	\$36.55
8390	Soccer				
	1. When Center Referee is assigned	\$32.25	\$35.48	\$38.70	\$41.93
	And two (2) Linesmen are assigned	\$21.50	\$23.65	\$25.80	\$27.95
	2. When two referees are assigned	\$21.50	\$23.65	\$25.80	\$27.95
	3. When one referee is assigned	\$32.25	\$35.48	\$38.70	\$41.93
8365	Volleyball				
	One per game is assigned		\$9.68	\$10.75	\$11.83

**III. COMPENSATION (VARIABLE)**

**Job Class** **Rate Per Hour**

**Administrative**

8105	Class Specialty Instructor	\$7.25 per hour - \$40.00 per hour
------	----------------------------	------------------------------------

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-237**

**A RESOLUTION APPROVING THE IMPLEMENTATION OF THE  
REORGANIZATION OF THE RECREATION UNIT AND AUTHORIZING  
STAFF TO IMPLEMENT THE CHANGES**

WHEREAS, the Recreation and Neighborhood Division within the Parks, Recreation and Neighborhoods Department consists of three separate work units: the Neighborhood Preservation Unit (NPU), the Housing and Urban Development (HUD) Fund Unit, and the Recreation Unit, and

WHEREAS, each work unit has distinct functions that create community and enhance neighborhoods, and

WHEREAS, the Recreation Unit currently consists of five (5) Recreation Supervisor II positions, eight (8) 0.75 FTE Recreation Coordinators positions, and numerous part-time City employees, such as lifeguards, recreation leaders, class instructors, and sports officials, and

WHEREAS, this work unit is responsible for planning, implementing, and evaluating the majority of recreation and enrichment programs sponsored by the City of Modesto, and

WHEREAS, currently, the Recreation Unit is in transition; since December 2005, two experienced Recreation Supervisor IIs have left employment with the City (one retirement, one resignation), one 0.75 FTE Recreation Coordinator has resigned, and several additional members of the supervisory staff are eligible for and considering retirement in the near future, and

WHEREAS, the Department is also due to open the expanded and remodeled Maddux Youth Center in June 2006, and the Neighborhood Center at Marshall Park in June 2007, and

WHEREAS, due to the current and anticipated vacancies as well as the expanding facilities, staff believes now is the time for a major reorganization of this work unit, and

WHEREAS, the most significant change recommended is to hire a Recreation Program Manager to supervise the Recreation Unit which would provide focused leadership within the Recreation Unit, add special event support and improve facility management, and

WHEREAS, funding for the proposed reorganization comes from the existing operating budget due to personnel vacancies, and

WHEREAS, staff believes that the proposed reorganization will give the Recreation Unit the necessary staffing and additional support to face some of the upcoming challenges, including the opening of two new or improved facilities, and the imminent arrival of a new, less experienced supervisory staff that will join the City within the next year, and

WHEREAS, additionally, the Deputy Director, who currently provides direct supervision to the Recreation Supervisors, is challenged by her current span of control which includes management of nine (9) employees in three different and complicated work units, and

WHEREAS, with the current vacancies, the proposed reorganization can be accomplished with no additional funding to the Department's base budget, and

WHEREAS, the Finance Committee met on March 27, 2006, and recommended this proposal,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the implementation of a reorganization of the Recreation Unit.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that staff is authorized to implement the approved reorganization.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-238**

**A RESOLUTION AUTHORIZING THE PURCHASING SUPERVISOR TO  
FORMALLY SOLICIT REQUEST FOR BIDS FOR THE PURCHASE OF  
MATRIX, HIGH DENSITY, STACKING CHAIRS FOR THE MODESTO  
CENTRE PLAZA, FOR A TOTAL ESTIMATED COST OF \$144,681**

WHEREAS, the current inventory of chairs for the Modesto Centre Plaza was purchased for its opening in 1988, and

WHEREAS, the condition of the chair inventory has deteriorated over the years, and

WHEREAS, the number of usable chairs has been reduced over the years due to breakage and wear and tear, and

WHEREAS, there is a need to replace the entire inventory with two thousand (22,000) matrix, high density, stacking chairs, 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 Request for Bid for the purchase of replacement matrix, high density, stacking chairs will conform to Modesto Municipal Code Section 8-3.203,

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 competitive sealed bids for the purchase of matrix, high density, stacking chairs 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 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 25<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmemeber Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-239**

**A RESOLUTION APPROVING A GRANT APPLICATION FOR \$49,000 IN  
FUNDING FROM THE FEDERAL LAND AND WATER CONSERVATION  
FUND FOR THE CONSTRUCTION OF A WALKING TRAIL IN THE  
GATEWAY PARCEL OF THE TUOLUMNE RIVER REGIONAL PARK, AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE GRANT  
APPLICATION AND CONTRACT 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, providing matching funds to the State of California and its political subdivisions for acquiring lands and developing facilities for public outdoor recreation purposes; and

WHEREAS, the State of 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 State of California Department of Parks and Recreation require the applicant to certify by resolution the approval of applications and the availability of eligible matching funds prior to submission of said applications to the State; and

WHEREAS, development of a walking trail in the Gateway Parcel of the Tuolumne River Regional Park is consistent with the Statewide Comprehensive Recreation Resources Plan *California Outdoor Recreation Plan – 2002*, and

WHEREAS, the Project must be compatible with the land use plans of those jurisdictions immediately surrounding the Project,

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

1. Approves the filing of an Application for \$49,000 for Federal Land and Water Conservation Fund assistance, and
2. Certifies that said agency has matching funds from the following source(s): Tuolumne River Regional Park Capital Improvement Project 06/07 annual allocation, and can finance 100 percent of the Project, half of which will 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 City Manager 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 following acceptance and approval by the City Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: R. Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-240**

**A RESOLUTION APPROVING AN AMENDMENT TO A STANDARD AGREEMENT BETWEEN THE CITY OF MODESTO AND PRECISION INSPECTION COMPANY INC., INCREASING THE SCOPE OF SERVICES TO INCLUDE INSPECTIONS, BID PREPARATION, AND REHABILITATION CONTRACT MONITORING SERVICES FOR THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT FOR AN AMOUNT NOT TO EXCEED \$50,000, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO THE AGREEMENT**

WHEREAS, on January 10, 2006, by Resolution No. 2006-016, the City Council approved a Standard Agreement between the City and Precision Inspection Company, Inc. for services that include building permit inspections and plan checking services for the Community and Economic Development Department, in an amount not to exceed \$75,000, and

WHEREAS, recent staffing changes have left the Parks, Recreation and Neighborhoods Department in need of similar technical consulting services available through Precision Inspection Company, Inc., and

WHEREAS, the Parks, Recreation and Neighborhoods Department administers the Federally-funded Housing Rehabilitation Program which provides funds, technical assistance, and contract administration services for rehabilitation activities in homes occupied by low-income households, and

WHEREAS, the unanticipated staffing changes have left the Rehabilitation unit without technical staffing to complete inspections, prepare and review bid specification documents and plans, and monitor small rehabilitation construction contracts, and

WHEREAS, as a result of these staffing shortages, the remaining staff will not be able to operate the Housing Rehabilitation Programs, in total, which will not only create a

complete break in customer service and planned work flow, but could endanger HUD funding as program goals, objectives and outcomes may not be achieved, and

WHEREAS, an amendment to the Standard Agreement with Precision Inspection Company, Inc. will enable the Housing Rehabilitation Programs to continue to operate until Housing Rehabilitation Specialist and Senior Housing Rehabilitation Specialist positions are filled, and

WHEREAS, \$50,000 in funding is available in salary savings in the Housing Rehabilitation organization operating budget (1130-320-3256-0110), which will be transferred to 1130-320-3256-0235, and

WHEREAS, the Housing Rehabilitation Loan Committee (HRLC) met on April 06, 2006, and recommended approval of an Amendment to the Agreement with Precision Inspection Company, Inc. to provide consultant services for inspections, bid preparation, and rehabilitation contract monitoring services for an amount not to exceed \$50,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Agreement with Precision Inspection Company, Inc., increasing the contract amount by \$50,000, to provide consultant services for inspections, bid preparation, and rehabilitation contract monitoring services to the Parks, Recreation and Neighborhoods Department.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment to 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 25<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-241**

**A RESOLUTION APPROVING AN AGREEMENT WITH THE HOUSING  
AUTHORITY OF STANISLAUS COUNTY TO PROVIDE A \$750,000 LOAN TO  
PURCHASE A 12-UNIT MULTI-FAMILY HOUSING DEVELOPMENT  
LOCATED AT 1901 PARAMONT WAY ("PARAMONT PROJECT"), FOR  
RENTAL TO LOW-INCOME HOUSEHOLDS, AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, on March 29, 2006, Richard Chubon, Executive Director for the Housing Authority of Stanislaus County, contacted the City of Modesto, Parks, Recreation and Neighborhoods Department regarding the purchase of a 12-unit multi-family housing development located at 1901 Paramount Way ("Paramont Project"), and

WHEREAS, the Paramont Project is listed for sale at \$1,575,000, or \$154 per square foot, with twelve (12) 2-bedroom/1-bath units, each with 865 square feet of living space, and

WHEREAS, the building was constructed in August 2005, and

WHEREAS, the building is a two-story, apartment over design, with wood framing, stucco and tile roofs, and all units are equipped with fire sprinklers, and

WHEREAS, an identical project built by the same contractor and located across the street sold in June 2005, for \$2,100,000, and

WHEREAS, the complex exceeds code requirements with 14 covered parking spaces and 12 uncovered spaces, for a total 26 off-street parking spaces, and

WHEREAS, amenities include units with 9-foot ceilings, carpeting; kitchen appliances including dishwashers and an on-site laundry facility, and

WHEREAS, the complex is located in a neighborhood served by Freedom Elementary School and will also be served by the new Daniel Savage Middle School, and

WHEREAS, the 6 ground floor units are handicap accessible; however, to provide full handicapped accessibility, further modifications would be needed, and

WHEREAS, the Housing Authority is proposing the following affordability mix:

- 4 units – to be rented at 80% Area Median Income level
- 4 units – to be rented at 60% Area Median Income level
- 4 units – to be rented 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 \$750,000, with the following proposed terms:

- Loan Maturity – 55 years
- Interest Rate
  - First 30 years at 1% interest, deferred principal and interest residual receipt loan with 50% of first 10-year cash flow committed to reserves\*
  - Last 25 years at 3% interest, fully amortized payments on remaining loan balance
- Affordability Period – 55 years

*\*This provision ensures that project's replacement reserves will be adequately funded.*

and

WHEREAS, the remaining Paramount Project financing will be provided by a Housing Authority Tax Exempt Note in the amount of \$800,000 and capital contribution from the Housing Authority in the amount of \$79,000, and

WHEREAS, the Housing Authority also proposes a transition plan to avoid displacing any current tenants of Paramount Project, and

WHEREAS, at the time of acquisition, all occupied units will be provided with the “right of continued occupancy” and as these occupied units are vacated, they will be transitioned to affordable units, and

WHEREAS, this plan avoids displacement of current tenants, and the Housing Authority feels it is likely that some of the current tenants may qualify under the project's proposed affordability provisions, and

WHEREAS, the City has a great need for more affordable housing for very-low and low-income households; as indicated in the City of Modesto Housing Element, our share of regional housing needs for very-low income households is 3,360 units, and for low-income households 2,609 units, and

WHEREAS, the proposed acquisition of Paramount Project will provide 12 units of quality affordable rental housing in an expedient fashion at a per-unit cost of approximately \$135,000; including fees and development cost, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) met on April 21, 2006 and approved staff's recommendation,

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 to provide a \$750,000 loan, to purchase a 12-unit multi-family housing development located at 1901 Paramount Way ("Paramount Project"), for rental to low-income households with an affordability period of fifty-five (55) years.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the loan agreement and affordable housing covenant.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25<sup>th</sup> day of April 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-242**

**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. CLASSIFICATIONS AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the job specifications for the following classifications:

1. Maintenance Mechanic - Pumps
2. Operations and Maintenance Crewleader

Said classifications are being amended to revise the job specifications to better reflect the requirements of the various job classifications, specifically state and federal licensing and certification requirements.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after April 25, 2006.



The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 25<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

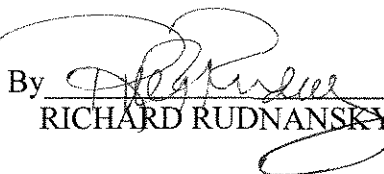
AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-243**

**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 Water Quality Control Superintendent and to change the title to Wastewater Treatment Plant Manager. The job specification for this classification is primarily being amended to change the required Grade V Wastewater Treatment Operator Certification to a Grade IV. The job specification for the classification of Wastewater Treatment Plant Manager, as shown on the attached **Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after April 25, 2006.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 25th day of April, 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

~~WATER QUALITY CONTROL SUPERINTENDENT~~  
WASTEWATER TREATMENT PLANT MANAGER

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

DEFINITION

To plan, organize and supervise the maintenance, operation, modification, and improvement of the City's wastewater treatment plant ~~facilities, sewer system, and related facilities to ensure~~ ensure that the quality of wastewater discharged from the ~~sewerage system~~ meets Federal and State requirements; and to perform a variety of technical tasks relative to assigned area of responsibility.

SUPERVISION RECEIVED AND EXERCISED

Receives general direction from the Deputy Director of Public Works - Operations.

Exercises direct supervision over professional, technical, maintenance and clerical staff.

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

Essential Functions:

Manage, direct and organize wastewater division activities.

Recommend goals and objectives; assist in the development of policies and procedures.

Direct, oversee and participate in the development of the Division work plan; assign work activities, projects and programs; monitor workflow; implement policies and procedures; review and evaluate work products, methods and procedures.

Prepare the Division budget; assist in budget implementation; participate in the forecast of additional funds needed for staffing, equipment, materials, and supplies; administer the approved budget.

Participate in recommending the appointment of personnel; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures; recommend employee terminations.

~~Oversee the~~ Work with the operations of a biochemical testing laboratory on testing and results; review plant-operating data, including laboratory tests, to determine if operational changes are necessary.

Exhibit "A"

Essential Functions: (Continued)

~~Supervise the maintenance and repairs of the City sewer system; Review~~ sampling stations and sampling techniques to assure proper sampling results.

~~Inspect~~ ~~Direct the operation of primary and secondary plants to ensure proper~~ operation, cleaning, ~~and safety and emergency response~~ procedures.

Supervise public relations activities; conduct guided tours; speak at clubs and schools.

Make recommendations for improvement and construction of wastewater treatment facilities; evaluate new products and processes to determine applicability to system.

Participate in the design and construction of tertiary and other modifications to the wastewater treatment plants.

Supervise the preparation of a variety of reports required by regulatory agencies involved in the control of water pollution.

Supervise the preparation of payroll reports, employee evaluations, and other wastewater functions and activities for City officials.

Insure an adequate inventory of supplies, parts, and equipment for the wastewater treatment plant and related facilities.

Act on behalf of the Deputy Director – Operations during absences.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Wastewater treatment systems and plant operations.

Materials, methods, tools, and equipment used in the operation and maintenance of wastewater treatment plant ~~sewer~~ facilities.

Knowledge of: (Continued)

Principles, objectives and tests used in a biochemical laboratory.

Design and engineering of wastewater treatment and ~~sewage conveyance~~ facilities.

Safety principles and practices.

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

Select, supervise, train and evaluate assigned staff.

Prepare and administer a budget.

Engineering principles and practices of sampling.

Ability to:

Plan, organize, direct and evaluate the work of a secondary wastewater treatment plant, ~~sewer system~~, and its related facilities.

Analyze problems, identify alternative solutions, project consequences of proposed actions and implement recommendations in support of goals.

Maintain accurate operational records and prepare reports.

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

Prepare and administer a budget.

Read and interpret ~~blueprints~~ plans and specifications, and understand diagrams.

Supervise, train and evaluate assigned staff.

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:

Six years of responsible experience in the operation and maintenance of a wastewater treatment plant, or major part thereof, including two years of supervisory or lead responsibility.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in civil engineering, environmental science, construction technology or a related field.

License or Certificate

Possession of, or ability to obtain, an appropriate, valid California driver's license.

Possession of a valid Grade ~~V~~ IV Wastewater Treatment Plant Operator Certificate issued by the State of California State Water Resources Control Board or equivalent. Possession of a Grade V Wastewater Treatment Plant Operator Certificate issued by the State of California State Water Resources Control Board is required within 18 months of appointment. Failure to obtain this certification will result in demotion to a previously held classification or termination from City service.

WORKING CONDITIONS

Environmental Conditions:

Office and field environment.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time and travel from site to site.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-244**

**A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION  
NO. 2005-494 TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED  
MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO CHANGE  
THE TITLE OF WATER QUALITY CONTROL SUPERINTENDENT TO  
WASTEWATER TREATMENT PLANT MANAGER AT SALARY RANGE 446**

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2005-494, which approved the Class Range Table for Represented Management and Non-Sworn Classes,

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

SECTION I. AMENDMENT TO RESOLUTION NO. 2005-494. Exhibit "A" entitled "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes effective October 4, 2005", attached to Resolution No. 2005-494, 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 25, 2006", which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" changes the title of Water Quality Control Superintendent to Wastewater Treatment Plant Manager remaining at salary range 446.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after April 25, 2006.



The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 25th day of April 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

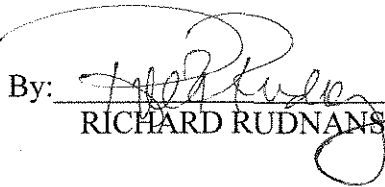
AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

CITY OF MODESTO  
CLASS RANGE TABLE  
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES  
Effective **April 25, 2006**

---

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	Senior Administrative Office Assistant (Confidential) Secretary
416	
417	
418	Legal Secretary Systems Technician I
419	Public Information Technician (Confidential)
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (Represented) Legal Services Technician
421	

Exhibit "A"

RANGE      TITLE

---

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

Exhibit "A"

RANGE      TITLE

---

432    Communications Specialist  
      Compost Facility Supervisor  
      Customer Services Supervisor  
      Neighborhood Preservation Supervisor  
      Operations and Maintenance Supervisor  
      Recreation Supervisor II  
      Senior Accountant  
      Water Quality Control Maintenance Supervisor  
      Water Quality Control Operations Supervisor

433    Organizational Development Specialist

434    Assistant Civil Engineer  
      Assistant Traffic Engineer  
      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  
      Senior Personnel Analyst  
      Weed and Seed Program Coordinator

436    Electrical Supervisor  
      Senior Planner

437

Exhibit "A"

RANGE      TITLE

---

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

443

Exhibit "A"

RANGE      TITLE

---

444    Deputy Chief Building Official  
      Principal Planner  
      Solid Waste Program Manager  
      Transit Manager

445    Accounting Division Manager

446    Information Technology Unit Manager  
      **Wastewater Treatment Plant Manager**

447    Business Development Division Manager  
      Chief Building Official  
      Planning Division Manager  
      Senior Civil Engineer  
      Traffic Engineer

448

449

450

451

452

453

455

Exhibit "A"

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-245**

**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 Emergency Medical Services Coordinator. The job specification for this classification is being amended to change the required certification to be obtained within one year of appointment and to change the experience to include additional transferable skills. The job specification for the classification of Emergency Medical Services Coordinator, as shown on the attached **Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after April 25, 2006.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 25th day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



## EMERGENCY MEDICAL SERVICES COORDINATOR

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

### DEFINITION

To administer and coordinate emergency medical services (EMS) programs of the Fire Department including training, equipment, certifications, legislative requirements, vaccinations, medical exposures and EMS contracts.

### SUPERVISION RECEIVED AND EXERCISED

Receives general direction from a Fire Division Chief.

May exercise direct supervision over assigned staff.

### ESSENTIAL AND MARGINAL FUNCTION STATEMENTS

Essential and other important responsibilities and duties may include, but are not limited to, the following:

#### Essential Functions:

Develop, implement, administer and evaluate operations and activities of EMS programs; recommend improvements and modifications; prepare various reports on operations and activities.

Ensure all EMS programs, operations and personnel comply with State and local laws, regulations, protocols, licensure and accreditation requirements; assist Emergency Medical Technicians (EMTs) and Paramedics with re-certification needs.

Provide and coordinate the department's continuous EMS education program in accordance with State and local regulations.

Coordinate and provide training for the cardio pulmonary resuscitation (CPR) program for department personnel and the public.

Track, maintain records and generate reports regarding certification, re-certification and other educational licensing requirements.

Exhibit "A"

Essential Functions: (Continued)

Implement-Coordinate and monitor the Department's continuous quality improvement program for Basic Life Support (BLS) and Advanced Life Support (ALS).

Develop, implement, review, monitor and revise training courses and manuals for BLS and ALS to ensure Fire Department personnel meet established standards.

Observe patient care provided by Paramedics Department employees which may require ~~including~~ furnishing Paramedics employees with training, counseling and orientation as needed.

Participate in evaluating Paramedic Department personnel to ensure performance standards compliance; may provide technical expertise regarding Paramedic medical performance in disciplinary actions.

Review and update the Department's exposure control program. This may include assisting with drafting policies and procedures, providing training, and writing exposure follow-up reports. Work with the Risk Division on required "Designated Officer" duties and responsibilities.

Analyze and interpret relevant legislation, regulations and local protocols that may impact Paramedic, EMT or other department EMS programs; make written recommendations as necessary.

Participate in evaluating and making recommendations for the ~~Evaluate,~~ ~~select and purchase~~ of equipment and supplies used in EMS programs; ~~assist in maintain~~ equipment maintenance and ~~supply~~ medical inventory control.

Attend various City Council, Commission, board and other governmental meetings; prepare and present agenda items to the City Council.

Answer questions and provide information to the public, outside agencies and City staff; investigate complaints and recommend corrective action as necessary to resolve complaints.

Assist in developing and implementing EMS public education programs; coordinate, schedule and participate in presenting public awareness and educational programs.

Exhibit "A"

Essential Functions: (Continued)

Recommend goals and objectives; assist in the development of policies and procedures.

Assist in the preparation, review and monitoring of the EMS budget.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Principles, terminology, procedures, medications and equipment used in the administration of emergency medical response, including advanced life support services.

Principles and practices of emergency medicine, including clinical assessment techniques and the principles of patient prioritization and stabilization.

Principles and practices related to the development, management and administration of EMS systems and quality assurance programs.

State and local statutes and regulations pertaining to EMS training, service delivery and quality improvement.

Effective training techniques and learning processes.

Principles and practices of budget preparation and administration.

Ability to:

Coordinate and effectively manage all aspects of an EMS quality assurance program.

Monitor, evaluate and provide feedback regarding the work performance of EMTs and Paramedics.

Plan, develop, coordinate and conduct EMS training based upon a continuous quality improvement plan.

Exhibit "A"

Ability to: (Continued)

Coordinate, develop and conduct a variety of training programs for department staff and the public.

Research and analyze operational and technical issues and develop appropriate recommendations for action.

Interpret, explain and apply applicable laws, codes, regulations, standards, policies and procedures.

Develop and maintain accurate record keeping systems.

Use a computer and applicable software programs.

Communicate clearly and concisely, both orally and in writing; make effective oral presentations.

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

EXPERIENCE AND TRAINING GUIDELINES

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

Experience:

Three years of progressively responsible supervisory or administrative experience related to the training and/or delivery of health care services, fire services, or emergency medical care. ~~in the field of health care services or hospital administration.~~ Part of the required experience must include lead or supervisory responsibility.

Two years academic training experience or clinical experience in the practice of emergency medicine or pre-hospital care ~~in the last five years~~ is desirable.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major coursework in health services, fire science, public health ~~administration or related field.~~

Exhibit "A"

License or Certificate:

Possession of, ~~or the ability to obtain~~ an appropriate, valid California driver's license by date of appointment.

Must possess the following ~~valid, current~~ certificates within one year of appointment. Failure to obtain the required certificate within one year will result in release from probation or termination.

- American Heart Association (AHA) ~~CPR and Automatic External Defibrillator (AED)~~ - Basic Life Support (BLS) Instructor
- ~~Basic Life Support Instructor~~

The following certificates are desirable:

- Advanced Cardiac Life Support (ACLS) Instructor
- Pediatric Advanced Life Support (PALS) Instructor

Based on departmental approval, equivalent certification may be accepted in lieu of the above.

California licensure as a registered nurse or physician assistant or certification as an EMT-Paramedic is desirable.

WORKING CONDITIONS

Environmental Conditions:

Office and field environment. Travel from site to site. Exposure to temperature swings from indoors to outdoors; extreme noise of sirens and emergency equipment; working outdoors at emergency scenes with Paramedics and EMTs.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for sitting for prolonged periods of time; traveling to and from sites and attending meetings. May be required to squat, stand, lift and carry equipment (weighing up to 25 pounds) occasionally. May be required to use various office equipment including a computer screen and keyboard.

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2006-246**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005/06 BUDGET,  
ESTIMATING REVENUE OF \$12,000 FROM ASSET FORFEITURES TO  
POLICE OPERATIONS FOR THE PURCHASE OF TWO POLICE CANINES  
AND THE ASSOCIATED COSTS FOR THEIR PURCHASE**

WHEREAS, there will be two police canines retired from the Police Department Canine Unit, and

WHEREAS, the Police Department needs to replace these dogs to maintain its canine unit at full capacity, and

WHEREAS, costs for the dogs and their air transport back to Modesto is \$12,000, and

WHEREAS, the Asset Forfeiture Trust Fund has monies available for this purchase, and

WHEREAS, the Safety and Communities Committee considered this item at its April 3, 2006, meeting and recommended forwarding this item to the full Council for its consideration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2005/06 Operating Budget is hereby amended as indicated below:

Appropriate:

To:	0100-190-1961-5000	\$12,000	Police Field Operations
-----	--------------------	----------	-------------------------

Revenue:

From:	0100-190-1961-7202	\$12,000	Seized Forfeitures
-------	--------------------	----------	--------------------

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:


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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-247**

**A RESOLUTION APPROVING AN AGREEMENT WITH THE SACRAMENTO COUNTY SHERIFF'S DEPARTMENT IN THE AMOUNT OF \$80,000 ANNUALLY TO PROVIDE A MODESTO POLICE SERGEANT TO SUPERVISE THE SATELLITE OFFICE OF THE SACRAMENTO VALLEY HIGH TECHNOLOGY TASK FORCE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, there is currently a need for reducing high technology crimes, which is one of the fastest growing criminal activities, and

WHEREAS, the Sacramento Valley High Tech Crimes Task Force (SVHTCTF), is a division of the Sacramento County Sheriff's Department, and

WHEREAS, a satellite office of the SVHTCTF was created and opened in Turlock, CA in 2001, and

WHEREAS, for the last five years, a Sergeant from the Stanislaus County Sheriff's Department has supervised the satellite office, and

WHEREAS, the Modesto Police Department has been requested to assume the supervisory responsibilities of the satellite office, and

WHEREAS, the vision of the SVHTCTF is to reduce the escalation of criminal activities related to the utilization of computers and high technology, and

WHEREAS, the SVHTCTF is currently funded annually via grant award through the State Office of Emergency Services, and

WHEREAS, the Sacramento Sheriff's Department has agreed to pay the City of Modesto Eighty-Thousand Dollars (\$80,000) per year as remuneration for the Modesto Police Department providing the services of a full-time sergeant to supervise the satellite office, and



WHEREAS, the Sacramento Sheriff's Department will also provide the Modesto Police Department Sergeant a vehicle for the duration of the agreement, and

WHEREAS, the City of Modesto will be responsible for the fuel and maintenance of the vehicle, and

WHEREAS, the agreement shall be automatically renewed unless terminated by a thirty (30) day written notice by either party, and

WHEREAS, the cost of providing this Police Sergeant to the Sacramento Valley High Technology Task Force for Fiscal Year 06/07 budget is estimated at \$126,000 for salaries benefits, fuel and maintenance, and Sacramento Valley High Technology Task Force will reimburse the Modesto Police Department \$80,000 for this service, and

WHEREAS, this special police service benefits the City of Modesto in reducing high technology crimes, and

WHEREAS, the Safety and Communities Committee unanimously supported this action at its meeting of April 3, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with the Sacramento County Sheriff's Department in the amount of \$80,000 annually to provide a Modesto Police Sergeant to supervise the satellite office of the Sacramento Valley High Technology Task Force.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-248**

**A RESOLUTION AMENDING THE POSITION ALLOCATION TABLE TO  
INCLUDE ONE NEW POLICE SERGEANT IN THE POLICE DEPARTMENT'S  
FISCAL YEAR 2006/2007 OPERATING BUDGET FOR EXPENSES OF \$126,000  
WITH ESTIMATED OFFSETTING REVENUES OF \$80,000 FROM THE  
SACRAMENTO VALLEY HIGH TECHNOLOGY TASK FORCE**

WHEREAS, there is currently a need for reducing high technology crimes which is one of the fastest growing criminal activities, and

WHEREAS, the Sacramento Valley High Tech Crimes Task Force (SVHTCTF), is a division of the Sacramento County Sheriff's Department which addresses the escalation of criminal activities related to utilization of computers and high technology, and

WHEREAS, a satellite office of the SVHTCTF was created and opened in Turlock, CA in 2001, and

WHEREAS, for the last five years, a Sergeant from the Stanislaus County Sheriff's Department has supervised the satellite office, and

WHEREAS, the Modesto Police Department has been requested to assume the supervisory responsibilities of the satellite office, and

WHEREAS, the SVHTCTF is currently funded annually via grant award through the State Office of Emergency Services, and

WHEREAS, the Sacramento Sheriff's Department has agreed to pay the City of Modesto Eighty-Thousand Dollars (\$80,000) per year as remuneration for Modesto Police Department providing the services of a full-time sergeant to supervise the satellite office, and

WHEREAS, the Sacramento Sheriff's Department will also provide the Modesto Police Department Sergeant a vehicle for the duration of the agreement, and

WHEREAS, the City of Modesto will be responsible for the fuel and maintenance of the vehicle, and

WHEREAS, the Safety and Communities Committee unanimously supported this action at its meeting of April 3, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2006/07 Proposed Operating Budget is hereby amended as indicated below:

Appropriate:

FY 06/07 Budget

To: 0100-190-1941-0110            \$126,000            Salaries Benefits, Fuel & Maint

Revenue:

FY 06/07 Budget

To: 0100-190-1941-3490            \$ 80,000            Sacramento Valley High Technology  
Task Force

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 25<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-249**

**A RESOLUTION AUTHORIZING A "SOLE SOURCE" PURCHASE OF UP TO  
200 LOCKABLE TRASH CONTAINERS OVER THE COURSE OF FIVE (5)  
YEARS FROM VICTOR STANLEY, INC. OF DUNKIRK, MD FOR A TOTAL  
COST NOT TO EXCEED \$225,000**

WHEREAS, over the past several years approximately 150 trash containers have been placed at various bus stop locations, and

WHEREAS, several problems have occurred trying to maintain these containers as the lids are removable and the containers are not lockable, and

WHEREAS, staff has researched other containers with locks and that are sturdy enough to withstand the constant abuse endured by street furniture, and

WHEREAS, staff has also conferred with other agencies and the Downtown Improvement District (DID) regarding lockable containers they placed into the downtown area in 2003, and

WHEREAS, through an informal bid process, staff purchased six (6) containers on a trial basis from Victor Stanley, Inc., the lowest bidder and the vendor of the DID-purchased containers, and

WHEREAS, these containers have proven to be very durable and have retained their aesthetic appeal during the trial period, and

WHEREAS, the Modesto Municipal Code (MMC) 8-3.203, generally requires all purchases exceeding \$50,000 for material and equipment to be formally bid, and

WHEREAS, per MMC 8-3.204 (d) the Purchasing Supervisor may determine that a process other than the formal bid procedures set forth in Section 8-3.203 will result in a procurement for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, this request for authorization to do a “sole source” purchase will conform to the MMC, and

WHEREAS, staff will initially purchase 15 containers at an approximate cost of \$16,750 as storage space is limited, and

WHEREAS, staff plans to then purchase 13 to 15 additional shipments over the course of five (5) years at approximately the same amount for a total cost of approximately \$225,000 for 200 containers, and

WHEREAS, these containers will replace the current containers and will also be placed at new bus stops, and

WHEREAS, funding for the purchase of these containers is budgeted in 6510-165-1677-5947 Bus Stop Improvements, and

WHEREAS, Federal Transit Administration (FTA) revenue will cover 80% of the cost and Local Transportation Fund (LTF) funds will cover the remaining 20%,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes a “sole source” purchase of up to 200 lockable trash containers over the course of five (5) years from Victor Stanley, Inc. of Dunkirk, MD for a total cost not to exceed \$225,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25<sup>th</sup> day of April 2006, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-250**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF  
MODESTO AND THE NEW OWNERS OF PAK MAIL AT 3801 YOSEMITE  
BOULEVARD, SUITE E, TO CONTINUE OPERATING AS A BUS PASS  
OUTLET FOR MODESTO AREA EXPRESS, AND AUTHORIZING THE CITY  
MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, in October 1989, Council approved the plan to establish outlets to sell monthly bus passes, and

WHEREAS, there are currently nine (9) outlets strategically located around Modesto, and

WHEREAS, PAK Mail is located at 3801 Yosemite Boulevard, Suite E and is currently under new ownership, and

WHEREAS, approving this agreement will maintain the program's geographic coverage of Modesto,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves an agreement with the new owners of PAK Mail at 3801 Yosemite Boulevard, Suite E, to continue operating as a bus pass outlet for Modesto Area Express.

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 25<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-251**

**A RESOLUTION AWARDING A CONTRACT TO WEST YOST ASSOCIATES,  
INC. FOR ON-CALL WATER SYSTEM IMPACT STUDIES AND RELATED  
ENGINEERING SERVICES FOR THE PUBLIC WORKS DEPARTMENT –  
CAPITAL IMPROVEMENT SERVICES DIVISION FOR A ONE-YEAR  
AGREEMENT WITH THREE (3) ONE (1) YEAR EXTENSION OPTIONS AND  
AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE  
AGREEMENT**

WHEREAS, the Public Works Department – Capital Improvement Services Division performs a number of tasks requiring water system engineering services that, because of workload levels and/or staff experience, are beyond the ability of City's engineering staff to accomplish in a timely manner, and

WHEREAS, the Public Works Department – Capital Improvement Services Division has utilized the services of specialized consulting engineers to perform targeted water system engineering services in the past, and

WHEREAS, retaining on-call engineering firms allows the Capital Improvement Services Division to have quick access to specific water system engineering services, when needed, and

WHEREAS, on –call engineering firms can provide services for projects using experienced engineering staff and offer a quick turnaround, which is essential to efficient response to the large undertaking of numerous specific plan applications presently scheduled for review and processing by City staff. The goal is to standardize the outcome of the review process and reduce response time for the applicant, which will reflect on overall project budget and cost savings to the project proponent, and

WHEREAS, West Yost Associates is familiar with the City's existing infrastructure, having provided prior services in conjunction with the City's overall utilities master planning efforts, and have demonstrated satisfactory services to the City on past projects, and

WHEREAS, the firm of West Yost Associates is also deemed the most qualified to provide the requested on-call water system engineering services in a timely and cost effective manner. As an example, West Yost Associates recently completed the City's Water System Hydraulic Model Update, a difficult and detailed computer modeling study of the City's existing system, and

WHEREAS, West Yost Associates has an intimate knowledge of the shortcomings and opportunities of the City's utility networks, therefore, staff recommends the consulting firm of West Yost Associates be awarded a contract for On-call Water System Impact Studies and Related Engineering Services, and

WHEREAS, the consultant is 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 authorizes awarding a contract to West Yost Associates for On-call Water System Impact Studies and Related Engineering Services for the Public Works Department – Capital Improvement Services Division for a one -year agreement, with three (3) one (1) year extension options, in an amount not-to-exceed \$100,000 per year, and will not exceed \$25,000 for each specific task order. The consultant will submit a written scope of services outlining the specific work, schedule and cost estimate associated with each task order. The consultant will perform no service until CIS

management has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to the consultant prior to commencement of services.

BE IT FURTHER RESOLVED that the Council hereby authorizes the 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 25th day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-252**

**A RESOLUTION AWARDING A CONTRACT TO CAROLLO ENGINEERS,  
P.C. FOR ON-CALL WASTEWATER SYSTEM IMPACT STUDIES AND  
RELATED ENGINEERING SERVICES FOR THE PUBLIC WORKS  
DEPARTMENT – CAPITAL IMPROVEMENT SERVICES DIVISION FOR A  
ONE-YEAR AGREEMENT WITH THREE (3) ONE (1) YEAR EXTENSION  
OPTIONS AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO  
EXECUTE THE AGREEMENT**

WHEREAS, the Public Works Department – Capital Improvement Services Division performs a number of tasks requiring wastewater system engineering services that, because of workload levels and/or staff experience, are beyond the ability of City's engineering staff to accomplish in a timely manner, and

WHEREAS, the Public Works Department – Capital Improvement Services Division has utilized the services of specialized consulting engineers to perform targeted wastewater system engineering services in the past, and

WHEREAS, retaining on-call engineering firms allows the Capital Improvement Services Division to have quick access to specific wastewater system engineering services, when needed, and

WHEREAS, on-call engineering firms can provide services for projects using experienced engineering staff and offer a quick turnaround, which is essential to efficient response to the large undertaking of numerous specific plan applications presently scheduled for review and processing by City staff. The goal is to standardize the outcome of the review process and reduce response time for the applicant, which will reflect on overall project budget and cost savings to the project proponent, and

WHEREAS, Carollo Engineers is familiar with the City's existing infrastructure, having provided prior services in conjunction with the City's overall utilities master planning efforts, and have demonstrated satisfactory services to the City on past projects, and

WHEREAS, the firm of Carollo Engineers is also deemed the most qualified to provide the requested on-call wastewater system engineering services in a timely and cost effective manner. As an example, Carollo Engineers is in the process of preparing the analyses of the City's wastewater collection, treatment and disposal systems, and

WHEREAS, Carollo Engineers has an intimate knowledge of the shortcomings and opportunities of the City's utility networks, therefore, staff recommends the consulting firm of Carollo Engineers be awarded a contract for On-call Wastewater System Impact Studies and Related Engineering Services, and

WHEREAS, the consultant is 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 authorizes awarding a contract to Carollo Engineers for On-call Wastewater System Impact Studies and Related Engineering Services for the Public Works Department – Capital Improvement Services Division for a one -year agreement, with three (3) one (1) year extension options, in an amount not-to-exceed \$100,000 per year, and will not exceed \$25,000 for each specific task order. The consultant will submit a written scope of services outlining the specific work, schedule and cost estimate associated with each task order. The consultant will perform no service until CIS



management has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to the consultant prior to commencement of services.

BE IT FURTHER RESOLVED that the Council hereby authorizes the 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 25th day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

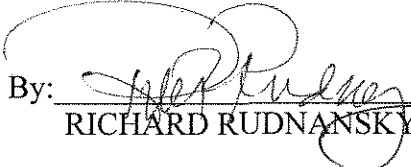
AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-253**

**A RESOLUTION AWARDING A CONTRACT TO STANTEC CONSULTING, INC. FOR ON-CALL STORM DRAINAGE SYSTEM IMPACT STUDIES AND RELATED ENGINEERING SERVICES FOR THE PUBLIC WORKS DEPARTMENT – CAPITAL IMPROVEMENT SERVICES DIVISION FOR A ONE-YEAR AGREEMENT WITH THREE (3) ONE (1) YEAR EXTENSION OPTIONS AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Public Works Department – Capital Improvement Services Division performs a number of tasks requiring storm drainage system engineering services that, because of workload levels and/or staff experience, are beyond the ability of City’s engineering staff to accomplish in a timely manner, and

WHEREAS, the Public Works Department – Capital Improvement Services Division has utilized the services of specialized consulting engineers to perform targeted storm drainage system engineering services in the past, and

WHEREAS, retaining on-call engineering firms allows the Capital Improvement Services Division to have quick access to specific storm drainage system engineering services, when needed, and

WHEREAS, on –call engineering firms can provide services for projects using experienced engineering staff and offer a quick turnaround, which is essential to efficient response to the large undertaking of numerous specific plan applications presently scheduled for review and processing by City staff. The goal is to standardize the outcome of the review process and reduce response time for the applicant, which will reflect on overall project budget and cost savings to the project proponent, and

WHEREAS, Stantec Consulting is familiar with the City's existing infrastructure, having provided prior services in conjunction with the City's overall utilities master planning efforts, and have demonstrated satisfactory services to the City on past projects, and

WHEREAS, the firm of Stantec Consulting is also deemed the most qualified to provide the requested on-call storm drainage system engineering services in a timely and cost effective manner. As an example, Stantec Consulting is in the process of preparing the City's Storm Drainage Master Plan, and

WHEREAS, Stantec Consulting has an intimate knowledge of the shortcomings and opportunities of the City's utility networks, therefore, staff recommends the consulting firm of Stantec Consulting be awarded a contract for On-call Storm Drainage System Impact Studies and Related Engineering Services, and

WHEREAS, the consultant is 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 authorizes awarding a contract to Stantec Consulting for On-call Storm Drainage System Impact Studies and Related Engineering Services for the Public Works Department – Capital Improvement Services Division for a one -year agreement, with three (3) one (1) year extension options, in an amount not-to-exceed \$100,000 per year, and will not exceed \$25,000 for each specific task order. The consultant will submit a written scope of services outlining the specific work, schedule and cost estimate associated with each task order. The consultant will perform no service until CIS

management has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to the consultant prior to commencement of services.

BE IT FURTHER RESOLVED that the Council hereby authorizes the 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 25th day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-254**

**A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT BUDGET IN ORDER TO PARTIALLY FUND THE AGREEMENT WITH WEST YOST ASSOCIATES, INC. BY APPROPRIATING \$25,000 FROM ACCOUNT 6100-800-8000-8003 (WATER RESERVES) TO CIP ACCOUNT 6180-430-W436-6052 (WATER SYSTEM ANALYSIS-PRIMARY)**

WHEREAS, the CIP account 6180-430-W436-6052 (Water System Analysis-Primary) only provides approximately \$25,000 for the Agreement with West Yost Associates, Inc. to fund consultant work for non-developer paid task orders for On-call Water System Impact Studies and Related Engineering Services, and

WHEREAS, the Capital Improvement Services (CIS) Division performs a number of tasks requiring water engineering 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, retaining on-call water system engineering firms allows the division to have quick access to specific water engineering services, when needed, and

WHEREAS, this action will be consistent with the Council goal to keep our infrastructure modern, efficient, effective, to provide dependable service delivery and ensure that adequate public facilities are provided to serve new growth and improve or maintain existing levels of services within the City of Modesto, and

WHEREAS, certain budgetary transactions are necessary to partially fund said Agreement in the amount of \$25,000 for consultant work, specifically non-developer paid task orders for On-call Water System Impact Studies and Related Engineering Services, and for contract administration by City staff, and

WHEREAS, the total amount of \$25,000 is to be transferred from account 6100-430-8000-8003 (Water Reserves) into CIP account 6180-430-W436-6052 (Water System Analysis-Primary),

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the transfer of funds as set forth herein to partially fund the Agreement with West Yost Associates, Inc. to fund consultant work for non-developer paid task orders for On-call Water System Impact Studies and Related Engineering Services.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-255**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE A  
REQUEST FOR PROPOSALS FOR PRETREATMENT PROGRAM SOFTWARE  
AT AN APPROXIMATE COST OF \$60,000**

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

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

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

WHEREAS, in 2004 staff researched purchasing an upgraded PreWin program to be used for pretreatment; however, it was unable to meet the necessary billing requirements, and

WHEREAS, funds for the purchase of Pretreatment Software are budgeted in 6210-480-5217-0235, and

WHEREAS, at this time, there are several programs available to help meet the current NPDES permit requirements, and

WHEREAS, the Economic Development Committee considered this item at its April 5, 2006 meeting and recommended its approval and consideration by the full Council, and

WHEREAS, the Modesto Municipal Code, MMC 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 Proposal for the purchase of a new pretreatment software program to meet the current NPDES permit requirements will conform to MMC Section 8-3.203,

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 competitive sealed proposals for the purchase of a new pretreatment software program 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 bids in the time, form, and manner provided by law.

SECTION 2. After the sealed proposals are opened they shall be tabulated and analyzed by the Purchasing Division and Environmental Services and a report submitted to Council.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes solicitation of bids for the purchase of a new pretreatment software program at an approximate cost of \$60,000.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25<sup>th</sup> day of April, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-256**

**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, staff, 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 25<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-257**

**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, staff, 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 25<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-258**

**A RESOLUTION ACCEPTING THE CFD IMPROVEMENTS FOR SHADOW  
CREEK APARTMENTS ALONG FLOYD AVENUE AND ROSELLE AVENUE, IN  
THE VILLAGE ONE SPECIFIC PLAN AREA, AND AUTHORIZING THE CITY  
CLERK TO RECORD A NOTICE OF COMPLETION**

WHEREAS, AMERICAN HOME BUILDERS, INC., A WASHINGTON  
COPORATION is the developer of SHADOW CREEK APARTMENTS  
("DEVELOPMENT"), and

WHEREAS, AMERICAN HOME BUILDERS, INC., A WASHINGTON  
COPORATION, has filed irrevocable bonds to secure faithful performance and payment  
for labor and materials in the amounts of \$164,662.00 and \$164,662.00, respectively, and

WHEREAS, AMERICAN HOME BUILDERS, INC., A WASHINGTON  
COPORATION, has filed a warranty bond in the amount of \$17,384.08 to guarantee the  
CFD improvements in the DEVELOPMENT, and

WHEREAS, the City Engineer, in a memorandum to Council, indicates that all  
work required by 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"), on the one hand, and American Home Builders, Inc., a  
Washington Corporation ("DEVELOPER"), on the other hand, has been completed to the  
satisfaction of the Public Works Department, and

WHEREAS, the City Engineer has indicated that it would be in order for the City  
Council to accept the CFD improvements in said development as complete, and authorize

the City Clerk to record a Notice of Completion and release the bonds upon expiration of the statutory periods,

WHEREAS, the CFD Engineer shall issue a Notice of Completion as required by the AGREEMENT,

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

1. The CFD improvements, which include all streets, sidewalks, curb & gutter, parkway landscaping & irrigation, streetlights, storm drain facilities, and signing and striping per the AGREEMENT, are hereby accepted. The City Clerk and the CFD Engineer are hereby authorized to record a Notice of Completion for the improvements.
2. The City Clerk is hereby authorized to release the bond for faithful performance in the amount of \$164,662.00 upon recordation of the Notice of Completion.
3. The City Clerk is hereby authorized to release the bond for labor and materials in the amount of \$164,662.00 sixty (60) days after the 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 improvements in the amount of \$17,384.08 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 25<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:


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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-259**

**A RESOLUTION ACCEPTING CFD IMPROVEMENTS FOR THE HACIENDA  
DEL SOL UNIT 2 SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN  
AREA, AND AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF  
COMPLETION**

WHEREAS, CENTEX HOMES, A NEVADA GENERAL PARTNERSHIP, is the subdivider of HACIENDA DEL SOL UNIT 2 SUBDIVISION("SUBDIVISION"), and

WHEREAS, CENTEX HOMES, A NEVADA GENERAL PARTNERSHIP, has filed irrevocable bonds to secure faithful performance and payment for labor and materials in the amounts of \$314,899.00 and \$314,899.00, respectively, and

WHEREAS, CENTEX HOMES, A NEVADA GENERAL PARTNERSHIP, has filed a warranty bond in the amount of \$31,489.90 to guarantee the CFD improvements in the SUBDIVISION, and

WHEREAS, the City Engineer, in a memorandum to Council dated March 25, 2006, indicates that all work required by 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"), on the one hand, and Hashem Naraghi, Trustee of the Nora Naraghi Separate Property Trust Under Agreement Dated November 7, 2000 and Centex Homes, a Nevada General Partnership (collectively "DEVELOPER"), on the other hand, has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the City Engineer has indicated that it would be in order for the City Council to accept the CFD improvements in said subdivision as complete, and authorize the City Clerk to record a Notice of Completion and release the bonds upon expiration of the statutory periods,

WHEREAS, the CFD Engineer shall issue a Notice of Completion as required by the AGREEMENT,

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

1. The CFD improvements, which include 1562 lineal feet of 48" Storm Drain line and all appurtenances per the AGREEMENT in the SUBDIVISION, are hereby accepted. The City Clerk and the CFD Engineer are hereby authorized to record a Notice of Completion for the improvements.
2. The City Clerk is hereby authorized to release the bond for faithful performance in the amount of \$314,899.00 upon recordation of the Notice of Completion.
3. The City Clerk is hereby authorized to release the bond for labor and materials in the amount of \$314,899.00 sixty (60) days after the 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 improvements in the amount of \$31,489.90 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 25<sup>th</sup> day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-260**

**A RESOLUTION REJECTING THE SOLE BID FOR THE PROJECT TITLED  
“2006 WATER WELL DEVELOPMENT” AND AUTHORIZING STAFF TO RE-  
ADVERTISE THE PROJECT AT A FUTURE DATE**

WHEREAS, the bid received for “2006 Water Well Development” was opened at 11:00 a.m. on March 28, 2006, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, a sole bid by Maggiora Bros. Drilling, Inc., was 44% above the engineer’s estimate, and

WHEREAS, the sole bid for the project unreasonably exceeded the engineer’s estimate, and

WHEREAS, during the bid evaluation process staff determined that there was insufficient bid competition. Therefore, staff recommends the bid be rejected and staff be allowed to re-advertise the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the sole bid received for “2006 Water Well Development,” opened in the office of the City Clerk on March 28, 2006, is hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project at a future date.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of April, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-261**

**A RESOLUTION DIRECTING STAFF TO SPECIFY A 4-FOOT BY 8-FOOT  
SIGN BE PLACED ON ALL MAJOR CAPITAL IMPROVEMENT PROJECTS  
DESIGNATING FUNDING SOURCES FOR CONSTRUCTION**

WHEREAS, the Building Industry Association of Central California requested a sign be placed on large construction projects designating individual funding sources, and

WHEREAS, a simple sign will contribute clarification and assist in providing public information, and

WHEREAS, the sign should include the name of the project, and

WHEREAS, the sign should also include the funding sources for construction, and

WHEREAS, a sign will be placed on all construction projects in excess of \$1,000,000, and

WHEREAS, each sign will have a white laminate background with white letters, and a brown City logo, and be clearly visible from the roadway,

WHEREAS, on March 13, 2006, the Economic Development Committee recommended a 4-foot by 8-foot public information sign be placed on all major construction projects,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the installation of 4-foot by 8-foot signs on all major capital improvement projects in excess of \$1,000,000, designating funding sources for construction.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25th day of April 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-262**

**A RESOLUTION DENYING THE APPEAL OF BETHANY  
CHRISTIAN SERVICES FOR THE IMPOSITION OR  
MODIFICATION OF CAPITAL FACILITIES FEES FOR THE  
CONSTRUCTION OF AN OFFICE BUILDING LOCATED ON  
THE EAST SIDE OF HAHN DRIVE, SOUTH OF STANDIFORD**

WHEREAS, on January 24, 2006, the Modesto City Council adopted Resolution No. 2006-61 updating its Capital Facilities Fee (CFF) program for the establishment and collection of fees for future capital facilities, and

WHEREAS Resolution No. 2006-61 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, Bethany Christian Services intends on constructing an 8,000 square foot office building located on Hahn Drive, and

WHEREAS, as a result of the comprehensive study undertaken to enact the CFF program which went into effect in September 2003, the current City practice is to charge office buildings the CFF office rate, regardless of tax status, and

WHEREAS, by letter from Bethany Christian Services dated March 6, 2006, to Jean Morris, City Clerk, Bethany Christian Services is appealing the City's determination of CFF, and

WHEREAS, said appeal was set for a public hearing on April 25, 2006 at 5:30 p.m., before the City Council at its regular meeting place in the Tenth Street Place



Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, at which date and time said duly noticed public hearing was held and evidence, both oral and documentary, was received and considered, and

WHEREAS, after said public hearing, the Council found and determined that the appeal of Bethany Christian Services' to staff's decision regarding the imposition or modification of CFF fees should be denied and staff's decision should be affirmed for the reasons set forth below.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto, that it hereby makes the following findings:

1. The City collects fees to offset the impacts any new development will have on infrastructure and does not exempt non-profit organizations from their responsibility of paying CFF for impacts created by their development.
2. The City Council has reviewed Bethany Christian Services' request and has determined that they should be charged the CFF office rate, rather than the church rate for the construction of a two-story 8,000 square foot building with the proposed use being that of an office and not a church.
3. The City collects CFF to offset the impacts created by new development uses. Those uses have corresponding fees that are associated with the impacts created by the new development and the costs of improvements to the City's infrastructure. Since the proposed use is not a single-family use, it should not be charged the single-family fee, but the office rate based on square footage.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the appeal of Bethany Christian Services regarding the imposition and modification of

Capital Facilities Fees for office buildings that are constructed by non-profit groups with religious affiliations is hereby denied for the reasons stated above.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25<sup>th</sup> day of April 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: Olsen

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-263**

**A RESOLUTION AMENDING THE GENERAL FUND FISCAL YEAR 05-06  
OPERATING BUDGET TO REFLECT REVISED REVENUE PROJECTIONS**

WHEREAS, each year the City Council adopts revenue forecasts for the upcoming fiscal year based on staff analysis, and

WHEREAS, those forecasts are reviewed from time to time to assure their validity, and

WHEREAS, there have been changes in the revenue forecasts which require amending the previously adopted revenue projections for FY 05-06 General Fund revenue, and

WHEREAS, these new revenue projections are identified in a staff report to City Council from Finance Department Director, Wayne Padilla dated March 16, 2006, a copy of which is on file in the Office of the City Clerk, and

WHEREAS, the Finance Committee reviewed said revenue information at their meeting of March 16, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the General Fund operating budget for FY 05-06 to reflect the aforementioned revised revenue projections.

BE IT FURTHER RESOLVED that this action will increase overall major revenue projections in the General Fund for FY 05-06 by an estimated \$6.6 million dollars.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 25<sup>th</sup> day of April 2006, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-263A**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO  
FORMALLY SOLICIT REQUEST FOR PROPOSALS, FOR ENTERPRISE  
RESOURCE PLANNING (ERP) PROFESSIONAL SERVICES**

WHEREAS, the City of Modesto conducted a comprehensive analysis to improve business processes and ensure that technology was being used in the most effective and efficient way to support operations, and

WHEREAS, interviews and business process workshops were conducted with associated departments, management and staff, and

WHEREAS, the analysis identified the need for integration and consolidation of existing City systems to improve business processes, and

WHEREAS, this analysis recommended technology improvements and suggested the procurement of an Enterprise Resource Planning (ERP) system, and

WHEREAS, solicitation of independent professional services will assist City in the areas of validating and justifying Enterprise Resource Planning (ERP) system requirements, and to assist in the development of an ERP RFP, the evaluation of the proposals received, and subsequent selection of a vendor and contract negotiations, 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,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to solicit Request For Proposals for Enterprise Resource Planning Professional Service as set forth above.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2<sup>nd</sup> day of May, 2006 by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmemeber Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-264**

**A RESOLUTION APPROVING AN AGREEMENT WITH STANISLAUS COUNTY, BEHAVIORAL HEALTH AND RECOVERY SERVICES (BHRS), IN THE AMOUNT OF \$32,000 TO PROVIDE PARTY PATROL POLICE OFFICERS AND CONDUCT JUVENILE ALCOHOL EDUCATION, PREVENTION AND INTERVENTION PROGRAMS FOR THE CITY OF MODESTO AND STANISLAUS COUNTY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, Stanislaus County, Behavioral Health and Recovery Services (BHRS) requires Party Patrol Police Officers to contact, identify and hold accountable minors drinking illegally at home parties and in violation of the law, and

WHEREAS, the Modesto Police Department has developed a first-time offender juvenile alcohol education, prevention and intervention program, and

WHEREAS, minors contacted by the Party Patrol will be cited and required to attend diversion classes with their parents, and

WHEREAS, the goal of the class is to make minors and parents aware of the dangers related to minors consuming alcohol, and

WHEREAS, the Modesto Police Department has seen a reduction in alcohol related injuries and deaths related to juveniles and alcohol since Party Patrol was established, and

WHEREAS, the term of this agreement is February 10, 2006, to September 30, 2006, and

WHEREAS, the City shall be compensated \$32,000 for the services of Party Patrol Police Officers and the juvenile alcohol education, prevention and intervention program, and

WHEREAS, there is no fiscal impact to the City of Modesto, and

WHEREAS, the Safety and Communities Committee unanimously supported this action at its meeting of April 3, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Stanislaus County, Behavioral Health and Recovery Services (BHRS) in the amount of \$32,000 for the provision of Party Patrol Police Officers and the juvenile alcohol education, prevention and intervention program for the City of Modesto and Stanislaus County.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2<sup>nd</sup> day of May 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-265**

**A RESOLUTION AMENDING THE 2005/2006 OPERATING BUDGET TO  
RECOGNIZE REVENUE AND APPROPRIATE FUNDS FOR OVERTIME  
PARTY PATROL OFFICERS AND PROGRAM COSTS**

WHEREAS, Stanislaus County, Behavioral Health and Recovery Services (BHRS) requires Party Patrol Police Officers to contact, identify and hold accountable minors drinking illegally at home parties and in violation of the law, and

WHEREAS, minors contacted by the Party Patrol will be cited and required to attend diversion classes with their parents, and

WHEREAS, the goal of the class is to make minors and parents aware of the dangers related to minors consuming alcohol, and

WHEREAS, the Modesto Police Department has seen a reduction in alcohol related injuries and deaths related to juveniles and alcohol since Party Patrol was established, and

WHEREAS, the term of this agreement is February 10, 2006, to September 30, 2006, and

WHEREAS, the City shall be compensated \$32,000 for the services of overtime Party Patrol Police Officers and the juvenile alcohol education, prevention and intervention program, and

WHEREAS, there is no fiscal impact to the City of Modesto, and

WHEREAS, the Safety and Communities Committee unanimously supported this action at its meeting of April 3, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2005/2006 Operating Budget is hereby amended as follows:

Appropriate:

Expense:  
To: 0100-190-1921-0130 \$32,000 Officers' Overtime Hours Cost

Revenue:  
To: 0100-190-1921-3730 \$32,000 School/County Contribution

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 2<sup>nd</sup> day of May 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-266**

**A RESOLUTION APPROVING A CITY OF MODESTO/CALIFORNIA  
DEPARTMENT OF TRANSPORTATION (CALTRANS) "LETTER OF INTENT"  
(LOI) FOR THE KAISER BUILD DALE ROAD/KIERNAN AVENUE (STATE  
ROUTE 219) INTERSECTION RECONSTRUCTION**

WHEREAS, Council Resolution No. 2004-451 approved the Kaiser Medical Center Conditions of Approval, and

WHEREAS, the Kaiser Medical Center Conditions of Approval included a project titled, "Dale Road and Kiernan Avenue," an interim capacity and operational improvement project at Dale Road/Kiernan Avenue (SR 219) intersection, and

WHEREAS, the Dale Road/SR 219 Intersection is located in the northwest quadrant of the City of Modesto and will provide access to the Kaiser Modesto Medical Center, and

WHEREAS, the northwest portion of the City is undergoing rapid commercial and residential development along with the Kaiser Modesto Medical Center construction, all of which will generate considerable traffic at this intersection, and

WHEREAS, during peak traffic flow periods, intersection traffic is frequently backed up several hundred feet along SR 219 and blocks both through and turning traffic in all legs of the intersection, and

WHEREAS, Traffic Engineers rate service levels for roadways and intersections from "A" for excellent, to "F" for failure; and presently, the SR 219/Dale Road Intersection operates at Level of Service "F" during peak flow times, and with continued development in the northwest portion of the City, this condition will only be exasperated as more traffic is added to the intersection, and

WHEREAS, the City and Caltrans anticipate completion of the construction of the Dale Road/SR 219 intersection reconstruction by November 2007, and

WHEREAS, the current critical path of the project is to complete review and approval of the combined Project Report/Project Study Report (PR/PSR) by May 2006; Final Project Design by December 2006; Right-of-Way Certification by March 2007; and Start of Construction by April 2007, and

WHEREAS, to achieve a November 2007 completion milestone, the necessary design approval and environmental clearance, right-of-way certification, and start of construction must be completed as scheduled, and

WHEREAS, a major constraint on these critical path activities is the approval of the Letter of Intent, which allows Caltrans staff to complete the PR/PSR review process and recommend approval by the Caltrans District Director, and

WHEREAS, approval of the PR/PSR by the District Director is effectively an authorization by Caltrans to start final design,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Letter of Intent for the design and construction of the intersection improvements at Dale Road and Kiernan Avenue (SR219).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of May 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-267**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE  
“MODESTO POLICE DEPARTMENT TRAINING CENTER RANGE  
BUILDING”, ACCEPTING THE BID AND APPROVING A \$286,192.17  
CONTRACT WITH BARHAM, INC., FOR THE PROJECT TITLED,  
“MODESTO POLICE DEPARTMENT TRAINING CENTER RANGE  
BUILDING,” AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE  
CONTRACT**

WHEREAS, plans and specifications have been prepared for the “Modesto Police Department Training Center Range Building” and City staff recommends approval to the City Council, and

WHEREAS, the bids received for “Modesto Police Department Training Center Range Building” were opened at 11:00 a.m. on March 21, 2006, 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 \$286,192.17 received from Barham, Inc., be accepted as the lowest responsible bid and the contract be awarded to Barham, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the “Modesto Police Department Training Center Range Building.”

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of \$286,192.17, and hereby awards Barham, Inc., the contract titled “Modesto Police Department Training Center Range Building.”

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 2nd day of May 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-268**

**A RESOLUTION AMENDING THE FY 05-06 OPERATING AND CAPITAL IMPROVEMENT PROGRAM BUDGET TO DECREASE THE TOOL, SHOP AND FIELD SUPPLIES IN THE SUPPORT DIVISION BY \$19,000 (0100-190-1921-0308) AND AN ACCOUNT SET UP FOR TRAINING SITE MAINTENANCE WITHIN THE POLICE DEPARTMENT BUDGET BY \$10,000 (0100-190-1930-5763) TO OBTAIN THE ONE-TIME ALLOCATION INCREASE TO THE POLICE TACTICAL TRAINING CENTER CIP FUND 1300-190-M168 BY \$29,000**

WHEREAS, plans and specifications have been prepared for the “Modesto Police Department Training Center Range Building” and City staff recommends approval to the City Council, and

WHEREAS, the bids received for “Modesto Police Department Training Center Range Building” were opened at 11:00 a.m. on March 21, 2006, 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 \$286,192.17 received from Barham, Inc., be accepted as the lowest responsible bid and the contract be awarded to Barham, Inc., and

WHEREAS, the Engineer’s estimate and the bids are considered reasonable whenever any of the bids are within 10% of the Engineer’s estimate, and

WHEREAS, the low bidder was within 4.79% of the Engineer’s estimate, and

WHEREAS, the Public Works Director has determined that \$29,000 in additional funds are required to fully fund the construction of this project, and

WHEREAS, the Finance Department has indicated that there are sufficient funds in 0100-190-1921-0308 and 0100-190-1930-5763 for the appropriation of this project



within the FY 2005-2006 Capital Improvement Program Budget to fully fund MY-1300-190-M168,

WHEREAS, the Public Works Department, Engineering Design Division has requested amending the Fiscal Year 2005-2006 Capital Improvement Program to fully fund the construction project for the Modesto Police Department Training Center Range Building, and

WHEREAS, the appropriation transfer requests are as follows:

- Decrease \$29,000 from 0100-190-1921-0308 and 0100-190-1930-5763
- Increase \$29,000 to the Police Tactical Training Center account: (MY-1300-190-M168-6040),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the FY 05-06 Operating and Capital Improvement Program budget to decrease the Tool, Shop and Field Supplies in the Support Division by \$19,000 (0100-190-1921-0308) and an account set up for Training Site Maintenance within the Police Department budget by \$10,000 (0100-190-1930-5763) to obtain the one-time allocation increase to the Police Tactical Training Center CIP Fund 1300-190-M168 by \$29,000 to fully fund the Modesto Police Department Training Center Range Building Project.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the steps necessary to amend the Capital Improvement Program Budget.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of May 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-269**

**A RESOLUTION AUTHORIZING THE PUBLIC WORKS DEPARTMENT TO  
JOIN THE CALIFORNIA ASSOCIATION OF SANITATION AGENCIES  
(CASA) AT A COST OF \$9,573 FOR THE REMAINDER OF THE CALENDAR  
YEAR AND INCLUDE \$12,753 IN FY 06/07 BUDGET FOR ANNUAL DUES**

WHEREAS, the California Association of Sanitation Agencies (CASA) is an association of local public sanitation agencies that provides collection, treatment, disposal, or reclamation of wastewater, and

WHEREAS, CASA provides an excellent forum for elected officials, managers, and staff of California wastewater agencies to keep up to date on legislation, regulations, and legal developments that impact their agencies and cities, and

WHEREAS, CASA recently amended its bylaws to allow cities to join, and

WHEREAS, the cities of Los Angeles, San Francisco, San Diego, and Sacramento are now members of CASA, and

WHEREAS, CASA offers a wide range of services to its members, including legislative advocacy at the state and federal levels, a regulatory affairs program, a legal affairs program, a biosolids program, and a variety of other services, and

WHEREAS, this organization provides an excellent opportunity for city council members, city attorneys, and wastewater management to learn the most current industry information at workshops held three times each year, and

WHEREAS, the City will benefit from membership in this organization because of the ever-changing regulatory climate, advanced treatment facilities, and new NPDES permit requirements, and

WHEREAS, dues for CASA are based on an agency's wastewater operations and maintenance budget, and are prorated based on when the agency applies for membership during the calendar year, and

WHEREAS, staff anticipates a cost of \$9,573 for membership in 2006 and funds are budgeted in 6210-480-5212-0401, and

WHEREAS, annual dues in the amount of \$12,763, starting January 2007 will be budgeted in FY 06/07 budget in 6210-480-5209-0401, and

WHEREAS, the Economic Development Committee considered this item at its April 5, 2006 meeting and recommended its approval and consideration by the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Public Works Department to join the California Association of Sanitation Agencies (CASA) at a cost of \$9,573 for the remainder of the calendar year and to include \$12,763 in the FY 06/07 budget for annual dues.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of May 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-270**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO  
SOLICIT FORMAL REQUEST FOR PROPOSALS (RFP) FOR THE PURCHASE  
OF WATER QUALITY CONTROL LABORATORY EQUIPMENT (PHASE 1)  
FOR THE WATER QUALITY CONTROL DIVISION AT AN ESTIMATED  
COST OF \$342,750**

WHEREAS, on October 25, 2005, Council, by Resolution 2005-537, approved the Capital Improvement Program (CIP) budget for FY 05-06, and

WHEREAS, a project to remodel the Water Quality Control (WQC) Lab (B584-WQC Lab Remodel) is included in this CIP, and

WHEREAS, this project includes the purchase of new advanced technology equipment to be used in various types of water analyses, and the remodel of the existing laboratory to house the new equipment, and

WHEREAS, Phase 1 of the scope of the project includes funding in the amount of \$342,750 for the purchase of the new advanced technology equipment, and

WHEREAS, authorization for bids for the WQC Lab Remodel has been approved under a separate resolution, and

WHEREAS, the WQC Lab analyzes drinking water samples from the Water Division and stormwater and NPDES samples (wastewater and river waters) per permit regulations, and

WHEREAS, some samples are sent to an outside lab for analysis, and

WHEREAS, the new laboratory equipment will allow the performance of a variety of water testing in-house rather than contracting with an outside laboratory, and

WHEREAS, this will save expenditures, as well as, response time for both the Water Division and the WQC Lab, and

WHEREAS, with the addition of this equipment and after certification by the Department of Health, staff anticipates future revenues from an increased ability to perform additional tests in-house for other outside divisions, agencies and cities by laboratory staff, and

WHEREAS, the Modesto Municipal Code, MMC 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 Proposal for the purchase of water quality control laboratory equipment will conform to MMC Section 8-3.203,

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 competitive sealed proposals for the purchase of water quality control laboratory equipment 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 bids in the time, form, and manner provided by law.

SECTION 2. After the sealed proposals are opened they shall be tabulated and analyzed by the Purchasing Division and the Water Quality Control 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 2nd day of May 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-271**

**A RESOLUTION AUTHORIZING THE SOLICITATION OF BIDS FOR THE  
REMODEL OF THE WATER QUALITY CONTROL (WQC) LAB AT AN  
ESTIMATED TOTAL COST OF \$140,000**

WHEREAS, on October 25, 2005, Council, by Resolution 2005-537, approved the Capital Improvement Program (CIP) budget for Fiscal Year 05-06, and

WHEREAS, a project to remodel the Water Quality Control lab (B584-WQC Lab Remodel) is included in this CIP, and

WHEREAS, this project will create additional space within the existing laboratory to house new advanced technology equipment used in various types of water analyses, and

WHEREAS, authorization for request for proposals for the new equipment has been authorized under a separate resolution, and

WHEREAS, after completion of the remodel, laboratory staff will be able to perform a variety of water testing in-house rather than contracting with an outside laboratory, and

WHEREAS, City staff contracted with Pacific Design Associates Inc. for the design of drawings and specifications for the WQC Lab remodel, and

WHEREAS, Pacific Design Associates Inc. expects to have these drawings and specifications completed by the end of April, and

WHEREAS, the Public Works Department desires to solicit bids for the remodel of the WQC Lab, and

WHEREAS, funds are budgeted in WQC Lab Remodel (B584),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes solicitation of bids for the remodel of the WQC Lab at an estimated cost of \$140,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of May 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

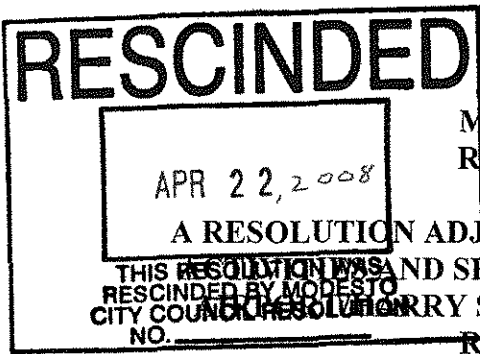
NOES: Councilmembers: None

ABSENT: Councilmembers: None

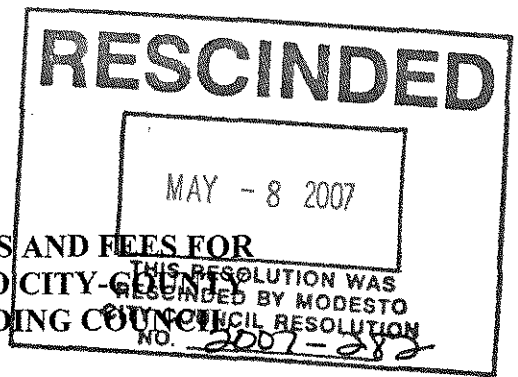
ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-272



THIS RESOLUTION WAS  
RESCINDED BY MODESTO  
CITY COUNCIL RESOLUTION  
NO. 2007-282

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

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

WHEREAS, during the past year the Consumer Price Index (CPI) of the western United States increased at a rate of three and one-tenths percent (3.1%), and

WHEREAS, Modesto City Council Resolution No. 2005-252 established the current Airport Rental Charges and Fees and contained provisions for a rate increase to go into effect July 1, 2005 based upon an increase in the Consumer Price Index, and

WHEREAS, the Modesto City-County Airport Advisory Committee recommended adoption of the 3.1% rate increase at its meeting on March 15, 2006, and

WHEREAS, by an agenda report to the Economic Development Committee on April 5, 2006 from the Public Works Director, City staff recommended a rate increase of 3.1% for aircraft hangars, office space, and tie-down rentals, and

WHEREAS, a duly noticed public hearing was held by the Council on May 2, 2006 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	.....	\$121/*\$148 unit per month
End Units	.....	\$140/*\$167 unit per month
Hangar B	.....	\$146/*\$173 unit per month
End Units	.....	\$181/*\$208 unit per month
Hangar C	.....	\$154/*\$182 unit per month
End Units	.....	\$187/*\$213 unit per month
Hangar D	.....	\$138/*\$165 unit per month
End Units	.....	\$164/*\$192 unit per month
Hangar E	.....	\$201 unit per month
End Units	.....	\$235 unit per month
Hangar F	.....	\$201 unit per month
End Units	.....	\$235 unit per month
Hangar G	.....	\$201 unit per month
Hangar H	.....	\$201 unit per month
Hangar I	.....	\$394 unit per month
Hangar J	.....	\$201 unit per month
Hangar K	.....	\$226 unit per month
End Unit	.....	\$338 unit per month
Storage	.....	\$80 per month

Portable Land Rent ..... \$59 unit per month

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

(b) Storage Hangars:

Hangar No. 1 .... \$1,475.00 per month

Hangar No. 2 .... \$1,231.00 per month

Hangar No. 3 .... \$648.00 per month

Hangar No. 4 .... \$1,103.00 per month

Hangar No. 5 .... \$1,098.00 per month

Hangar No. 6 .... \$643.00 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.) \$37.00 per month
- (b) Taxi-in Tie-Down – Permanent, light single and multi-engine (under 12,500 lbs.) \$59.00 per month
- (c) Taxi-in Tie-Down – Permanent, large multi-engine (over 12,500 lbs.) \$.043 per square foot per month
- (d) Taxi-in Tie-Down – Transient, helicopter/single-engine aircraft \$7.00 per day
- (e) Taxi-in Tie-Down – Transient, twin-engine aircraft (under 12,500 lbs.) \$9.00 per day

- (f) Taxi-In Tie-Down – Transient, twin-engine aircraft (over 12,000 lbs.)  
\$13.00 per day
- (g) Jets – \$13.00 per day

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

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

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

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

- (a) Old Administration Building ..... \$.81 per square foot
- (b) Office Building No. 1 ..... \$.81 per square foot
- (c) Office Building No. 2 ..... \$.81 per square foot
- (d) Hangar Office Space ..... \$.367 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 ..... \$.069 per square foot
- (b) Other areas ..... \$.069 per square foot

SECTION 5. NONSCHEDULED TRANSIENT AIRCRAFT CARRYING

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

- (a) All light single, multi-engine aircraft and helicopters - \$10.00 per landing
- (b) All large single and multi-engine aircraft – \$.66 per 1,000 pounds of gross weight, but not less than \$10.00 per landing
- (c) All transient aircraft owned and operated by individuals, companies, and corporations carrying their own products shall not be charged for the first two (2) trips per calendar months. All other trips for the same calendar month shall be charged for at the same rates applied to nonscheduled aircraft carrying cargo for hire.
- (d) No landing fee shall be charged for any aircraft, which lands at the airport due to any mechanical or other emergency, except weather, provided that such emergency is reported to the Airport Control Tower prior to landing.

SECTION 6. PASSENGER FACILITY CHARGE (PFC). Commercial air

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

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

SECTION 7. ADVERTISEMENT CALLBOARD. Firms wishing to advertise in

the airport passenger terminal shall have an approved agreement with the City of Modesto. A monthly charge shall be assessed for the use of the advertisement callboard as follows

<u>Display Size</u>	<u>Display Only</u>	<u>Display &amp; Telephone</u>
7.5” x 9.5”	\$30.00	\$50.00

7.5" x 21"	\$35.00	\$55.00
19" x 21"	\$40.00	\$60.00

SECTION 8. FAX SERVICE. Persons wishing to use the airport administration office fax machine shall be charged for the service. Airport personnel is authorized to collect as follows:

- (a) Incoming Service ..... \$.50 per page
- (b) Outgoing Service ..... Area code 209 - \$1.00 per page  
Other area codes - \$2.00 first page  
\$1.50 - all other pages

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

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

SECTION 11. TEMPORARILY BASED COMMERCIAL SERVICES. Any person engaging in a commercial enterprise, temporarily based at the Modesto City-County Airport/Harry Sham Field, shall pay to the City a license fee in the sum of Two Hundred and no/100ths (\$200.00) Dollars, payable in advance.



Each such operator shall also pay to the City as a minimum an additional sum of Ninety and no/100ths (\$90.00) Dollars per month, or any portion thereof, payable in advance, for the privilege of using the Airport and its facilities.

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

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

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

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

Said rents, fees, and charges shall be adjusted in the following manner: The base for computing the adjustment is the National Consumer Price Index for the West Urban

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

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

SECTION 16. EFFECTIVE DATE. This resolution shall go into effect and be in full force and operation on July 1, 2006.

SECTION 17. SUPERSEDE. This resolution rescinds Council Resolution No. 2005-252.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2<sup>nd</sup> day of May 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-273**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO  
APPROVING A TAX-EXEMPT BOND FINANCING TO BE ISSUED BY THE  
CALIFORNIA STATEWIDE COMMUNITIES DEVELOPMENT AUTHORITY  
TO BENEFIT KAISER PERMANENTE**

WHEREAS, Kaiser Foundation Hospitals, Kaiser Foundation Health Plan, Inc., Kaiser Health Plan Asset Management, Inc., Kaiser Hospital Asset Management, Inc., each a nonprofit public benefit corporation (collectively, "Kaiser"), 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 \$800,000,000 (the "Bonds") for the purpose of, among other things, financing and refinancing the cost of acquisition, construction, improvement, equipping, renovation, rehabilitation, remodeling and other capital projects (the "Financing") of certain health, parking and other support facilities owned or operated by Kaiser Foundation Hospitals or one of its affiliates, including the facility known as Modesto Hospital and Medical Office Building (the "Facilities") located in the City of Modesto (the "City"); and

WHEREAS, the Kaiser Facilities are situated (or to be situated) generally at the following addresses and up to the approximate expenditure amount noted for such facilities: (i) Modesto Hospital and Medical Office Building, 4609 Dale Rd., Modesto, CA (approximate expenditure amount of \$475,000,000); and (ii) Kaiser's facilities located elsewhere in California (approximate expenditure amount of \$840,000,000). The above location expenditure amounts include expected equity contributions by Kaiser or its affiliates and additional contingencies and therefore total to more than the not-to-exceed amount of the Bonds. The facilities listed above are owned and operated by

Kaiser or one of its affiliates, each a California nonprofit public benefit corporation and an organization as described in Section 501(c)(3) of the Code; 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, the Authority is also requesting that the Council approve the issuance of any refunding bonds hereafter issued by the Authority for the purpose of refinancing the Bonds which financed the Facilities (the “Refunding Bonds”), but only in such cases where federal tax laws would not require additional consideration or approval by the Council; 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 RESOLVED, by the City Council of the City of Modesto as follows:

Section 1. The Council hereby approves the issuance of the Bonds and Refunding Bonds by the Authority. It is the purpose and intent of the Council that this Resolution constitute approval of the issuance of the Bonds and Refunding Bonds by the Authority, for the purposes of (a) 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 (b) Section 9 of the Agreement.

Section 2. The 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 2<sup>nd</sup> day of May, 2006, by Councilmember Hawn, who moved its adoptions, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

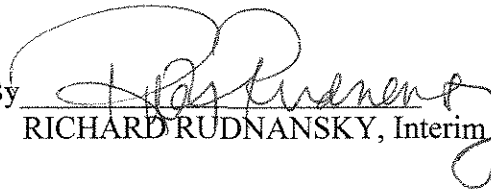
AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-274**

**A RESOLUTION APPROVING \$339,326 IN COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PUBLIC SERVICE FUNDING FOR FY 2006-2007, EXTENDING FY 2005-2006 CONTRACTS FOR HOMELESS SERVICES FUNDED WITH CDBG REVOLVING LOAN FUND (RLF) FROM ONE TO TWO YEARS, AND FUNDING SAID CONTRACTS FOR A TOTAL OF \$56,750 FOR FY 2006-2007 AND EXTENDING FY 2005-2006 CONTRACTS FUNDED WITH EMERGENCY SHELTER GRANT (ESG) FROM ONE TO TWO YEARS, AND FUND SAID CONTRACTS FOR A TOTAL OF \$104,098 FOR FY 2006-2007, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO SIGN AND 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 prior year's program income and the prior year's program income from the Revolving Loan Fund, may be allocated for the purposes 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, in Fiscal Year 2006-2007, 15% of the City's available CDBG entitlement plus prior year program income is \$394,326, and 15% of prior year's CDBG Revolving Loan Fund program income is \$56,750, and



WHEREAS, the available ESG entitlement is \$104,098, and

WHEREAS, a total of \$55,000 is set aside for city-administered programs, and

WHEREAS, a total of \$56,750 is set aside for homeless services only, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) recommended that staff extend the public services contracts from one to two years for non-profit agencies that utilize the CDBG RLF Homeless Services Funds and the Emergency Shelter Grant Funds (ESG), at its meeting on October 28, 2005, and

WHEREAS, this recommendation was based on the premise that an extended contract would allow the non-profit agencies the ability to leverage funds to increase services, and reductions in the administrative workload would increase the ability of the non-profit agencies to augment current homeless services; additionally, this will result in a minimum of 30 hours of City's staff time that can be redirected, and

WHEREAS, at its March 24, 2006, meeting, the Citizens Housing & Community Development Committee (CH&CDC) recommended allocation of \$339,326 in available funds to qualified non-profit agencies for public services as set forth in Exhibit "1", attached hereto and incorporated by reference, and

WHEREAS, CH&CDC also recommended that \$56,750 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 \$104,098 be allocated for emergency shelter services as set forth in Exhibit "3", attached hereto and incorporated by reference, and

WHEREAS, at a public meeting on March 24, 2006, the Citizens Housing and Community Development Committee recommended funding as set forth in Exhibits "1", "2" and "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 \$339,326 in Community Development Block Grant (CDBG) funds for public services as set forth in Exhibit "1".

BE IT FURTHER RESOLVED that the Council hereby approves the allocation of \$56,750 in CDBG Revolving Loan funds for services for the homeless as set forth in Exhibit "2".

BE IT FURTHER RESOLVED that the Council hereby approves the allocation of Emergency Shelter Grant (ESG) funds of \$104,098 for emergency shelter services for Fiscal Year 2006-2007 as set forth in Exhibit "3".

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager or his authorized designee is hereby authorized to execute any documents with respect to implementation of the allocation of Fiscal Year 2006-2007 CDBG, CDBG Revolving Loan Fund, and ESG Public Service Grant funds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2<sup>nd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**CDBG Applications 2006-2007**

**Total Available Funding:** \$394,326  
**City administered programs:** \$55,000  
**Amount Available for Non-Profit Agencies:** \$339,326

	<b>Organization Name</b>	<b>Program Name</b>	<b>Funding Requested</b>	<b>Final Recommendation</b>
1	Center for Human Services	Hutton House	\$31,333	\$21,675
2	Center for Human Services	Pathways	\$24,162	\$19,158
3	Children's Crisis Center	Cricket's House Respite Child Care	\$20,072	\$16,514
4	Children's Crisis Center	Sawyer Respite Child Care	\$20,072	\$16,932
5	Community Housing and Shelter Services	Families in Recovery, Family Support Coordinator	\$29,366	\$23,321
6	Community Housing and Shelter Services	Supportive Services for Housing	\$29,366	\$21,809
7	Disability Resource Agency for Independent Living (DRAIL)	Assistive Technology Program	\$25,000	\$12,070
8	Interfaith Ministries	Santa Fe Homeless Winter Shelter	\$45,176	\$39,492
9	Parent Resource Center	ABC's of Childcare	\$21,747	\$14,682
10	Second Harvest Food Bank	Food Assistance Program	\$40,000	\$37,957
11	Stanislaus Community Assistance Project	Nutritional Supplement & Education Program	\$41,485	\$30,899
12	Stanislaus MultiCultural Health WMKK	Here's to your health	\$50,000	\$31,690
13	The Salvation Army	Homeless Emergency Shelter & Day Center	\$50,000	\$40,845
14	The Salvation Army	Senior Meals Program	\$20,000	\$12,282
		<b>Total</b>	<b>\$447,779</b>	<b>\$339,326</b>

CDBG Revolving Loan Fund (RLF) Homeless Services 2006-2007

Amount Available for Non-Profit Agencies: FY06-07  
\$56,750

<u>Organization Name</u>	<u>Program Name</u>	<u>FY05-06 Contract Amount</u>	<u>FY06-07 Proposed Amount</u>
Children's Crisis Center	Sawyer House Children's Homeless Shelter	\$14,040	\$10,624
Community Housing and Shelter Services	Housing Services Case Management	\$22,199	\$16,797
Interfaith Ministries	Santa Fe Emergency Shelter for Families with Minor Children	\$38,761	\$29,329
<b>Total:</b>		<b>\$75,000</b>	<b>\$56,750</b>

**Emergency Shelter Grant (ESG) Public Services 2006-2007**

Amount Available for Non-Profit Agencies: FY06-07  
\$104,098

<u>Organization Name</u>	<u>Program Name</u>	<u>FY05-06 Contract Amount</u>	<u>FY06-07 Proposed Amount</u>
Center for Human Services	Hutton House Repairs & Maintenance	\$8,971	\$8,946
Children's Crisis Center	Cricket's House Children's Homeless Shelter	\$14,040	\$14,000
Community Housing and Shelter Services	Emergency Shelter-Case Management	\$16,096	\$16,050
Community Housing and Shelter Services	Laura's House Sewer Repair	\$13,500	\$13,462
The Salvation Army	Winter Emergency Shelter	\$51,784	\$51,640
<b>Total:</b>		<b>\$104,391</b>	<b>\$104,098</b>

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-275**

**A RESOLUTION AUTHORIZING STAFF TO PREPARE A REQUEST FOR  
INFORMATION (RFI) TO SECURE A FAIR HOUSING/FAIR HOUSING  
SUPPORT SERVICES**

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, for Fiscal Year 2006-2007, there are no Public Service grant applicants recommended to provide Fair Housing/Fair Housing Support Services, and

WHEREAS, Fair Housing is a required annual activity by HUD and provision of this service is necessary to meet service goals through the Housing and Community Development Act of 1974 and the 2005-2009 Consolidated Plan, and

WHEREAS, staff is seeking approval to prepare a Request for Information (RFI) to select a Fair Housing provider, and

WHEREAS, staff will bring forward a recommendation for a provider at a future meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to prepare a Request for Information (RFI) to select a Fair Housing provider.

BE IT FURTHER RESOLVED that staff is hereby directed to bring forward its recommendation for a provider at a future meeting.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2<sup>nd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-276**

**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): PAMELA MONTEROSSO PARK**

WHEREAS, on March 4, 2003, by Resolution No. 2003-123, 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, 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 Parks, Recreation and Neighborhoods Department, by Environmental Assessment Initial Study, EA/PR&N No. 2006-05 (“Initial Study”), reviewed the proposed development and construction of the Pamela Monterosso Park project to determine whether the proposed project is within the scope of the project covered by the Modesto Urban Area General Plan Master Environmental Impact Report, 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 on May 2, 2006, concurrently with this resolution, the City Council considered approving and adopting the Pamela Monterosso Park project, which includes: adoption of the Master Plan and Design Development Report, and

WHEREAS, in accordance with the CEQA guidelines, on April 8, 2006, the City caused to be published a 20-day notice of the City's intent to make a finding of conformance with the Initial Study and the Modesto Urban Area General Plan EIR, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on May 2, 2006, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study No. EA/ PR&N 2006-05, entitled "Proposed Design and Development of Pamela Monterosso Park", for the proposed project, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

- A. The type of project 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 (EA/PR&N #2006-05) 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.

A copy of said Environmental Assessment No. EA/PR&N 2006-05, entitled "Proposed Design and Development of Pamela Monterosso Park", is on file and available in the City Clerk's Office.


BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Parks, Recreation and Neighborhoods 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 2<sup>nd</sup> day of May 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**City of Modesto**

**Finding of Conformance to  
General Plan Master EIR:**

**Initial Study C&ED No. EA/PR&N 2006-05**

**For the proposed:**

**PAMELA MONTEROSSO PARK**

**Prepared by:  
City of Modesto  
Parks, Recreation and Neighborhoods**

**April 27, 2005**

# 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 Pamela Monterosso Park 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)

This Initial Study has provided environmental review based on the MEIR and the Phase I ESA and Limited Phase II Sampling report (and supplementary information) prepared by American Geological Services, Inc. 2002 (available at the City).

### II. PROJECT DESCRIPTION

- A. Title: Pamela Monterosso Park
- B. Address or Location: The 3.02-acre project site is located at the southern terminus of Coffee Road and Scenic Drive, in the City of Modesto and consists of APN# 034-018-01, 034-015-02 and 034-018-03. The majority of the project site is undeveloped and covered with low-lying ruderal vegetation.
- C. Applicant: City of Modesto, PO Box 642, Modesto, CA 95353
- D. City Contact Person: Loren R. Holt, Project Coordinator, Parks, Recreation and Neighborhoods, (209) 571-5573, lholt@modestogov.com
- E. Current General Plan Designation(s): Open Space (below the 100-year flood zone), Mixed Use (above the 100-year flood zone), Redevelopment Area (RDA) in the northernmost triangular parcel adjacent to Scenic Drive

- F. Current Zoning Classifications: Commercial (C-3) and Residential (R-1)
- G. Surrounding Land Uses: The project is bounded on the west by commercial office buildings and associated parking areas, to the north by Scenic Drive, Coffee Road, and existing commercial and residential development, to the east by residential development (single-family homes), and to the south by Dry Creek.
- 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):

#### *Project Objectives*

The project objectives are as follows:

- Development of the Pamela Monterosso Park. This includes a parking area and turnaround (eight [8] parking spaces), bicycle rack, public kiosk, picnic tables and benches, and one (1) building pad with utility hookups (for a public restroom) and a concrete pad with electrical hookup for a food service cart
- Construction of 0.2 miles of winding trail connecting the trailhead to the Peggy Mensinger Trail via the existing elevated bridge
- Extensive planting/landscaping along the trail including planting of native plants and trees
- Preservation and protection of existing oak trees and ruderal vegetation throughout the site and along Dry Creek
- Enhancement and expansion of the City of Modesto's recreational trail system
- Beautification of the existing site
- Improved safety

#### *Project Characteristics*

The project would develop the Pamela Monterosso Park (see **Figure 2, Proposed Project**). Preliminary development plans include a parking lot (eight [8] spaces) that would connect to a vehicular turnaround. The entrance to the trail would be via a sidewalk connecting to Scenic Drive from the north and via the turnaround from the west, and bollards would be installed to protect the entrance to the trailhead from vehicle traffic. The northern portion of the trailhead would include trail signage, bicycle racks, a vendor cart pad, a drinking fountain, and a public restroom. The southern portion of the trailhead would include an informational kiosk. Park benches, picnic tables, and trash receptacles would be available throughout the trailhead area.

#### *Trail Development and Landscaping*

The trail would be nine (9)-feet wide and 1050-feet long and made of semi-permeable asphalt. Trail lighting, benches, and trash receptacles would border the trail at regular intervals. Oak trees and native plant species would be used to landscape the trailhead area in the northwestern portion of the site and intermittent stands of oaks would be planted along the trail pathway. All oaks currently on the project site would remain.

#### *Access and Circulation*

As discussed, the trailhead would include a small parking lot and turnaround that connects to a commercial parking lot that connects to the intersection of Coffee Road and Scenic Drive. Access would be from the sidewalk along Scenic Drive and from the

bicycle path along Coffee Road. A bus stop is located on Scenic Drive just outside the project site entrance.

#### *Site Lighting*

The project would include twelve (14)-foot high exterior lighting near the parking lot and trailhead, and at 150-foot intervals along the trail. These lights would match the existing lights used on the adjacent commercial office development to the west. Lighting would illuminate the trail pathway and provide additional security for trail users.

#### *Proposed Demolition*

The project would demolish all except approximately one (1)-foot of the existing asphalt trail (to maintain the stability of the retaining wall). The existing retaining wall and chain link fencing adjacent to the residential development (to the north) would remain. The asphalt trail, retaining wall, and chain link fencing between the intersection of Coffee Road and Scenic Drive and the boundary of adjacent development (the western 1/3 of the existing asphalt trail) would be removed. A six (6)-foot high chain link fence would be installed between the project site and adjacent residential property. Climbing vines would be planted in appropriate areas.

#### *Grading*

The project would require minor grading at the western central portion of the site to increase the height of the creek bank and in various places along the winding trail to comply with American with Disabilities Act (ADA) trail requirements. The existing dirt piles on the site would be leveled out and used for grading purposes.

#### *Drainage*

Surface runoff from the project site naturally drains south to Dry Creek. The project would generate minor amounts of wastewater (public bathrooms, water fountain, etc.), which would use the existing drainage infrastructure from the adjacent commercial office development to the north. Drainage from the proposed drinking fountain and restroom would connect to sanitary sewer infrastructure in adjacent development.

#### *Utilities*

The project would tie into existing utility infrastructure (electricity and water) already in Scenic Drive. Development at the project site that would require utility hookups would include the public restroom, food cart, water fountain, and site lighting.

#### *Construction Schedule*

The project construction schedule is proposed for the summer or fall of 2006.

Other Public Agencies Whose Approval is Required: None

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

1.  **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. 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.

\_\_\_\_\_  
Loren R. Holt, Project Coordinator

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

#### Discussion:

- (1) None
- (2) None
- (3) None
- (4) None
- (5) None
- (6) None

#### 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.  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (2) This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings: | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (3) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available.   | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (5) Policies remain in place that requires site-specific mitigation, and avoidance or other mitigation of impacts as a prerequisite to future development.                                    | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Discussion:

- (1) None
- (2) None
- (3) None
- (4) None
- (5) None

**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:

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 IV, Mitigation Measures Applied to Project.

#### Discussion:

The proposed project is consistent with the MEIR Traffic and Circulation Needs section (pages V-1-1 through V-1-39).

### **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. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (3) Result in inadequate emergency access.   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (4) Result in inadequate parking capacity.   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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 (see attached memo).
- (2) The project would be accessed from Scenic Drive or Coffee Road (a stoplight controlled intersection). The parking lot and turnaround would not create sharp curves or block visibility to and from the parking lot. Furthermore, final project plans are subject to review and approval by the City of Modesto, Public Works Department, Traffic Engineering & Operations Division.
- (3) The project would be accessed via an adjacent parking lot which is accessed by (vehicles turning into from) Scenic Drive or (across the intersection) from Coffee Road into the parking lot area. Emergency vehicles could easily access this area via Scenic Drive or Coffee Road. Emergency access to the trail would be in compliance with all emergency access provisions of the Fire Marshal.
- (4) The existing trail is used primarily by local residents, many within the immediate neighborhood. The new parking area would increase parking over existing conditions. Based on the current use patterns the provision of eight spaces would be adequate for the projected demand.

**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 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:

The proposed project is consistent with the MEIR Degradation of Air Quality section (pages V-2-1 through IV-2-26).

**c. Project-Specific Effects**

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

- |  | YES                      | NO                                  |
|--|--------------------------|-------------------------------------|
| (1) The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (3) The project does not comply with the air quality policies of the Modesto Urban Area General Plan.  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (4) The project would expose sensitive receptors to substantial pollutant concentrations.  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (5) The project would create objectionable odors affecting a substantial number of people.   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- (1) The project land uses would improve the existing land uses, which would not conflict with the air quality plan or generate air quality impacts in conflict with this plan. The operation of a trail with limited parking would not conflict with the air quality plan or adversely impact air quality. Bike racks will be provided at the site to encourage alternative transportation to and from the trail. Project construction would be temporary and would not require the use of heavy machinery and would not generate or contribute substantially to air quality pollutants.

- (2) Project construction would result in disturbance and construction of approximately 3.02 acres over a six (6)-month period. This project will be constructed according to SJVAPCD Guidelines, and will implement all of the control measures for construction activities identified in SJVAPCD under Regulation VIII and discussed in the MEIR as New Mitigation Measure Air-1 (page V-2-24).
- (3) See number 1. The operation of a trail with limited parking would not conflict with the air quality plan or adversely impact air quality. Bike racks will be provided at the site to encourage alternative transportation to and from the trail. The project is consistent with and complies with existing air quality policies of the Modesto Urban Area General Plan.
- (4) The closest sensitive receptors to the project site are single-family residential lots to the north and east of the project site. The project would not generate or contribute substantially to air quality pollutants.
- (5) The project would not generate or contribute to any 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-3-10 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:

The proposed project is consistent with the MEIR Generation of Noise section (pages V-3-1 through V-3-22).

#### **c. Project-Specific Effects**

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

- |  | YES                                 | NO                                  |
|--|-------------------------------------|-------------------------------------|
| (1) The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| (2) The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| (3) The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?             | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| (4) The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |

Discussion:

- (1) Noise levels on site during a visit on March 25, 2005 ranged from 46.0 dB(A) to 68.0 dB(A). Noise levels were greatest at the upland (northwestern) portion of the project site, closest to Scenic Drive. On average, noise levels on the site were 62-65 dB(A). Based on Table V-3-3, of the Noise Section of the MEIR, noise levels of 70.0 db(A) and below are considered normally acceptable for playgrounds and neighborhood parks. The project would replace existing uses with similar uses, and would generate noise levels similar to existing noise levels. The project would not expose persons to or generate noise levels in excess of the City standards.
- (2) See number 1.
- (3) See number 1. The project would replace existing uses with similar uses, and would generate noise levels similar to existing noise levels.
- (4) The City of Modesto Noise Ordinance (Modesto Municipal Code Section 4-9.101) prohibits the use of construction equipment (including hammers, saws, heavy equipment, etc.) before 7:00 AM or after 9:00 PM daily (except for Saturdays and Sundays and State or federal holidays, (when the prohibited time shall be before 9:00 AM and after 9:00 PM). Furthermore, the General Plan requires all development projects located within the Baseline Developed Area and Redevelopment Area to incorporate explicit noise mitigation to mitigate noise levels. The project will comply with the Noise Ordinance and General Plan requirements during construction, which would reduce temporary noise impacts.

#### 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 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:

The proposed project is consistent with the MEIR Agricultural Lands section (pages V-4-1 through V-4-12).

**c. Project-Specific Effects**

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) The project will directly result in the development of land outside the March 2003 planning area boundaries.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4) The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) The project site is currently occupied by an existing trail. The site is disturbed and covered in annual grasses and ruderal vegetation. The project site is not listed as farmland (prime, unique, or of statewide importance) on Figure V-4-1, Important Farmland Within City of Modesto Planning Areas, in the MEIR.

- (2) The project site is located within a highly-urbanized area of Modesto and is surrounded by residential and commercial uses.
- (3) The project site is not zoned for agricultural uses, nor is it under Williamson Act contract. The project would not conflict with these designations.
- (4) The project site is located within a highly-urbanized area of Modesto and is surrounded by residential and commercial uses. The trail improvements would not directly or indirectly affect agricultural lands.

## **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:

This project will build a trail and would result in very little added consumption of water. All plantings will be of native plant material which would require limited added water during the plant establishment phase and no additional water once the plants have been established.

**c. Project-Specific Effects**

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

- |   | YES                      | NO                                  |
|---|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- (1) According to the City of Modesto, Public Works Department, no new or expanded water services are needed to serve this project. The project would hook up to existing water mains in Scenic Drive.
- (2) The installation of drinking fountains and restrooms would not generate a substantial increase in water demand. As indicated in Item 1 above, the increased demand would be met by existing services.

**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:

The proposed project is consistent with the MEIR Increased Demand for Sanitary Sewer Services section (V-6-1 through V-6-12).

**c. Project-Specific Effects**

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

- |   | YES                      | NO                                  |
|---|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (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. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- (1) The proposed project is consistent with the Modesto Urban Area General Plan.
- (2) The project would generate a minor amount of wastewater associated with the construction of a public restroom. Drainage from the drinking fountain and restroom would connect to sanitary sewer infrastructure in adjacent development, which has adequate 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:

The appropriate mitigation to be applied to this project includes: NONE from the MEIR, and no new or additional mitigation measures or alternatives are required.

### **c. Project-Specific Effects**

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### Discussion:

- (1) This project is consistent with the Modesto Urban Area General Plan.
- (2) There are no sensitive natural communities within the project boundaries. The valley oak and riparian habitats bordering the site are considered to be sensitive plant

communities by the CDFG and this project does not include the removal of any trees or vegetation from these sensitive plant communities.

- (3) The proposed trail would be constructed within the upland, annual grassland area and does not involve the removal of any trees, riparian-associated vegetation, or alterations to the banks of Dry Creek.

## **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. 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:

A records search conducted by the Central California Information Center (CCIC) at Stanislaus State University on April 4, 2005 indicated that no prehistoric or historic archaeological resources have been reported or found at the project site. The project would replace the existing trail with the Pamela Monterosso Park. Construction and development of the park would not cause a substantial adverse change in the site, or affect potential archaeological resources.

**c. Project-Specific Effects**

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

- |   | YES                      | NO                                  |
|---|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- (1) This project is consistent with the Modesto Area General Urban Plan.
- (2) There are no buildings currently on the project site and there are no known archaeological resources on the project site.

**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 IV, Mitigation Measures Applied to Project:

Discussion:

The proposed project is consistent with the MEIR Increased Demand for Storm Drainage section (pages V-9-1 through V-9-13).

**c. Project-Specific Effects**

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) This project is consistent with the Modesto Urban Area General Plan.
- (2) According to City of Modesto, Public Works Department, the project would hook up to existing storm drainage infrastructure of the adjacent commercial office building to the west. Therefore, the project would not require new construction or expansion of existing facilities
- (3) This project would construct a trail located adjacent to the Dry Creek. Plantings would be native vegetation which would help slow the runoff of storm water into the creek. Since the project site is currently not developed, the project would not increase any storm water 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 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 proposed project is consistent with the MEIR Flooding and Water Quality section (pages V-10-1 through V-10-16).

### c. Project-Specific Effects

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

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

- |  | YES                      | NO                                  |
|--|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (3) The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (4) The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

#### Discussion:

- (1) This project is consistent with the Modesto Urban Area General Plan.
- (2) The project would be subject to the federal Clean Water Act, the State Porter-Cologne Act and all local requirements.
- (3) The project complies with Modesto's Guidance Manual.
- (4) The project will be subject to applicable Federal, State and City storm-water standards, and will therefore, not substantially increase polluted runoff. Most runoff from the site would continue to drain into Dry Creek, which historically has had sufficient capacity to carry runoff into the existing storm-water drainage system.

## 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:

This project creates park and open land.

**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 would replace the existing trail with the Pamela Monterosso Park. The project would serve to improve and augment existing City recreation facilities.

**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:

This project creates a trail head for an existing trail and does not include any residential development. Therefore, no new schools would be needed.

**c. Project-Specific Effects**

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) This project is consistent with the Modesto Urban Area General Plan.
- (2) This project creates a trail head for an existing trail and does not include any residential development. Therefore, no new schools would be needed.

### 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:

The proposed project is consistent with the MEIR Increased Demand for Police Services section (pages V-13-1 through V-13-7).

#### c. Project-Specific Effects

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

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

- |  | YES                      | NO                                  |
|--|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- (1) This project is consistent with the Modesto Urban Area General Plan.
- (2) The project would replace the existing trail with the Pamela Monterosso Park. The project would be similar in nature to existing uses, and would incorporate improved trail lighting, promoting bicycle/pedestrian safety and security. Therefore, there would not be any anticipated increase in 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 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:

The proposed project is consistent with the MEIR Increased Demand for Fire Services section (pages V-14-1 through V-14-9).

**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.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- (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) This project is consistent with the Modesto Urban Area General Plan.
- (2) The project would replace the existing trail with the Pamela Monterosso Park. The project would be similar in nature to existing uses. The project would not require the need for new fire protection 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 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:

The proposed project is consistent with the MEIR Generation of Solid Waste section (pages V-15-1 through IV-15-10).

### c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

- |   | YES                      | NO                                  |
|---|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- (1) This project is consistent with the Modesto Urban Area General Plan.
- (2) There would be very little solid waste generated by the use of the trail. Trail users typically carry out what they bring onto the trail and waste receptacles would be provided at the entrance to the trail. The project would be similar to existing uses and the solid waste generation by the project would be similar to existing conditions.

## 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:

The proposed project is consistent with the MEIR Generation of Hazardous Materials section (pages V-16-1 through V-16-15).



**c. Project-Specific Effects**

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) The project contains a contaminated site not identified as of March 2003.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4) The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(5) The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

- (1) This project is consistent with the Modesto Urban Area General Plan.
- (2) The project would replace the existing trail with the Pamela Monterosso Park. The project would be similar to existing uses and would not introduce hazardous materials to the project site. The construction and operation of the trail would not use hazardous materials and therefore would not create a potential hazard to the public.
- (3) A Phase I ESA conducted on October 4, 2002 by American Geological Services, Inc. did not find any evidence of hazardous materials on the project site.
- (4) The project would not involve the transport, use or disposal of hazardous materials.
- (5) See Item 2 & 3.

**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:

The proposed project is consistent with the MEIR Potential for Landslides and Seismic Activity section (pages V-17-1 through V-17-12).

### **c. Project-Specific Effects**

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

- |   | YES                      | NO                                  |
|---|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

#### Discussion:

- (1) This project is consistent with the Modesto Urban Area General Plan.
- (2) Project construction and grading will be upland of the bluff and will be subject to the City's erosion control regulations.

## 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:

The proposed project is consistent with the MEIR Energy section (pages V-18-1 through IV-18-7).

### c. Project-Specific Effects

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

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

- |   | YES                      | NO                                  |
|---|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

#### Discussion:

- (1) This project is consistent with the Modesto Urban Area General Plan.

## 19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

### a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less-than-significant unless:

- |  | YES                      | NO                                  |
|--|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.                | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The project includes a substantive amendment to the Modesto Urban Area General Plan. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (3) The project would physically divide an established community                         | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

#### Discussion:

- (1) This project is consistent with the Modesto Urban Area General Plan.
- (2) The project requires no need to amend the Modesto Urban Area General Plan.
- (3) The project will construct a trail head and improve an existing trail. This project will not divide and 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.    | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The project would have a substantial adverse effect on a scenic vista.   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (3) The project would substantially degrade the existing visual character or | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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) This project is consistent with the Modesto Urban Area General Plan.
- (2) This project will build a trail head and improve an existing trail. This project will improve the site and allow better access to the scenic vista of Dry Creek.
- (3) See Item 2.
- (4) This project will introduce some light along the pathway, but it will be projected down onto the pathway and not be allowed to escape to the sides or upward. This light will not adversely affect night time views.

## **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 (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 (see mitigation measures listed below).

### **B. New or Additional Mitigation Measures or Alternatives Required**

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study.

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

#### **Traffic and Circulation Measures:**

N/A

**Air Quality Measures:**

N/A

**Noise Measures:**

N/A

**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:**

N/A

**Flooding and Water Quality Measures:**

N/A

**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

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-277**

**A RESOLUTION APPROVING THE DESIGN DEVELOPMENT REPORT AND  
MASTER PLAN INCLUDED THEREIN FOR PAMELA MONTEROSSO PARK**

WHEREAS, the City of Modesto currently owns the approximately 5.5 acre Pamela Monterosso Park site immediately to the south of Scenic Drive at the southern terminus of Coffee Road, and

WHEREAS, staff has prepared a Design Development Report and Master Plan included therein for Pamela Monterosso Park, and

WHEREAS, prior to adopting the Design Development Report, the California Environmental Quality Act (CEQA) requires that the City of Modesto consider the environmental consequences of the proposed project, and

WHEREAS, by an agenda report dated April 13, 2006, from the Parks, Recreation and Neighborhoods Director, staff recommended to the Council approving the Pamela Monterosso Park Design Development Report, a copy of said report is on file in the office of the City Clerk, and

WHEREAS, the Pamela Monterosso Park Design Development Report dated April 12, 2006, is within the scope of the Modesto Urban Area General Plan Master Environmental Impact Report (SCH #1999082041), and

WHEREAS, on May 2, 2006, concurrent with this resolution, the Modesto City Council adopted Resolution No. 276, finding that the Pamela Monterosso Park project is within the scope of the Project covered by the Modesto Urban Area General Plan Master Environmental Impact Report (SCH No. 1999082041),



NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds that the Pamela Monterosso Park Design Development Report is complete and adequate, and it hereby approves the Pamela Monterosso Park Design Development Report, and Master Plan included therein, 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 2<sup>nd</sup> day of May 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-278**

**A RESOLUTION APPROVING A THIRD AMENDMENT TO THE CONTRACT  
FOR CONSULTANT SERVICES WITH MAZE & ASSOCIATES FOR  
ADDITIONAL WORK AT A COST NOT TO EXCEED \$33,380, AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT  
AMENDMENT**

WHEREAS, on April 6, 2004, the Modesto City Council, by Resolution No. 2004-171 entered into an original contract with Maze & Associates to perform non-audit services for the City, and

WHEREAS, on January 25, 2005, the Modesto City Council adopted Resolution No. 2005-044 approving execution of a First Amendment to said contract with Maze & Associates, to perform additional, non-audit services for the City, and

WHEREAS, on October 25, 2005, the Modesto City Council adopted Resolution No. 2005-525 approving execution of a Second Amendment to said contract with Maze & Associates, to perform additional, non-audit services for the City, and

WHEREAS, the City Manager executed said original contract, and the First and Second Amendments thereto, on behalf of the City of Modesto, and

WHEREAS, the City has requested Maze & Associates to perform additional work in addition to the originally contracted work, namely, to perform Agreed-Upon Procedures in the Public Works Department, for the three subsequent fiscal years 2003, 2004, and 2005, in an amount not to exceed \$33,380, and

WHEREAS, this additional work increases the total contract price to an amount not to exceed \$145,250, and

WHEREAS, the contract for these services requires Modesto City Council approval for such additional work,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Third Amendment to the Agreement for Consultant Services with Maze & Associates, authorizing the additional work proposed, at a cost not to exceed \$33,380.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9<sup>th</sup> day of 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

~~APPROVED AS TO FORM:~~

By Richard Rudnansky  
RICHARD RUDNANSKY, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-279**

**A RESOLUTION ACCEPTING THE PARKS, RECREATION AND  
NEIGHBORHOODS DEPARTMENT FUND DEVELOPMENT PROGRESS  
REPORT – JULY 2004 THRU MARCH 2006**

WHEREAS, in recent years the City of Modesto Parks, Recreation and Neighborhoods Department has faced an increase in the demand for services and the prospect of dwindling resources, and

WHEREAS, the City of Modesto Parks, Recreation and Neighborhoods Department, in an effort to be proactive in securing future funding for its parks, programs and facilities, created a dedicated fund development function, and

WHEREAS, this action included hiring a Fund Development Specialist responsible for securing grant funding and increasing co-sponsorships and donations, and forming a Fund Development Advisory Team, and

WHEREAS, since July 2004, using the fund development strategies already adopted by Council, the Strategic Funding plan has many of its designated proposals “in process” or completed, and

WHEREAS, at its meeting on March 27, 2006, the Finance Committee supported acceptance of the Fund Development Report for July 2004 through March 2006, and

WHEREAS, by a report dated April 18, 2006, the City of Modesto Parks, Recreation and Neighborhoods Department submitted a Fund Development Progress Report for July 2004 through March 2006 to the City Council, which outlines the department’s fund development efforts and achievements during this period, a copy of which is attached hereto as Exhibit “A” and incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Parks, Recreation and Neighborhoods Fund Development Progress Report for July 2004 through March 2006, 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 9<sup>th</sup> day of May 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

## **Fund Development Progress Report**

### **Background:**

In recent years, the Modesto Parks, Recreation and Neighborhoods Department has faced an increase in the demand for facilities and services and a decrease in funding for those facilities and services. Parks and recreation systems all over the country are facing the same challenges and others, including

- Competition for scarce resources
- State and local budget shortfalls
- Dwindling alternate funding sources
- National focus on funding for public safety.

Noting these trends nationally and locally, Modesto Parks, Recreation and Neighborhoods staff took proactive steps in securing the future of its programs and reducing dependence on the General Fund: These actions taken were:

- Increase co-sponsorship efforts
- Increase number of grant submissions
- Dedicate a "fund development" function.

On May 25, 2004, the Council adopted a resolution accepting the Parks, Recreation and Neighborhoods Department Fund Development Program Report. Within the report the Council authorized and directed staff to:

- Negotiate an agreement with the Stanislaus Community Foundation
- Develop a policy and marketing plan for Corporate Naming Rights and to identify properties to include in the naming rights inventory
- Develop a policy and marketing plan for Corporate Program Sponsorships
- Develop a plan to sell or lease remnant parcels of City-owned open space
- Pursue Exclusive Vendor/Official Sponsor Contracts
- Develop a policy and marketing plan for Presentation Sponsors
- Develop a methodology to create private-public partnerships to secure Neighborhood Improvement Sponsors.

Staff has had a very successful two years pursuing the goals outlined in the Fund Development Program. Although not always a straight line, we are moving in uncharted areas within fund development and every roadblock moves us to a turn in the path where we have become successful.

Since the Council adoption of the Fund Development Report, several of the items that Council authorized staff to accomplish have been completed or are in the process of implementation and/or completion.

### **NEGOTIATE AN AGREEMENT WITH THE STANISLAUS COMMUNITY FOUNDATION**

On December 7, 2004, the Council approved an agreement with the Stanislaus Community Foundation to act as the City's 501(c)(3) and fiscal agent for acceptance of endowments and

gifts for open space development and program activities. On February 22, 2005, the Council, acting as the Tuolumne River Regional Park's fiscal agent, approved an Agreement with the Stanislaus Community Foundation to serve as TRRP's fiscal agent for acceptance of endowment and gifts for open space development and program activities.

Currently the Stanislaus Community Foundation Parks Account holds a fund balance of \$47,375.00 for the City. The monies collected are for a diverse collection of projects such as the Parade of Lights, Movies at Mancini, the Rogers Boy Fountain as well as the John Kenealy Memorial and John Muir Park Partners. The generosity of our citizens has been exemplary.

**DEVELOP A POLICY AND MARKETING PLAN FOR CORPORATE NAMING RIGHTS AND TO IDENTIFY PROPERTIES TO INCLUDE IN THE NAMING RIGHTS INVENTORY AND DEVELOP A POLICY AND MARKETING PLAN FOR PRESENTATION SPONSORS**

In September 2004, staff came to Council and was granted authorization to issue a Request for Proposal to search for a qualified company to develop a policy and marketing plan for program sponsorship and the development of presentation sponsors. Staff issued an RFP in the fall for 2004 and at the request of possible vendors, extended the time for the response. Staff received one response and it was deemed unacceptable due to the high price tag.

Staff went back to the "drawing board" and developed a shortened list of projects for sponsorships and with this carved out work piece visited some local agencies that have a good reputation and knowledge of the area, to offer them the possibility of working within this shortened scope of work. Only one company responded – Market Place Media. Staff did not limit the company from pursuing sponsorship outside the scope of work but is trying to focus on these specific programs:

- Activity Guide sponsorship (3 per year)
- Movies at Mancini (both teen and family nights)
- Brown Bag Lunch series
- Christmas Parade of Lights
- City Park and Activities Sponsorship

Within these parameters, Market Place Media has found sponsors to completely support the Winter 2005 activity guide and continues to work on sponsorship packages for the current edition. They are working with local radio stations to sponsor fund raising efforts for the aquatic activities of the City as well as sponsorships for a fall 2006 Brown Bag Lunch series. Staff has also added the possibility of issuing advertising/sponsorships on the backs of the parking garage tickets. This is currently in the works and could produce revenue to enhance the parking garage needs.

In September of 2004 the Council also directed staff to develop a policy and marketing plan for Corporate Naming Rights and to identify properties to include in the naming rights inventory. Staff believes the City's most prominent venue for a corporate naming right property is the Modesto Centre Plaza. Ken McCall of Pacific Media was generous enough to give his and his companies time to the project of creating media information to use when discussing the proposal with individual sponsor prospects. Thurman Field has also been discussed as the next possible venue for corporate sponsorship opportunities. There have been a few quiet

discussions with a few prominent individuals within the community as to the possibility of their participation in this project and/or support.

### **DEVELOP A PLAN TO SELL OR LEASE REMNANT PARCELS OF CITY-OWNED OPEN SPACE**

A Request for Proposal from qualified and experienced firms who might be interested in contracting with the City's Parks, Recreation and Neighborhood Department to provide high-quality property management for certain specified City-owned properties was sent out in October 2004 per direction from the City Council. Wolverine Property Management was signed to deliver property management services to the city for these properties.

- 4205 Gomes Road
- 801 N. McClure Road
- 660 El Vista Dr.
- 1204 River Road
- 1318 W. Hatch Road
- McClure Farmhouse

With the professional management firm of Wolverine Properties working with our Building Services Division to manage the department's rentals it has freed up much needed City manpower to work on other projects but has also assured us that we are placing the correct value on our properties and they are being handled by experienced property managers.

In 2005 the Council declared City-owned property at the northwest corner of 17<sup>th</sup> and G Streets as well as the former John Muir School site on Morris Street as surplus to the City's needs. The City is currently working with the Modesto Redevelopment Agency to use the 17<sup>th</sup> and G Street site to develop an affordable housing project. The Morris Street site is going through the environmental process as well as the surplus property procedures with other public agencies.

### **DEVELOP A METHODOLOGY TO CREATE PRIVATE-PUBLIC PARTNERSHIPS TO SECURE NEIGHBORHOOD IMPROVEMENT SPONSORS.**

Sponsorship is a two-way medium. It creates a relationship between sponsors and their target markets. Sponsorship says to consumers that the sponsor understand them and that the sponsor cares about what they care about. Sponsorship has now finally come into its own as the most powerful of all marketing media. Sponsorship is about how much value you can provide to a sponsor. It is important that both parties achieve their objectives and recognize that they have achieved something of value. That is the magic word that separates sponsorship from philanthropy – Value. (Grey & Sildum-Reid; The Sponsorship Seekers toolkit: 2005)

Staff is working on an expansion of the N.E.A.T (Neighborhood Environmental Action Team) program to harness the private partners who wish to sponsor the clean up along road right-of-ways through honor farm work teams. The cost of the sponsorship is to pay for the deputies who guard the honor farm crews. We have recently received a new application from NEXUS gaming company to help along Briggsmore Avenue.



Philanthropy, which in a public arena is sometimes referred to as citizen philanthropy, is what is happening in some of Modesto's neighborhoods. Specifically, neighborhoods in the John Muir Park area as well as the George E. Rogers Park which have banded together to develop a plan for their parks and green spaces and have fund raised monies to help with the maintenance and operations of their parks. Working with City Park staff there are other neighborhoods that will follow in their footsteps and sponsor the parks in their neighborhoods.

### **Landscape Maintenance Agreement**

Additionally, while not specifically outlined in the initial Fund Development Program. PR&N staff, with direction from Council, wrote an RFP for Landscape Maintenance and has successfully negotiated a contract with Grover Landscaping. This agreement will save the City \$377,000+ annually and receive a one time influx of cash of \$430,000, of which \$100,000 will be directed to the Stanislaus Community Foundation.

### **Grants awarded and pending**

The City of Modesto's Parks, Recreation and Neighborhood Department has been very successful in obtaining grants for the departments projects. Over \$12 million in grants have been awarded to the department since the last Fund Development Report in 2003. Attached in Appendix A is the list of the grant awards.

Staff has also been notified that the City was given an "earmark" in the current Federal Transportation bill specifically for the Virginia corridor for \$3 million dollars.

Since the last Fund Development report the department has grant application pending for \$5,022,543.00. Attached is Appendix B, which lists the current pending grant applications.

### **Upcoming Grant Opportunities in 2006**

- Land and Water Conservation Fund (Competitive Grant)  
Applications for funding through this source have been very successful in the past. We plan to submit a request in May for a picnic shelter for Marshall Park
- Habitat Conservation Fund (Competitive Grant)
- Recreational Trails Program (Competitive Grant)
- San Joaquin Valley Air Pollution Control District – REMOVE II (Competitive Grant) – The City is positioned very well to receive additional funding for 2006 for the Virginia Corridor. When the District awarded the City the REMOVE II grant in 2005 they encouraged staff to submit for 2006, also.
- Omega Nu (Competitive Grant) Staff will be requesting funding for Senior Club projects.
- Staff is looking in funding from foundations that do not traditionally give to governmental agencies but since we are affiliated with the Stanislaus Community Foundation they will partner with us to find funding with foundations. Our first project that staff is working on is funding equipment for the remodeled Maddux Youth Center. A proposal has been developed to present to foundations that support activities such as are held at Maddux

The Fund Development Specialist has developed a spreadsheet to manage the grants that the City has been awarded, as well as information on pending grants and those grants we are anticipating sending application.

### **The Fund Development Advisory Team**

The Fund Development Advisory Team was reinstated and revamped in 2004. Members are representatives from all areas of the Department. In a collaborative forum, led by the Fund Development Specialist, the team is responsible for addressing key topic related to fund development. The team format benefits the department through the pooling of knowledge, and by streamlining and coordinating the donation and sponsorship seeking processes.

The team has assisted in the development of the scope of work for the Request for Proposal for marketing of the sponsorships and advertising. Subsequently they came back to the table to reduce and prioritize the scope of work, which eventually was contracted to Market Place Media. They have also worked on the sponsorship catalogue for the Virginia Corridor, which is currently in production. Right now, the group is working on sponsorship activities for the renovated Maddux Youth Center.

### **Staff Development**

The key component to fund development is to make sure that all members of the department are attuned to the Fund Development program. With this in mind the Fund Development Specialist has spoken at the division staff meetings to discuss the Fund Development program. It is critical that each member of the department understands that they are the eyes and ears of the fund development program and can be ambassadors to help the department gather funding to promote the programs, parks and facilities.

The Fund Development Specialist is a member of the Association of Fundraising Professionals and as such continues to network and join in learning seminars on fund development through their bimonthly meetings. Several training programs offered by the non-profit Foundation Center of San Francisco have been presented to help develop grant writing skills as well as grant management and budgeting.

It is a critical time in Fund Development but many of the strategies and proposals that were "new" ideas presented to the Council in 2002 have been accomplished or developed past more than the "talking stages".

## Appendix A

### Parks Recreation and Neighborhoods Department Grants Awarded 2004-2006

Source	Project	Amount Awarded
Proposition 40	TRRP Gateway Project	\$ 1,140,000.00
Federal TE 06-07	Virginia Corridor Phase III	\$ 700,000.00
Proposition 40 - Urban Parks	Virginia Corridor Phase III	\$ 2,867,000.00
FHWA - Boxer Earmark	Virginia Corridor	\$ 400,000.00
Bicycle Transportation Act 02-03	Virginia Corridor Phase III	\$ 698,798.00
Bikes Belong	Virginia Corridor Phase III	\$ 5,000.00
Proposition 12 per Capita	George Rogers Park Phase II	\$ 932,000.00
Proposition 12 per Capita	Maddux Youth Center	\$ 79,000.00
Proposition 12 per Capita	Beardbrook Playground	\$ 31,073.25
Proposition 12 per Capita	Roosevelt Playground	\$ 73,508.14
Proposition 12 per Capita	Sherwood Playground	\$ 69,150.00
Proposition 12 per Capita	Chrysler Playground	\$ 71,188.67
Proposition 12 per Capita	Whitmore Playground	\$ 68,248.76
Proposition 12 per Capita	Sonoma Playground	\$ 39,780.72
Proposition 12 per Capita	Sylvan Playground	\$ 67,112.38
Proposition 12 per Capita	Beyer and Graceada Picnic	\$ 197,000.00
Proposition 12 per Capita	Downey Park Play Equipment	\$ 79,938.08
Proposition 12 RZH	Maddux Youth Center	\$ 548,262.00
Proposition 40 per capita	Maddux Youth Center	\$ 373,000.00
Proposition 40 per capita	Sonoma Playground	\$ 33,000.00
Proposition 40 per capita	Catherine Everette Playground	\$ 54,000.00
Proposition 40 per capita	Moran Estates Playground	\$ 51,543.00
Proposition 40 per capita	Garrison Playground	\$ 80,647.00
Proposition 40 per capita	Woodrow Playground	\$ 71,028.00
Proposition 40 per capita	Rose Park Playground	\$ 67,000.00
Proposition 40 per capita	Standiford Playground	\$ 75,360.00
Proposition 40 per capita	Muncy Playground	\$ 67,422.00
Proposition 40 RZH	King Kennedy Kit and Aud	\$ 350,000.00
Proposition 40 RZH	Maddux Youth Center	\$ 187,781.00
State TE funds	Briggsmore/99	\$ 1,000,000.00
Regional TE funds	Briggsmore/99	\$ 200,000.00
Minor B funds	Briggsmore/99	\$ 100,000.00
Land and Water Conservation Fund	Mark Twain Shade Structure	\$ 28,050.00
Omega Nu	Senior Club/Senior Center	\$ 2,500.00
Land and Water Conservation Fund	George Rogers Shade Structure	\$ 36,276.00
Land and Water Conservation Fund	Virginia Corridor Phase III	\$ 43,000.00
Federal TE funds	Monterosso property/ Scenic Dr.	\$ 611,000.00
Federal CMAQ funds	Monterosso property/ Scenic Dr.	\$ 55,000.00
SJVAPCD REMOVE II Grant	Virginia Corridor Phase III	\$ 100,000.00
Rotary International Centennial Proj.	Virginia Corridor	\$ 500,000.00
	<b>TOTAL</b>	<b>\$ 12,153,667.00</b>

Appendix B  
Parks Recreation and Neighborhoods Department Grants Pending  
2004-2006

Source	Project	Amount Pending
Bicycle Transportation Account 2005	Virginia Corridor Phase V	\$ 1,800,000.00
Bicycle Transportation Account 2005	Virginia Corridor Phase V	\$ 1,500,000.00
California Parks - Recreational Trails Program	Tuolumne River Regional Park Phase I	\$ 125,000.00
California Parks - Habitat Conservation Fund	Tuolumne River Regional Park Phase I	\$ 22,000.00
California River Parkways Proposition 50	Tuolumne River Regional Park Phase I	\$ 1,525,543.00
Stewardship Council Foundation grant	Tuolumne River Regional Park Phase I	\$ 50,000.00
	<b>TOTAL</b>	<b>\$ 5,022,543.00</b>

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-280**

**A RESOLUTION APPROVING AN AGREEMENT WITH HDR ENGINEERING,  
INC. FOR ENGINEERING SERVICES RELATED TO THE WASTE-TO-  
ENERGY PROJECT END-OF-CONTRACT ISSUES AT A MULTI-YEAR COST  
NOT TO EXCEED \$146,390, AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE THE AGREEMENT**

WHEREAS, the County of Stanislaus and the City of Modesto have a Service Agreement with Covanta Stanislaus for the operation of the Waste-to-Energy Facility, and

WHEREAS, 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 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 and County communities, it will be important to have a current assessment of the condition of the facility, which will require the services of a consulting engineer, and

WHEREAS, the Executive Committee therefore authorized the development and issuance of a Request For Proposals (RFP) for these services, and

WHEREAS, the RFP for these services was prepared by the County Purchasing Agent in conformance with County purchasing specifications and issued in February 2006, and

WHEREAS, one firm, HDR Engineering, Inc., responded to the RFP, and

WHEREAS, HDR has previously performed engineering services for the project, and served as the Consulting Engineer during the 2000 refinance of the Certificates of Participation for the project and HDR has also had extensive experience in performing evaluations of various waste-to-energy facilities, including several Covanta facilities, and

WHEREAS, County Purchasing has prepared a contract, which has been reviewed and approved by County Counsel and the City Attorney's office, and

WHEREAS, in order to proceed, the City Council and County Board of Supervisors must authorize the execution of this contract, and

WHEREAS, the contract has two primary tasks, and

WHEREAS, the first task is to assess the physical and operating condition of the Facility and its ability to perform as anticipated throughout the balance of contract term at a multi-year cost not to exceed \$68,390, and

WHEREAS, second, upon completion of Task 1 in 2006, and at the discretion of the City and County, HDR may be requested to perform an evaluation of the existing Service Agreement to identify key issues, improvements to be included in any new Service Agreement, development of negotiation posture and assist in the negotiation of a

new Service Agreement or extension/amendment for the Facility operation at a cost not to exceed \$78,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with HDR Engineering, Inc. for engineering services related to the Waste-to-Energy project end-of-contract issues at a multi-year cost not to exceed \$146,390.

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 9<sup>th</sup> day of May 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-281**

**A RESOLUTION APPROVING A COOPERATIVE AGREEMENT BETWEEN  
THE CITY OF MODESTO AND THE HOUSING AUTHORITY OF  
STANISLAUS COUNTY FOR ACQUISITION OF RENTAL PROPERTY AT  
1901 PARAMONT WAY ("PARAMONT PROJECT"), AND AUTHORIZING  
THE CITY MANAGER TO EXECUTE THE COOPERATIVE AGREEMENT  
AND RELATED DOCUMENTS**

WHEREAS, on April 25, 2006, by Resolution No. 2006-240, the City Council approved a \$750,000 loan to the Housing Authority of Stanislaus County, to provide partial financing to purchase a 12-unit multi-family housing development located at 1901 Paramont Way ("Paramont Project"), for rental to low-income households, and

WHEREAS, the Housing Authority of Stanislaus County will obtain the remainder of required financing through a Housing Authority Tax Exempt Bond, and

WHEREAS, the Housing Authority of Stanislaus County has the capacity to issue bonds to finance the acquisition of the housing units, and

WHEREAS, under Section 34209 of the California Health and Safety Code, the Housing Authority of Stanislaus County may only operate with the City of Modesto if the consent of the City Council has been obtained, and

WHEREAS, the Paramont Project features twelve (12) 2-bedroom/1-bath units, each with 865 square feet of living space, and

WHEREAS, on April 27, 2006, the Housing Authority of the County of Stanislaus submitted a request for the City Council to consider and approve a Cooperative Agreement, and



WHEREAS, the City of Modesto and the Housing Authority of Stanislaus County wish to cooperate with one another for the purposes of acquisition of the Paramount Project, and

WHEREAS, the Cooperative Agreement is not financially binding on the City, but will assist the Housing Authority of Stanislaus County's efforts in pursuing bond financing for the acquisition of a proposed 12-unit residential rental housing facility located at 1901 Paramount Way, Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that (1) for the purposes of Section 34209 of the California Health and Safety Code, it hereby consents to the operation of the Housing Authority of Stanislaus County within the City of Modesto as necessary or appropriate to undertake and complete the financing described hereinabove, and (2) it hereby approves a Cooperative Agreement between the City of Modesto and the Housing Authority of the County of Stanislaus for acquisition of the 12-unit multi-family housing project located at 1901 Paramount Way ("Paramount Project").

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9<sup>th</sup> day of May 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-282**

**A RESOLUTION APPROVING A SECOND AMENDMENT TO AN  
AGREEMENT WITH GEOLOGICAL TECHNICS, INC., IN THE AMOUNT OF  
\$19,858.00, CONTRACT TOTAL OF \$44,978.00, FOR CONSULTANT SERVICES  
TO MONITOR SOIL AND GROUNDWATER CONTAMINATION  
DISCOVERED DURING CONSTRUCTION OF THE POLICE  
HEADQUARTERS FACILITY AT 10<sup>TH</sup> AND "G" STREETS, AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, during the course of constructing the Police Headquarters Facility at 10<sup>th</sup> 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 consultant 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 second amendment to the agreement with Geological Technics, Inc. for services associated with the closure of the contamination site at the Police Headquarters Facility at 10<sup>th</sup> and "G" Streets,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Second Amendment to the Agreement with Geological Technics, Inc., in the amount of \$19,858.00, thereby increasing the total not to exceed

amount to \$44,978.00, for consultant services in conjunction with soil and groundwater contamination monitoring.

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 9<sup>th</sup> day of May 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-283**

**A RESOLUTION AMENDING THE FY 05-06 OPERATING AND CAPITAL IMPROVEMENT PROGRAM BUDGET TO DECREASE THE WATER CONTINGENCY, ACCOUNT NUMBER 6100-800-8000-8003, BY \$19,858.00 TO INCREASE THE MODESTO SYSTEM IMPROVEMENTS – SECONDARY CONSTRUCTION ACCOUNT NUMBER 6180-480-W615-6040 BY \$19,858.00**

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

WHEREAS, funds were not included in the current budget to pay for consultant services associated with soil and groundwater contamination at the Police Headquarters Facility at 10<sup>th</sup> and “G” Streets, and

WHEREAS, additional monitoring services are needed from Geological Technics, Inc. to allow closer of the monitoring wells and the contamination site,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a reduction of \$19,858.00 from the Water Contingency (6100-800-8000-8003), and an increase of \$19,858.00 to the Modesto System Improvements – Secondary Construction Account (6180-480-W615-6040).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of May 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-284**

**A RESOLUTION APPROVING THE CITY OF MODESTO STANDARD  
SPECIFICATIONS, 2006 EDITION**

WHEREAS, in January 2005, the Public Works Department initiated an update to the City of Modesto Standard Specifications in response to suggestions from the development community and City staff, and

WHEREAS, Section 4-4.801 of the Modesto Municipal Code provides for the adoption by the City Council of "Standard Specifications of the City of Modesto", said Standard Specifications to be prepared by the Public Works Director and recommended by the Planning Commission, and

WHEREAS, the current Standard Specifications were adopted in September 1997 with the last major update in November 2001, with supplemental updates in November 2002 and December 2004, and

WHEREAS, the Public Works Department, Development Services Division, has recommended a major update to the 2001 Edition, which includes the addition of several Standard Details, and

WHEREAS, the proposed update to the Standard Specifications will make them a valuable tool for the development and construction industries, improve overall user-friendliness, and provide greater efficiency and consistency in the design and construction of public improvements, and

WHEREAS, the proposed update to the Standard Specifications was considered by the Building Industry Association and the Construction Industry Liaison Committee and notices of an informal public hearing by the Planning Commission to consider the

proposed update were sent to the Building Industry Association, and Stanislaus County Public Works, and

WHEREAS, the Planning Commission, by Resolution No. 2006-33, adopted on May 1, 2006, recommended to the City Council the adoption of the City of Modesto Standard Specifications, 2006 Edition, a copy of which is on file in the offices of the City Clerk, Public Works Director and to the Planning Commission, and

WHEREAS, the proposed City of Modesto Standard Specifications, 2006 Edition, as prepared by the Public Works Director and recommended by the Planning Commission, were considered by the City Council at its regular meeting on May 9, 2006, at which time the Council determined that the proposed update to the Standard Specifications should be adopted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto it hereby approves the City of Modesto Standard Specifications, 2006 Edition, copies of which are on file in the office of the City Clerk, Public Works Director and to the Planning Commission.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9<sup>th</sup> day of May 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-285**

**A RESOLUTION AUTHORIZING THE AWARD OF PROPOSAL AND DIRECTING STAFF TO ENTER INTO CONTRACT NEGOTIATIONS FOR THE FURNISHING OF TEMPORARY LABOR SERVICES FOR THE CITY OF MODESTO WITH THE FOLLOWING COMPANIES AS "PRIMARY" CONTRACTORS, ADECCO USA, INC., MODESTO, CA, LABOR READY SOUTHWEST, INC., MODESTO, CA, REMEDY INTELLIGENT STAFFING, INC., MODESTO, CA, VALLEY STAFFING SERVICES, MODESTO, CA AND WESTAFF (USA), INC., MODESTO, CA, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY**

WHEREAS, City departments intermittently have the need of temporary employees to fill in for vacancies created through retirements, resignations, and terminations, and

WHEREAS, temporary employees are also utilized on a seasonal basis during periods of high demand and to handle workload fluctuations, and

WHEREAS, historically, the Personnel Department facilitated the hiring of most temporary labor services for City departments, and

WHEREAS, the Personnel Department would meet with the using department to help determine the skill set needed, and

WHEREAS, the Personnel Department would contact the temporary labor agency and arrange for candidates to be sent out for interviews and the using department would conduct the interviews, and

WHEREAS, the Personnel Department would negotiate the rates on specific or group placements based on their knowledge of the market, and

WHEREAS, while Personnel was the primary contact with temporary labor agencies, user departments gradually began working directly with the agencies in order to expedite the process, and

WHEREAS, in 1999 as part of assessing the Personnel Department's delivery of services, several departments requested that the process be restructured to permit all departments to routinely deal with the temporary labor agencies directly, and

WHEREAS, the request was based on the need for expediency in hiring temporary labor and also to have direct control over the process, and

WHEREAS, based on the departmental requests and workload issues at the time, the decision was made to allow all departments to conduct their own transactions, and

WHEREAS, the Personnel Department continued to assist those departments that requested such assistance, although for the most part, departments conducted separate transactions with temporary agencies in order to meet their service level requirements, and

WHEREAS, last fiscal year the City as a whole spent approximately \$1.9 million dollars on temporary labor services, and

WHEREAS, historically the largest departmental users of temporary labor have been the Public Works and Parks, Recreation & Neighborhoods Departments, and

WHEREAS, an RFP was issued to accomplish the following:

- Consolidation of Citywide requirements obtaining the best services for the price offered.
- Consistency of service delivery and the ability to provide activity reports to better monitor the cost and utilization of temporary services Citywide.
- Concise monitoring will allow quarterly reporting on usage hours and

expenditures, and

WHEREAS, on February 14, 2006, Council approved Resolution No. 2006-088 authorizing the Purchasing Manager to formally solicit Request for Proposals (RFP) for the furnishing of Temporary Labor Services for the City of Modesto, for a two (2) year agreement with three (3) one-year extension options, and

WHEREAS, the Purchasing Division solicited Request for Proposal No. 0506-27 for the furnishing of Temporary Labor Services for the City of Modesto to thirty-four (34) prospective proposers, twenty-one (21) of which were local companies, posted the proposal on the City's web site, and formally advertised as required by law, and

WHEREAS, on March 28, 2006, RFP's were formally opened in the City Clerk's office. Of the thirty-four (34) prospective proposers solicited, ten (10) companies chose to respond, and

WHEREAS, on March 24, 2006, an evaluation committee was formed comprised of six (6) City staff personnel from the Parks Recreation and Neighborhoods, Public Works and Personnel/Risk Management Departments to evaluate the proposal submittals, and

WHEREAS, Councilmember Hawn was invited to observe the evaluation process, and

WHEREAS, the Purchasing Division facilitated the evaluation process but was not a grading participant, and

WHEREAS, on March 30, 2006, the evaluation committee met and proposal evaluation packets were given to each committee member to individually review and score, and

WHEREAS, after the meeting, committee members individually evaluated and scored the proposals, and

WHEREAS, on April 12, 2006, the evaluation committee met to discuss the proposal submittals and how they individually rated and scored each submittal, and

WHEREAS, committee member scores were combined and averaged to arrive at a committee score, and

WHEREAS, on April 19, 2006, proposer interviews were held for the top candidates to clarify any questions committee members had of 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, and

WHEREAS, the evaluation committee rated and scored the proposals based on the following evaluation categories:

<u>Evaluation Category</u>	<u>Possible Points</u>
• References	15
• Service Capabilities	40
• Company History Statement	10
• Relevant Experience	20
• Cost	<u>40</u>
• Total Possible Points:	<u>125</u>

COST (Tabulated cost):

- Lowest cost to City by job title, 40 points.
- Cost formula used in determining possible points: Lowest overall total cost divided by the next lowest overall total. Take that percentage and multiply by 40 points for total possible points. Round to whole number, and

WHEREAS, based on being ranked highest in total evaluation criteria as determined by the evaluation committee, the following companies are the primary contractors for the job titles listed below, and

WHEREAS, contingent upon successful contract negotiations, the primary contractors will furnish temporary labor services to the City of Modesto, beginning July 1, 2006, for a two (2) year agreement, with three (3) one-year extension options, at the sole discretion of the City, and

Job Title Position	Primary Contractor
Account Clerk	Westaff (USA), Inc., Modesto, CA
Administrative Office Assistant I	
Administrative Office Assistant III	
Computer Operator	
Laboratory Analyst I	
Equipment Operator	Valley Staffing Services, Modesto, CA
Maintenance Worker I	
Maintenance Worker II	
Software Analyst I	Remedy Intelligent Staffing, Inc., Modesto, CA
Software Analyst II	
Systems Technician II	Adecco USA, Inc., Modesto, CA

Water Conservation Specialist	Labor Ready Southwest, Inc., Modesto, CA
-------------------------------	--

WHEREAS, contracts shall also be awarded to the following companies as secondary and third position contractors, in order to provide for backup, as determined by the evaluation committee and contingent upon successful contract negotiations, and

Job Title Position	Secondary Position Contractor	Third Position Contractor
Account Clerk	Valley Staffing Services	Labor Ready Southwest, Inc.
Administrative Office Assistant I	Labor Ready Southwest, Inc.	Valley Staffing Services
Administrative Office Assistant III	Valley Staffing Services	Remedy Intelligent Staffing, Inc.
Job Title Position	Secondary Position Contractor	Third Position Contractor
Computer Operator	Labor Ready Southwest, Inc.	Valley Staffing Services
Equipment Operator	Labor Ready Southwest, Inc.	Remedy Intelligent Staffing, Inc.
Laboratory Analysis I	Valley Staffing Services	Aerotek, Inc.
Maintenance Worker I	Labor Ready Southwest, Inc.	Aerotek, Inc.
Maintenance Worker II	Labor Ready Southwest, Inc.	Remedy Intelligent Staffing, Inc.
Software Analyst I	Valley Staffing Services	TEK Systems, Inc.
Software Analyst II	Valley Staffing Services	TEK Systems, Inc.
Systems Technician II	Remedy Intelligent Staffing, Inc.	TEK Systems, Inc.
Water Conservation Specialist	Valley Staffing Services	Remedy Intelligent Staffing, Inc.

WHEREAS, additional resources will be required to appropriately monitor and report on this contract, and

WHEREAS, staff will be returning to Council with a recommendation and funding request in the near future, and

WHEREAS, based on being the most responsive and responsible proposals, City staff recommends the award of RFP No. 0506-27 and enter into contract negotiations for the furnishing of Temporary Labor Services for the City of Modesto with the following companies as “primary” contractors, Adecco USA, Inc., Modesto, CA, Labor Ready Southwest, Inc., Modesto, ca, Remedy Intelligent Staffing, Inc., Modesto, CA, Valley Staffing Services, Modesto, CA and Westaff (USA), Inc., Modesto, CA, for a two (2) year agreement, with three (3) one-year extension options, at the sole discretion of the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby awards RFP No. 0506-27 and authorize the hiring of temporary labor from the primary contractors on a provisional basis.

BE IT FURTHER RESOLVED, that the Council of the City of Modesto authorize the hiring of temporary labor from the primary contractors on a provisional basis, and directs staff to enter into contract negotiations for the furnishing of Temporary Labor Services for the City of Modesto, beginning July 1, 2006, with the following companies as “primary” contractors, Adecco USA, Inc., Modesto, CA, Labor Ready Southwest, Inc., Modesto, CA, Remedy Intelligent Staffing, Inc., Modesto, CA, Valley Staffing Services, Modesto, CA and Westaff (USA), Inc., Modesto, CA, for a two (2) year agreement, with three (3) one-year extension options, at the sole discretion of the City, for the approval and signature of the City Manager.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9<sup>th</sup> day of May 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-286**

**A RESOLUTION APPROVING AN ECONOMIC DEVELOPMENT "BANK"  
PROJECT FUNDING AGREEMENT BETWEEN THE COUNTY OF  
STANISLAUS ("COUNTY") AND THE CITY OF MODESTO FOR THE  
DEVELOPMENT OF THE KIERNAN BUSINESS PARK EAST AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, on February 13, 2001, the Stanislaus County Board of Supervisors ("Board") approved the formation of a Community Economic Development "Bank" ("Bank") for the purpose of providing resources for economic development projects throughout the County, and

WHEREAS, the purpose of the "Bank" is to use said funds within the nine cities and communities within Stanislaus County to leverage State, Federal and private dollars to finance infrastructure that makes possible greater opportunities for job retention and creation, and

WHEREAS, the Board directed the Stanislaus County Chief Executive Officer ("CEO") to meet with City Managers of the nine cities in the County to develop a structure for the "Bank" and a process for approving funding allocations from the "Bank". The County's CEO and City Managers recommended that the Workforce Investment Board (WIB) act as the "Board of Directors" for the "Bank", and

WHEREAS, on June 16, 2001, the WIB agreed to act as the Board of Directors of the "Bank" and established an advisory committee consisting of nine City Managers and the County CEO, and

WHEREAS, the WIB and the Stanislaus County Economic Development Corporation formed a new combined nonprofit organization called the Stanislaus

Economic Development and Workforce Alliance (“Alliance”) and the Alliance has assumed the responsibility of the WIB to act as the “Board of Directors” of the “Bank”, and

WHEREAS, the Alliance Board issued a Request for Proposals in May 2005, and City of Modesto staff submitted a proposal to the Alliance Board requesting \$357,375 in financing to be applied toward the Kiernan Business Park East Implementation Plan, which includes preparation of an amendment to the Kiernan Business Park Specific Plan (“Amendment”), preparation of a Facilities Master Plan, Finance Plan and appropriate CEQA documentation for the Amendment, and creation of a financing mechanism, such as, but not limited to a community facilities district for the principal purpose of master planning and financing the various public facilities necessary to serve the development of Kiernan Business Park East (collectively the “Project”), and

WHEREAS, the City of Modesto submitted an application to the Alliance Board requesting \$357,375 in financing to be applied to the Kiernan Business Park East Implementation Plan, and was approved, and

WHEREAS, Modesto’s request for \$142,625 was subsequently approved by the Board of Supervisors on December 14, 2004, and

WHEREAS, the City of Modesto submitted a second application to the Alliance Board requesting \$142,625 in financing to be applied to the Kiernan Business Park East Implementation Plan, in addition to the already approved \$357,375, for a total “Bank” contribution of \$500,000, and

WHEREAS, Modesto's additional request for \$142,625 was approved by the Alliance Board on July 18, 2005 and was subsequently approved by the Board of Supervisors on August 2, 2005, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Economic Development "Bank" Project Funding Agreement between the County of Stanislaus and City of Modesto for an Economic Development Bank loan in the amount of \$500,000 for the development of the Kiernan Business Park East Implementation Plan, is hereby approved.

BE IT FURTHER RESOLVED THAT the City Manager or his designee is hereby authorized to execute said Agreement 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 9<sup>th</sup> day of May 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**EXHIBIT "A"**

**ECONOMIC DEVELOPMENT "BANK" PROJECT FUNDING AGREEMENT**

**(Included in the City Council Packet as Attachment "B")**

**ECONOMIC DEVELOPMENT "BANK"  
PROJECT FUNDING AGREEMENT**  
(Kiernan Business Park East)

This Economic Development "Bank" Project Funding Agreement ("Agreement") is made and entered into on May 9, 2006 ("Effective Date"), by and between the County of Stanislaus ("County") and the City of Modesto, (the "Applicant").

**RECITALS**

This Agreement is made with the reference to the following recitals:

A. On February 13, 2001, the County Board of Supervisors authorized the establishment of an economic development "Bank" with an annual appropriation of \$1.5 million dollars. The "Bank" funds are to be used for economic development within the County. The Board directed the Chief Executive Officer ("CEO") to meet with City Managers of the nine cities in the County to develop a structure for the "Bank" and a process for approving funding allocations from the "Bank." The County's CEO and City Managers recommended that the Workforce Investment Board (WIB) act as the "Board of Directors" for the "Bank"; and

B. On June 16, 2001, the WIB agreed to act as the Board of Directors of the "Bank" and established an advisory committee consisting of the nine City Managers and the County CEO; and

C. On September 17, 2001, the WIB approved guiding principles, application documents, an evaluation system and criteria that measures the public benefit of promoting economic development and providing jobs; and

D. The WIB and the Stanislaus County Economic Development Corporation formed a new combined nonprofit organization called the Stanislaus Economic Development and Workforce Alliance ("Alliance") and the Alliance has assumed the responsibility of the WIB to act as the "Board of Directors" of the "Bank"; and

E. In response to a Request for Proposals for economic development projects, the Applicant submitted two separate Economic Development "Bank" Applications For Funding, copies of which are collectively attached hereto as Exhibit A, requesting a loan for the development of the Kiernan Business Park East, which will contain industrial and medical offices used to enhance the local economy, generate jobs for residents, and create a better jobs/housing balance (the "Project"); and

F. Upon the review and recommendation of proposals for use of the "Bank" funds for the current and prior fiscal years, including the Applicant's proposal, by the Economic Development "Bank" Advisory Committee and the Alliance Board of

Directors, the Board of Supervisors approved funding of the Project;

NOW, THEREFORE, the Applicant and County enter into this Agreement pursuant to California Government Code section 6502 on the following terms and conditions.

## TERMS AND CONDITIONS

### 1. OBLIGATIONS OF THE COUNTY

1.1 County agrees to advance sums as needed up to \$500,000.00 to the Applicant from the "Bank" for the purpose of completing the Project as described in the Applicant's application, attached hereto and incorporated herein by reference as Exhibit A ("Loan").

1.2 The County Auditor-Controller shall set up an account payable from the "Bank" to the Applicant in the amount of \$500,000.00.

1.3 Payments from the "Bank" to the Applicant shall be made upon the Applicant presenting invoices or other documentation showing that the amounts requested have been invoiced or paid, and are within the scope of the work as described in Exhibit A.

1.4 The payments of up to \$500,000.00 from the "Bank" to the Applicant shall be set up as an advance by the County Auditor-Controller, which shall be retired over time by the Applicant as provided for in Section 2.2. No interest shall accrue on the Loan, or any portion thereof. The County shall designate that the County Auditor-Controller provide the Applicant with the status of the receivable account upon receiving a written request from the Applicant; otherwise, a statement showing the status of the account will be provided to the Applicant at the end of each fiscal year.

### 2. OBLIGATIONS OF THE APPLICANT

2.1 Applicant agrees to utilize the funds received from the County described in Section 1.1 exclusively for the purposes described in Exhibit A.

2.2 Applicant agrees to pursue the Project with reasonable diligence and use its best efforts to complete the Project by March 1, 2009. Applicant shall repay the Loan when funds are actually available for the repayment when the Applicant establishes and receives monies from a "Financing Mechanism" established by the Applicant, which may include, but is not limited to, a CFD established within the Kiernan Business Park East area, Loan repayment from the developer(s) of the Kiernan Business Park East area, Specific Plan reimbursement fees, or other funding mechanism established by the Applicant. The parties understand and agree that the payment obligations set forth herein are payable solely from the Financing Mechanism and from no other source, that the Applicant shall not be obligated to make any

payment hereunder except out of revenue from the above sources, and that the Applicant is not liable to maintain any funding sources out of its General Fund or by tax levies for the purposes of repaying the Loan. It is intended that the Loan be repaid within five years from the completion of the project, provided funds are made available as set forth herein. If Loan is not on schedule for repayment within five years of completion of project due to unforeseen circumstances, the Applicant and the County shall renegotiate another repayment schedule. Applicant has used, and will continue to use best efforts to ensure that the terms and conditions of this Agreement are met.

2.3 Applicant agrees that the Project described in Exhibit A will begin within one year of the commitment of funds by the "Bank" to the Project, which will commence on the date the Board of Supervisors approves funding of the Project. For purposes of this Agreement, the Project will "begin" as of the date Applicant receives a complete application for a Specific Plan Amendment for the Kiernan Business Park East area. Failure to begin the Project as described in Exhibit A within one year of the commitment of funding may result in the forfeiture by the Applicant of funding for the Project. Should the Project fail to begin within one year from the date the funds are approved by the Board of Supervisors, the Applicant agrees to meet with the County to determine the status and/or feasibility of the Project.

2.4 Applicant agrees to assume full fiscal responsibility for the appropriate use of the funds and assume responsibility for any disallowed expenditures.

2.5 Applicant, upon receiving a written request from the County's Chief Executive Officer or designee, shall provide proof that the Applicant has expended the funds received from the "Bank" as contemplated by this Agreement and is repaying funds received as required by the terms of this Agreement.

2.6 Applicant agrees that, as part of the footnotes of its financial statement audit, it will include disclosure of Loan balances for the end of each fiscal year of the audit. Applicant further agrees that it will provide the County with quarterly reports on the progress of the Project, which reports shall include a recap of the quarterly expenses by category that have been paid from proceeds of the loan. Cumulative values for these expenses from prior quarters shall also be included in these reports.

2.7 Applicant agrees to timely (within 30 days) notify the County if, for any reason, the Project is suspended for a period of six months or is terminated by the Applicant or the developer(s).

2.8 Applicant agrees to timely (within 30 days) notify the County, when the Project has been completed. For purposes of this Agreement, the Project will be "completed" as of the date Applicant first issues building permits within the Kiernan Business Park East.

2.9 Applicant agrees that the County will be the first to be repaid from the revenue stream or streams referenced in Paragraphs 1.4 and 2.2 above.



**3. MUTUAL OBLIGATIONS:**

3.1 Any notices or communications required or permitted hereunder shall be in writing and sufficiently given if delivered in person or sent by certified or registered mail, return receipt requested, postage prepaid as follows:

County:

Chief Executive Officer  
County of Stanislaus  
1010 Tenth Street, Suite 6800  
Modesto, CA 95354

Applicant:

Community and Economic Development Director  
City of Modesto  
P.O. Box 642  
Modesto, CA 95353

3.2 The provisions of this Agreement shall constitute the entire Agreement between the parties and unless modified by written agreement duly executed by the parties hereto, shall continue in full force and effect.

3.3 Venue for any actions initiated by either party shall be in the Superior Court of Stanislaus County and California law shall apply to all the Agreement's terms and conditions.

3.4 Applicant and County further covenant to cooperate with one another in all respects necessary to ensure the successful consummation of the action contemplated by this Agreement, and each will take all actions within its authority to ensure cooperation of its officials, officers, agents and employees.

3.5 The parties agree to hold each other harmless from and against any and all claims, actions, lawsuits, losses, damages and liabilities arising from any contention, allegation, or negligent act or omission based on acts necessary to effectuate the purpose of the Agreement.

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-\_\_\_\_, adopted by the Council of the City of Modesto on the 9th day of May, 2006, and County has caused this Agreement to be duly executed in duplicate as of the Effective Date.

**COUNTY OF STANISLAUS**

**CITY OF MODESTO**

By: \_\_\_\_\_  
Richard W. Robinson  
Chief Executive Officer

By: \_\_\_\_\_  
George Britton  
City Manager

"County"

"Applicant"

ATTEST:

APPROVED AS TO FORM:  
Michael H. Krausnick  
County Counsel

By: \_\_\_\_\_  
JEAN MORRIS, City Clerk

By: \_\_\_\_\_  
John P. Doering  
Assistant County Counsel

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Alison A. Barratt-Green,  
Senior Deputy City Attorney

Exhibit "A"

R-2

**ECONOMIC DEVELOPMENT "BANK"  
APPLICATION FOR FUNDING  
Cover Sheet**

CHIEF EXECUTIVE

2005 MAY 24 P

**Concept**

It is the purpose of the Economic Development "Bank" to make funds available to countywide collaborative entities for economic development projects that will result in job retention and creation. Stanislaus County has committed to contributing \$1.5 million per year to the "Bank" for economic development projects. It is expected that additional funds will be contributed to the "Bank" from grants or participating entities. Funds from the Economic Development "Bank" are intended to benefit the cities, the county and the community by leveraging these funds to match State, Federal and private dollars, in order to construct much-needed infrastructure and to promote programs that are conducive to countywide economic development.

**Eligibility**

Stanislaus County, Cities in Stanislaus County, Municipal Advisory Committees in Partnership with Stanislaus County, Community Service Districts in Partnership with Stanislaus County, Non-Profits and Schools in Partnership with a City and/or the County.

Applications for funds should be submitted on this form.

**Applicant Information**

Applying Entity: City of Modesto, CA  
Contact Name: Brad Kilger Title: Community & Economic Development Director  
Mailing Address: 1010 Tenth Street, Suite 3300, P.O. Box 642, Modesto, CA 95353  
Phone/Fax/email: Phone: (209) 577-5218 / Fax: (209) 491-5798 / bkilger@modestogov.com  
Project Title: Kiernan Business Park-East (KBPE) Implementation Plan

Please provide a brief description of your project (25 words or less). The development will contain industrial, residential, commercial and medical office uses to enhance the local economy, generate jobs for residents, and create a better jobs/housing balance.

Which part of the County or City will this project benefit? Both County and City areas within the Kiernan Business Park-East project area will benefit economically. Please refer to Attachment A – "Kiernan Avenue Business Park Specific Planning Area," Attachment B – "Kiernan Avenue Business Park-East Implementation Plan," and Attachment C – A proposed site plan drawing.

Total Project Budget: The cost of the Implementation Plan is \$ 1,000,000. A loan of \$142,625 is being requested to supplement \$500,000 from the property owners, and an ED "Bank" loan of \$357,375 for a total "Bank" contribution of \$500,000. Please refer to Attachment D – "Project Budget".

Please submit an attached one-page categorized project budget showing the project components and how the Economic Development "Bank" funds will be used in conjunction with contributions from other sources.

Amount Requested \$ 142,625

How will this loan be repaid? The loan will be repaid from a combination of collected CFD fees and property tax revenues. The payments and interest rate can be negotiated at the time of the award.

Signature/Endorsement by Mayor or Council Chair 

This application and attachments are complete and accurate to the best of my knowledge.

Signature of Applicant  Print Name Brad Kilger

Print Organization Name City of Modesto Telephone: (209) 577-5218

## The Application

1. Describe the project. What public benefit, need, problem or issues does it address? How does it promote economic development and job creation/retention?

An Economic Development Bank loan is being requested to help finance and complete the critical facilities master plan and finance plan. These planning tools function as an essential component of the Kiernan Business Park-East to provide timely construction of facilities needed to accommodate and guide future development. The facilities master plan and finance plan will be accomplished in association with an amendment to the Kiernan Business Park Specific Plan.

Modesto, and the Central Valley in general, have suffered for some time from relatively high unemployment and few high-income job opportunities. While Modesto's population has grown, and continues to grow, at a rapid pace<sup>1</sup>, the number of employment opportunities has failed to keep up<sup>2</sup>. The Kiernan Avenue area represents an important economic resource to the City of Modesto. The completion of the Business Park will have a significant impact on the local economy and the job market, creating a total of 8,164 new moderate to high-income jobs.

The 189-acre proposed project site is within the Kiernan Business Park Specific Plan (152 acres) and the Kiernan-Carver CPD (37 acres). The site is located 1.7 miles east of State Route (SR) 99, and is bounded by Kiernan (State Highway 219) on the north, Dale Road on the west, Bangs on the south and the extension of American Avenue on the east.

The proposed project site consists of underdeveloped parcels (primarily agricultural and residential uses) adjacent to Nagel Nursery and the construction of the Kaiser Hospital. Within the project area, 86.39 acres are annexed to the City (KBP-CPD), 65.42 acres are not annexed to the City (KBP-CPD) and 37.3 acres are not annexed to the City (KC-CPD) and not included in the Kiernan Business Park CPD. The zoning designation for the Kiernan Business Park is Business Park and the zoning designation for the Kiernan Carver CPD is village residential.

The development of the Kiernan Business Park will accommodate industrial uses and a medical campus in the vicinity of Kiernan Avenue, because of its location adjacent to Highway 99 and North Modesto, a prime job-creating location. The Kiernan Business Park will assist in implementing Modesto's long-range objectives to enhance its local economy, generate jobs for residents, and create a better jobs/housing balance.

With the progress of the Gateway Business Complex north of Kiernan Avenue, and construction of the Kaiser Medical Campus, staff has been receiving increased interest from property owners in the area, especially for properties east of Dale Road that are within the City's incorporated boundary. In order to facilitate this development, an infrastructure facilities master plan and financing plan must be prepared to provide for the sharing of costs among the developing properties. A Community Facilities District must also be formed to generate tax-exempt funding for public facilities needed to serve the project.

---

<sup>1</sup> Modesto's population growth from 2000-2004 ranked 5<sup>th</sup> fastest in the state with a current estimate of 206,200, and a growth rate of 9.2%. (Ranking of incorporated places of 100,000 or more) *California Department of Finance / U.S. Census Bureau, Census 2000.*

<sup>2</sup> The County's job growth from 2000-2004 gained a mere 8,200 new jobs for a 4-year growth rate of 5.1%. *EDD-Labor Market Information Division.*

2. What are the projected outcomes for the proposed project?

The primary outcome is to create a mixed-use land-planning concept within the amendment to the Kiernan Specific Plan. The specific plan amendment will produce the following deliverables:

- EIR Update: The EIR for the Kiernan Business Park Specific Plan will be updated to reflect changing conditions, new information and examine the impacts from the proposed project.
- Facilities Master Plan: This will establish the base infrastructure for roads, water, sanitary sewer, storm drainage facilities, parks and other public facilities to mitigate the impacts of new development in KBPE.
- The Finance Plan: A market study will look at the recommended combination of Business Park, office, commercial and multi-family land uses based on analysis of the competitive marketplace and existing supply and demand. Additionally, the facilities in need of financing will be delineated.
- Capital Facility (CFD) Plan: This section describes the implementation strategy and financing strategy for public facilities in the Specific Plan area. This section will update the current development review process, specific plan amendment procedures, funding of capital facilities, phasing, and tentative map process. The formation of the CFD will be completed in conjunction with preparation of the specific plan amendment. One-time special tax rates and other provisions of the CFD will be outlined. A comparison of one-time and annual tax rates that will be levied on property on various stages of entitlement and development will be provided. The finance plan should explain how the KBPE CFD's will be monitored and administered on an ongoing basis.
- Land Use Plan: The land plan will address land use opportunities based on the Kaiser facility and other possible market forces, which serve as a catalyst for related medical office development in the area.
- Concept Master Plan: The concept plan will graphically depict the physical layout envisioned for the planning area. The plan would describe building placement, vehicular circulation elements, parking requirements, landscape/hardscape, entryway/gateway features, and location of storm drainage basin(s). This task would also calculate site area, building square footage/coverage, and include development phasing.
- New Job Results: New jobs will be the primary goal in developing KBPE. Current employment in the Business Park is currently very limited, with employment opportunities ranging from low-income to high-income. It is calculated that future employment opportunities to be created by development of the KBPE will exceed 26 jobs per acre for approximately 5,000 jobs. These future employment opportunities will consist of moderate to high-income paying jobs.

3. How will the stated outcomes be accomplished and measured?

Upon project build out, the success of the project will be measured against the following set of performance measures:

- Number of new jobs created within the Business Park and jobs per square foot of developed property.
- Wages & benefits earned by those employed within the Business Park.
- Total dollar amount of developer's investment within the Business Park.

4. Who will be involved in evaluating the outcome of the project?

Modesto City staff will be the principal project evaluation team in charge of keeping accurate record of project progress and success, and of collecting and compiling data for progress reports. Project status updates are submitted to the Modesto City Council on a periodic basis, as project progress warrants. It is further understood that project progress report(s) will be submitted to the Economic Development Bank Advisory Committee on a schedule to be negotiated at the time funding is approved.

5. Describe the extent of collaborative efforts and identify the partners and the level of each partner's participation in this project, if any.

The property owners have established a cooperative partnership with the City and will take the lead in preparation of the necessary land use, infrastructure and financing plans for the project. The City will contribute by expediting plan reviews and by forming a CFD.

6. What is your repayment schedule?

It is anticipated that the CFD formation will be the catalyst for a repayment funding mechanism. Once the development process has been complete, the CFD will begin taxation. The earliest estimates are of having the CFD in place by 2009. Repayment terms can be negotiated at the time of the loan award.

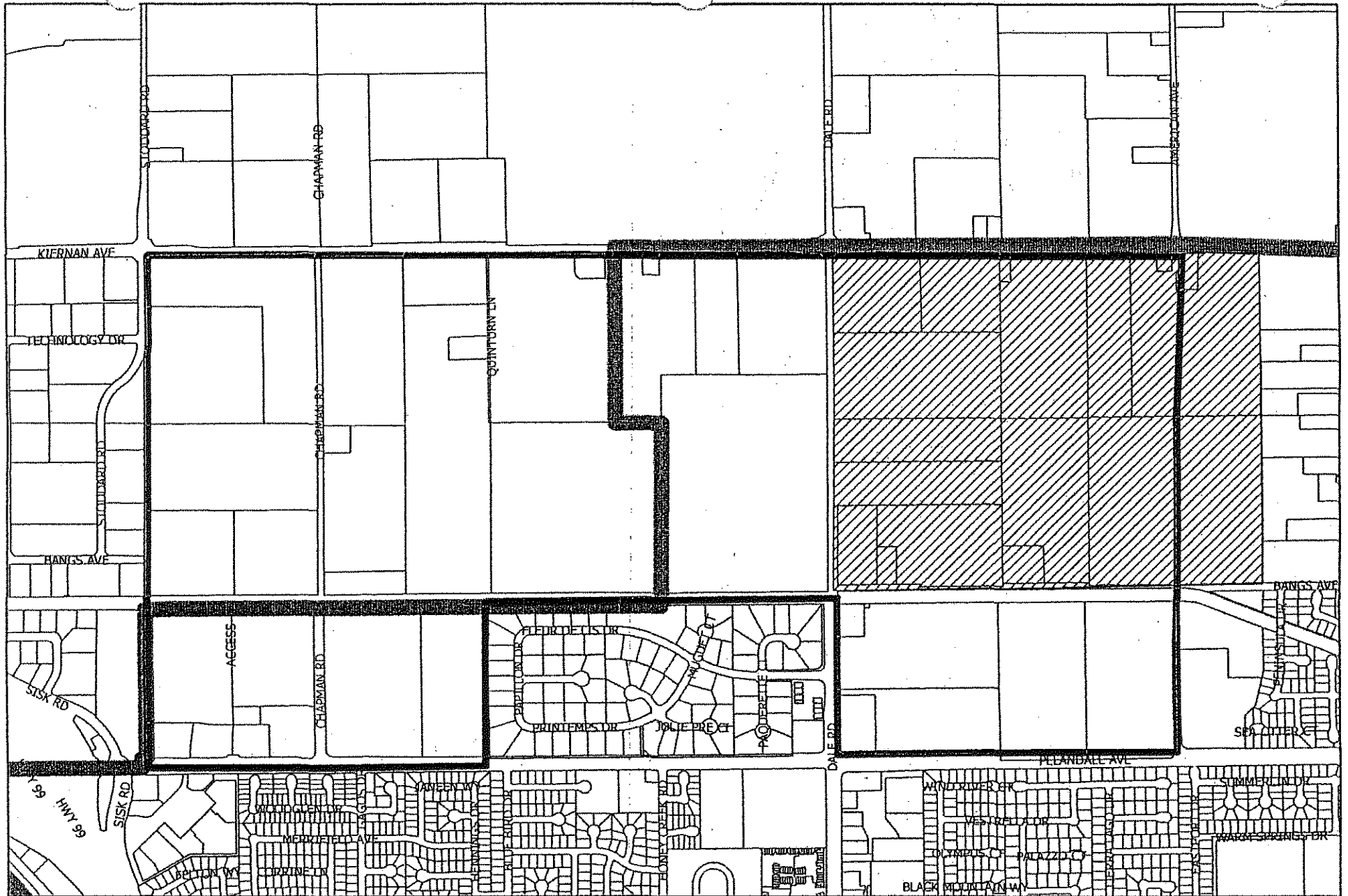
7. How will the project be continued (if necessary) after "Bank" funding has been exhausted? List other funding sources and length of funding, if available.

This loan is expected to contribute to the public sector share of funding for the components of the facilities master plan and finance plan. The additional \$142,625 will supplement the ED Bank Loan of \$357,375 approved in February 2005. Any additional costs beyond the expected \$1 million project cost will be borne by the property owners.

8. What accounting method/system will you use to track expenditures for the duration of the project?



GAAP (Generally Accepted Accounting Procedures) under the administration of the City's Finance Department.



ATTACHMENT A



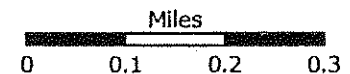
City of Modesto

Kiernan Avenue  
Business Park  
Specific Planning Area

 Kiernan Business Park SP  
 Area of Focus +/- 193 acres

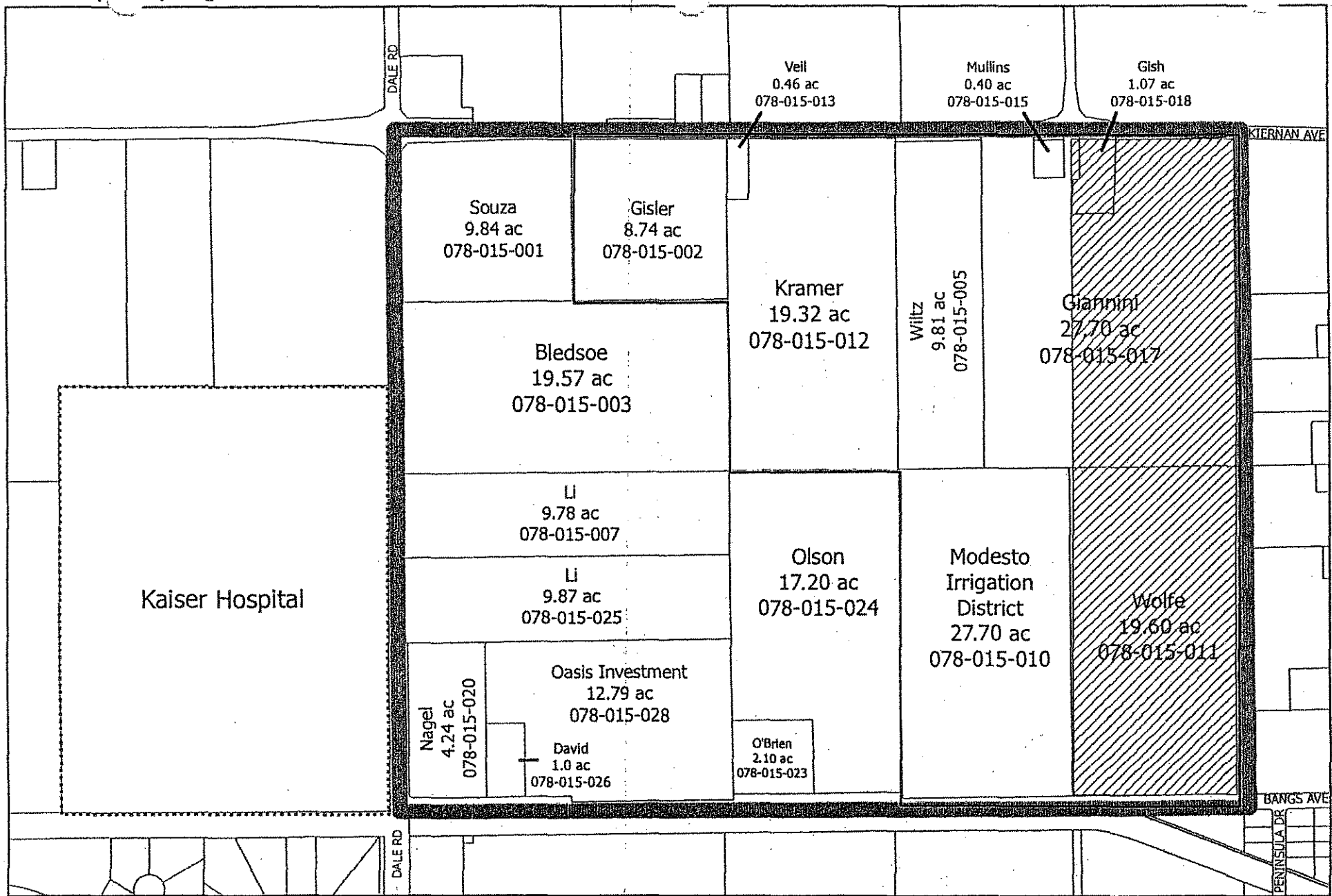
 Modesto Incorporated Area  
 Modesto Sphere of Influence

April 6, 2005



KBPE 04-05.mxd



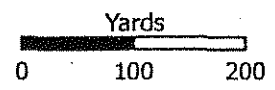


KBPE APNs 04-05.mxd

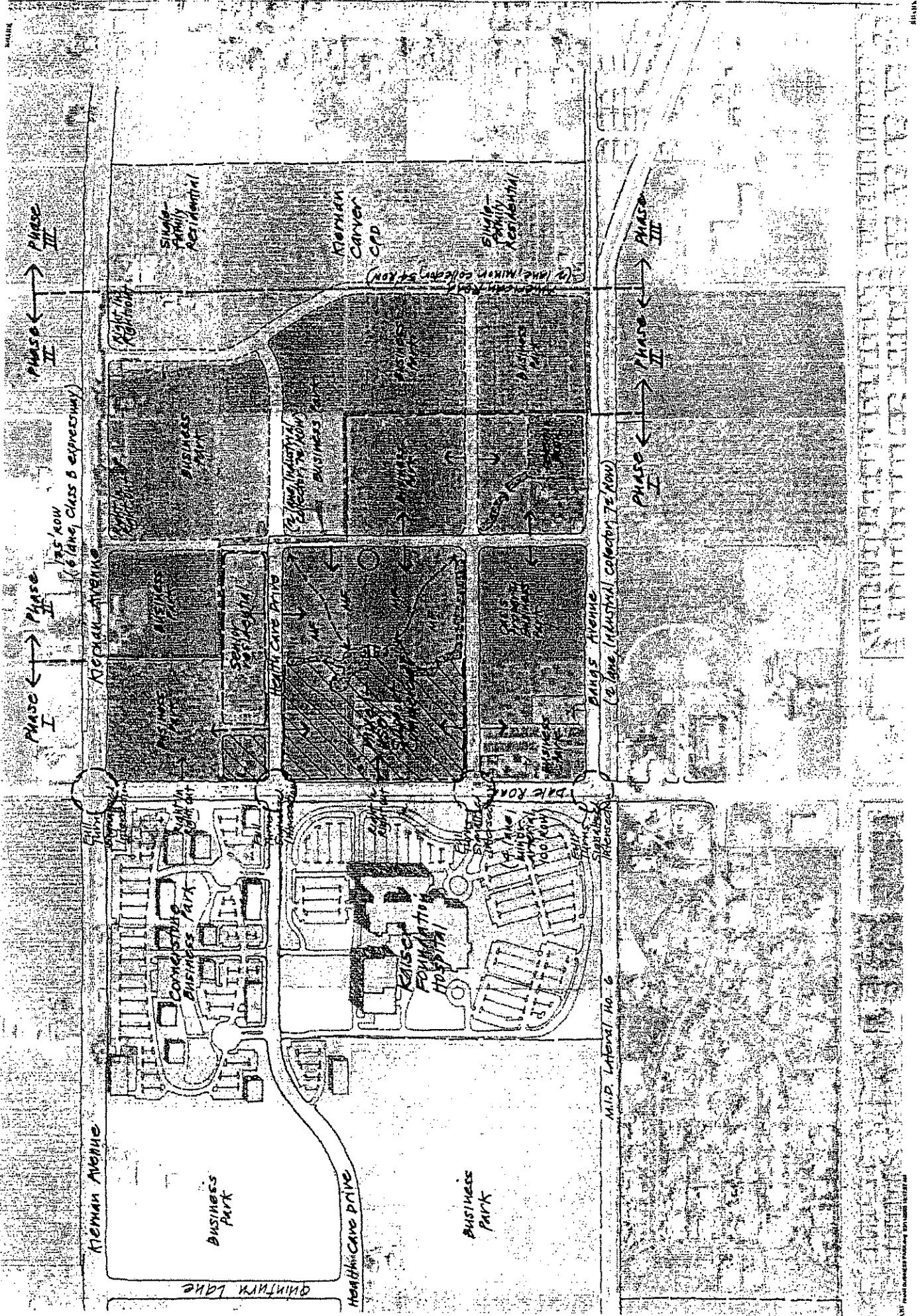
City of Modesto  
**Kiernan Avenue  
 Business Park East  
 Implementation Plan**

- Kiernan Ave. Business Park East Area of Proposed Amendment +/- 164 acres
- Not Annexed and Not Currently Included in Kiernan Business Park 37.3 acres
- Kaiser Hospital Site +/- 49 acres
- Not Annexed 65.42 acres
- Modesto Incorporated Area

April 6, 2005



ATTACHMENT C



**Attachment D**  
**Kiernan Business Park Implementation Plan**  
**Project Budget**  
**April 22, 2004**

**Projected Preparation Cost:**

The following table outlines the estimated cost to complete the work program for the Kiernan Business Park-East Implementation Plan. Costs are preliminary estimates and are subject to change. **Final costs will be determined upon completion of the consultant selection process.**

**Table 1: Revised Total Cost Estimate**

<b>Implementation Plan Studies</b>	<b>Estimated Cost</b>
EIR Update/Revision	\$500,000
Facilities Master Plan	\$252,100
Administration (1)	\$83,300
Creation of Financing Mechanism (2)	\$81,100
Finance Plan	\$50,000
Land Use Concept Plan	\$33,500
LAFCO Annexation Fee (3)	\$0
<b>Total</b>	<b>\$1,000,000</b>

- (1) Equals 10% of plan preparation costs (does not include CFD Formation costs)  
 (2) Cost shall be based on the size of the bond issue (include administration costs)  
 (3) \$2,500 LAFCO Annexation Fee to be paid as part of a future phase.

**Table 2: Total Implementation Plan Cost Share**

<b>Public/Private cost breakdown (50% Public, 50% Private):</b>	
Local Property Owner Match	\$500,000
ED "Bank" Loan Application Match	\$500,000

**ECONOMIC DEVELOPMENT "BANK"**  
**APPLICATION FOR FUNDING**  
**Cover Sheet**

**Concept**

It is the purpose of the Economic Development "Bank" to make funds available to countywide collaborative entities for economic development projects that will result in job retention and creation. Stanislaus County has committed to contributing \$1.5 million per year to the "Bank" for economic development projects. Funds from the Economic Development "Bank" are intended to benefit the cities, the county and the community by leveraging these funds to match State, Federal and private dollars, in order to construct much-needed infrastructure and to promote programs that are conducive to countywide economic development.

**Eligibility**

Stanislaus County, Cities in Stanislaus County, Municipal Advisory Committees in Partnership with Stanislaus County, Community Service Districts in Partnership with Stanislaus County, Non-Profits and Schools in Partnership with a City and/or the County.

Applications for funds should be submitted on this form.

**Applicant Information**

Applying Entity City of Modesto, CA

Contact Name: Brad Kilger Title: Community & Economic Development Director

Mailing Address 1010 Tenth Street, Suite 3300, P.O. Box 642, Modesto, CA 95353

Phone/Fax/email Phone: (209) 577-5218 / Fax: (209)491-5798 / Email: bkilger@modestogov.com

Project Title Kiernan Business Park East (KBPE)

Please provide a brief description of your project (25 words or less). The development will contain industrial and medical office uses to enhance its local economy, generate jobs for residents, and create a better jobs/housing balance.

Which part of the County or City will this project benefit? Both County and City areas within the Kiernan Business Park East project area will benefit economically.

Please refer to Attachment A – "Project Map"


Total Project Budget Until applicable studies are complete, the only known cost is the Implementation Plan cost of \$ 714,750. Please refer to Attachment B – "Project Budget"

Please submit an attached one-page categorized project budget showing the project components and how the Economic Development "Bank" funds will be used in conjunction with contributions from other sources.

Amount Requested \$ 357,375

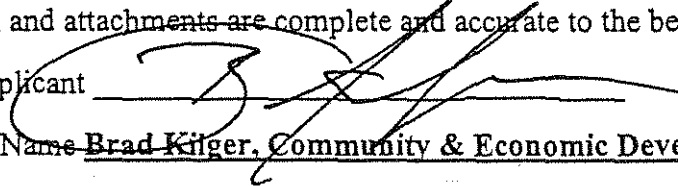
How will this loan be repaid? The loan will be repaid from a combination of collected CFD fees and property tax revenues. The payments and interest rate can be negotiated at time of award.

Signature/Endorsement by Mayor or Council Chair

  
\_\_\_\_\_

This application and attachments are complete and accurate to the best of my knowledge.

Signature of Applicant

  
\_\_\_\_\_

Print Name Brad Kilger, Community & Economic Development Director

Print Organization Name City of Modesto

Telephone: (209) 577-5218

# The Application

1. Describe the project. What public benefit, need, problem or issues does it address? How does it promote economic development and job creation/retention?

Modesto, and the Central Valley in general, have suffered for some time from relatively high unemployment and few high-income job opportunities. While Modesto's population has grown, and continues to grow, at a rapid pace<sup>1</sup>, the number of employment opportunities has failed to keep up<sup>2</sup>. The Kiernan Avenue area represents an important economic resource to the City of Modesto. The completion of the Business Park will have a significant impact on the local economy and the job market, creating a total of 8,164 new moderate to high-income jobs. The area consists of approximately 614 acres located adjacent to the City of Modesto's northern border, east of Highway 99, and south of Kiernan Avenue in a portion of unincorporated Stanislaus County.

The development of the Kiernan Business Park will accompany industrial uses and a medical campus in the vicinity of Kiernan Avenue, because of its location adjacent to Highway 99 and North Modesto, a prime job-creating location. The Kiernan Business Park will assist in implementing Modesto's long-range objectives to enhance its local economy, generate jobs for residents, and create a better jobs/housing balance.

With the recent progress of the Gateway Business Complex north of Kiernan Avenue, and announcement of the Kaiser Campus, staff has been receiving increased interest from property owners in the area, especially properties east of Dale Road that are within the City's incorporated boundary. In order to facilitate this development, an infrastructure facilities master plan/financing plan must be prepared to provide for the sharing of costs among the developing properties. A Community Facilities District also must be formed to generate tax-exempt funding for public facilities needed to serve the project. The portion of the Kiernan Business Park, east of Dale Road, contains approximately 333 acres, divided into 23 parcels. The area is referred to as Kiernan Business Park East (KBPE). Approximately 264 acres within KBPE is contained within the City of Modesto's incorporated boundary, while approximately 69 acres divided into 5 parcels are located outside the existing City limits (within the General Plan Boundary and the Modesto Sphere of Influence).

An Economic Development Bank loan is being requested to help the City finance and complete the critical Business Park facilities master plan and finance plan. These planning tools function as an essential component of the Kiernan Specific Plan to provide timely construction of facilities needed to accommodate and guide future development. The facilities master plan and facilities finance plan will be accomplished in association with a specific plan amendment to the Kiernan Business Park Specific Plan.

2. What are the projected outcomes for the proposed project?

- Facilities Master Plan: This will establish the base infrastructure for roads, water, sanitary sewer, storm drainage facilities, parks and other public facilities to mitigate the impacts of new development in KBPE.

---

<sup>1</sup> Modesto's population growth from 2000-2004 ranked 5<sup>th</sup> fastest in the state with a current estimate of 206,200, and a growth rate of 9.2%. (Ranking of incorporated places of 100,000 or more) *California Department of Finance / U.S. Census Bureau, Census 2000.*

<sup>2</sup> The County's job growth from 2000-2004 gained a mere 5,960 new jobs for a 4 year growth rate of 3.7%. *EDD-Labor Market Information Division.*

- The Finance Plan: A market study will look at the recommended combination of Business Park, office, commercial and multi-family land uses based on analysis of the competitive marketplace and existing supply and demand. Additionally, the facilities in need of financing will be delineated.
- Capital Facility (CFD) Plan: The formation of the CFD will be completed in conjunction with preparation of the specific plan amendment. One-time special tax rates and other provisions of the CFD will be outlined. A comparison of one-time and annual tax rates that will be levied on property on various stages of entitlement and development will be provided. The finance plan should explain how the KBPE CFD's will be monitored and administered on an ongoing basis.
- Land Use Plan: The land plan will address land use opportunities based on the Kaiser facility and other possible market forces, which serve as a catalyst for related medical office development in the area.
- Implementation: This section describes the implementation strategy and financing strategy for public facilities in the Specific Plan area. This section will update the current development review process, specific plan amendment procedures, funding of capital facilities, phasing, and tentative map process.
- Concept Master Plan: The concept plan will graphically depict the physical layout envisioned for the planning area. The plan would describe building placement, vehicular circulation elements, parking requirements, landscape/hardscape, entryway/gateway features, and location of storm drainage basin(s). This task would also calculate site area, building square footage/coverage, and include development phasing.
- New Job Results: New jobs will be the primary goal in developing KBPE. Current employment in the Business Park is currently very limited, with a total employment of 26 jobs per acre. The current employment opportunities range from low-income to high-income. In stark contrast, it is calculated that future employment opportunities to be created by development of the KWPE will a total of 8,164 jobs. These future employment opportunities will be moderate to high-income paying jobs.

### 3. How will the stated outcomes be accomplished and measured?

Upon project build out, the success of the project will be measured against the following set of performance measures:

- Number of new jobs created within the Business Park and jobs per square foot of developed property.
- Wages & benefits earned by those employed within the Business Park.
- Total dollar amount of developer's investment within the Business Park.

### 4. Who will be involved in evaluating the outcome of the project?

Modesto City staff will be the principal project evaluation team in charge of keeping accurate record of project progress and success, and of collecting and compiling data for progress reports. Project status updates are submitted to the Modesto City Council on a periodic basis, as project progress warrants. It is further understood that project progress report(s) will be submitted to the Economic Development Bank Advisory Committee on a schedule to be negotiated at the time funding is approved.

**5. Describe the extent of collaborative efforts and identify the partners and the level of each partner's participation in this project, if any.**

The City is partnered with the various property owners, the County of Stanislaus and other City departments to provide financial and non-financial assistance in developing the Kiernan Business Park. The property owners have been involved in public meetings to offer feedback, as well as funding commitments for the project.

**6. What is your repayment schedule?**

It is anticipated that the CFD formation will be the catalyst for a repayment funding mechanism. Once the development process has been complete, the CFD will begin taxation. The earliest estimates are of having the CFD in place by 2009. Repayment terms can be negotiated at the time of the loan award.

**7. How will the project be continued (if necessary) after "Bank" funding has been exhausted? List other funding sources and length of funding, if available.**

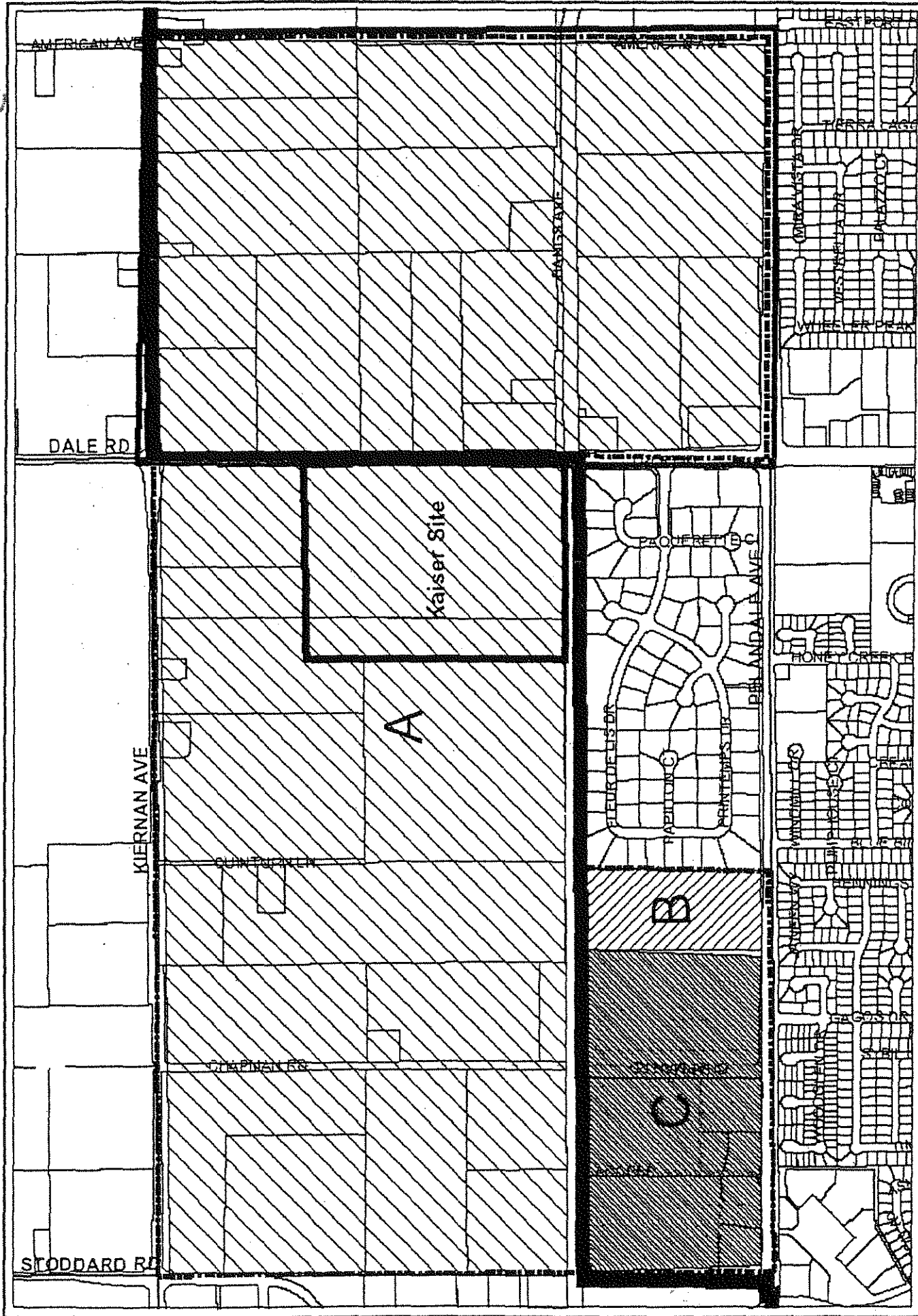
This loan is expected to be a one-time application for the components of the facilities master plan and finance plan. Any additional funding will come from Modesto's General Fund, or CFD fees as collected within that funding structure.

**8. What accounting method/system will you use to track expenditures for the duration of the project?**

GAAP (Generally Accepted Accounting Procedures) under the administration of the City's Finance Department.

---





- Legend**
- Specific Plan Area Boundary
  - Area A - Business Park
  - Area B - Office
  - Area C - Regional Commercial
  - Kiernan Ave. Business Park East
  - Sphere of Influence
  - City of Modesto

**City of Modesto**  
**Land Use Plan Diagram**  
 Kiernan Ave. Business Park



August 20, 2003



**Kiernan Business Park Implementation Plan  
Project Budget  
February 11, 2004**

**Projected Preparation Cost:**

The following table outlines the estimated cost to complete the work program for the Kiernan Business Park East Implementation Plan. Costs are preliminary estimates and are subject to change. Final costs will be determined upon completion of the consultant selection process.

**Table 1: Revised Plan Preparation Cost Estimate**

<b>Studies</b>	<b>Estimated Cost</b>
Facilities Master Plan	\$390,000
Finance Plan	\$75,000
Land Use Concept Plan	\$20,000
EIR Update/Revision	\$80,000
Creation of Financing Mechanism (1)	\$65,000
Administration (2)	\$84,750
LAFCO Annexation Fee (3)	\$0
<b>Total</b>	<b>\$714,750</b>

*(1) Cost shall be based on the size of the bond issue (include administration costs)*

*(2) Equals 15% of plan preparation costs (does not include CFD Formation costs)*

*(3) \$2,500 LAFCO Annexation Fee to be paid as part of a future phase*

**Table 2: Cost Share**

<b>Public/Private cost breakdown (50% Public, 50% Private)</b>	
City of Modesto Match	\$357,375
ED "Bank" Loan Application Match	\$357,375

Attachment 'B'

**Kiernan Business Park Implementation Plan  
Project Budget  
February 11, 2004**

**Projected Preparation Cost:**

The following table outlines the estimated cost to complete the work program for the Kiernan Business Park East Implementation Plan. Costs are preliminary estimates and are subject to change. Final costs will be determined upon completion of the consultant selection process.

**Table 1: Revised Plan Preparation Cost Estimate**

<b>Studies</b>	<b>Estimated Cost</b>
Facilities Master Plan	\$390,000
Finance Plan	\$75,000
Land Use Concept Plan	\$20,000
EIR Update/Revision	\$80,000
Creation of Financing Mechanism (1)	\$65,000
Administration (2)	\$84,750
LAFCO Annexation Fee (3)	\$0
<b>Total</b>	<b>\$714,750</b>

*(1) Cost shall be based on the size of the bond issue (include administration costs)*

*(2) Equals 15% of plan preparation costs (does not include CFD Formation costs)*

*(3) \$2,500 LAFCO Annexation Fee to be paid as part of a future phase*

**Table 2: Cost Share**

<b>Fund Source</b>	<b>Allotment</b>
City of Modesto Match	\$357,375
ED "Bank" Loan Application Match	\$357,375

**Attachment 'B'**

# MODESTO AREA BUSINESS PARK SITES

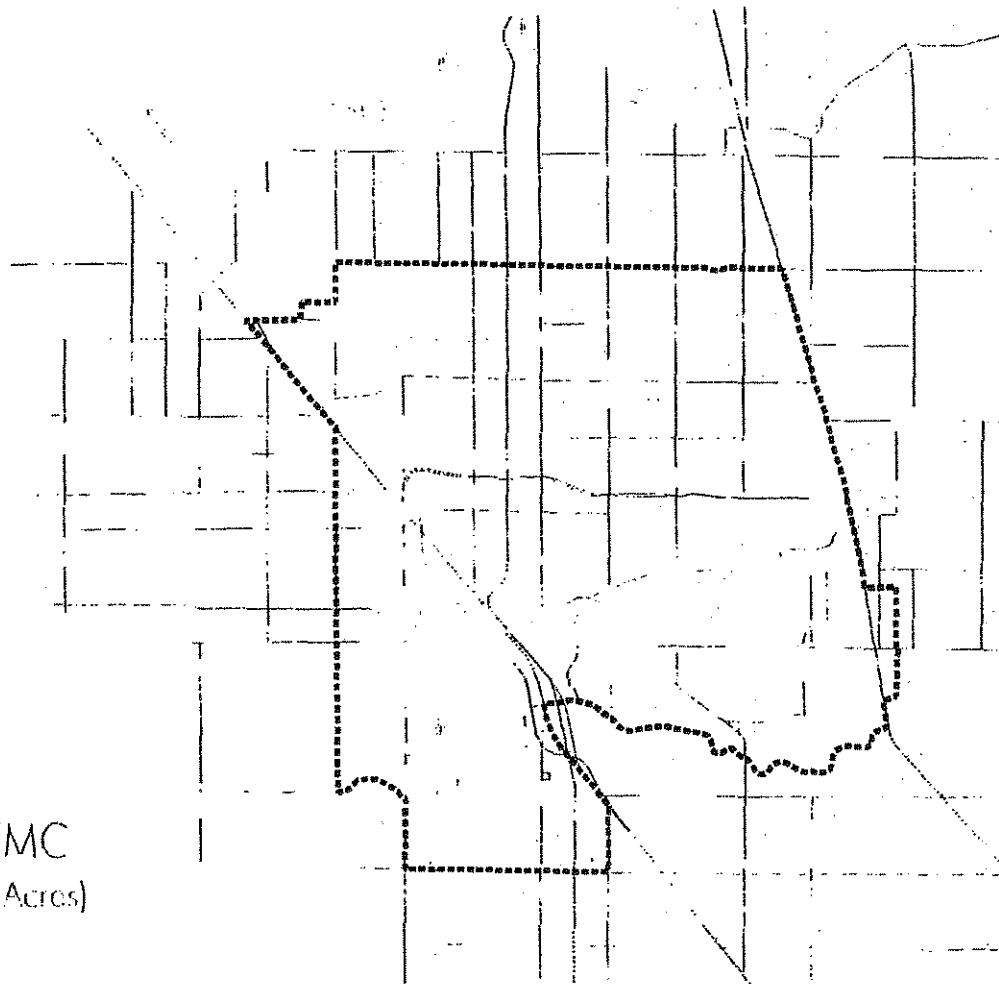
(Preliminary Development Sites)

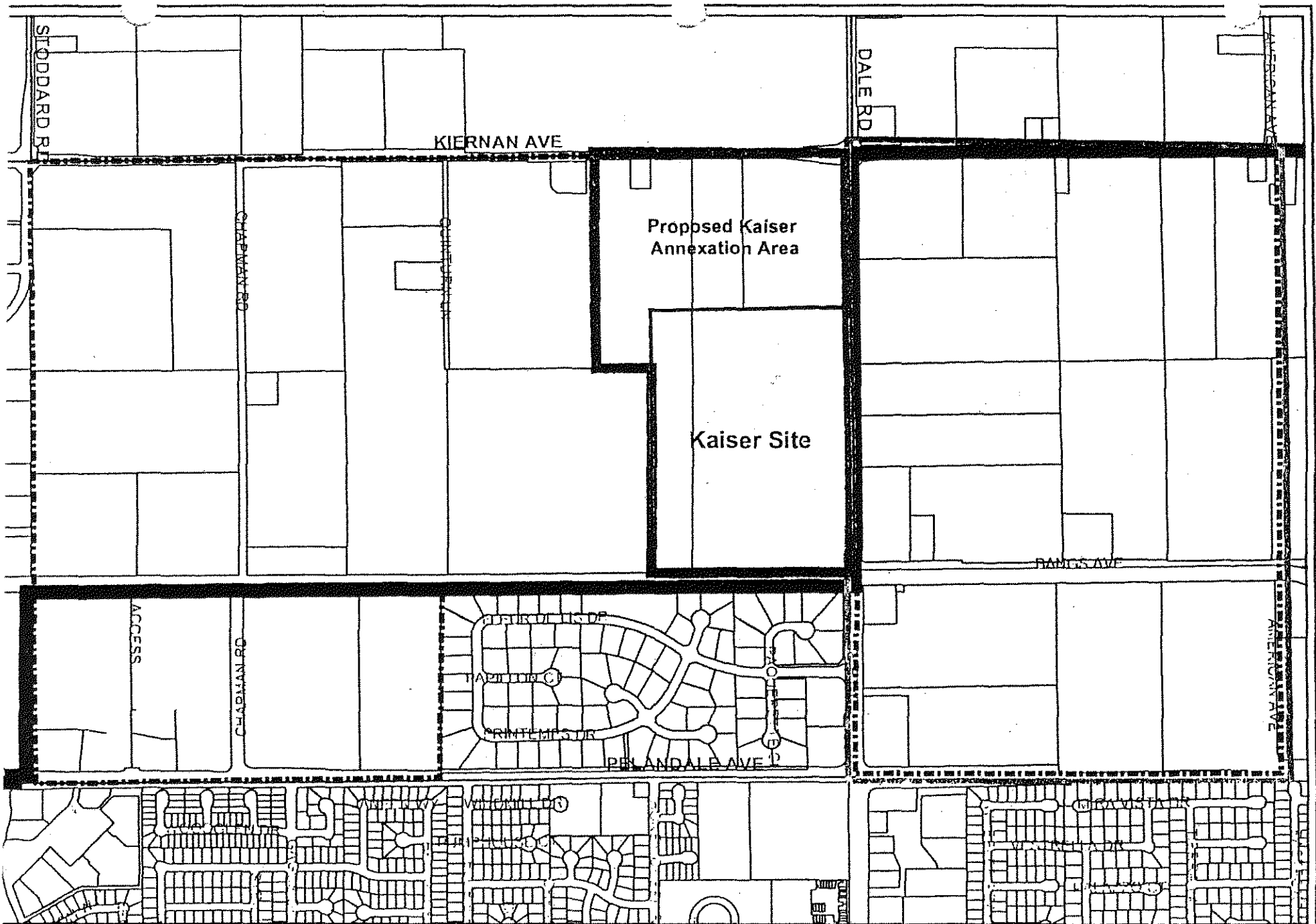
KIERNAN  
(COUNTY)  
(540 Acres)

VILLAGE ONE  
(220 Acres)

NORTHWEST  
(240 Acres)

FMC  
(45 Acres)





**City of Modesto**

Kiernan Ave. Business Park  
Jurisdiction Boundary Map

**Legend**

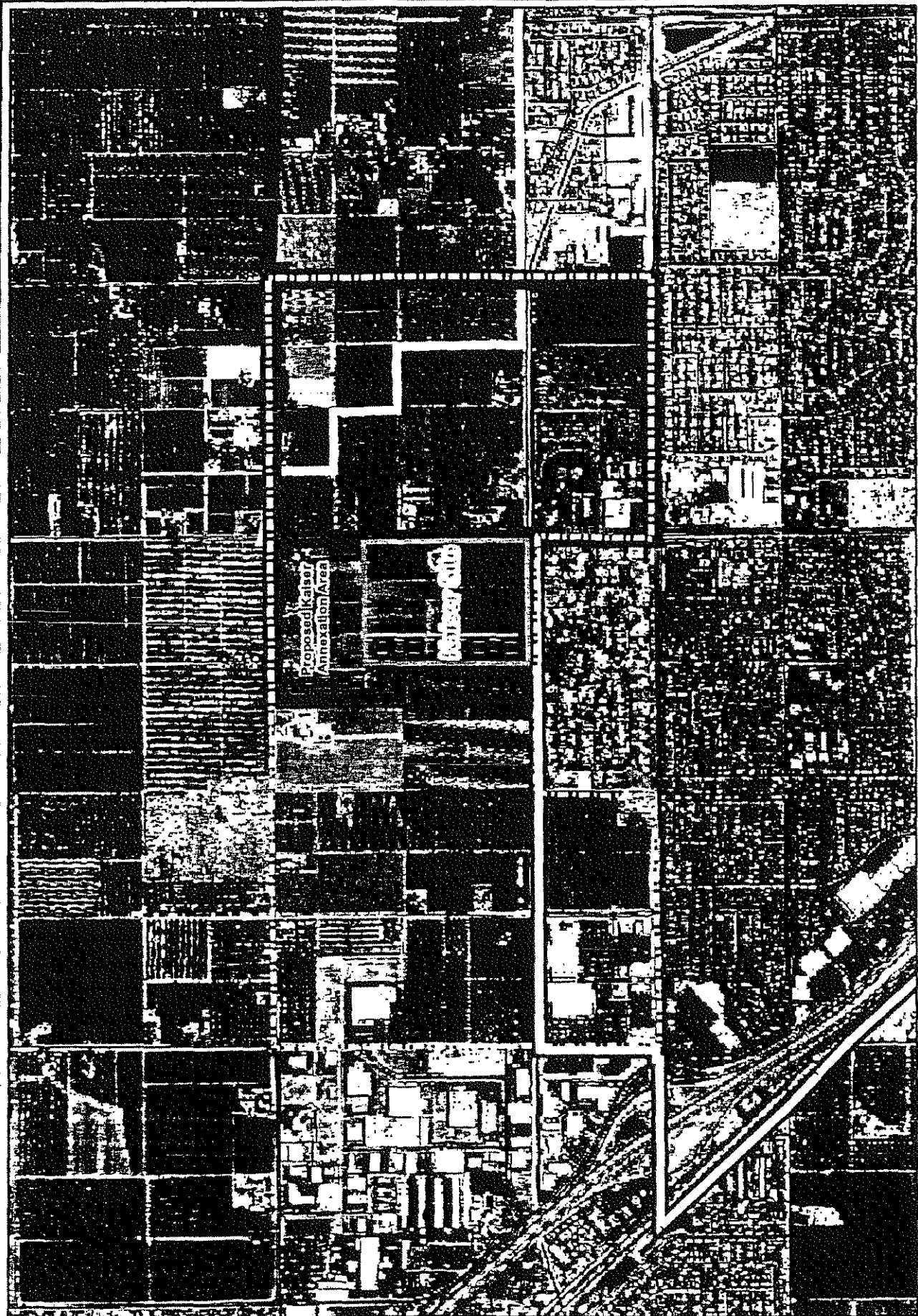
Specific Plan Area Boundary	City of Modesto
Kiernan Ave. Business Park East	Proposed Kaiser Annexation Area
Sphere of Influence	

August 20, 2003



250 500 1,000  
Feet



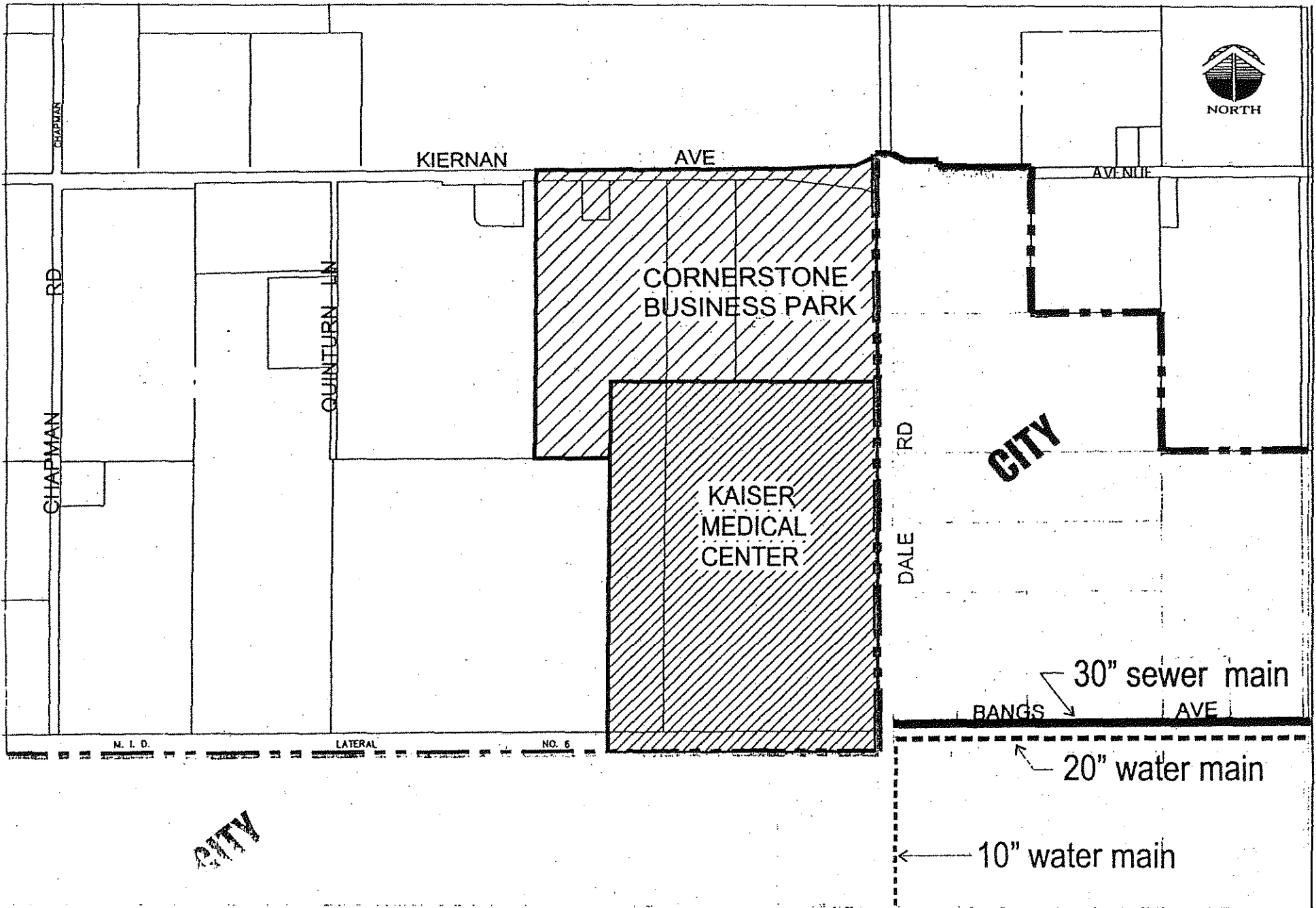


Legend  
 - - - - - Specific Plan Area Boundary  
 City of Modesto  
 - - - - - Kleiman Ave. Business  
 Park East  
 - - - - - Proposed Kaiser  
 Annexation Area +/- 80 acs  
 - - - - - Kaiser Site +/- 49 acs

**City of Modesto**  
**Kleiman Ave. Business Park**  
**Annexation Map**



October 3, 2003  
 0 375 750 1,500 Feet



NORTH

KIERNAN AVE

AVENUE

CORNERSTONE  
BUSINESS PARK

KAISER  
MEDICAL  
CENTER

CITY

CITY

DALE RD

CHAPMAN

RD

CHAPMAN

QUINTURN LN

30" sewer main

20" water main

BANGS AVE

10" water main

M. I. D.

LATERAL

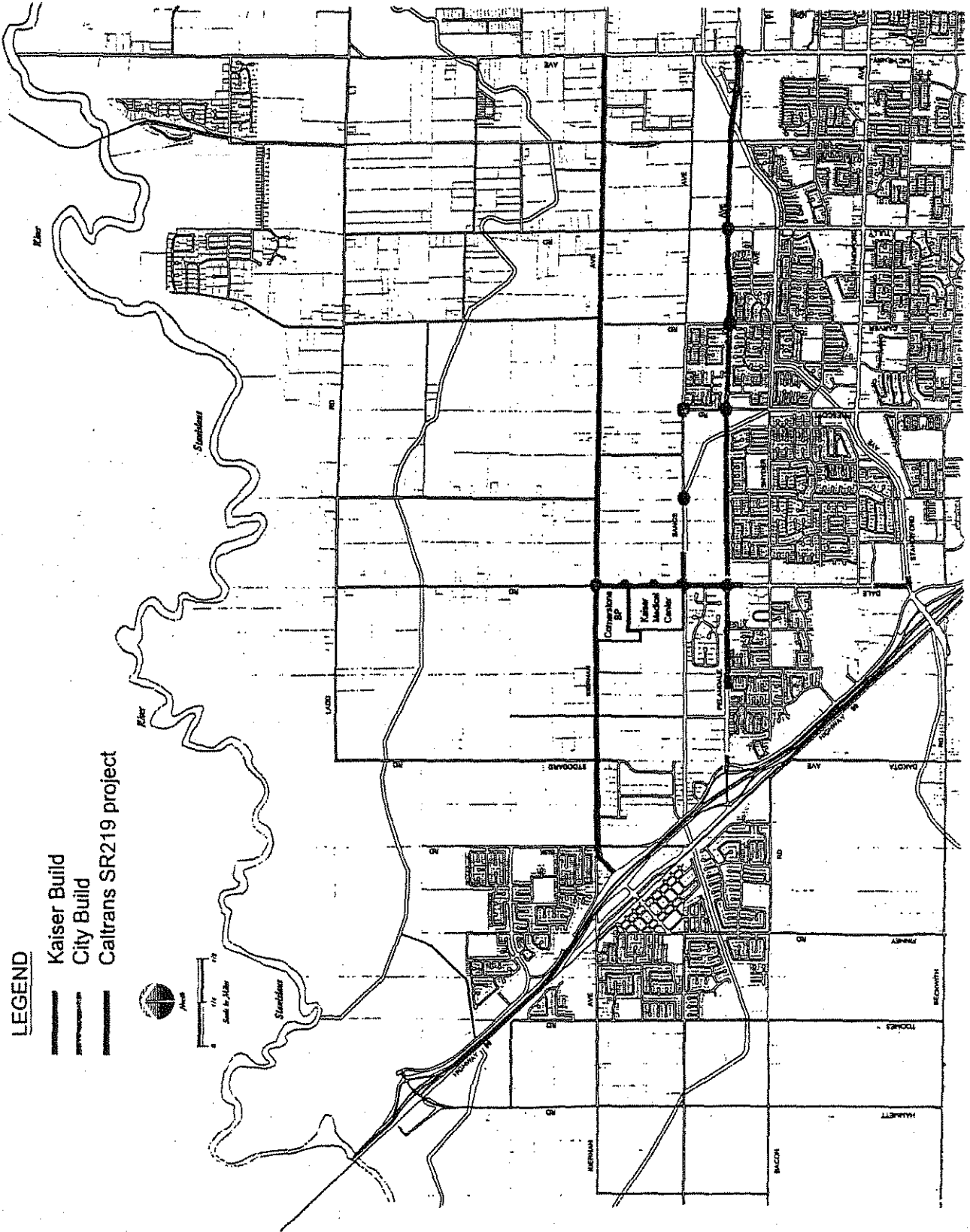
NO. 6

**LEGEND**

-  Kaiser Build
-  City Build
-  Caltrans SR219 project

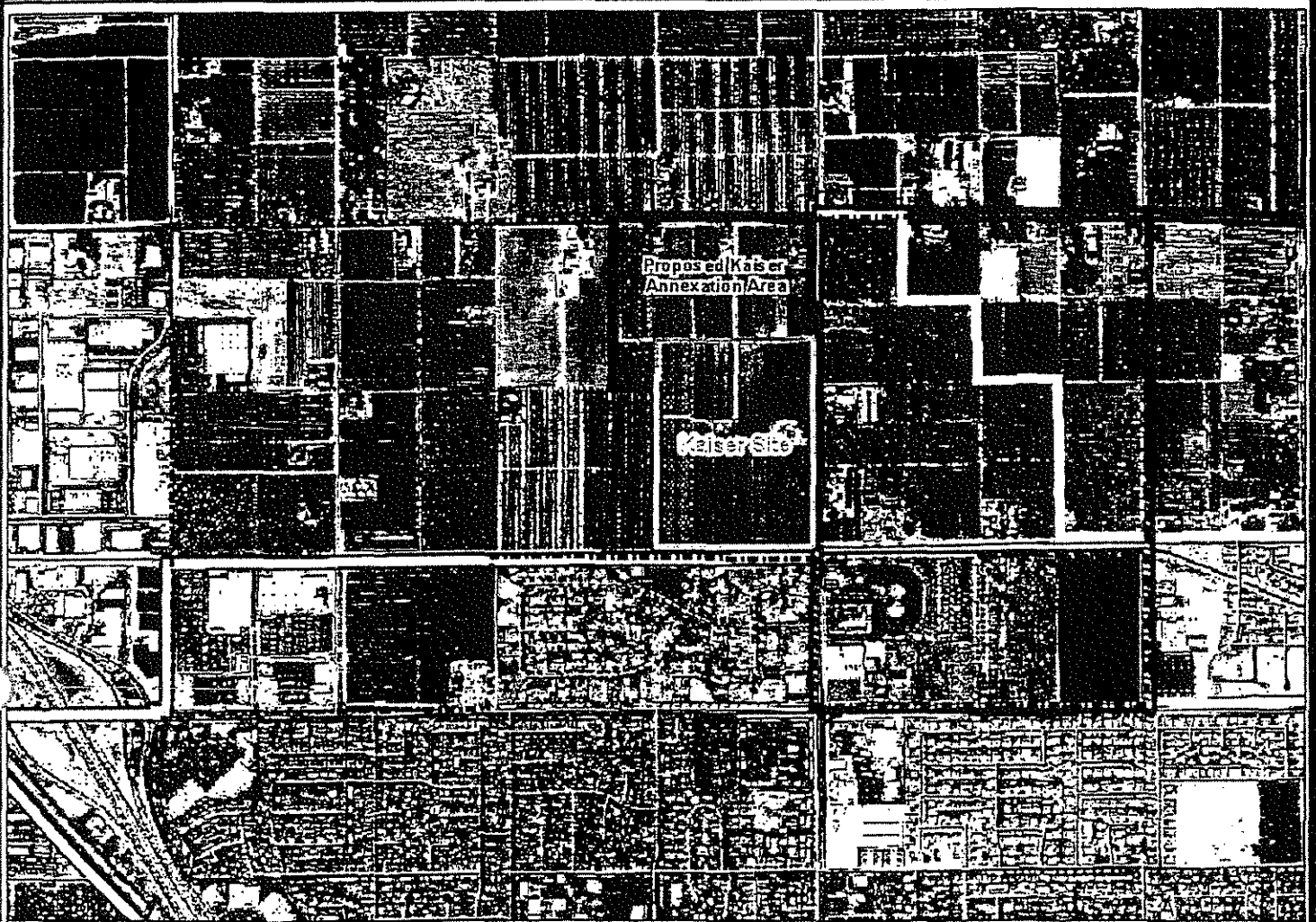


Scale 1/4" = 100'





# Kiernan Business Park



August 20, 2003



## City of Modesto

Kiernan Ave. Business Park  
Aerial Map

### Legend

--- Specific Plan Area Boundary  
--- Parcel Acreage  
--- Parcel Color  
--- Specific Plan Area

### City of Modesto

--- Proposed Kaiser  
Annexation Area  
--- Kaiser Site

The Kiernan Business Park encompasses 614 acres situated in north Modesto. It is a prime location for new business and industrial uses due to its proximity to Highway 99.

Two major expressways also border the Kiernan Business Park, Kiernan Avenue (Hwy. 219) on the north and Pelandale Avenue on the south. Utilities, including sewer and water service are available.

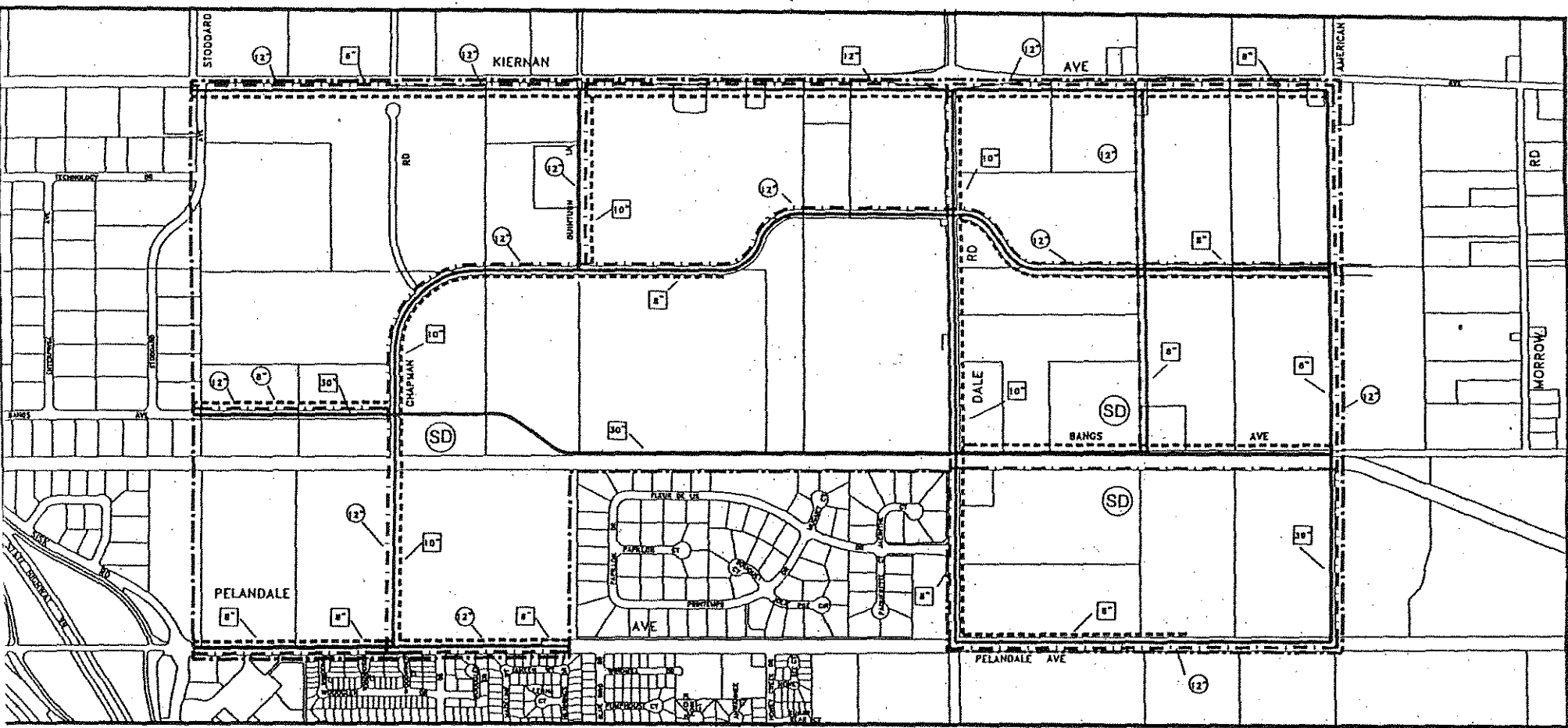
The suitability of the area for development is exemplified by the recent announcement by Kaiser Medical of their plans to build a new 1.2 million square foot state of the art full service hospital and medical campus on Dale Road in the center of the Kiernan Business Park.

City of Modesto

Community & Economic Development Department, 209-571-5566

[www.choosemodesto.com](http://www.choosemodesto.com)

1-800-400-8452



Legend :

- Specific Plan Area Boundary
- Water Supply Line
- Sanitary Sewer Line
- Major Storm Drain Line
- (SD) Potential Storm Drainage Basin Site

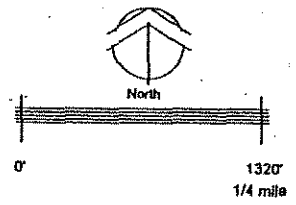


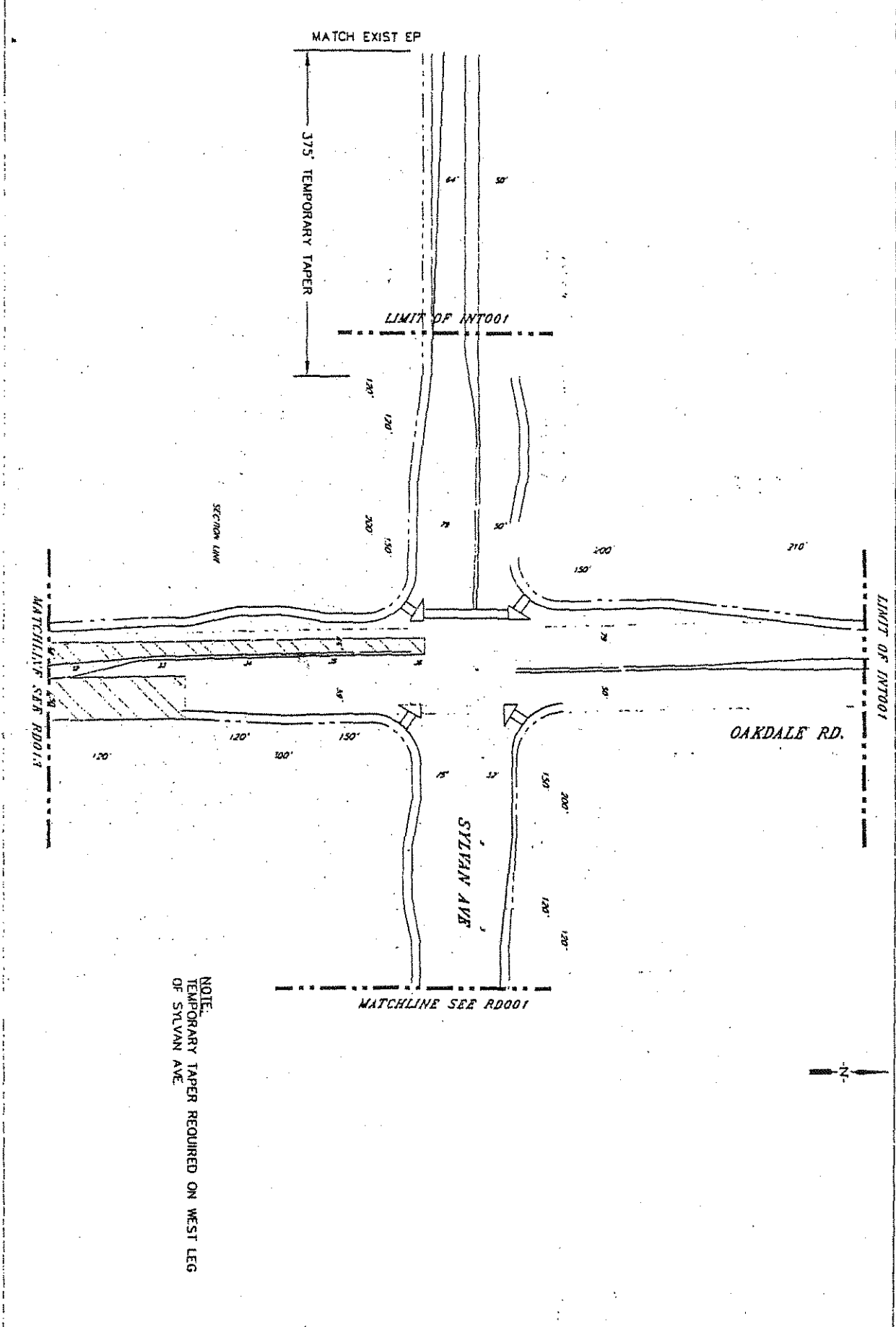
Figure V-1  
 Illustrative  
 Public Facilities Plan  
 Diagram  
 KIERNAN  
 BUSINESS PARK

**Village One Projects (All or Partially Funded by the CFD)  
Facilities Priority List  
Priorities 1 & 2**

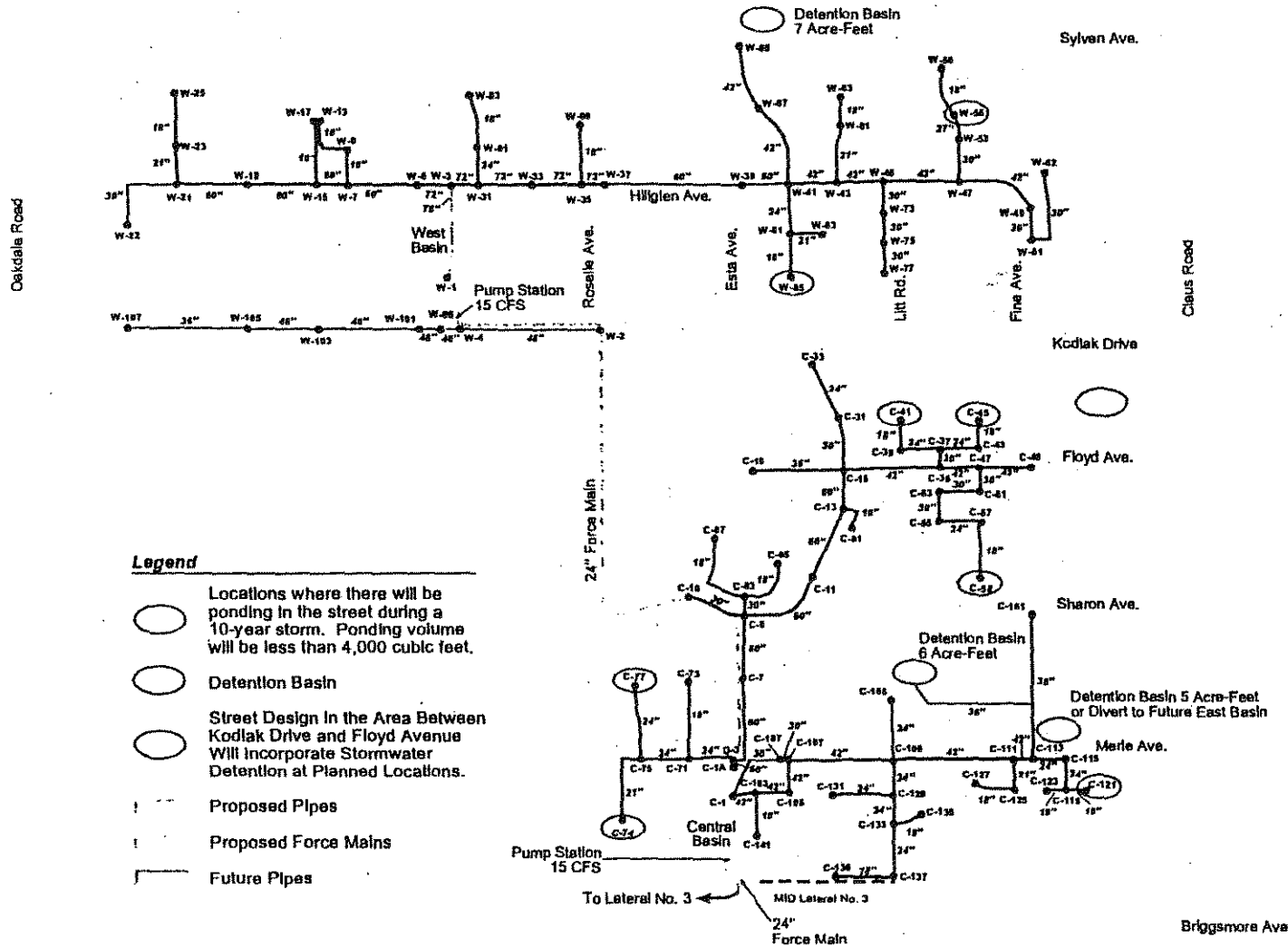
Updated per 6/10/03 Council Meeting

<b>Priority 1 Facilities</b>		
FMP #	Facility	Cost
SD-300	Bear Cub Lane, Kodiak Drive, Hillglen Avenue - West Basin and Ustach Park frontage	\$1,213,700.00
SD-201	West Basin fencing of lower tier	\$37,800.00
SD-202	West Basin Inlet Structures - 410' of 90" CIPCP, 50' of 48" RCP, 570' of 78" RCP, Inlet structure	\$753,800.00
SD-203	West Basin Inlet Structures - 110' of 66" RCP, Inlet structure	\$101,800.00
PK-003A	Ustach Park Phase 1 & 2 Park Construction	\$394,800.00
SD-204	West Basin forebay and low flow channel	\$54,000.00
SD-205	Hillglen Ave. 60" RCP from Roselle to Esta	\$608,700.00
SD-206	Central Basin Inlet Structures and energy dissipator (for 30" RCP and 24" FM)	\$108,000.00
SD-207	Force Main from West Basin to Central Basin (7000' of PVC FM (C-905) per CDM plan)	\$1,051,700.00
SD-209	West Basin Pump Station	\$507,600.00
SD-210	Central Basin Pump Station, FM to MID canal and completion of basin(maintenance road, low flow channel, etc.)	\$529,200.00
SD-211	Central Basin Property-Payback to SD fund	\$634,800.00
SD-214	Landscape West Basin per RHAA plan	\$1,501,200.00
INT-010	Sylvan & Roselle Intersection - Intersection Control & Road Widening	\$1,887,000.00
RD-002	Sylvan Avenue - South side in front of Symphony Park (requires condemnation of 2 homes) (ROW 02/03)	\$804,000.00
INT-009	Roselle & Floyd Intersection Control & Road Widening	\$2,065,000.00
RD-007	Floyd Avenue - North side between Oakdale and Roselle	\$4,111,000.00
RD-006	Pedestrian Overcrossing (Design 03/04)	\$1,542,000.00
RD-004A	Sylvan Avenue - South side between Roselle and Millbrook (ROW 03/04)	\$776,000.00
RD-004B	Sylvan Avenue - North side between Roselle and property line between Grogan Park and High School (ROW 03/04)	\$1,236,000.00
M-001A	Planning Recoup(1/4 of total)	\$189,750.00
<b>Priority 1 Total:</b>		<b>\$20,107,850.00</b>

<b>Priority 2 Facilities</b>		
FMP #	Facility	Cost
PK-005A	Merle Park Street Improvements (Half width along Park)	\$302,600.00
RD-008	Floyd Avenue - Full width between Roselle and Millbrook (not including Lawson property frontage)	\$1,944,000.00
RD-009	Floyd Avenue - Full width between Millbrook and Fine	\$2,788,000.00
SD-212	700' of 30" RCP from Merle to Central Basin (C-107 to basin)	\$99,200.00
SD-228	Merle Avenue - Central Basin frontage	\$129,600.00
INT-007	Roselle & Merle Intersection Control & Road Widening	\$275,000.00
RD-014	Roselle Ave. - Briggsmore to Merle (median closure)	\$23,000.00
PK-003B	Ustach Park Phase 3, 4 & 5 Park Construction	\$225,000.00
SD-218	800' of 24"RCP (C-165 to C-109, CDM Report) Merle Park to Merle	\$90,700.00
SD-224	1100' of 36" RCP (W-107 to W-105, CDM Report) Kodiak	\$187,100.00
SD-225	1600' of 48" RCP (W-105 to W-101, CDM Report) Kodiak	\$362,900.00
SD-227	201' of 42" CIPCP at Floyd and Fine	\$40,700.00
SD-216	6 AC-ft Retention basin on Merle Park	\$67,500.00
INT-005	Oakdale & Floyd	\$1,442,000.00
PK-005B	Merle Park Phase 1 & 2 Park Construction	\$472,100.00
M-001B	Planning Recoup (1/4 of total)	\$189,750.00
<b>Priority 2 Total:</b>		<b>\$8,639,150.00</b>



NOTE:  
 TEMPORARY TAPER REQUIRED ON WEST LEG  
 OF SYLVAN AVE



**Legend**

- Locations where there will be ponding in the street during a 10-year storm. Ponding volume will be less than 4,000 cubic feet.
- Detention Basin
- Street Design in the Area Between Kodlak Drive and Floyd Avenue Will incorporate Stormwater Detention at Planned Locations.
- Proposed Pipes
- Proposed Force Mains
- Future Pipes

**Figure 9**  
**Stormwater System for**  
**Currently Proposed Storm Drain**  
**Master Plan Update**

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-287**

**A RESOLUTION APPROVING AN ADVANCED FUNDING AND COST SHARING AGREEMENT BETWEEN THE CITY OF MODESTO (“CITY”) AND CHOPRA DEVELOPMENT ENTERPRISES (“APPLICANT”) FOR KIERNAN BUSINESS PARK EAST, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the Applicant is in the process of preparing an amendment to the Kiernan Business Park Specific Plan (“Amendment”) and has requested that the City review and process the proposed Amendment, prepare a Facilities Master Plan, Finance Plan and appropriate CEQA documentation for the Amendment and create an appropriate financing mechanism for the purpose of master planning and financing the various public facilities which are necessary to serve the development of Kiernan Business Park East, (collectively the “Project”), and

WHEREAS, the City has secured loans from the Stanislaus County Economic Development Bank (“ED Bank”) in the amount of \$500,000 which will be applied toward the estimated costs to assist with the public planning and environmental review process for the project, and

WHEREAS, the purpose of the Advanced Funding and Cost-Sharing Agreement (“Exhibit A”) for the project is to provide monies for the City’s costs for preparing the Project on a time and materials basis, to provide mechanisms by which the funds deposited under the Agreement shall be applied and by which Applicant may make additional deposits if determined necessary, to reimburse the City and the ED Bank for the amounts advanced, and to reimburse Applicant for monies advanced for the benefit of other landowners in the KBPE, and

WHEREAS, the Advanced Funding and Cost-Sharing Agreement (“Exhibit A”) sets forth the conditions of receipt and repayment of the \$500,000 loan which is attached hereto and made a part herein by this reference,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Advanced Funding and Cost-Sharing agreement between the City and Chopra Development Enterprises for Kiernan Business Park East is hereby approved.

BE IT FURTHER RESOLVED THAT the City Manager, or his designee, is hereby authorized to execute the agreement 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 9<sup>th</sup> day of May 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY Interim City Attorney

**EXHIBIT "A"**

**ADVANCED FUNDING AND COST-SHARING AGREEMENT**

**(Included in the City Council Packet as Attachment "C")**



**ADVANCED FUNDING AND COST-SHARING AGREEMENT  
FOR KIERNAN BUSINESS PARK EAST**

THIS ADVANCED FUNDING AGREEMENT FOR KIERNAN BUSINESS PARK EAST ("Agreement"), dated as of \_\_\_\_\_, 2005, is entered into by and between the CITY OF MODESTO, a municipal corporation ("City"), and CHOPRA DEVELOPMENT ENTERPRISES, INC., a California corporation ("Applicant").

**RECITALS:**

A. Applicant has the right to acquire ownership interests in real property located within a portion of the Kiernan Business Park Specific Plan commonly known as the Kiernan Business Park East ("KBPE"), shown in Exhibit A attached hereto and incorporated herein by this reference, and is interested in pursuing development of properties in KBPE.

B. Applicant is in the process of preparing an Amendment to the Kiernan Business Park Specific Plan ("Amendment") and has requested that the City review and process the proposed Amendment, prepare a Facilities Master Plan, Finance Plan, and appropriate CEQA documentation for the Amendment ("Planning Documents") and create an appropriate financing mechanism, such as, but not limited to, a communities facilities district ("Financing Mechanism") for the principal purpose of master planning and financing the various public facilities which are necessary to serve or desirable for the development of KBPE (collectively the "Project").

C. The estimated cost for completing the Project is approximately ONE MILLION FIVE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$1,500,000.00) ("Project Costs").

D. Applicant is prepared to deposit with the City one third of the Estimated Costs less expenses advanced by Applicant to date and approved by City's Community and Economic Development Director ("CEDD") which are incorporated in the Project Costs, in an amount not to exceed FIVE HUNDRED THOUSAND DOLLARS AND NO CENTS (\$500,000.00) in order to provide the City with an initial source of funds with which to pay expenses expected to be incurred in connection with the Project. Additional deposits shall be provided as needed.

E. City has secured loans from the Stanislaus County Economic Development Bank ("ED Bank") in the amount of \$500,000.00 (collectively "Loan") which will be applied toward the Estimated Costs in order to assist with the public planning and environmental review process for the KBPE.

F. The City and Applicant are desirous of entering into this Advanced Funding and Cost-Sharing Agreement for KBPE in order to provide monies for the City's costs for preparing the Project on a time and materials basis, to provide mechanisms by which the funds deposited under this Agreement shall be applied and by which Applicant may make additional deposits if determined necessary, to reimburse the City and the ED Bank for the amounts advanced, and to reimburse Applicant for monies advanced for the benefit of other landowners in the KBPE.

## AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

1. Recitals. Each of the above recitals is incorporated herein and is true and correct.

2. Proposed Preparation of the Planning Documents and Creation of the Financing Mechanism.

(a) Applicant agrees to pay all costs of reviewing, processing and approving the Amendment, preparing the Planning Documents and creating a Financing Mechanism, if any, for KBPE. City agrees to contribute any proceeds which it actually receives from the Loan, in an amount up to but not to exceed \$500,000.00, to pay a portion of the costs associated with review, processing and approval of the CEQA documentation for the Amendment, preparation of the Planning Documents and creation of a Financing Mechanism. The parties understand and agree that the City's obligation to contribute toward the Project Costs as set forth herein shall be payable solely from revenues received from the Loan and from no other source, and that the City is not liable to maintain or create any funding sources, including its General Fund or tax levies for the purposes of contributing to the Project Costs; provided, however, that if City establishes a Financing Mechanism for KBPE then City will make reasonable efforts to include a provision for reimbursement to Applicant as a component of said Financing Mechanism, to the extent legally permissible.

(b) Within ten (10) calendar days after the City Council approves this Agreement, Applicant shall deposit the sum of \$500,000 less expenses advanced by Applicant to date and approved by City CEDD which are incorporated in the Project Costs ("Initial Deposit"), with City to be held in trust by the City and used solely for the purposes set forth in this Agreement. Upon receipt by the City of the Initial Deposit and all documents deemed necessary by the City to proceed with the Project, the City will commence work on the Project on a time and materials basis. In connection therewith, the City has either retained, or will retain, the consultants that the City determines necessary or convenient to assist it with the Project and, if the City determines to proceed with the formation of the CFD, to assist it in connection therewith and with the possible issuance of bonds.

(c) After the Initial Deposit and the Loan proceeds have been expended on the Project, Applicant shall make additional advances to the City, as provided by subparagraph (d), below, until the Project has been completed or terminated, and all costs associated with the Project have been fully paid.

(d) Applicant shall make additional advances to the City within ten (10) business days following receipt from the City of a request for an additional advance to cover the costs referred to herein. In the event that the Applicant does not deliver the requested amount to the City within such ten (10) business day period, the City will have no obligation to proceed with any activity relating to the Project. The Applicant may notify the City at any time, in writing, of its intention to abandon the Project. Immediately upon City's receipt of such notice, but in no case later than two (2) business days, the City shall instruct in writing its consultants to cease work

immediately. The Applicant shall be responsible for all costs and expenses incurred by the City or any City consultant or advisor relating to the Project until City issues this cease work notice.

(e) Applicant agrees that, notwithstanding the Applicant's funding and reimbursement obligations under this Agreement, the consultants selected by the City shall be the contractors exclusively of the City and not of the Applicant. Except for those disclosures required by law including, without limitation, the Public Records Act, all conversations, notes, memoranda, correspondence, and other forms of communication by and between the City and its consultants shall be, to the extent permissible by law, privileged and confidential and not subject to disclosure to the Applicant. Applicant agrees that it shall have no claim to, nor shall it assert any right in any reports, correspondence, plans, maps, drawings, news releases or any and all other documents or work product produced by City's consultants. Applicant understands that it will not be a third party beneficiary to City's contracts with the consultants. City will consult with Developer prior to replacing its current consultants; however, Applicant agrees that City may select other consultants to replace its current consultants and may do so without obtaining Developer's approval.

3. City and Applicant to Cooperate with each other and with the City's Consultants.

(a) City and Applicant shall work cooperatively and in good faith to facilitate completion of Project as quickly as possible and in the most cost effective way. City and Applicant shall meet and consult on dates and times as may be mutually agreed upon to discuss the progress and any key issues involved in the Project; provided, however, that Applicant's role is advisory only and that City shall control all aspects of the Project. The final work product to be produced by City's Consultants shall be subject to the City's approval and control.

(b) City shall prepare a tentative timeline of processing steps through adoption of the Specific Plan and posting of CEQA notices ("Project Schedule"). The Project Schedule shall be prepared in consultation with the Applicant. City and Applicant shall use reasonable efforts to process Applicant's application in accordance with the Project Schedule. Applicant acknowledges that changes to the Project, delays in resolving infrastructure issues or obtaining information necessary to process the application, the public comment process and other issues beyond the City's control may result in delays to the Project Schedule.

(c) City and Applicant shall establish a KBPE Development Team that regularly shall meet in person or teleconference to coordinate the work contemplated by this Agreement. City's team members shall include at least one representative from all necessary City departments.

(d) City and Applicant shall each appoint one team leader. The City's development team leader shall coordinate the City's various departments in their interaction with the Applicant's development team. The Applicant's development team leader shall coordinate the Applicant's team in its interaction with the City's development team and shall ensure Applicant's team timely makes any decisions necessary to move the Project to hearing.

(e) City and Applicant agree that water, wastewater, and storm water infrastructure issues are critical to timely moving the Project to hearing and to ensure the economic viability of the Project. The parties agree to work on these issues in a manner sufficient to ensure

that CEQA review of the project is not unduly delayed, and that the magnitude of infrastructure costs are identified as early in the process as practical.

(f) Prior to making any final decisions regarding the scope of work of any contract or consultant, City will provide the proposed scope of work to the Applicant for review and comment.

(g) Each party shall timely review documents and provide comments so that the Project Schedule can be maintained.

(h) Prior to making any final decisions regarding adoption of the proposed Amendment, the Planning Documents or Financing Mechanism, if any, City will send a draft of the proposed document to Applicant for review and comment.

(i) Applicant agrees to cooperate in good faith with the City's consultants. Applicant agrees that it will instruct its agents, employees, consultants, contractors and attorneys to reasonably cooperate with the City's consultants and to provide all necessary documents or information reasonably requested of it by the City's consultants; provided, however, that the foregoing shall not require the disclosure of any documents or information of the Applicant which by law is privileged, proprietary, confidential, or exempt from disclosure under the Public Records Act.

#### 4. Repayment of Loan.

(a) City has entered into an Economic Development "Bank" Project Funding Agreement with the County of Stanislaus ("County") dated of even date herewith ("Loan Agreement"), a copy of which is attached hereto as Exhibit B and incorporated herein by reference. The purpose of the Loan Agreement is to secure the \$500,000.00.

(b) Applicant acknowledges that City has entered into the Loan Agreement for the sole purpose of assisting Applicant with the costs of preparing the Amendment and Planning Documents and creating a Financing Mechanism in order to facilitate the development of KBPE. Applicant further acknowledges and agrees that it has or will receive a direct and substantial benefit as a result of City's commitment to the Loan Agreement and, therefore, will fully guarantee any and all obligations of the City under the Loan Agreement in the event that City is unable to create a Financing Mechanism which includes adequate provision for repayment of the Loan. Applicant further acknowledges that City has entered into the Loan Agreement in reliance on Applicant's agreement to guarantee City's obligations under the Loan Agreement.

(c) City and Applicant agree to use best efforts to create a Financing Mechanism which includes sufficient provisions to ensure reimbursement of the Loan in accordance with the terms of the Loan Agreement. If such a Financing Mechanism is not or cannot be created for any reason whatsoever, or if such Financing Mechanism is insufficient to ensure reimbursement of the Loan in accordance with the Loan Agreement, then Applicant unconditionally guarantees and promises to pay to City and/or the ED Bank when due, any and all payments which are necessary to repay the Loan in full, according to the terms of the Loan Agreement, and shall hold the City harmless from and fully satisfy any and all of City's obligations under the Loan Agreement. Applicant shall make payment to City or ED Bank of any amount necessary to repay the Loan when

due, or within ten (10) business days of receipt of a demand from City for payment of the same, whichever occurs later.

(d) Prior to or concurrent with execution of this Agreement, Applicant shall furnish, or cause to be furnished a security in the amount of FIVE HUNDRED THOUSAND AND 00/100 DOLLARS (\$500,000.00) to secure and guarantee faithful performance of Applicant's obligation to repay the Loan, including but not limited to payment of all administrative and legal costs incurred by City to enforce this obligation. The security shall be in the form of cash, assignment of a certificate of deposit or passbook savings account, or a letter of credit acceptable to the City Attorney. Unless otherwise agreed by City in writing, Applicant shall secure and maintain the performance security until the later of (1) repayment in full of the Loan and satisfaction in full of all City's obligations under the Loan Agreement or (2) establishment of a Financing Mechanism which includes adequate provision for repayment of the Loan.

5. Reimbursement Procedure.

(a) If a Financing Mechanism is created, including but not limited to formation of a CFD and issuance of bonds, proceeds in excess of the amount determined by the City to be required in order to administer the Financing Mechanism and to satisfy the requirements of the City's policies and procedures, including but not limited to City's CFD Policies and Procedures with respect to capitalized interest and reserves, and to pay for facilities and incidental expenses, may be used to reimburse the Applicant and the City for the amounts that the Applicant and the City have advanced in connection with this Agreement; provided, however, that any such reimbursement monies available first shall be to the City for the purpose of repaying the Loan and satisfying any outstanding payment obligation from Applicant to City, then to Applicant. City shall pay interest on any monies to be reimbursed to Applicant through the Financing Mechanism, if legally permissible.

(b) In the event that the Planning Documents are not prepared or approved and/or a Financing Mechanism is not created for any reason, or in the event that a Financing Mechanism is created but no revenue stream is generated for any reason, the City shall refund any funds which have been advanced by the Applicant pursuant to this Agreement and which have not been expended, obligated or otherwise committed for any authorized purpose, subject to the complete reimbursement to the City of any direct and indirect costs paid by Loan proceeds for review and processing of the proposed Amendment, preparation of the Planning Documents and/or creation of the Financing Mechanism. If the amounts advanced by the Applicant are insufficient to fully reimburse the City for all said direct and indirect costs and monies received from the Loan, then the Applicant shall pay to the City the amount of the deficiency within ten (10) days after receipt of a demand by City. City shall not be required to pay interest on any amount required to be refunded pursuant to this Agreement. The City shall be entitled to pay any refund or reimbursement required pursuant to the provisions hereof to the entity that is the signatory to this Agreement irrespective of any changes in the ownership of the property or the organization of the Applicant.

6. Abandonment of the Project. The Applicant understands that, subject to the satisfaction of all applicable legal requirements, the decision to review, process, prepare or approve the proposed Amendment, Planning Documents and Financing Mechanism shall be each in the sole discretion of the City. No provision of this Agreement shall be construed as a promise, warranty or agreement by the City to review, process, prepare or approve the proposed Amendment, Planning

Documents or Financing Mechanism. The City shall have no liability to Applicant for a decision not to review, process, prepare or approve the proposed Amendment, Planning Documents and Financing Mechanism.

7. Indemnification and Hold Harmless. The Applicant hereby assumes the defense of, and shall indemnify and save harmless, the City and each of its officers, directors, agents, contractors, and employees, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of or arising out of any acts or omissions of Applicant or any of the Applicant's officers, employees, contractors and agents in connection with the proposed review, processing, preparation or approval of the proposed Amendment, Planning Documents and/or creation of a Financing Mechanism provided by or on behalf of the Applicant or its consultants, except for any action, damages, claims, losses or expenses arising out of the sole negligence or willful misconduct of the City, its officers, directors, employees or agents.

8. 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.

Applicant: Chopra Development Enterprises, Inc.  
1401 Spanos Court, Suite 128  
Modesto, CA 95355  
Attention: Dr. Aruna Chopra

With a copy to: Mr. Brian Velthoen  
Velthoen Assoc. Commercial Brokers  
300 Banner Court, Suite 1  
Modesto, CA 95356

With an additional copy to: Mr. George A. Petrulakis  
Petrulakis Jensen & Friedrich, LLP  
1130 12<sup>th</sup> Street, Suite B  
Modesto, CA 95354

City: City of Modesto  
1010 Tenth Street, Suite 6100  
Modesto, California 95353  
Attention: Brad Kilger, CED Director

9. Assignment. Applicant may not assign its interest in this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld. Any assignment or attempt to assign this Agreement without the prior written consent of CITY shall be deemed null and void as of the date of the purported assignment. All covenants, stipulations, and agreements in this Agreement shall bind any such representatives, successors and assigns.

10. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent permitted by law.

11. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the matters provided for herein. All previous proposals, offers and communications relative to this Agreement, whether oral or written, are hereby superseded except to the extent that they have been incorporated into this Agreement. No future waiver of or exception to any of the terms, conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to in writing by all the parties.

12. Amendments. This Agreement may be amended or modified only by written instrument signed by all parties. Any amendment or addendum to this Agreement shall expressly refer to this Agreement.

13. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

14. No Third Party Beneficiaries. No person or entity shall be deemed to be a third party beneficiary hereof, and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than the City (and its officers, directors, employees and agents providing services under this Agreement) and the Applicant, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

15. Singular and Plural; Gender. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

16. Termination. This Agreement shall terminate and be of no further force and effect on the third anniversary of the date of this Agreement unless expressly amended by the parties; provided, however, that the Applicant's obligations under Sections 4 and 7 and the City's obligation to provide reimbursement in accordance with Section 5 for expenses incurred prior to the termination date shall survive termination or expiration of this Agreement.

17. Time is of the Essence. Except as otherwise expressly stated, time is of the essence in the performance of each and every action required pursuant to this Agreement.

18. Language Construction. The language of each and all paragraphs, terms and/or provisions of this Agreement, shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.

19. Representations of Authority. Each party signing this Agreement on behalf of a party which is not a natural person hereby represents and warrants to the other party that all necessary legal prerequisites to that party's execution of this Agreement have been satisfied and that he or she has been authorized to sign this Agreement and bind the party on whose behalf he or she signs.

20. Relationship of Parties. Nothing contained in this Agreement shall be interpreted or understood by any of the parties, or by any third person, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between City and Owner or its agents, employees or contractors. Except as City may specify in writing, Owner shall have no authority to act as an agent of City or to bind City to any obligation.

21. Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of Agreement's provisions.

22. Waiver. The waiver by any party to this Agreement of any action, obligation, or commitment required by this Agreement or 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 or of any action, obligation, or commitment required by this Agreement unless specifically stated in writing.

23. Discretion of the City. City's execution of this Agreement in no way limits the discretion of City in the permit and approval process in connection with any construction or improvements within or outside the KBPE which are within City's jurisdiction.



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-\_\_\_\_, adopted by the Council of the City of Modesto on the \_\_\_\_ day of \_\_\_\_\_, 2006, and Applicant has caused this Agreement to be executed in duplicate, effective as of the date first written above.

CITY OF MODESTO, a  
municipal corporation

CHOPRA DEVELOPMENT ENTERPRISES  
INC., a California corporation

By: \_\_\_\_\_  
GEORGE W. BRITTON, City Manager

By: \_\_\_\_\_  
Dr. Aruna Chopra  
Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
JEAN ZAHR, City Clerk

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

APPROVED AS TO FORM:  
Richard Rudnansky, Interim City Attorney

By: \_\_\_\_\_  
ALISON A. BARRATT-GREEN  
Senior Deputy City Attorney

EXHIBIT "A"  
KIERNAN BUSINESS PARK EAST

Included with the May 9, 2006, City Council Agenda Packet as Attachment "A"

EXHIBIT "B"  
KIERNAN BUSINESS PARK EAST

Included with the May 9, 2006, City Council Agenda Packet as Attachment "B"

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-288**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005-2006 OPERATING  
BUDGET TO INCREASE THE COMMUNITY & ECONOMIC DEVELOPMENT  
DEPARTMENT REVENUE BUDGET BY \$500,000 AND TO APPROPRIATE  
\$500,000 FOR CONTRACT PROFESSIONAL SERVICES**

WHEREAS, on August 2, 2005, the Stanislaus County Board of Supervisors approved an Economic Development Bank loan of \$142, 625 to be used by the City of Modesto for the Kiernan Business Park Implementation Plan, supplementing a previously approved loan of \$357, 375, for a total loan for these purposes of \$500,000, and

WHEREAS, revenue projections for these projects were not included in the FY 2004/2005 budget, and

WHEREAS, Planning studies, including a Specific Plan amendment and Environmental Impact Report are to be completed using contract assistance, and

WHEREAS, the City has entered into an Economic Development Project Funding Agreement with Stanislaus County for the use of these funds and an Advanced Funding and Cost-Sharing Agreement with Chopra Development Enterprises for the balance of costs and for reimbursement, and

WHEREAS, the City Council on August 2, 2005, considered and approved further study of the concept for the Kiernan Business Park-East Specific Plan and EIR updates, and provided direction to staff to finalize the funding agreements and to schedule the agreements for review and consideration by the City Council.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby amends the Fiscal Year 2005-2006 operating budget to create a multi-year operating organization (0800-140-1454 – Kiernan Business Park East Economic

Development "Bank" Loan) to recognize \$500,000 in revenue, and to appropriate \$500,000 for contract 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 9<sup>th</sup> day of May 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-289**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF  
MODESTO AND TURNSTONE CONSULTING CORPORATION FOR THE  
PREPARATION OF A DRAFT ENVIRONMENTAL IMPACT REPORT FOR  
THE PROPOSED KIERNAN BUSINESS PARK-EAST SPECIFIC PLAN  
AMENDMENT PROJECT, AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE THE AGREEMENT IN AN AMOUNT NOT TO EXCEED \$483,202.00**

WHEREAS, Dr. Aruna Chopra, has applied for a specific plan amendment and associated applications, referred to as 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: rezoning 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 Kieran 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.

WHEREAS, by Resolution No. 2002-622, adopted on December 10, 2002, the City Council approved a list of environmental service providers, including the firm of Turnstone Consulting Corporation, to assist with the preparation of environmental impact reports and other environmental documents, and

WHEREAS, City staff selected Turnstone Consulting Corporation to prepare the environmental impact report for the Kiernan Business Park-East project because of their extensive experience on similar projects in other jurisdictions.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Agreement between the City of Modesto and Turnstone Consulting Corporation for the preparation of a Draft Environmental Impact Report for the proposed Kiernan Business Park-East project is hereby approved, in an amount not to exceed \$483,202.00, a copy of which is on file in the City Clerk's office.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of May 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-290**

**A RESOLUTION APPROVING SPECIFIC PLAN AMENDMENT NO. 21 TO  
THE VILLAGE ONE SPECIFIC PLAN TO MODIFY POLICIES RELATED TO  
THE DEVELOPMENT OF THE VILLAGE ONE TOWN CENTER HOUSING  
PROJECT, PROPERTY LOCATED AT THE NORTHEAST CORNER OF  
ROSELLE AVENUE AND BELHARBOUR DRIVE. (STANISLAUS COUNTY  
HOUSING AUTHORITY)**

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, Government Code Section 65453 permits the amendment of specific plans as often as deemed necessary by the legislative body, and

WHEREAS, the City Council on June 18, 1991, by Resolution No. 91-405, adopted Specific Plan Amendment No. 1 to the Village One Specific Plan to adopt an amended Affordable Housing Program, and

WHEREAS, the City Council on May 5, 1992, by Resolution No. 92-222, adopted Specific Plan Amendment No. 2 to the Village One Specific Plan to improve technical correctness, readability, and comprehension, and

WHEREAS, the City Council on February 1, 1994, by Resolution No. 94-72, adopted Specific Plan Amendment No. 3 to the Village One Specific Plan to rewrite and reorganize the Plan to be more implementation oriented, and

WHEREAS, the City Council on May 24, 1994, by Resolution No. 94-297, certified the Final Supplemental EIR for Village One (SCH No. 90020181) which provided environmental analysis for the revisions in Specific Plan Amendment No. 4, and

WHEREAS, the City Council on May 24, 1994, by Resolution No. 94-298, adopted Specific Plan Amendment No. 4 to the Village One Specific Plan to widen Floyd Avenue from three-to-five lanes, realign the Claus/Sylvan intersection, delete the non-potable water supply for public landscaping, and integrate mitigation monitoring into the Specific Plan, and

WHEREAS, the City Council on June 28, 1994, by Resolution No. 94-372, adopted Specific Plan Amendment No. 5 to the Village One Specific Plan to revise the Residential Design Policies for cul-de-sacs, alleys, garage orientation, and plan processing, and

WHEREAS, the City Council on June 28, 1994, by Resolution No. 94-373, adopted Specific Plan Amendment No. 6 to the Village One Specific Plan to revise the school and park sites within the Specific Plan and redistribute residential units among the Village One Precise Plan Areas, and

WHEREAS, the City Council on October 10, 1995, by Resolution No. 95-487, adopted Specific Plan Amendment No. 7 to the Village One Specific Plan to reduce costs and to implement recommendations to increase the marketability of development within the Village One area, and

WHEREAS, the City Council on May 14, 1996, by Resolution No. 96-245, adopted Specific Plan Amendment No. 7.1 to the Village One Specific Plan to delete the multiple-family development designation from Precise Plan Areas Nos. 8 and 33, and

Resolution No. 26-246 to amend the Design Standard portion of the Village One Specific Plan pertaining to single-family dwelling setbacks and three-car garages, limited to Precise Plan Areas Nos. 8, 32, and 33, and

WHEREAS, the City Council on June 4, 1996, by Resolution No. 96-295, adopted Specific Plan Amendment No. 8 to the Village One Specific Plan to incorporate changes previously approved in Specific Plan Amendment No. 7 into the Specific Plan document itself, to make minor editorial changes to the Specific Plan, and to incorporate changes resulting from development of a revised Village One Facilities Master Plan, and

WHEREAS, the City Council on August 13, 1996, by Resolution No. 96-453, adopted Specific Plan Amendment No. 9 to the Village One Specific Plan to modify the standards for dwelling setbacks and three-car garages for the entire Specific Plan area, and

WHEREAS, the City Council on May 6, 1997, by Resolution No. 97-225, adopted Specific Plan Amendment No. 10 to the Village One Specific Plan to eliminate redundancy with the General Plan Housing Element policies and to eliminate language that was too restrictive, and

WHEREAS, the City Council on June 3, 1997, by Resolution No. 97-300, adopted Specific Plan Amendment No. 11 to the Village One Specific Plan to exempt public facilities from precise plan requirements, to streamline the Specific Plan amendment process, and to provide minor clarification to various policies and diagrams, and

WHEREAS, the City Council on October 21, 1997, by Resolution No. 97-602, adopted Specific Plan Amendment No. 12 to the Village One Specific Plan to allow

changes in public service providers, delete the requirement for a business park market study, revise Amtrak station language, revise the business park precise plan diagram, and allow regional commercial uses in the business park, and

WHEREAS, the City Council on February 17, 1998, by Resolution No. 98-97, adopted Specific Plan Amendment No. 13 to the Village One Specific Plan to redesignate 9.8 acres in Precise Plan Area No. 3 from Multi-Family Residential to Village Residential, and

WHEREAS, the City Council on August 17, 1999, by Resolution No. 99-416, adopted Specific Plan Amendment No. 14 to the Village One Specific Plan to modify the mix of land uses allowed in the southeast quadrant of Precise Plan Area No. 20, and

WHEREAS, the City Council on September 26, 2000, by Resolution No. 2000-507, adopted Specific Plan Amendment No. 15 to the Village One Specific Plan to reduce the noise setback along Claus Road, and

WHEREAS, the City Council on May 7, 2002, by Resolution No. 2002-230, adopted Specific Plan Amendment No. 16 to the Village One Specific Plan to move 4.1 acres from Precise Plan Area No. 6 to Precise Plan Area No. 7, and

WHEREAS, the City Council on April 1, 2003, by Resolution No. 2003-177, adopted Specific Plan Amendment No. 17 to the Village One Specific Plan to allow for a revised infrastructure financing plan for Village One, including the formation of a new community facilities district for the remaining undeveloped, unvested property in Village One, and

WHEREAS, the City Council on December 7, 2004, by Resolution No. 2004-650, adopted Specific Plan Amendment No. 18 to the Village One Specific Plan to change the

land use designations of Precise Plan Areas 23 and 24 from Commercial, Village Residential, and Multi-Family Residential to Village Residential and Medium-Density Residential and to amend some of the Village One design and development standards, and

WHEREAS, the City Council on March 8, 2005, by Resolution No. 2005-129, adopted Specific Plan Amendment No. 19 to the Village One Specific Plan to change the land use designation of a portion of Precise Plan Area No. 1 from Very Low Density Residential to Office and High School and to allow City Council approval of a Final Development Plan concurrent with approval of Precise Plan Area No. 1, and

WHEREAS, the City Council on November 1, 2005, by Resolution No. 2005-547, adopted Specific Plan Amendment No. 20 to the Village One Specific Plan to allow for a revised layout for the Village Center Retail Center, property located at the southeast corner of Roselle and Floyd; and

WHEREAS, Stanislaus County Housing Authority has filed an application to amend the Village One Specific Plan to modify policies related to the development of the Village One Town Center Housing Project located at the northeast corner of Roselle Avenue and Belharbour Drive, and

WHEREAS, on October 10, 2003, the proposed Specific Plan amendment was referred to Stanislaus County, Sylvan Elementary School District, Modesto City High School District, Stanislaus LAFCO, and the City of Modesto Public Works Department, the water system purveyor for the area in which the project is located, for a 45-day review period in accordance with Government Code Sections 65453 and 65352, and

WHEREAS, on February 27, 2005, at 7:00 p.m. the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered concerning the proposed Village One Specific Plan amendment, and

WHEREAS, after said public hearing, the Modesto City Planning Commission by Resolution No. 2006-10, recommended to the City Council approval of an amendment to the Village One Specific Plan to modify policies related to the development of the Village Center at the northeast corner of Roselle Avenue and Belharbour Drive, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing on May 9, 2006, at 5:30 p.m., 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

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines that the proposed Amendment No. 21 to the Village One Specific Plan to modify policies related to the development of the Village One Town Center Housing Project at the northeast corner of Roselle Avenue and Belharbour Drive is consistent with the 2003 Modesto Urban Area General Plan, including the adopted Housing Element, because it will not adversely affect and is consistent with the Housing Element's primary goals and objectives of ensuring that the City maintains a sufficient site inventory to meet its RHNA and providing for the development of low-income housing units within the City, that the proposed amendment will facilitate the development of the Village One Town Center Housing Project which will designate some

of the residential units for needed affordable housing, and that the revised layout will facilitate the development of needed street improvements along Roselle Avenue and Belharbour Drive for the Village One Town Center Housing Project.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Village One Specific Plan is hereby amended to modify policies related to the development of the Village One Town Center Housing Project at the northeast corner of Roselle Avenue and Belharbour Drive as shown on Exhibit "A" attached hereto and incorporated herein by reference.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the amendments for the proposed Village One Town Center Housing Project, and the Council hereby makes the following additional finding:

The proposed Village One Town Center Housing Project is in conformance with the Regional Housing Needs Allocation (RHNA) program, which has been achieved with the following identified sites: 18 units at 3333 Carver Road, 5 units at Hope Village, and 27 units within the existing Village One Town Center Housing Project.

BE IT FURTHER RESOLVED by the Council that the City Clerk is hereby authorized and directed to send certified copies of this resolution and said amendment to the Village One Specific Plan to the Board of Supervisors of the County of Stanislaus.

BE IT FURTHER RESOLVED that the project applicant shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning this Specific Plan Amendment (File No. SPA-03-003). 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 9<sup>th</sup> day of May 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**EXHIBIT "A"**  
**VILLAGE ONE SPECIFIC PLAN AMENDMENT NO. 21**

**Included in the City Council Packet**

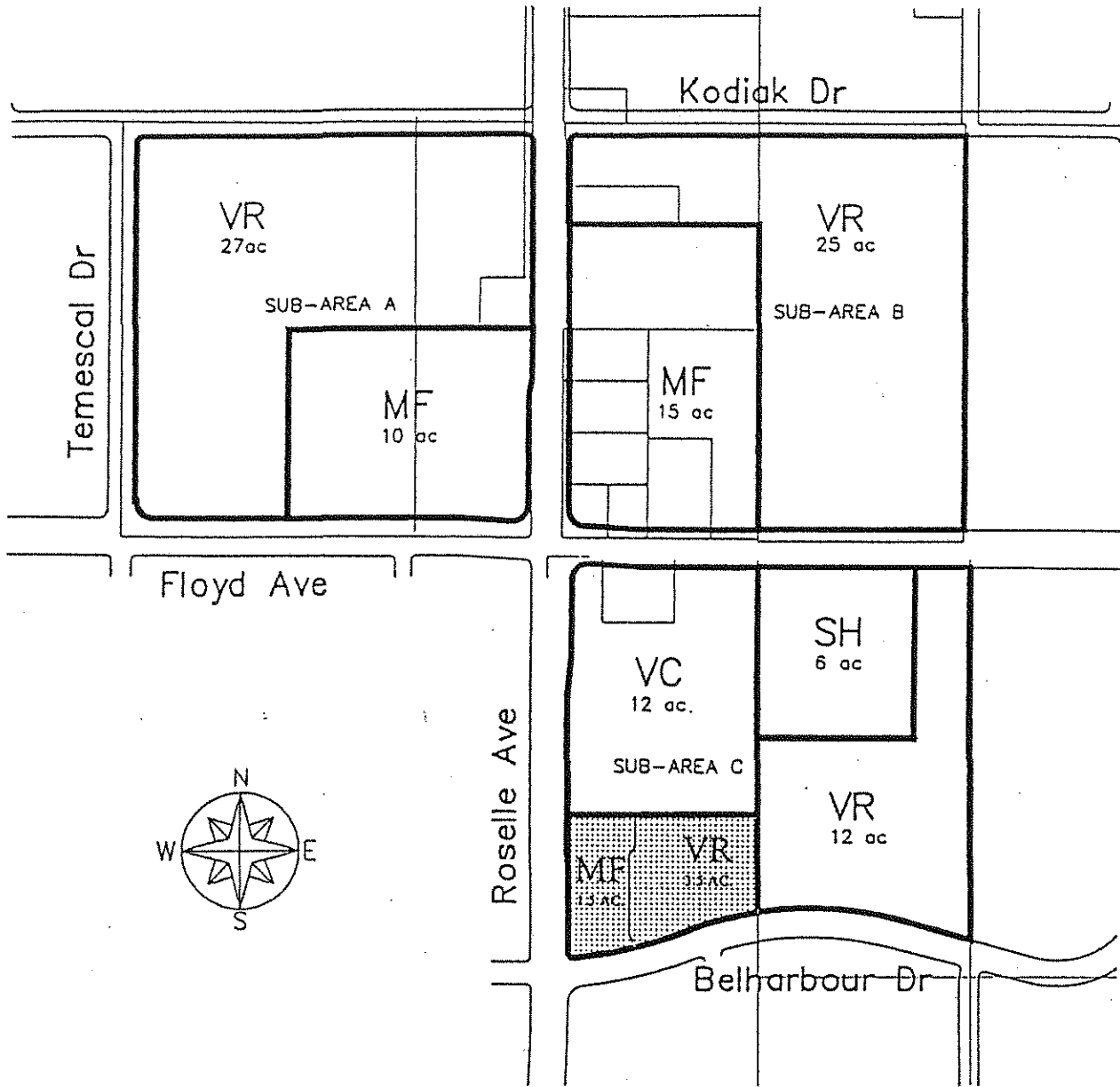


Figure III - 21  
 Precise Plan Area #20

- VR Village Residential
- MF Multi-Family
- SH Senior Housing
- VC Village Commercial Center

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-291**

**A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE VILLAGE ONE PROGRAM ENVIRONMENTAL IMPACT REPORT (SCH NO. 90020181), AS AMENDED BY THE SUPPLEMENTAL EIR: SPECIFIC PLAN AMENDMENT NO. 21 TO THE VILLAGE ONE SPECIFIC PLAN TO AMEND THE VILLAGE ONE SPECIFIC PLAN TO MODIFY POLICIES RELATED TO THE DEVELOPMENT OF THE VILLAGE ONE TOWN CENTER HOUSING PROJECT, AND AN AMENDMENT TO THE PRECISE PLAN FOR THE SOUTHEAST QUADRANT OF AREA NO. 20 TO MODIFY POLICIES AND DIAGRAMS TO ACCOMMODATE A PROPOSAL FOR THE VILLAGE ONE TOWN CENTER HOUSING PROJECT, PROPERTY LOCATED AT THE NORTHEAST CORNER OF ROSELLE AVENUE AND BELHARBOUR DRIVE. (STANISLAUS COUNTY HOUSING AUTHORITY)**

WHEREAS, the Modesto City Council has adopted Resolution No. 90-757 certifying that the Village One Final Environmental Impact Report ("EIR") (State Clearinghouse No. 90020181) is complete and adequate pursuant to Section 15090 of the California Environmental Quality Act ("CEQA") Guidelines, and

WHEREAS, the Modesto City Council has adopted Resolution No. 94-297 which certified the Final Supplemental EIR for Village One; thus, the 1990 Village One Program EIR has been amended and updated by the 1994 Supplemental EIR, adopted by Resolution No. 94-297 on May 24, 1994, and

WHEREAS, on May 6, 2003, the City Council adopted Resolution No. 2003-223 which adopted an Addendum to Village One Specific Plan Program Environmental Impact Report for the Village One Facilities Master Plan Update – May 2003 (“VI FMP”), and

WHEREAS, an application has been filed by Stanislaus County Housing Authority for an amendment to the Village One Specific Plan to modify design policies related to the development of the Village One Town Center Housing Project at the

northeast corner of Roselle Avenue and Belharbour Drive, and to amend the Precise Plan for Area No. 20 to modify policies and diagrams to accommodate the design of a proposal for the Village One Town Center Housing Project, and

WHEREAS, the City's Community and Economic Development Department reviewed the proposed Project to determine if said Project might have a significant effect on the environment, and

WHEREAS, City staff has prepared a Written Checklist, Environmental Assessment No. EA/C&ED 2005-01, which concluded that the proposed Project is within the scope of the Village One Program EIR (SCH No. 90020181), as amended by the Village One Supplemental EIR, and the Addendum to Village One Specific Plan Program Environmental Impact Report for the Village One Facilities Master Plan, and

WHEREAS, the Planning Commission, by Resolution No. 2006-10, adopted on February 27, 2006, recommended to the City Council approval of Amendment No. 21 to the Village One Specific Plan to modify design policies related to the development of the Village One Town Center Housing Project located at the northeast corner of Roselle Avenue and Belharbour Drive, and to amend the Precise Plan for Area No. 20 to modify policies and diagrams to accommodate the design of a proposal for the Village One Town Center Housing Project, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on May 9, 2006, 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 Environmental Assessment No. EA/C&ED

2005-01, entitled "Village One Town Center Housing Project," for the proposed Project, and the Council hereby makes the following findings:

1. The proposed Specific Plan Amendment is consistent with the Modesto Urban Area General Plan, as the overall land use, intensity and circulation of the Village One Specific Plan and Village One Town Center Housing Project would not be changed by the amendment.
2. The proposed amendment to the Precise Plan for Area No. 20 is consistent with the Village One Specific Plan as amended.
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 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.
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.

7. The Initial Study, Environmental Assessment EA/PR&N 2005-01, provides the substantial evidence to support findings 3-6, noted above.

A copy of said Environmental Assessment No. EA/C&ED 2005-01, entitled "Village One Town Center Housing Project, is on file with the City Clerk.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the amendments for the proposed Village One Town Center Housing Project, and the Council hereby makes the following additional findings:

The proposed Village One Town Center Housing Project is in conformance with the Regional Housing Needs Allocation (RHNA) program, which has been achieved with the following identified sites: 18 units at 3333 Carver Road, 5 units at Hope Village, and 27 units within the existing Village One Town Center Housing 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 determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9th day of May, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

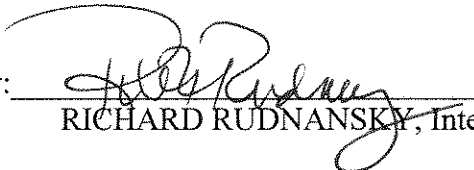
AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: Keating, Olsen

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-292**

**A RESOLUTION APPROVING SUBMITTAL OF A GRANT APPLICATION TO  
THE FEDERAL TRANSIT ADMINISTRATION (FTA) REQUESTING \$2,954,800  
IN SECTION 5307 FORMULA FUNDS AND \$88,530 IN CONGESTION  
MITIGATION AND AIR QUALITY (CMAQ) FUNDS TO HELP OFFSET THE  
COST OF PROVIDING PUBLIC TRANSPORTATION SERVICE IN THE  
MODESTO AREA, 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 Federal Transit Administration required for the projects, and

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

WHEREAS, the City of Modesto has received authority from the Designated Recipient, StanCOG, to apply for Section 5307 Urban Area Formula Program Assistance for no more than \$2,954,800 for FY 2005-2006, and

WHEREAS, the City of Modesto, through a competitive process, received approval from StanCOG to apply for Congestion Management and Air Quality (CMAQ) funds for no more than \$88,530 for FY 2005-2006, and

WHEREAS, the projects in the Section 5307 and CMAQ grant application are in the Federal Transportation Improvement Program (FTIP) adopted by StanCOG February 9, 2005, and



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

WHEREAS, by a report to the Council dated April 20, 2006, from the Public Works Director, City staff recommended submitting a grant application for \$2,954,800 in Section 5307 formula FTA funds and \$88,530 in CMAQ funds to partially offset the operational and capital costs of the City's public transit program, and

WHEREAS, the Modesto City Council conducted a Public Hearing on May 9, 2006, at 5:30 p.m., in the Tenth Street Place Chambers located in the Basement of 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 for Federal Section 5307 and CMAQ assistance on behalf of the City of Modesto with the Federal Transit Administration (FTA) for Federal assistance authorized by 49 U.S.C. Chapter 53, Title 23, United States Code, or other Federal statutes authorizing a project administered by the Federal Transit Administration.

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

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary grant documents with the Federal Transit Administration 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 9<sup>th</sup> day of May 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-293**

**A RESOLUTION FINDING THAT THE FOLLOWING PROJECT IS WITHIN THE SCOPE OF THE VILLAGE ONE PROGRAM ENVIRONMENTAL IMPACT REPORT (SCH NO. 90020181), AS AMENDED BY THE SUPPLEMENTAL EIR: APPLICATION FOR A PRECISE PLAN FOR AREA NO. 30 OF THE VILLAGE ONE SPECIFIC PLAN AND FOR CONCURRENT REZONING FROM SPECIFIC PLAN-HOLDING ZONE, SP-H, TO SPECIFIC PLAN-OVERLAY ZONE, SP-O, PROPERTY LOCATED ON THE EAST SIDE OF FINE AVENUE, SOUTH OF SHARON AVENUE, NORTH SIDE OF MERLE AVENUE AND WEST OF CLAUS ROAD (CARY POPE)**

WHEREAS, the Modesto City Council has adopted Resolution No. 90-757 certifying that the Village One Final Environmental Impact Report ("EIR") (State Clearing House No. 90020181) is complete and adequate pursuant to Section 15090 of the California Environmental Quality Act ("CEQA") Guidelines, and

WHEREAS, the Modesto City Council has adopted Resolution No. 94-297 which certified the Final Supplemental EIR for Village One; thus, the 1990 Village One Program EIR has been amended and updated by the 1994 Supplemental EIR, adopted by Resolution No. 94-297 on May 24, 1994, and

WHEREAS, on May 6, 2003, the City Council adopted Resolution No. 2003-223 which adopted an Addendum to Village One Specific Plan Program Environmental Impact Report for the Village One Facilities Master Plan Update – May 2003 ("VI FMP"), and

WHEREAS, an application has been filed by Cary Pope for a Precise Plan for Area No. 30, property located on the east side of Fine Avenue, south of Sharon Avenue, north side of Merle Avenue, and west of Claus Road, and

WHEREAS, the applicant has applied for approval of a rezoning from Specific Plan-Holding Zone, SP-H, to a Specific Plan-Overlay, SP-O, and

WHEREAS, the City's Community & Economic Development Department reviewed the proposed Project to determine if said Project might have a significant effect on the environment, and

WHEREAS, City staff has prepared a Written Checklist, Environmental Assessment No. EA/C&ED 2005-35, which concluded that the proposed Project is within the scope of the Village One Program EIR (SCH No. 90020181), as amended by the Village One Supplemental EIR, and the addendum to Village One Specific Plan Program Environmental Impact Report for the Village One Facilities Master Plan, and

WHEREAS, the Planning Commission, by Resolution No. 2006-09, adopted on February 27, 2006, and City staff, by a report dated April 11, 2006, from the Community and Economic Development Department, recommended to the City Council approval of a Precise Plan for Area No. 30, and recommended approval of an amendment to Section 13-3-9 of the Zoning Map to rezone from Specific Plan-Holding Zone, SP-H to Specific Plan-Overlay Zone, SP-O, property located on the east side of Fine Avenue, south of Sharon Avenue, north side of Merle Avenue, and west of Claus Road, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on May 9, 2006, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Written Checklist, Environmental Assessment No. EA/C&ED 2005-35, entitled "Determination: Project within the Scope of the Village One Specific Plan Program Environmental Impact Report Initial Study EA/C&ED No. 2005-35 For the Proposed Precise Plan and Concurrent Zoning for

Precise Plan Area No. 30 in the Village One Specific Plan Area”, for the proposed project, and the Council hereby makes the following findings:

1. The proposed Precise Plan and rezoning is consistent with the Village One Specific Plan and Modesto Urban Area General Plan, and
2. As per Sections 15168 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
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 No. EA/C&ED 2005-35, provides the substantial evidence to support findings 3-6, noted above.

A copy of said Written Checklist, Environmental Assessment No. EA/C&ED 2005-35, entitled "Determination: Project within the Scope of the Village One Specific Plan Program Environmental Impact Report Initial Study EA/C&ED No. 2005-35 for the proposed Precise Plan and Concurrent Zoning for Precise Plan Area No. 30 in the Village One Specific Plan Area", is attached hereto as Exhibit "A", and incorporated herein by reference.

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 9<sup>th</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

EXHIBIT "A"

WRITTEN CHECKLIST

EA/C&ED NO. 2005-35

**Determination:  
Project within the Scope of the  
Village One Specific Plan  
Program Environmental Impact Report**

**Initial Study EA/C&ED No. 2005-35  
For the Proposed Precise Plan and Concurrent  
Zoning for Precise Plan Area No. 30 in the  
Village One Specific Plan Area**

**City of Modesto  
P.O. Box 642  
Modesto, CA 95353**

*Prepared by:*

**Robert S. Cannell, Senior Planner  
City of Modesto  
Community & Economic Development  
Department  
209/577-5274**

**November 4, 2005**



# WRITTEN CHECKLIST

EA/C&ED No. 2005-35

## I. PURPOSE

This written checklist, pursuant to CEQA Guidelines Section 15168 (C) (4), serves to make a determination where subsequent activities of a Program EIR involve site-specific operations, based on evaluation of the site and the activity to determine whether the environmental effects of the operation were covered in the program EIR. Based on a review of the project and Section 15162(a), this determination would permit the lead agency (City of Modesto) to approve the activity as being within the scope of the project covered by the Program EIR. This determination includes whether any new environmental document is required beyond the adopted Village One Specific Plan Program EIR (SCH# 90020181) for the proposed Precise Plan and concurrent zoning for Precise Plan Area No. 30).

The 1994 Supplemental EIR that amended and superseded the 1990 Program EIR is the document reviewed for projects within the Village One Specific Plan area. A summary of significant impacts and their mitigation measures from the 1994 Supplemental EIR is attached as Exhibit "A." Where appropriate those feasible mitigation measures developed in the Supplement to the program EIR shall be incorporated into the proposed project.

## II. PROJECT INFORMATION

1. **Project Title:** Precise Plan No. 30 and Concurrent Rezoning, Village One Specific Plan
2. **Lead Agency Name and Address:** City of Modesto
3. **Contact Person and Phone Number:** Robert S. Cannell, Senior Planner  
Modesto Community & Economic Development  
Department  
209/577-5274

- 4. Project Location:** North of Merle Avenue, South of Sharon Avenue,  
East of Fine Avenue, all West of Claus Road  
Modesto, California
- 5. Project Sponsor's Name and Address:** Cary Pope (Landowner within PPA #30)  
3837 Merle Avenue  
Modesto, CA 95355
- Engineer: O'Dell Engineering  
1165 Scenic Drive  
Modesto, CA 95350
- 6. General Plan Designation:** The General Plan land use designation for the  
project site is: Village Residential (VR).
- 7. Zoning:** Specific Plan Overlay (SP-H)
- 8. Description of Project:** The proposed Precise Plan contains a concept plan for approx-  
imately 174 single-family lots in accordance with the Specific Plan. The Precise Plan  
proposal ties into the circulation system with three local streets connecting existing  
peripheral street system.
- 9. Surrounding Land Uses and Setting:** The Village One Specific Plan Area is well over half  
built, as planned and approved by the 1990 Village One Specific Plan. The project area is  
bounded by developing subdivisions, Sequoia Estates to the south, Banyon Estates and  
Falling Leaf to the north, two schools and a City park to the west.
- 10. Other Public Agencies whose Approval Is Required:** None.

### III. DETERMINATION:

Based on the analysis contained in this document, staff finds that pursuant to Guidelines  
Section 15162 the following is true for the proposed project:

- (1) Major revisions to the Village One Program EIR as amended by the 1994  
Supplement, are not required because the project will not involve new significant  
environmental effects or increase severity of effects previously identified, and
- (2) Major revisions to the Village One Program EIR as amended by the 1994  
Supplement, are not required because no substantial changes to circumstances  
have occurred that involve new significant environmental effects or increase  
severity of effects previously identified, and

- (3) No new information of substantial importance that was not known has become available that shows:
- a. one or more significant effects is not discussed in the Village One Program EIR as amended by the 1994 Supplement,
  - b. identified significant effects will be more severe,
  - c. previously infeasible mitigation measures are now feasible,
  - d. project proponents have declined to adopt mitigation measures that would substantially reduce significant effects.
- (4) Because no new significant effects have been identified and no new mitigation is required for the project, the environmental effects of the operation of the proposed project were covered by the Village One Program EIR as updated by the 1994 Supplement. Therefore, pursuant to CEQA Section 15168 (C) (4) no new environmental document is required.
- (5) Therefore, the projects known as Precise Plan 30 is within the scope of the Village One Program EIR.

Robert S. Cannell      11-14-05

Project Manager

Date

## IV. PROJECT EVALUATION:

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

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

Aesthetic and visual impacts are analyzed on pages III-100 through III-101 of the 1994 Supplement.

### Responses to Checklist Questions

- a. The Village One Specific Plan program EIR found that as the Specific Plan area is developed, it will eliminate views of the valley and the distant mountains from adjacent areas and reduce the area's visual open space. However, the program EIR found the effects of buildout of Village One on scenic vistas to be less than significant because views from the project area are minimal. The proposed residential project would not change the extent or nature of construction in the Specific Plan area, or cause any other changes in the project area. Impacts on scenic vistas would therefore remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.
- b. The Village One Specific Plan program EIR found that there are no scenic resources in the project area, and that development within the Specific Plan area would therefore not result in significant impacts on scenic resources. This finding would not be affected by the proposed residential project. There would be no impact. No mitigation is required.

- c. The Village One Specific Plan program EIR found that the development within the Specific Plan area would have a less-than-significant impact on the visual character of the area. The proposed residential project would not change the design or layout of the development proposed within the Village One Specific Plan. For this reason, impacts on the visual character of the area would remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.
- d. The proposed residential development is consistent with the Village One Specific Plan. For this reason, impacts associated with additional light and glare would remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.

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

**II. AGRICULTURAL RESOURCES.** In determining whether impacts on agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation. Would the project:

- |    |   |                          |                          |                          |                                     |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Impacts on agricultural resources are analyzed on pages III-80 through III-94 of the 1994 Supplement.

## Responses to Checklist Questions

- a. The Village One Specific Plan program EIR found that land designated as Prime Farmland would be lost as a result of development in the Village One Specific Plan area. This impact was determined to be significant and not mitigable. The proposed residential development would not affect this finding because the project area would remain the same. There would be no additional impact. No mitigation is required.
- b. The Village One Specific Plan program EIR presented information showing that any Williamson Act contracts in the Village One Specific Plan area would be automatically cancelled on annexation of the land to the City of Modesto, which has occurred, or would expire within 10 years of the time the original program EIR was prepared. The last Williamson Act contract covering land in the Village One Specific Plan area expired in 2001. There are no lands in the project area under Williamson Act contract. The Village One Specific Plan area has also been rezoned consistent with the specific plan, and no lands in the project area are now zoned for agricultural use. There would be no additional impact. No mitigation is required.
- c. The Village One Specific Plan program EIR identified a potential land use conflict between new residential uses in the specific plan area and adjacent agricultural uses. Such conflicts can lead to conversion of adjacent farmlands to other uses. The program EIR proposed mitigation measures for this potential impact that would reduce the impact's significance, although the EIR noted that the mitigation measure might not fully mitigate the impact. No additional mitigation measures are available for this impact. This finding would not be affected by the proposed project because the project area and proposed land uses would remain the same. There would be no additional impact. No mitigation is required.

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

**III. AIR QUALITY.** When available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

- |    |   |                          |                          |                          |                                     |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Conflict with or obstruct implementation of the applicable air quality plan?                                    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Violate any air quality standard or contribute substantially to an existing or projected air quality violation? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
c. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is a nonattainment area for an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Expose sensitive receptors to substantial pollutant concentrations?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Create objectionable odors affecting a substantial number of people?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Impacts on air quality are analyzed on pages III-45 through III-54 of the 1994 Supplement.

## Responses to Checklist Questions

- a. / b. The Village One Specific Plan program EIR found that air pollution from project-related construction traffic and fireplaces & wood stoves in planned residential areas would violate air quality standards and contribute to an existing air quality violation. Construction traffic emissions would contribute to violation of the state and federal 8-hour carbon monoxide (CO) and particulate matter (PM10) standards and the federal ozone standard in the Modesto Urban Area and the San Joaquin Valley Air Basin. Urban traffic pollution would contribute to violations of the state ozone, CO, and PM10 standards in the Modesto Urban Area and San Joaquin Valley Air Basin. Residential pollution would contribute to violations of the pollutant standard index in the Modesto Urban Area. Partial mitigation for these impacts is included in the program EIR (Mitigation Measures 3-5), and the City of Modesto adopted a statement of overriding consideration for each impact. The proposed residential project would not change the amount of development and construction in the project area, so trips generated by the project would not be affected and the types of land uses would not change. There would be no additional impact. No mitigation is required.
- c. The Village One Specific Plan program EIR found that air pollutant emissions associated with traffic at buildout of Village One would exacerbate the existing ozone, PM10, and CO violations in the Modesto area and cause a significant cumulative impact. Partial mitigation for these emissions is included in the program EIR (Mitigation Measures 4.5.3[a] and 4.5.3[b]), and the City of Modesto made a statement of overriding consideration for each impact. The proposed residential development would not change the amount of traffic associated with buildout of Village One or the types of land uses, so trips generated by the project would not be affected. There would be no additional impact. No mitigation is required.

- d. The Village One Specific Plan program EIR found that PM10 generated during construction would aggravate the respiratory problems of people living and working nearby, therefore exposing sensitive receptors in the area to pollutant concentrations and causing a significant impact. However, the program EIR outlines mitigation measures that will be implemented to reduce the impact to an acceptable level (Mitigation Measure 40). The proposed residential development would not change the level of construction emissions. There would be no additional impact. No mitigation is required.
- e. The proposed residential development would not create odors. There would be no impact. No mitigation is required.

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

**IV. BIOLOGICAL RESOURCES.** Would the project:

- |  |                          |                          |                                     |                                     |
|--|--------------------------|--------------------------|-------------------------------------|-------------------------------------|
| a. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/>            |
| b. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| c. Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marshes, vernal pools, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means?                                 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |
| d. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            | <input checked="" type="checkbox"/> |



	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
e. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Impacts on biological resources are analyzed on pages III-68 through III-79 of the 1994 Supplement.

## Responses to Checklist Questions

- a. The Village One Specific Plan program EIR found that the buildout could result in the loss of foraging habitat for Swainson's Hawk, a state-listed threatened species. However, a Swainson's Hawk survey was conducted by a qualified biologist for the project site. The ensuing report (attached) found that the development of the project site would result in a less than significant impact to foraging habitat for Swainson's Hawk. Therefore, no mitigation is required.
- b. The Village One Specific Plan program EIR did not find that any riparian habitat or other designated sensitive natural community was present in the project area, and so found that the project would have a less-than-significant impact. The proposed residential development would not change the boundaries of the Specific Plan area. There would be no impact. No mitigation is required.
- c. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would result in the loss of lands that might be classified as wetlands by the U.S. Army Corps of Engineers, but that, with mitigation, the impact would be less than significant. The proposed residential development would not change the Specific Plan area boundaries or the areas that would be disturbed. There would be no additional impact. No mitigation is required.
- d. The Village One Specific Plan program EIR did not identify any migratory corridors in the project area, nor did it find that the project would interfere with the movement of any species. The proposed residential development would not change the Specific Plan area boundaries. There would be no impact. No mitigation is required.
- e. / f. No local biological resource protection policies, ordinances, habitat conservation plans, or natural community conservation plans apply to the Village One Specific Plan area. There would be no impact. No mitigation is required.

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

## Responses to Checklist Questions

- a.-d. Impacts on cultural resources resulting from the buildout of Village One (e.g., from construction of associated infrastructure) are addressed in the Opportunities/Constraints Report prepared for the Modesto Planning Commission (December 1, 1989). The report concluded that there are no known historic, archaeological, or paleontological resources in the Village One Specific Plan area. Based on the results of this report, (Cultural and Historic Resources Report, page 3) it was determined that the likelihood that the proposed residential development would change or disturb human remains or significant historic, archaeological, or paleontological resources was low.

The proposed project would not change the locations or types of construction in the project area nor the boundaries of the project area. Development of the proposed project will not result in effects on scattered existing structures. A Cultural Resources Assessment was prepared to determine if any of these affected structures are considered historic resources. The Cultural Resources Assessment is attached to this document as Appendix A. No historic structures are located within the project area boundaries. Therefore, no mitigation measures are necessary.

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

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

**VI. GEOLOGY AND SOILS.** Would the project:

- |    |  |                          |                          |                          |                                     |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:  |                          |                          |                          |                                     |
|    | 1. Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|    | 2. Strong seismic groundshaking?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|    | 3. Seismic-related ground failure, including liquefaction?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
|    | 4. Landslides?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Result in substantial soil erosion or the loss of topsoil?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project and potentially result in an onsite or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. | Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e. | Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems in areas where sewers are not available for the disposal of wastewater?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Impacts associated with geology and soils are analyzed on pages III-105 through III-108 of the 1994 Supplement.

## Responses to Checklist Questions

- a.-d. The program EIR, as supplemented, found that the project area is not subject to geologic or soil-related hazards that cannot be adequately mitigated through the implementation of existing city regulations, such as the building code. No significant impacts were identified, and no mitigation measures were required. The proposed residential development would not change the locations or types of construction in the project area nor the boundaries of the project area. There would be no additional impact. No mitigation is required.
- e. The Village One Specific Plan included provisions for the project to be served by public sewers. No septic tanks or alternative wastewater systems were proposed. The proposed residential project would not change the proposed method of wastewater disposal. There would be no impact. No mitigation is required.

Potentially Significant Impact	Less than Significant with Mitigation	Less-than- Significant Impact	No Impact
--------------------------------------	--	-------------------------------------	--------------

### VII. HAZARDS AND HAZARDOUS MATERIALS.

Would the project:

- |    |  |                          |                          |                          |                                     |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Emit hazardous emissions or involve handling hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. | Be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?                   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e. | Be located within an airport land use plan area or, where such a plan has not been adopted, be within two miles of a public airport or public use airport, and result in a safety hazard for people residing or working in the project area? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

		Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
f.	Be located within the vicinity of a private airstrip and result in a safety hazard for people residing or working in the project area?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g.	Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h.	Expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Impacts associated with hazards and hazardous materials are analyzed on pages III-80 through III-94 and III-109 through III-119 of the 1994 Supplement.

## Responses to Checklist Questions

- a.-c. The Village One Specific Plan does not allow any land uses that would use hazardous materials. The proposed residential development would not change land uses contemplated by the Specific Plan. There would be no impact. No mitigation is required.
- d. The Village One Specific Plan program EIR, as supplemented, found no hazardous materials were stored at or near the project site. No significant impacts were identified, and no mitigation measures were required. There would be no additional impact. No mitigation is required.
- e. The Village One Specific Plan area is not located in an airport land use plan area or within 2 miles of a public airport. There would be no impact. No mitigation is required.
- f. The Village One Specific Plan program EIR found that a private airstrip, the Eastside Mosquito Abatement District Airstrip, is located to the east of the Village One Specific Plan area. However, take-offs and landings were found to take place parallel to and outside the Specific Plan area boundaries, and flight patterns are generally situated to the east of the Specific Plan area. There would be no additional impact. No mitigation is required.
- g. Since the adoption of the Village One Specific Plan, the Modesto General Plan has been updated to include development of Village One consistent with the specific plan. City emergency plans are developed with the assumption that the Village One Specific Plan will be implemented. The proposed residential development would not change construction, land use, or other physical attributes of the Right-of-Way Acquisition. There would be no additional impact. No mitigation is required.

- h. The project site is located in an area of the City of Modesto planned for buildout of an urban neighborhood. Approximately 50% of the project area remains undeveloped, with a covering of dry brush and vegetation. The potential for wildland fires is low, and this potential will decrease further as buildout continues. There would be no additional impact. No mitigation is required.

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

**VIII. HYDROLOGY AND WATER QUALITY.**

Would the project:

- |    |  |                          |                          |                          |                                     |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Violate any water quality standards or waste discharge requirements?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, resulting in a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation onsite or offsite?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. | Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding onsite or offsite?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e. | Create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f. | Otherwise substantially degrade water quality?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
g. Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
h. Place within a 100-year flood hazard area structures that would impede or redirect floodflows?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
i. Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
j. Contribute to inundation by seiche, tsunami, or mudflow?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Impacts associated with hydrology are analyzed on pages III-109 through III-119 of the 1994 Supplement.

## Responses to Checklist Questions

- a. The Village One Specific Plan program EIR did not find that residential development would violate any water quality standards or waste discharge requirements. The proposed project is consistent with the Village One Specific Plan, so there would be no additional impacts. No mitigation is required.
- b. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area might interfere with local groundwater recharge. However, the impact was found to be less than significant because the Specific Plan area is not a major groundwater recharge area and it includes a recharge/discharge plan for disposal of stormwater runoff and recharge of groundwater. The proposed project would not change the amount of impervious surface in the Specific Plan area or the proposed storm drain facilities. There would be no additional impact. No mitigation is required.
- c.-e. The Village One Specific Plan program EIR found that development will substantially alter the existing drainage pattern of the area but, because the project will incorporate an urban storm drain system, will not result in any erosion impacts. The proposed project would not change the amount of impervious surface or the proposed storm drain facilities. There would be no additional impact. No mitigation is required.

- f. The Village One Specific Plan program EIR did not find that development would substantially degrade water quality. The proposed project would not change water use or discharge associated with the buildout of the Village One Specific Plan area. There would be no additional impact. No mitigation is required.
- g.-i. According to the Village One Specific Plan program EIR, the project site is not situated in a 100-year flood hazard area or downstream from a levee or dam. There would be no impact. No mitigation is required.
- j. The project site is located in a flat, inland area not susceptible to seiche, tsunami, or mudflow. There would be no impact. No mitigation is required.

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

**IX. LAND USE AND PLANNING.** Would the project:

- |  |                          |                          |                          |                                     |
|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Physically divide an established community?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Conflict with any applicable habitat conservation plan or natural community conservation plan?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Impacts associated with land use and planning are analyzed on pages III-80 through III-94 of the 1994 Supplement.

## Responses to Checklist Questions

- a. The proposed project would not result in any physical changes to the environment beyond those described in the Village One Specific Plan. Village One would continue to be developed as a planned community; therefore, the project would not divide an established community. There would be no impact, and no mitigation is required.
- b., c. The Village One Specific Plan has been adopted by the City of Modesto and has been incorporated into the Modesto General Plan. The proposed project would be consistent with the Village One Specific Plan. There are no other applicable land use or conservation plans for the project area. There would be no impact. No mitigation is required.



	Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
<b>X. MINERAL RESOURCES.</b> Would the project:				
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## Responses to Checklist Questions

- a., b. No known mineral resources or important recovery sites are located in the Village One Specific Plan Area. There would be no impact. No mitigation is required.

<b>XI. NOISE.</b> Would the project:				
c. Result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Be located within an airport land use plan area, or, where such a plan has not been adopted, within two miles of a public airport or public use airport and expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Be located in the vicinity of a private airstrip and expose people residing or working in the project area to excessive noise levels?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Impacts associated with noise are analyzed on pages III-55 through III-67 of the 1994 Supplement.

- a., c. The Village One Specific Plan program EIR found that proposed residential housing in the project area would be exposed to noise levels exceeding general plan thresholds, but mitigation measures were incorporated to reduce the impact to a less-than-significant level. The proposed project would not change project-related noise-generating activities. There would be no additional impact. No mitigation is required.
- b. The Village One Specific Plan program EIR found that the buildout of Village One would not expose people to, or generate excessive, groundborne vibration or groundborne noise levels. There would be no impact. No mitigation is required.
- d. The Village One Specific Plan program EIR found that construction of the proposed project would result in a substantial temporary increase in ambient noise levels for residential housing. However, mitigation measures were incorporated into the program EIR to reduce the impact to a less-than-significant level. The proposed project would not change construction activities. There would be no additional impact. No mitigation is required.
- e. The Village One Specific Plan program EIR found that the Village One Specific Plan area is not located in an airport land use plan area or within 2 miles of a public airport. There would be no impact. No mitigation is required.
- f. The Village One Specific Plan program EIR found that a private airstrip, the Eastside Mosquito Abatement District Airstrip, is located east of the Village One Specific Plan area. However, take-offs and landings take place parallel to and outside the Specific Plan boundaries, and flight patterns are generally situated east of the project area. There would be no additional impact. No mitigation is required.

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

**XII. POPULATION AND HOUSING.** Would the project:

- |   |                          |                          |                          |                                     |
|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. Induce substantial population growth in an area, either directly (e.g., by proposing new homes and businesses) or indirectly (e.g., through extension of roads or other infrastructure)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. Displace a substantial number of existing housing units, necessitating the construction of replacement housing elsewhere?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. Displace a substantial number of people, necessitating the construction of replacement housing elsewhere?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Impacts on population and housing are analyzed on pages III-95 through III-99 of the 1994 Supplement.

## Responses to Checklist Questions

- a.-c. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would not result in significant adverse impacts on population and housing units. No mitigation is required.

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

### XIII. PUBLIC SERVICES. Would the project:

- a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or a need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:

Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Impacts on public services are analyzed on pages III-120 through III-158 of the 1994 Supplement.

## Responses to Checklist Questions

- a. The Village One Specific Plan program EIR found that the only significant impact that buildout of the Village One Specific Plan area would have on public services would be in the areas of fire protection and law enforcement. Mitigation measures were identified in the program EIR to reduce the level of this impact to a less-than-significant level. No other significant impacts on public services were identified. The proposed project would not change the provision of public services. There would be no additional impact. No mitigation is required.

Potentially Significant Impact	Less than Significant with Mitigation	Less-than- Significant Impact	No Impact
--------------------------------------	--	-------------------------------------	--------------

**XIV. RECREATION.** Would the project:

- |    |   |                          |                          |                          |                                     |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?                        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Impacts on recreation are analyzed on pages III-120 through III-158 of the 1994 Supplement.

## Responses to Checklist Questions

- a., b. No significant impacts on recreation were identified in the program EIR. The proposed project would not change the provision of parks and recreation facilities. There would be no additional impact. No mitigation is required.

Potentially Significant Impact	Less than Significant with Mitigation	Less-than- Significant Impact	No Impact
--------------------------------------	--	-------------------------------------	--------------

**XV. TRANSPORTATION/TRAFFIC.** Would the project:

- |    |   |                          |                          |                          |                                     |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Cause, either individually or cumulatively, exceedance of a level-of-service standard established by the county congestion management agency for designated roads or highways?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

	Potentially Significant Impact	Less than Significant with Mitigation	Less-than-Significant Impact	No Impact
d. Substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Impacts on transportation and traffic are analyzed on pages III-40 – III-44 of the 1994 Supplement.

## Responses to Checklist Questions

- a., b. The Village One Specific Plan program EIR found that buildout of the Village One Specific Plan area would cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system and would affect level of service at several intersections. Mitigation measures identified in the program EIR were identified to reduce impacts to a less-than-significant level for all intersections except the Briggsmore Avenue/Oakdale Avenue intersection. For that intersection, the impact was determined to be significant and not mitigable. The City of Modesto made a statement of overriding considerations for that impact at the time it certified the 1994 Supplement. The proposed project would not alter traffic patterns in the Specific Plan area or result in additional trips. There would be no additional impact. No mitigation is required.
- c. The Village One Specific Plan program EIR did not find that the buildout of the Village One Specific Plan area would result in a change in air traffic patterns. The proposed project does not include any elements that would affect air traffic patterns. There would be no impact. No mitigation is required.
- d. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area included any hazardous design features or increased any incompatible uses for roads in the project area. The proposed project would not change roadway design or land uses. There would be no impact. No mitigation is required.
- e. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area would result in inadequate emergency access in the Specific Plan area. The Specific Plan includes provision of adequate roadways to serve the Village One development. The proposed project would not change roadway design or land uses contained within the Specific Plan. There would be no additional impact. No mitigation is required.

- f. The Village One Specific Plan program EIR did not find that buildout of the Village One Specific Plan area would result in inadequate parking capacity in the Specific Plan area. The provision of parking, consistent with zoning requirements for the proposed project, is included in the project design. There would be no impact. No mitigation is required.
- g. The proposed project does not include any changes related to transportation policies, and would have no impact. No mitigation is required.

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

**XVI. UTILITIES AND SERVICE SYSTEMS.**

Would the project:

- |    |   |                          |                          |                          |                                     |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?                           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?                                     | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. | Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e. | Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f. | Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g. | Comply with federal, state, and local statutes and regulations related to solid waste?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Impacts on utilities and service systems are analyzed on pages III-120 through III-158 of the 1994 Supplement.

## Responses to Checklist Questions

- a. The City provides sewer services to the Village One area. All wastewater would be directed to city wastewater treatment facilities. No wastewater discharges would occur in the project area. The proposed project would not increase the amount of wastewater that will be generated at buildout of the Specific Plan area. There would be no additional impact. No mitigation is required.
- b., e. The Village One Specific Plan program EIR discusses the changes and new facilities that will be needed to accommodate buildout of the Village One Specific Plan area. The EIR found that, with mitigation, there would be no significant impact on water or wastewater infrastructure. There would be no additional impact as a result of the proposed project. No mitigation is required.
- c. The Village One Specific Plan program EIR discusses the changes and new facilities that will be needed in order to accommodate buildout of the Village One Specific Plan area. The EIR found that, with mitigation, there would be no significant impact on stormwater drainage facilities. An update to the Storm Drainage Master Plan has been prepared and is under consideration by the City. An addendum to the Village One program EIR for the Storm Drainage Master Plan has also been prepared and is under consideration by the City. The project would not result in any additional impacts or the need for any additional mitigation beyond that assessed in the Addendum to the Village One Program EIR for the Storm Drainage Master Plan.
- d. The Village One Specific Plan program EIR found that, with mitigation, the effects of buildout of the Village One Specific Plan area on water supply would be less than significant. There would be no additional impact resulting from the proposed project. No mitigation is required.
- f., g. The Village One Specific Plan program EIR found that the area's landfills have sufficient permitted capacity to accommodate the project's solid waste disposal needs. The proposed project would not result in any physical changes in the environment or the generation of any additional solid waste. There would be no impact. No mitigation is required.

**XVII. MANDATORY FINDINGS OF SIGNIFICANCE.**

- |    |  |                          |                          |                          |                                     |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Does the project have impacts that are individually limited but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Cumulative impacts are analyzed on page III-161 of the 1994 Supplement.

**Responses to Checklist Questions**

- a. As described above, the proposed project would not result in any significant impacts on the environment over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.
- b. As described above, the proposed project would not result in any significant impacts, either on a project or on cumulative level, over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.
- c. As described above, the proposed project would not result in any significant impacts affecting humans over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR.



## V. MITIGATION APPLIED TO PROJECT

The following mitigation measures developed in the 1994 Village One Specific Plan Supplement to the Program EIR are appropriate to the project and will be incorporated into the project. Therefore, the environmental effects of the project were covered by the program EIR.

1. Prior to the Final Inspection, Building Inspection Division shall verify that all fireplaces and wood stoves in residential units are equipped to meet the performance and emissions standards set forth in Part 60, Title 40, Subpart AAA Code of Federal Regulations, February 26, 1988.
2. Construction noise is regulated by the City's Noise Ordinance, Section 4.9 – 103. Construction noise is generally permitted during the hours of 7:00 am to 9:00 pm. To avoid complaints from nearby residents, and possible citations, the full text of the ordinance should be reviewed by builders prior to construction. City construction projects will be monitored by Construction Inspection for conformance with the City's Noise Ordinance.
3. During construction activities, Building Inspection Division shall verify that contractors observe the requirements of City of Modesto Standard Specification 2.07(A)(5), Dust Control, and when necessary, Regulation VIII of the San Joaquin Valley Unified Air Pollution Control District to control the generation of PM 10 from construction related dust and emissions.
4. "All deeds for lots sold in this subdivision shall contain the following statement:  
  
"This lot is located near existing agricultural operations. Residents may be subjected to customary and accepted farming practices that produce noise, dust, smoke and other impacts. The grantee accepts the potential impacts of customary farming practices, which may include the application and use of various, chemicals through spraying, spreading or other customary means in accordance with applicable state and federal regulations regarding such applications. The grantee also acknowledges the need to avoid activities that conflict with nearby farm uses."



September 13, 2004

Mr. John Degele  
O'Dell Engineering  
1165 Scenic Drive  
Modesto, CA 95350

Dear Mr. Degele:

I conducted a field reconnaissance survey of the Modesto Properties on September 9, 2004. One parcel was evaluated, APN 85-07-18, in the area bounded by Fine Avenue, Sharon Avenue, Claus Road, and Merle Avenue. The purpose of this survey was to evaluate the properties for potential Swainson's hawk foraging or nesting habitat. I evaluated the property and conducted a visual survey of the surrounding area within a 0.5 mile radius. No Swainson's hawks or Swainson's hawk nest sites were observed on the properties. However, the California Natural Diversity Database (CNDDDB 2003) documents four occurrences within 10 miles of the properties. One of these occurrences, Number 713, was last documented in April 1999.

The Swainson's hawk is state listed as threatened, and is also protected by the Migratory Bird Treaty Act of 1918 (16 USC 703-711). Sections 3503, 3503.5, and 3800 of the California Fish and Game Code prohibit the take, possession, or destruction of birds, their nests, or eggs. The California Department of Fish and Game (CDFG) considers loss of foraging habitat within a 10-mile radius of an active Swainson's hawk nest as an impact to this species. Nests are considered active if they have been used at least once during the last five years (CDFG 1994). CDFG also considers any intensive new disturbance within 0.25-mile of an active nest that may cause nest abandonment or forced fledging as an impact to the species.

The California Department of Fish and Game Staff Report Regarding Mitigation for Impacts to Swainson's Hawk (*Buteo swainsoni*) in the Central Valley of California states that the following vegetation types/agricultural crops are considered appropriate foraging habitat for the Swainson's hawk: alfalfa, fallow fields, beet, tomato, and other low-growing row or field crops, dry-land and irrigated pasture, rice land (when not flooded), and cereal grain crops (including corn after harvest).

The parcel I evaluated consists of a residence and a ruderal field, which was mowed at the time of the site visit. The parcel is bordered on all sides by a mixture of developed properties and small pastures, some pastures being grazed by cattle at the time of the site visit.

Assumptions used to evaluate impacts from the proposed development:


- Direct impacts to Swainson's hawks are correlated with the loss of plant communities that provide their primary foraging or nesting habitats.
- Indirect impacts to Swainson's hawks can occur where remaining fragments of undeveloped habitat are isolated from larger areas of contiguous habitat. The remaining habitats are expected to have lower biological values than those prevailing before development.
- Records of Swainson's hawk nests in the 2003 version of the CNDDB are the most reliable current records of Swainson's hawks within the vicinity of the project.
- The site visit was conducted after normal Swainson hawk nesting season, therefore no nesting birds would be likely to be observed.
- Not all lands meeting the strict definition of foraging habitat, irrespective of their quality, size, and location in the landscape, contribute equally to the health and vigor of adults, and their eggs and nestlings.

The Modesto property has low potential for utilization by foraging Swainson's hawk because the prey resources are minimized by disturbance and ruderal vegetation. Disturbance from the developed areas would make the area unappealing to nesting or foraging Swainson's hawks. The sparsely vegetated or mowed pasture areas would provide poor quality habitat for prey species and the smaller prey base is less likely to provide foraging habitat for Swainson's hawks.

I trust that this information meets your needs. However, if you have questions, or if I can be of further assistance, please contact me at (510) 874-3239.

Sincerely,

URS CORPORATION



Rosemary Laird,  
Biologist

**Qualifications:**

- A Master of Science from the College of William and Mary and a Bachelor of Science in Conservation Resource Studies from the University of California at Berkeley.
- Seven years of experience as a biologist and ecologist working with threatened and endangered animal species. I have worked for both the National Marine Fisheries Service and Ducks Unlimited, a wildlife conservation organization.
- Experience conducting wildlife surveys for large infrastructure projects.

**References:**

California Natural Diversity Data Base (CNDDB). 2003. California Natural Diversity Data Base. *Rarefind database*. California Department of Fish and Game. September 26, 2003 version.

CDFG (California Department of Fish and Game). 1994. Staff Report Regarding Mitigation for Impacts to Swainson's Hawks (*Buteo swainsoni*) in the Central Valley of California. Sacramento, CA. November 8, 1994.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-294**

**A RESOLUTION APPROVING THE CITY OF MODESTO DRAFT 2006-2007  
HUD ANNUAL ACTION PLAN, AND AUTHORIZING THE CITY MANAGER  
OR HIS DESIGNEE TO SIGN THE REQUIRED CERTIFICATION AND  
DOCUMENTS FOR SUBMITTAL TO THE DEPARTMENT OF HOUSING AND  
URBAN DEPARTMENT (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 21, 2006, meeting, and

WHEREAS, a duly noticed public hearing was held by the City Council at its meeting of May 9, 2006, to consider submission of an application to the U.S. Department of Housing and Development (HUD) pertaining to the 2006-2007 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 the 2006-2007 HUD Annual Action Plan as presented to the Council for the

Community Development Block Grant (CDBG), HOME Investment Partnership Program (HOME) and the Emergency Shelter Grant (ESG), a copy of which is on file in the Office of the City Clerk, is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute any and all documents necessary in relation to grant agreements, and City staff is hereby authorized to submit an application to the U.S. Department of Housing and Urban Development (HUD) pertaining to the 2006-2007 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 9<sup>th</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-295**

**A RESOLUTION AUTHORIZING THE TRANSFER OF FUNDS IN THE AMOUNT OF \$450,000 FROM CAPITAL IMPROVEMENT PROJECTS #W361 (DOWNSTREAM IMPROVEMENTS), #W612 (GACS WELL TREATMENT WELLS 50 AND 303), #W718 (DEL VALLE TANK 7 VALVE/EQUIPMENT), AND WATER OPERATIONS ORGANIZATION #5013 (WELL SITE IMPROVEMENTS) TO CAPITAL IMPROVEMENT PROJECT #W376 (SOUTH MODESTO PUMP STATION) TO COVER ADDITIONAL PROJECT COSTS**

WHEREAS, the South Modesto Water System Improvement Project budget was developed based on improvements identified in the West-Yost Study, and

WHEREAS, the budget prepared for this project included minimal electrical upgrades as estimated by the electrical engineer, and

WHEREAS, during the development of final specifications, staff realized the addition of two (2) pumps at each of the three (3) tank sites would exceed capacity of the available electrical services, and

WHEREAS, a full electrical engineering analysis to determine the necessary upgrades was required, and

WHEREAS, this analysis determined that two (2) of the well sites needed new power services from Turlock Irrigation District (TID) and all three well sites needed new controllers and switch boxes to manage the electrical loads, and

WHEREAS, in order to complete these projects prior to start of next peak water use season, staff ordered the pumps, electrical cabinets, and switching hardware needed for these upgrades, and

WHEREAS, the additional costs for these upgrades are approximately \$450,000, and

WHEREAS, monies are available from three (3) active CIP projects: W361 for which work may be deferred (\$150,000), W612 (\$195,712) and W718 (\$46,486) which projects are now complete and have cost savings, and from Water Operations Organization 5013 (\$57,802) which also has recognized savings for fiscal year 2006, and

WHEREAS, these funds need to be transferred to CIP Project W376 (South Modesto Pump Station) which was previously established for additional work required by city forces,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the transfer of funds in the amount of \$450,000 from Capital Improvement Projects #W361 (Downstream Improvements), #W612 (GACs Well Treatment Wells 50 and 303), #W718 (Del Valle Tank 7 Valve/Equipment), and Water Operations Organization #5013 (Well Site Improvements) to Capital Improvement Project #W376 (South Modesto Pump Station) to cover additional project costs.

BE IT FURTHER RESOLVED that City staff is hereby authorized to make the necessary budget adjustments in coordination with the Finance Department.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 9<sup>th</sup> day of May 2006, 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: Dunbar, Keating, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: O'Bryant

ABSENT: Councilmembers: Hawn

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-296**

**A RESOLUTION APPOINTING SUSANA ALCALA WOOD TO THE POSITION  
OF MODESTO CITY ATTORNEY AND APPROVING EMPLOYMENT  
AGREEMENT**

WHEREAS, the Modesto City Attorney is one of three charter officers under the City Charter of Modesto, and

WHEREAS, the City Council by charter is authorized to appoint the City Attorney, and

WHEREAS, former City Attorney Michael D. Milich has retired from his position as City Attorney, and

WHEREAS, the City Council has completed a selection process for a new City Attorney, and

WHEREAS, Susana Alcala Wood has been selected by the City Council to become the new City Attorney, and

WHEREAS, Susana Alcala Wood has accepted said selection, and

WHEREAS, the City Council of the City of Modesto and Susana Alcala Wood desire to agree to an employment contract for the position of City Attorney,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby appoints Susana Alcala Wood as the City Attorney for the City of Modesto effective June 12, 2006.

BE IT FURTHER RESOLVED that the Council approves the employment agreement attached hereto as Exhibit "A".

BE IT FURTHER RESOLVED that the Council authorizes the Mayor to execute said employment agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnasky  
RICHARD RUDNASKY, Interim City Attorney

## EMPLOYMENT AGREEMENT

This agreement, made and entered into this 23rd day of May, 2006, by and between the CITY OF MODESTO, State of California, a municipal corporation, hereinafter called "CITY," and Susana Alcala Wood, hereinafter referred to as "EMPLOYEE," both of whom understand as follows:

### RECITALS

WHEREAS, Section 900 of the CITY's Charter provides that the City Attorney of Modesto, California (City Attorney), 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 Attorney of the City of Modesto as provided by said City Charter; and

WHEREAS, COUNCIL desires to employ EMPLOYEE as City Attorney and to provide certain benefits, establish certain conditions of employment and set working conditions of EMPLOYEE; and

WHEREAS, EMPLOYEE desires to serve as City Attorney; 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 Susana Alcala Wood as City Attorney of said CITY to perform the functions and duties specified in Section 902 of the Modesto City Charter and by

Article 2, Chapter 3, of Title II of the Modesto Municipal Code, and to perform other legally permissible and proper duties and functions as Council shall from time to time assign.

SECTION 2. Term

a. Effective June 12, 2006, EMPLOYEE shall fulfill the powers, functions and duties of City Attorney and shall serve in this capacity until such time as this agreement is terminated pursuant to Section 4, 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 4, 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 Attorney, subject only to the provisions as set forth in Section 4, 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. Suspension

a. COUNCIL may suspend EMPLOYEE with full pay and benefits at any time during the term of this agreement, but only if:

(1) There are affirmative votes of four (4) members of COUNCIL for suspension and EMPLOYEE agrees; or

(2) After a public hearing, four (4) members of COUNCIL affirmatively vote to suspend EMPLOYEE for just cause provided, however, that EMPLOYEE shall have been

given written notice setting forth any charges at least ten (10) days prior to such hearing by COUNCIL members bring such charges.

SECTION 4. 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 votes 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 Attorney, 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 six (6) 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 Attorney;

- (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 5. Disability

If EMPLOYEE is permanently disabled or is otherwise unable to perform her duties because of sickness, accident, injury, mental incapacity or health for a period of four (4) successive weeks beyond any accrued sick leave, COUNCIL shall have the option to terminate this agreement, subject to the severance pay requirements of Section 4, subparagraph (c). However, EMPLOYEE shall be compensated for any accrued sick leave, vacation, holidays, and other accrued benefits including but not limited to long term disability. However, nothing in this provision is intended to be in conflict with the Family and Medical Leave Act, Government Code Section 12945.2. In the event that there is any unintentional conflict, the provisions of the Family and Medical Leave Act shall supersede this provision and apply.

#### SECTION 6. Salary

Effective the 12th day of June, 2006, CITY agrees to pay EMPLOYEE for her services rendered pursuant to this agreement an annual base salary of \$144,000.00, payable in installments at the same time as other employees of CITY are paid.

#### SECTION 7. Other Supplemental Benefits

a. Vacation Leave. Upon the effective date of this agreement, EMPLOYEE shall be credited with one hundred and twenty (120) hours of vacation leave and commence accruing

vacation at the rate of one hundred sixty (160) hours during year one (1), one hundred sixty four (164) hours during year two (2), one hundred sixty eight (168) hours during year three (3) and one hundred seventy two (172) hours during year four (4). In recognition of EMPLOYEES's seventeen (17) years of prior service in municipal government, EMPLOYEE shall accrue vacation at the maximum accrual rate of two hundred (200) hours annually after completion of four (4) years of service with CITY. 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 2006 hours, upon effective date of this agreement.

b. Automobile. EMPLOYEE's functions and duties require that she shall have the use of an automobile during her employment with the CITY. CITY shall reimburse EMPLOYEE the monthly sum of \$400 for the expense of owning, operating, and maintaining and insuring her personal automobile.

c. Deferred Compensation. CITY shall offer to EMPLOYEE the same 457 deferred compensation plan, and EMPLOYEE shall participate in the mandatory 401(a) plan and CITY contributions as provided to other charter officers.

d. Other Benefits. Employee and her dependents shall continue to be eligible for and receive such disability, health, and life insurance and sick leave as provided to other Management and Confidential employees of CITY. EMPLOYEE shall be credited with sixty (60) hours of sick leave upon commencement of employment. EMPLOYEE shall be included in the Public Employees' Retirement System (PERS). CITY shall pay 6.6% of the "EMPLOYEE's share" and the full "CITY contribution" on behalf of EMPLOYEE. All actions taken by COUNCIL relating to fringe benefits for employees 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 (PERS) benefits and payments, health insurance, dental insurance and life insurance. CITY shall also pay EMPLOYEE's annual California State bar dues.

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 Attorney's Department 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 operating 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  
City Hall  
P.O. Box 642  
1010 10<sup>th</sup> Street  
Modesto, CA 95354

EMPLOYEE:

Susana Alcala Wood  
City Hall  
P.O. Box 642  
1010 10<sup>th</sup> Street  
Modesto, CA 95354

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 Services.

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 12th day of June, 2006.
- 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, and duly attested by its City Clerk, <sup>under authority of Reso #2006-200</sup> and EMPLOYEE has signed and executed this agreement, both in duplicate, the day and year first above written, on May 23, 2006 and EMPLOYEE has caused this Agreement to be duly executed.

CITY:

By   
\_\_\_\_\_  
Jim Ridenour  
Mayor

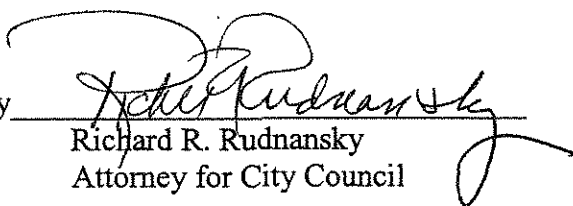
EMPLOYEE:

By   
\_\_\_\_\_  
Susana Alcala Wood  
City Attorney

ATTEST:

By   
\_\_\_\_\_  
Jean Morris, City Clerk

APPROVED AS TO FORM:

By   
Richard R. Rudnansky  
Attorney for City Council

#820712

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-297**

**A RESOLUTION AMENDING THE ORDER OF BUSINESS FOR REGULAR  
MEETINGS OF THE CITY COUNCIL**

WHEREAS, Section 2-1.08 of Chapter 1 of Title 2 of the Modesto Municipal Code states that the Order of Business for Council meetings shall be set forth by Council resolution, and

WHEREAS, that same section provides for changes in the Order of Business to be made from time to time, and

WHEREAS, the Council has expressed an interest in amending the Order of Business, and

WHEREAS, the Order of Business shall be:

1. Roll Call
2. Pledge of Allegiance to the Flag
3. Invocation
4. City Clerk's Announcements
5. Declaration of Conflicts of Interest
- 6. Reports from Closed Session**
7. Acknowledgements and Presentations
8. Miscellaneous
  - a. Legislation
  - b. Appointments
  - c. Other
9. Oral Communications
10. Consent Calendar
11. Council Comments and Reports
- 12. City Manager Comments and Reports**
13. Written Communications

- 14. Unfinished Business
- 15. Hearings
- 16. New Business
- 17. Matters Too Late for the Agenda
- 18. Adjournment
- 19. Closed Session Items

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Order of Business to include the City Manager Comments and Reports and Reports from Closed Session.

BE IT FURTHER RESOLVED that this resolution shall not be effective until such time as Ordinance No. 3412-C.S. becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

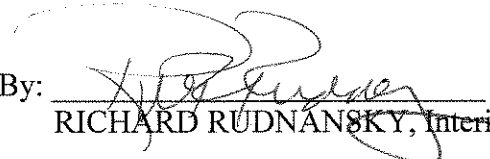
AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-298**

**A RESOLUTION AUTHORIZING STAFF TO PROCEED WITH A  
REQUEST FOR PROPOSALS FOR CONSULTANT SERVICES  
FOR SPECIAL TAX CONSULTING AND ASSESSMENT  
ENGINEERING**

WHEREAS, the City desires to continue to form funding mechanisms for development areas, and

WHEREAS, the City last issued a Request for Proposals (“RFP”) for a Special Tax Consultant in 1997, and

WHEREAS, City staff wishes to contract with a consultant who will assist the City in processing the formation and annual administration of all future Community Facilities Districts (“CFDs”) and/or Assessment Districts (“ADs”), and

WHEREAS, it is the intent of the RFP to select a consultant who will assist the City in the formation and annual administration of all future CFDs and/or ADs for a term of three years, with a renewal option at the sole discretion of City, and

WHEREAS, Requests for Proposals shall be evaluated on the basis of specific selection criteria, with Selection Interviews tentatively scheduled for June 20, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to proceed with a Request for Proposals for consultant services for Special Tax Consulting and Assessment Engineering.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-299**

**A RESOLUTION AUTHORIZING THE ADDITION OF GOODWIN  
CONSULTING GROUP TO THE SHORT LIST OF APPROVED  
CONSULTANTS FOR THE PREPARATION OF FACILITIES MASTER PLANS  
AND INFRASTRUCTURE FINANCE PLANS**

WHEREAS, the City has adopted specific plan guidelines to implement the goals and policies of the General Plan, and

WHEREAS, it is the intent of the specific plan process to provide standards for development at a more focused level of detail, and

WHEREAS, these specific plans then become the basis for the formulation of the Infrastructure Finance Plans and Facilities Master Plans, and

WHEREAS, the City Council authorized the issuance of a Request for Qualifications to address qualifications of consultants who will assist the City in developing Facilities Master Plans and Infrastructure Finance Plans, and

WHEREAS, on December 14, 2005, the City Council authorized the retention of two firms for consultant services for Facilities Master Plans and Infrastructure Finance Plans and directed staff to expand the consultant short list, and

WHEREAS, Goodwin Consulting Group has demonstrated their ability to prepare Facilities Master Plans and Infrastructure Finance Plans within the existing framework of the City's organization, and meets the criteria for placement on the consultant short list,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes the addition of Goodwin Consulting Group to the short list of consultant services for Facilities Master Plans and Infrastructure Finance Plans.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:


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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-300**

**A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT FOR  
CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND  
IMPACT SCIENCES INC. FOR PREPARATION OF AN ENVIRONMENT  
IMPACT REPORT FOR THE PROPOSED PELANDALE/MCHENRY SPECIFIC  
PLAN PROJECT IN AN AMOUNT NOT TO EXCEED \$235,272 AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT**

WHEREAS, Michael P. Evans of Meritage Homes has applied for a specific plan, commonly known as the Pelandale/McHenry Specific Plan, to allow for the orderly and future development within the approximate 80-acre planning area bounded by Pelandale Avenue on the north, McHenry Avenue on the east and the Modesto City Limits on the south and west generally located in north Modesto, and

WHEREAS, the proposed Pelandale/McHenry Specific Plan will also involve the following associated entitlements: rezoning to a Specific Plan-Overlay (SP-O) zone, annexation of the project site; a general plan amendment to 1) modify the land use development densities, and 2) modify the land use designations and boundaries by changing the general plan land use designation of 30 acres of Regional Commercial (RC) and 50 acres of Residential (R) to 4.0 acres Commercial (C), 51 acres of Residential (R) and 26.5 acres of Open Space for an 80-acre site located at the southwest corner of the Pelandale and McHenry Avenues, preparation of a Facilities Master Plan and associated Finance Plan, and formation of a community facilities district (CFD) (collectively "Project"), 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 the Project, and

WHEREAS, On October 11, 2005, the City approved an Agreement with Impact Sciences Inc. to prepare an Initial Study in accordance with Section 15063 of the CEQA Guidelines for the proposed Pelandale/ McHenry Specific Plan project and related applications, and

WHEREAS, when the original Agreement was approved in October, 2005, staff recognized that an amendment could be necessary, depending on the results of the Initial Study, and

WHEREAS, the Initial Study being prepared by Impact Sciences Inc. preliminarily determined that an Environmental Impact Report will be necessary to ensure that the City of Modesto complies with the requirements of the California Environmental Quality Act

WHEREAS, based on this preliminary determination, the City now desires to proceed with an Environmental Impact Report, and

WHEREAS, City staff recommends the existing Agreement between the City of Modesto and Impact Sciences Inc. be amended in an amount not to exceed \$235,272 to allow Impact Sciences Inc. to prepare an Environmental Impact Report based on the scope of services supplied to City staff, and

WHEREAS, the applicant will pay for the Environmental Impact Report, including staff time spent on the project, and the applicant has deposited funds with the City to cover the full amount of this Amendment to Agreement For Consultant Services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendment to Agreement For Consultant Services (“Amendment”) between the City of Modesto and Impact Sciences Inc. for the preparation

of an Environmental Impact Report for the proposed Pelandale/McHenry Specific Plan, in an amount not to exceed \$235,372. A copy of the Amendment Agreement is on file with the City Clerk's Office.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST

  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-301**

**A RESOLUTION APPROVING THREE (3) AGREEMENTS BETWEEN THE  
CITY OF MODESTO AND IGNACIO HERNANDEZ (APN: 085-050-004);  
ALTAGRACIA RAMIREZ (APN: 085-050-005); AND ROBERT J. HESS AND  
PATRICIA M. HESS (APN: 085-050-006) FOR THE FLOYD-ROSELLE  
ROUNABOUT PROJECT**

WHEREAS, the City Council of the City of Modesto directed staff to enter into negotiations with Ignacio Hernandez (APN: 085-050-004); Altagracia Ramirez (APN: 085-050-005); and Robert J. Hess and Patricia M. Hess (APN: 085-050-006) to purchase the necessary real property for the Floyd-Roselle Roundabout Project, and

WHEREAS, said real properties were appraised and City offered the appraised values, and

WHEREAS, said real properties need to be acquired for this roundabout project, and

WHEREAS, an agreement is needed for the acquisition of each parcel of the needed real property.

WHEREAS, a Written Checklist Environmental Assessment (EA/PW No: 2006-09) has been prepared, which is attached hereto and made a part hereof by this reference, and

WHEREAS, pursuant to said Environmental Assessment it has been determined that, pursuant to Sections 15168 (c) and 15182 of the California Environmental Quality Act Guidelines ("CEQA"), this Project is within the scope of the projects covered by the Village One Program EIR (SCH No. 90020181), as amended by the 1994 Supplemental

EIR and the 2003 Addendum to the EIR and no new environmental document or findings are required by CEQA.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that three (3) agreements between City of Modesto and Ignacio Hernandez (APN: 085-050-004); Altagracia Ramirez (APN: 085-050-005); and Robert J. Hess and Patricia M. Hess (APN: 085-050-006) to purchase the necessary real property for the Floyd-Roselle Roundabout Project in the amount of \$104,825 are hereby approved.

BE IT FURTHER RESOLVED that the City Manager or his designee are hereby authorized to execute said Agreements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

Approved as to Form:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**Determination:  
Floyd Avenue and Roselle Avenue  
Improvements  
is within the Scope of the  
Village One Specific Plan  
Program Environmental Impact Report as  
supplemented (SCH #90020181) and with  
Addenda for the Village One Storm Drainage  
Master Plan Update and the Facilities Master  
Plan Update.**

*Prepared for:*

City of Modesto  
P.O. Box 642  
Modesto, CA 95353  
Contact: Amy Gedney  
209/577-1211

*Prepared by:*

Paul Hom, Project Coordinator  
City of Modesto  
Capital Improvement Services  
209/571-5175

May 18, 2006

# WRITTEN CHECKLIST

EA/PW No. 2006-09

## I. PURPOSE

This written checklist, pursuant to CEQA Guidelines Section 15168 (C) (4), serves to make a determination where subsequent activities of a Program EIR involve site-specific operations, based on evaluation of the site and the activity to determine whether the environmental effects of the operation were covered in the program EIR. Based on a review of the project and Section 15162(a), this determination would permit the lead agency (City of Modesto) to approve the activity as being within the scope of the project covered by the Program EIR. This determination includes whether any new environmental document is required beyond the adopted Village One Specific Plan Program EIR (SCH# 90020181) for the proposed Floyd Avenue and Roselle Avenue Improvements (project).

On September 11, 1990, the Modesto City Council certified a Final Program Environmental Impact Report for the Village One Specific Plan. This Program EIR analyzed the impacts of build-out of the Village One Specific Plan, which includes the area in which this project is proposed. Subsequently, on May 24, 1994, the City Council certified a Supplemental to the Village One Program EIR. This supplement updated and modified the original EIR.

In Addition, on May 6, 2003, the City Council determined that the environmental effects of the Village One Facilities Master Plan Update (May 2003) and the Storm Drainage Master Plan Update projects have been addressed by the Village One Program EIR, as amended by the Supplemental EIR or are less than significant. Addenda for the Village One Facilities Master Plan Update (May 2003) and the Storm Drainage Master Plan Update were then prepared and certified by the City Council.

The 1994 Supplemental EIR that amended and superseded the 1990 Program EIR is the document reviewed for projects within the Village One Specific Plan area. Where appropriate feasible mitigation measures developed in the Supplement to the program EIR shall be incorporated into the proposed project as outlined in Section V of this Checklist.

## II. PROJECT INFORMATION

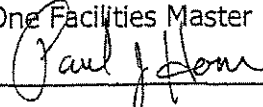
1. **Project Title:** Floyd Avenue and Roselle Avenue Improvements
2. **Lead Agency Name and Address:** City of Modesto, P.O. Box 642, Modesto, CA 95353
3. **Contact Person and Phone Number:** Paul Horn, Project Coordinator  
Modesto Capital Improvement Services  
209/571-5175
4. **Project Location:** Floyd Avenue between Grouse Crossing Way and Fine Avenue, and Roselle Avenue between Kodiak Drive and Belharbour Drive, Modesto, California (see attached Exhibit A)
5. **Project Sponsor's Name and Address:** City of Modesto – Capital Facilities District  
P.O. Box 642  
Modesto, CA 95353
6. **General Plan Designation:** The General Plan land use designation is Village Residential (VR)
7. **Zoning:** Specific Plan-Overlay (SP-O) Zone
8. **Description of Project:** Pursuant to the General Plan and adopted Village One Specific Plan, the City of Modesto will construct road improvements to Floyd Avenue between Grouse Crossing Way and Fine Avenue, and Roselle Avenue between Kodiak Drive and Belharbour Drive implementing these Plans and as anticipated therein. These improvements include construction of a two-lane roundabout at the intersection of Roselle and Floyd Avenues. The roundabout will have a 120-foot diameter from curb to curb, with an inner landscaped area. Splitter islands will be located on all four approaches to guide vehicles into the roundabout, and the posted speed limit within the roundabout area will be 15 mph. Completion of this project is in specific furtherance of Mitigation Measure 7 of the Village One Supplemental EIR, which calls for completion of 4-lane improvements on Roselle Avenues. Mitigation Measure 14 calls for improvement of the Roselle/Floyd intersection to provide adequate capacity for projected traffic; the roundabout proposed at this location has been determined by the City's Traffic Engineer to provide the required capacity (memo dated December 19, 2005 from Firoz Vohra, Deputy Director of Public Works). Improvements to Floyd and Roselle will be to the City's 4-lane standard as specified in the Village One Facilities Master Plan, to include two northbound and two southbound lanes and a 16-foot-wide landscaped median on Roselle, and two eastbound and two westbound lanes and a 16-foot-wide landscaped median on Floyd. Bus turnouts will be included.

9. **Surrounding Land Uses and Setting:** The Village One Specific Plan Area is over half built, as planned and approved by the 1990 Village One Specific Plan. The project area is adjoined on the west by single-family subdivisions. On the north east corner is multi-family, the south east corner is commercial, with single-family subdivisions to the east.
10. **Other Public Agencies whose Approval Is Required:** None.

### III. DETERMINATION:

Based on the analysis contained in this document, staff finds that pursuant to Guidelines Section 15162 the following is true for the proposed project:

- (1) Major revisions to the Village One Program EIR as amended by the 1994 Final Supplemental EIR (SCH No. 90020181), with Addenda for the Village One Storm Drainage Master Plan and the Village One Facilities Master Plan Update, are not required because the project will not involve new significant environmental effects or increase severity of effects previously identified, and
- (2) Major revisions to the Village One Program EIR as amended by the 1994 Final Supplemental EIR, with Addenda for the Village One Storm Drainage Master Plan and the Village One Facilities Master Plan Update, are not required because no substantial changes to circumstances have occurred that involve new significant environmental effects or increase severity of effects previously identified, and
- (3) No new information of substantial importance that was not known has become available that shows:
  - a. one or more significant effects is not discussed in the Village One Program EIR as amended by the 1994 Final Supplemental EIR, with Addenda for the Village One Storm Drainage Master Plan and the Village One Facilities Master Plan Update,
  - b. identified significant effects will be more severe,
  - c. previously infeasible mitigation measures are now feasible,
  - d. project proponents have declined to adopt mitigation measures that would substantially reduce significant effects.
- (4) Because no new significant effects have been identified and no new mitigation is required for the project, the environmental effects of the operation of the proposed project were covered by the Village One Program EIR as updated by the 1994 Final Supplemental EIR, with Addenda for the Village One Storm Drainage Master Plan and the Village One Facilities Master Plan Update. Therefore, pursuant to CEQA Section 15168 (C) (4) no new environmental document is required.
- (5) Therefore, the Floyd Avenue and Roselle Avenue Improvements project is within the scope of the Village One Program EIR as updated by the 1994 Final Supplemental EIR, with Addenda for the Village One Storm Drainage Master Plan and the Village One Facilities Master Plan Update.

  
Project Manager

  
Date

## IV. PROJECT EVALUATION:

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

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

Aesthetic and visual impacts are analyzed on pages III-100 through III-103 of the 1994 Supplement.

### Responses to Checklist Questions

- a,b.   The Village One Specific Plan program EIR found that, as Village One is built, it will eliminate views of the valley and the distant mountains from adjacent areas and reduce the area's visual open space. However, the program EIR found the effects of Village One Development on scenic vistas and resources to be less than significant because views from the project area are minimal and there are no scenic resources in the area. The proposed Floyd Avenue and Roselle Avenue Improvements project would not change the extent or nature of construction in the specific plan area, or cause any other changes in the project area. Impacts on scenic vistas and resources would therefore remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.

- c. The Village One Specific Plan program EIR found that Village One would have a less-than-significant impact on the visual character of the area. The proposed Floyd Avenue and Roselle Avenue Improvements project would not change the design or layout of the construction proposed under the Village One Specific Plan. For this reason, impacts on the visual character of the area would remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.
- d. The proposed Floyd Avenue and Roselle Avenue Improvements project will incorporate the normal street lighting for a street of this type as found throughout the community and as specified in the City of Modesto Standard Specifications. This lighting is consistent with that studied in the Village One Specific Plan program EIR and would not change the extent or nature of construction in the specific plan area, or cause any other changes in the project area. For this reason, impacts associated with additional light and glare would remain the same as those identified in the program EIR. There would be no additional impact. No mitigation is required.

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

**II. AGRICULTURAL RESOURCES.** In determining whether impacts on agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation. Would the project:

- |    |   |                          |                          |                          |                                     |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Conflict with existing zoning for agricultural use or conflict with a Williamson Act contract?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland to non-agricultural use?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Impacts on agricultural resources are analyzed on pages III-80 through III-94 of the 1994 Supplement.

## Responses to Checklist Questions

- a. The Village One Specific Plan program EIR found that approximately 670 acres of land designated as Prime Farmland and 588 acres of land designated as Unique Farmland would be lost as a result of the the Village One project. This impact was determined to be significant and not mitigable. The City made a statement of overriding considerations when it certified the 1994 Supplement. The proposed Floyd Avenue and Roselle Avenue Improvements project would not affect this finding because the project area would remain the same. There would be no additional impact. No mitigation is required.
- b. The Village One Specific Plan program EIR presented information showing that any Williamson Act contracts in the project area would be automatically cancelled on annexation of the land to the City of Modesto, which has occurred, or would expire within 10 years of the time the original program EIR was prepared. The last Williamson Act contract covering land in the project area has expired. There are now no lands in the project area under Williamson Act contract. The project area has also been rezoned consistent with the specific plan, and no lands in the project area are now zoned for agricultural use. There would be no additional impact. No mitigation is required.
- c. The Village One Specific Plan program EIR identified a potential land use conflict between new residential uses in the specific plan area and adjacent agricultural uses. Such conflicts can lead to conversion of adjacent farmlands to other uses. The program EIR proposed mitigation measures for this potential impact that would reduce the impact's significance, although the EIR noted that the mitigation measure might not fully mitigate the impact. No additional mitigation measures are available for this impact. The proposed Floyd Avenue and Roselle Avenue Improvements project would not affect this finding because the project area and proposed land use would remain the same. There would be no additional impact. No mitigation is required.

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

III. **AIR QUALITY.** When available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

- |    |   |                          |                          |                          |                                     |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Conflict with or obstruct implementation of the applicable air quality plan?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Violate any air quality standard or contribute substantially to an existing or projected air quality violation?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is a nonattainment area for an applicable federal or state ambient air quality standard (including releasing emissions that exceed quantitative thresholds for ozone precursors)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. | Expose sensitive receptors to substantial pollutant concentrations?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e. | Create objectionable odors affecting a substantial number of people?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Impacts on air quality are analyzed on pages III-45 through III-54 of the 1994 Supplement.

## Responses to Checklist Questions

- a., b. The Village One Specific Plan program EIR found that air pollution from project-related construction and construction traffic, project-related industrial/business park and urban area traffic, and fireplaces and wood stoves in planned residential areas would violate air quality standards and contribute to an existing air quality violation. Construction activities would temporarily increase TSP and PM10 standards in the project vicinity and could result in violation of the state and federal 24-hour PM10 standards in the project vicinity. Construction traffic emissions would contribute to violation of the state and federal 8-hour carbon monoxide (CO) and particulate matter (PM10) standards and the federal ozone standard in the Modesto Urban Area and the San Joaquin Valley Air Basin. Urban traffic pollution would contribute to violations of the state ozone, CO, and PM10 standards in the Modesto Urban Area and San Joaquin Valley Air Basin. Residential pollution would contribute to violations of the pollutant standard index in the Modesto Urban Area. Partial mitigation for these impacts is included in the program EIR, and the City of Modesto adopted a statement of overriding consideration for each impact. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the amount of development and construction in the project area, so trips generated by the project would not be affected and the types of land uses would not change. There would be no additional impact. No mitigation is required.
- c. The Village One Specific Plan program EIR found that air pollutant emissions associated with traffic at build-out of Village One would exacerbate the existing ozone, PM10, and CO violations in the Modesto area and cause a significant cumulative impact. Partial mitigation for



these emissions is included in the 1994 supplement to the program EIR (Mitigation Measure # 2) and the City of Modesto made a statement of overriding consideration for each impact. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the amount of traffic associated with build-out of Village One or the types of land uses, so trips generated by the project would not be affected. There would be no additional impact. No additional mitigation is required.

- d. The Village One Specific Plan program EIR found that PM10 generated during construction would aggravate the respiratory problems of people living and working nearby, therefore exposing sensitive receptors in the area to pollutant concentrations and causing a significant impact. However, the program EIR outlines mitigation measures that will be implemented to reduce the impact to an acceptable level (Mitigation Measure #40). The proposed Floyd Avenue and Roselle Avenue Improvements would not change the level of construction emissions. There would be no additional impact. No additional mitigation is required.
- e. The Floyd Avenue and Roselle Avenue Improvements project does not contain any components that would create odors. The proposed Floyd Avenue and Roselle Avenue Improvements would not change planned uses of the project area. There would be no impact. No mitigation is required.

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

**IV. BIOLOGICAL RESOURCES.** Would the project:

- |    |   |                          |                          |                          |                                     |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marshes, vernal pools, coastal wetlands, etc.) through direct removal, filling, hydrological interruption, or other means?                                 | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

- |    |   |                          |                          |                          |                                     |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| d. | Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e. | Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| f. | Conflict with the provisions of an adopted habitat conservation plan, natural community conservation plan, or other approved local, regional, or state habitat conservation plan?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Impacts on biological resources are analyzed on pages III-68 through III-79 of the 1994 Supplement.

## Responses to Checklist Questions

- a. The Village One Specific Plan program EIR found that development within the Village One area could result in the loss of foraging habitat for Swainson's hawk, a state-listed threatened species, but found that mitigation measures identified in the program EIR would reduce the impact to a less-than-significant level. The proposed Floyd Avenue and Roselle Avenue Improvements would not change project area boundaries. Further, the area to be developed is adjacent to an existing roadway and is heavily disturbed; and has no current utility as foraging habitat. There would be no additional impact. No mitigation is required. A Swanson Hawk survey was completed in conjunction with the proposed commercial development to the southeast (copy on file), which confirms that the area is not in use as a foraging habitat.
- b. The Village One Specific Plan program EIR did not find that any riparian habitat or other designated sensitive natural community was present in the Floyd Avenue and Roselle Avenue Improvements area, and so found that the project would have a less-than-significant impact. The proposed Floyd Avenue and Roselle Avenue Improvements would not change project area boundaries. There would be no additional impact. No mitigation is required.
- c. The Village One Specific Plan program EIR found that two areas indicated as "drainage areas with wetland vegetation", designated in Figure 34, page 4.9-2 of the Program EIR, could result in the loss of lands that might be classified as wetlands by the U.S. Army Corps of Engineers. Floyd Avenue and Roselle Avenue Improvements is not located in one of those two areas and would not change the project area boundaries or the areas that would be disturbed. There would be no additional impact. No mitigation is required.

- d. The Village One Specific Plan program EIR did not identify any migratory corridors in the Floyd Avenue and Roselle Avenue Improvements area, nor did it find that the project would interfere with the movement of any species. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the project area boundaries. There would be no impact. No mitigation is required.
- e., f. No local biological resource protection policies, ordinances, habitat conservation plans, or natural community conservation plans apply to the Village One Specific Plan area. There would be no impact. No mitigation is required.

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

## Responses to Checklist Questions

- a.-d. Impacts on cultural resources resulting from Village One (e.g., from construction of associated infrastructure) are addressed in the Opportunities/Constraints Report prepared for the Modesto Planning Commission (December 1, 1989). The report concluded that there are no known historic, archaeological, or paleontological resources in the Village One Specific Plan area. Based on the results of this report, (Cultural and Historic Resources Report, page 4 & 5, Exhibit D) it was determined that the likelihood that Floyd Avenue and Roselle Avenue Improvements would change or disturb human remains or significant historic, archaeological, or paleontological resources was low.

The proposed Floyd Avenue and Roselle Avenue Improvements would not change the locations or types of construction in the project area nor the boundaries of the project area. Construction of the roadway will not result in any effects on historic structures. Since no archaeological, or

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

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

Impacts associated with geology and soils are analyzed on pages III-105 through III-108 of the 1994 Supplement.

## Responses to Checklist Questions

- a.-d. The program EIR, as supplemented, found that the project area is not subject to geologic or soil-related hazards that cannot be adequately mitigated through the implementation of existing city regulations, such as the building code. No significant impacts were identified, and no mitigation measures were required. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the locations or types of construction in the project area nor the boundaries of the project area. There would be no additional impact. No mitigation is required.
- e. The Village One Specific Plan included provisions for the project to be served by public sewers. No septic tanks or alternative wastewater systems were proposed. The proposed Floyd Avenue and Roselle Avenue Improvements project would not change the proposed method of wastewater disposal. There would be no impact. No mitigation is required.

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

be within two miles of a public airport or public use airport, and result in a safety hazard for people residing or working in the project area?

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

Impacts associated with hazards and hazardous materials are analyzed on pages III-80 through III-94 and III-109 through III-119 of the 1994 Supplement.

## Responses to Checklist Questions

- a.-c. The Village One Specific Plan does not allow any land uses that would use hazardous materials. The proposed Floyd Avenue and Roselle Avenue Improvements would not change land uses or project area boundaries. There would be no impact. No mitigation is required.
- d. The Village One Specific Plan program EIR, as supplemented, found no hazardous materials were stored at the roadway site. No significant impacts were identified, and no mitigation measures were required. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the locations or types of construction in the project area nor the boundaries of the project area. There would be no additional impact. No mitigation is required.
- e. The Village One Specific Plan program EIR found that the roadway would not be located in an airport land use plan area or within 2 miles of a public airport. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the project area boundaries. There would be no impact. No mitigation is required.
- f. The Village One Specific Plan program EIR found that a private airstrip, the Eastside Mosquito Abatement District Airstrip, is located east of the eastern border of the Village One project area. However, take-offs and landings were found to take place parallel to and outside the area's border, and flight patterns are generally situated to the east of the project area. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the project area boundaries. There would be no additional impact. No mitigation is required.

- g. Since the adoption of the Village One Specific Plan, the Modesto General Plan has been updated to include development of Village One consistent with the specific plan. City emergency plans are developed with the assumption that the Village One Specific Plan will be implemented. The proposed Floyd Avenue and Roselle Avenue Improvements would not change construction, land use, or other physical attributes of Village One. There would be no additional impact. No mitigation is required.
- h. The Village One project is located in an area of the City of Modesto planned for build-out of an urban neighborhood. Currently, less than 50% of the project area remains undeveloped, with a covering of dry brush and vegetation. The potential for wild land fires is low, and this potential will decrease as build-out continues. Adoption of the proposed Floyd Avenue and Roselle Avenue Improvements would not change the schedule or amounts of development. There would be no additional impact. No mitigation is required.

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

**VIII. HYDROLOGY AND WATER QUALITY.**

Would the project:

- |    |  |                          |                          |                          |                                     |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Violate any water quality standards or waste discharge requirements?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Substantially deplete groundwater supplies or interfere substantially with groundwater recharge, resulting in a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level that would not support existing land uses or planned uses for which permits have been granted)? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner that would result in substantial erosion or siltation onsite or offsite?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| d. | Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner that would result in flooding onsite or offsite?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| e. | Create or contribute runoff water that would exceed the capacity of existing or planned  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

stormwater drainage systems or provide substantial additional sources of polluted runoff?

- |    |  |                          |                          |                          |                                     |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| f. | Otherwise substantially degrade water quality?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| g. | Place housing within a 100-year flood hazard area, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| h. | Place within a 100-year flood hazard area structures that would impede or redirect floodflows?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| i. | Expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| j. | Contribute to inundation by seiche, tsunami, or mudflow?   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Impacts associated with hydrology are analyzed on pages III-109 through III-119 of the 1994 Supplement.

## Responses to Checklist Questions

- a. The Village One Specific Plan program EIR did not find that the Village One project would violate any water quality standards or waste discharge requirements. The proposed Floyd Avenue and Roselle Avenue Improvements would not change water use or discharge associated with the Village One project. There would be no additional impact. No mitigation is required.
- b. The Village One Specific Plan program EIR found that the Village One project might interfere with local groundwater recharge. However, the impact was found to be less than significant because the project area is not a major groundwater recharge area and the project includes a recharge/discharge plan for disposal of storm-water runoff and recharge of groundwater. In Addition, in 2003 two addenda to the Village One program EIR were prepared and certified. One related to the Facilities Master Plan Update and the other related to the Storm Drainage Master Plan Update.

The proposed Floyd Avenue and Roselle Avenue Improvements would not change the amount of impervious surface in the project area or the proposed storm drain facilities. There would be no additional impact. No additional mitigation is required.

- c.-e. The Village One Specific Plan program EIR found that the Village One project will substantially alter the existing drainage pattern of the area but, because the project will incorporate an urban storm drain system, will not result in any erosion impacts. The proposed Floyd Avenue and Roselle



Avenue Improvements would not change the amount of impervious surface or the proposed storm drain facilities. There would be no additional impact. No mitigation is required.

- f. The Village One Specific Plan program EIR did not find that the Village One project would otherwise substantially degrade water quality. The proposed Floyd Avenue and Roselle Avenue Improvements would not change water use or discharge from that already determined. There would be no additional impact. No mitigation is required.
- g.-i. According to the Village One Specific Plan program EIR, the Village One project is not situated in a 100-year flood hazard area or downstream from a levee or dam. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the project area boundaries. There would be no impact. No mitigation is required.
- j. The Village One project area is located in a flat, inland area not susceptible to seiche, tsunami, or mudflow. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the project area boundaries. There would be no impact. No mitigation is required.

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

Impacts associated with land use and planning are analyzed on pages III-80 through III-94 of the 1994 Supplement.

## Responses to Checklist Questions

- a. The proposed Floyd Avenue and Roselle Avenue Improvements would not result in any physical changes to the environment beyond those proposed as a part of the Village One project. Village One would continue to be developed as a planned community; therefore, the proposed Floyd Avenue and Roselle Avenue Improvements would not divide an established community. There would be no impact, and no mitigation is required.
- b., c. The Village One Specific Plan has been adopted by the City of Modesto and has been incorporated into the Modesto General Plan. The proposed Floyd Avenue and Roselle Avenue Improvements would be consistent with the Village One Specific Plan as amended by subsequent addenda. There are no other applicable land use or conservation plans for the project area. There would be no impact. No mitigation is required.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than- Significant Impact	No Impact
<b>X. MINERAL RESOURCES.</b> Would the project:				
a. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

## Responses to Checklist Questions

- a., b. No known mineral resources or important recovery sites are located in the Village One Specific Plan Area. There would be no impact. No mitigation is required.

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

Impacts associated with noise are analyzed on pages III-55 through III-67 of the 1994 Supplement.

## Responses to Checklist Questions

- a., c. The Village One Specific Plan program EIR found that traffic associated with the Village One project would expose existing residential uses on Claus Road, Floyd Avenue, Briggsmore Expressway, Oakdale Road, Roselle Avenue and Sylvan Avenue, to noise levels exceeding the general plan thresholds for residential uses. Mitigation measures identified in the program EIR were determined to reduce the level of impact, but in some cases not to a less-than-significant level. The City made a statement of overriding considerations when it certified the 1994 Supplement.

The proposed Floyd Avenue and Roselle Avenue Improvements project would not change project-related noise-generating activities. There would be no additional impact. No mitigation is required.

- b. The Village One Specific Plan program EIR found that the Village One project would not expose people to, or generate excessive, groundborne vibration or groundborne noise levels. The proposed Floyd Avenue and Roselle Avenue Improvements project would not change project-related noise-generating activities. There would be no impact. No mitigation is required.
- d. The Village One Specific Plan program EIR found that construction of the Village One project would result in a substantial temporary increase in ambient noise levels for residential housing. However, mitigation measures were incorporated into the program EIR to reduce the impact to a less-than-significant level. The proposed Floyd Avenue and Roselle Avenue Improvements would not change construction activities. There would be no additional impact. No additional mitigation is required.
- e. The Village One Specific Plan program EIR found that the Village One project would not be located in an airport land use plan area or within 2 miles of a public airport. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the project area. There would be no impact. No mitigation is required.
- f. The Village One Specific Plan program EIR found that a private airstrip, the Eastside Mosquito Abatement District Airstrip, is located east of the eastern border of the Village One project area. However, take-offs and landings take place parallel to and outside the area's border, and flight patterns are generally situated east of the project area. The adjacent land use would be a business park, which would not be significantly affected by the limited noise generated at the airstrip. The proposed Floyd Avenue and Roselle Avenue Improvements would not change land use designations or the boundaries of the project area. There would be no additional impact. No mitigation is required.

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

Impacts on population and housing are analyzed on pages III-95 through III-99 of the 1994 Supplement.

## Responses to Checklist Questions

- a.-c. The Village One Specific Plan program EIR found that the Village One project would result in no significant impacts on population and housing units. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the amount of housing or employment in the specific plan area. There would be no impact. No mitigation is required.

**XIII. PUBLIC SERVICES.** Would the project:

- a. Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or a need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for any of the following public services:

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
Fire protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Police protection?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Schools?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other public facilities?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Impacts on public services are analyzed on pages III-120 through III-158 of the 1994 Supplement.

## Responses to Checklist Questions

- a. The Village One Specific Plan program EIR found that the only significant impact the Village One project would have on public services would be in the areas of fire protection and law enforcement. Mitigation measures were identified in the program EIR to reduce the level of this impact to a less-than-significant level. No other significant impacts on public services were identified. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the provision of public services. There would be no additional impact. No mitigation is required.

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

**XIV. RECREATION.** Would the project:

- |    |   |                          |                          |                          |                                     |
|----|---|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Include recreational facilities or require the construction or expansion of recreational facilities that might have an adverse physical effect on the environment?                        | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Impacts on recreation are analyzed on pages III-120 through III-158 of the 1994 Supplement.

## Responses to Checklist Questions

- a., b. No significant impacts on recreation were identified in the program EIR. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the provision of parks and recreation facilities. There would be no additional impact. No mitigation is required.



	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
<b>XV. TRANSPORTATION/TRAFFIC.</b> Would the project:				
a. Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Cause, either individually or cumulatively, exceedance of a level-of-service standard established by the county congestion management agency for designated roads or highways?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Substantially increase hazards because of a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Result in inadequate emergency access?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Result in inadequate parking capacity?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Impacts on transportation and traffic are analyzed on pages III-40 – III-44 of the 1994 Supplement.

## Responses to Checklist Questions

- a., b. The Village One Specific Plan program EIR found that the Village One project would cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system and would affect level of service at several intersections. Mitigation measures identified in the program EIR were identified to reduce impacts to a less-than-significant level for all intersections except the Briggsmore Avenue/Oakdale Avenue intersection. For that intersection, the impact

was determined to be significant and not mitigable. The City of Modesto made a statement of overriding considerations for that impact at the time it certified the 1994 Supplement. The proposed Floyd Avenue and Roselle Avenue Improvements would not alter traffic patterns in the project area or result in additional trips. There would be no additional impact. No mitigation is required.

- c. The Village One Specific Plan program EIR did not find that the Village One project would result in a change in air traffic patterns. The proposed Floyd Avenue and Roselle Avenue Improvements does not include any elements that would affect air traffic patterns. There would be no impact. No mitigation is required.
- d. The Village One Specific Plan program EIR did not find that the Village One project included any hazardous design features or increased any incompatible uses for roads in the project area. The proposed Floyd Avenue and Roselle Avenue Improvements incorporates roadway (including roundabout) design consistent with City of Modesto Standard Specifications. There would be no impact. No mitigation is required.
- e. The Village One Specific Plan program EIR did not find that the Village One project would result in inadequate emergency access in the project area. Project design included provision of adequate roadways to serve the Village One development. The proposed Floyd Avenue and Roselle Avenue Improvements would not change roadway layout or land uses. There would be no additional impact. No mitigation is required.
- f. The Village One Specific Plan program EIR did not find that the Village One project would result in inadequate parking capacity in the project area. The provision of parking, consistent with zoning requirements for all land uses, will be required. The proposed Floyd Avenue and Roselle Avenue Improvements would not change land use standards related to parking or amounts or intensity of development. There would be no impact. No mitigation is required.
- g. The Village One Specific Plan has been adopted by the City of Modesto. Policies of the specific plan are coordinated with the policies of the general plan, including those applicable to transportation. The proposed Floyd Avenue and Roselle Avenue Improvements does not include any changes related to transportation policies, and would have no impact. No mitigation is required.

	Potentially Significant Impact	Less than Significant with Mitigation Incorporated	Less-than-Significant Impact	No Impact
<b>XVI. UTILITIES AND SERVICE SYSTEMS. Would the project:</b>				
a. Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Require or result in the construction of new stormwater drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
d. Have sufficient water supplies available to serve the project from existing entitlements and resources, or would new or expanded entitlements be needed?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
e. Result in a determination by the wastewater treatment provider that serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
f. Be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
g. Comply with federal, state, and local statutes and regulations related to solid waste?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Impacts on utilities and service systems are analyzed on pages III-120 through III-158 of the 1994 Supplement.

## Responses to Checklist Questions

- a. The City provides sewer services to the Village One area. All wastewater would be directed to city wastewater treatment facilities. No wastewater discharges would occur in the project area. The proposed Floyd Avenue and Roselle Avenue Improvements would not increase the amount of

wastewater that will be generated at build-out of the Village One project. There would be no additional impact. No mitigation is required.

- b., e. The Village One Specific Plan program EIR discusses the changes and new facilities that will be needed for the Village One project. The EIR found that, with mitigation, there would be no significant impact on water or wastewater infrastructure. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the project demand for water or wastewater service. There would be no additional impact. No mitigation is required.
  
- c. The Village One Specific Plan program EIR discusses the changes and new facilities that will be needed for the Village One project. The EIR found that, with mitigation, there would be no significant impact on storm water drainage facilities. An update to the Storm Drainage Master Plan has been completed and Adopted by the Modesto City Council. An addendum to the Village One program EIR for the Storm Drainage Master Plan has also been completed and adopted by the Modesto City Council.  
  
The proposed Floyd Avenue and Roselle Avenue Improvements would not change the project drainage plans or expected volume of storm-water. The project would not result in any additional impacts or the need for any additional mitigation beyond that assessed in the Addenda to the Village One Program EIR for the Storm Drainage Master Plan. No Mitigation is required
  
- d. The Village One Specific Plan program EIR found that, with mitigation, the effects of the Village One project on water supply would be less than significant. The proposed Floyd Avenue and Roselle Avenue Improvements would not change the Village One project's demand for water. There would be no additional impact. No mitigation is required.
  
- f., g. The Village One Specific Plan program EIR found that the area's landfills have sufficient permitted capacity to accommodate the Village One project's solid waste disposal needs. The proposed Floyd Avenue and Roselle Avenue Improvements would not result in any generation of additional solid waste. There would be no impact. No mitigation is required.

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

**XVII. MANDATORY FINDINGS OF SIGNIFICANCE.**

- |    |  |                          |                          |                          |                                     |
|----|--|--------------------------|--------------------------|--------------------------|-------------------------------------|
| a. | Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| b. | Does the project have impacts that are individually limited but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.)   | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| c. | Does the project have environmental effects that will cause substantial adverse effects on human beings, either directly or indirectly?  | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Cumulative impacts are analyzed on page III-161 of the 1994 Supplement.

## Responses to Checklist Questions

- a. As described above, the proposed Floyd Avenue and Roselle Avenue Improvements would not result in any significant impacts on the environment over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR and subsequent supplements and addenda.
- b. As described above, the proposed Floyd Avenue and Roselle Avenue Improvements would not result in any significant impacts, either on a project or on cumulative level, over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR and subsequent supplements and addenda.
- c. As described above, the proposed Floyd Avenue and Roselle Avenue Improvements would not result in any significant impacts affecting

humans over and above those associated with implementation of the Village One Specific Plan and as analyzed in the Village One Specific Plan program EIR and subsequent supplements and addenda.

## V. MITIGATION APPLIED TO PROJECT

The following mitigation measures developed in the 1994 Village One Specific Plan Supplement to the Program EIR are appropriate to the project and will be incorporated into the project. Therefore, the environmental effects of the project were covered by the program EIR.

I. Aesthetics

None

II. Agricultural Resources

None

III. Air Quality

None

IV. Biological Resources

None

V. Cultural Resources

None

VI. Geology and Soils

None

VII. Hazards and Hazardous Materials

None

VIII. Hydrology and Water Quality

None

IX. Land Use and Planning

None

X. Mineral Resources

None

XI. Noise

None

**XII. Population and Housing**

None

**XIII. Public Services**

None

**XIV. Recreation**

None

**XV. Transportation/Traffic**

Completion of this project is in specific furtherance of Mitigation Measure 7 of the Village One Supplemental EIR, which call for completion of 4-lane improvements on Roselle Avenue. Mitigation Measure 14 calls for improvement of the Roselle/Floyd intersection to provide adequate capacity for projected traffic; the roundabout proposed at this location has been determined by the City's Traffic Engineer to provide the required capacity.

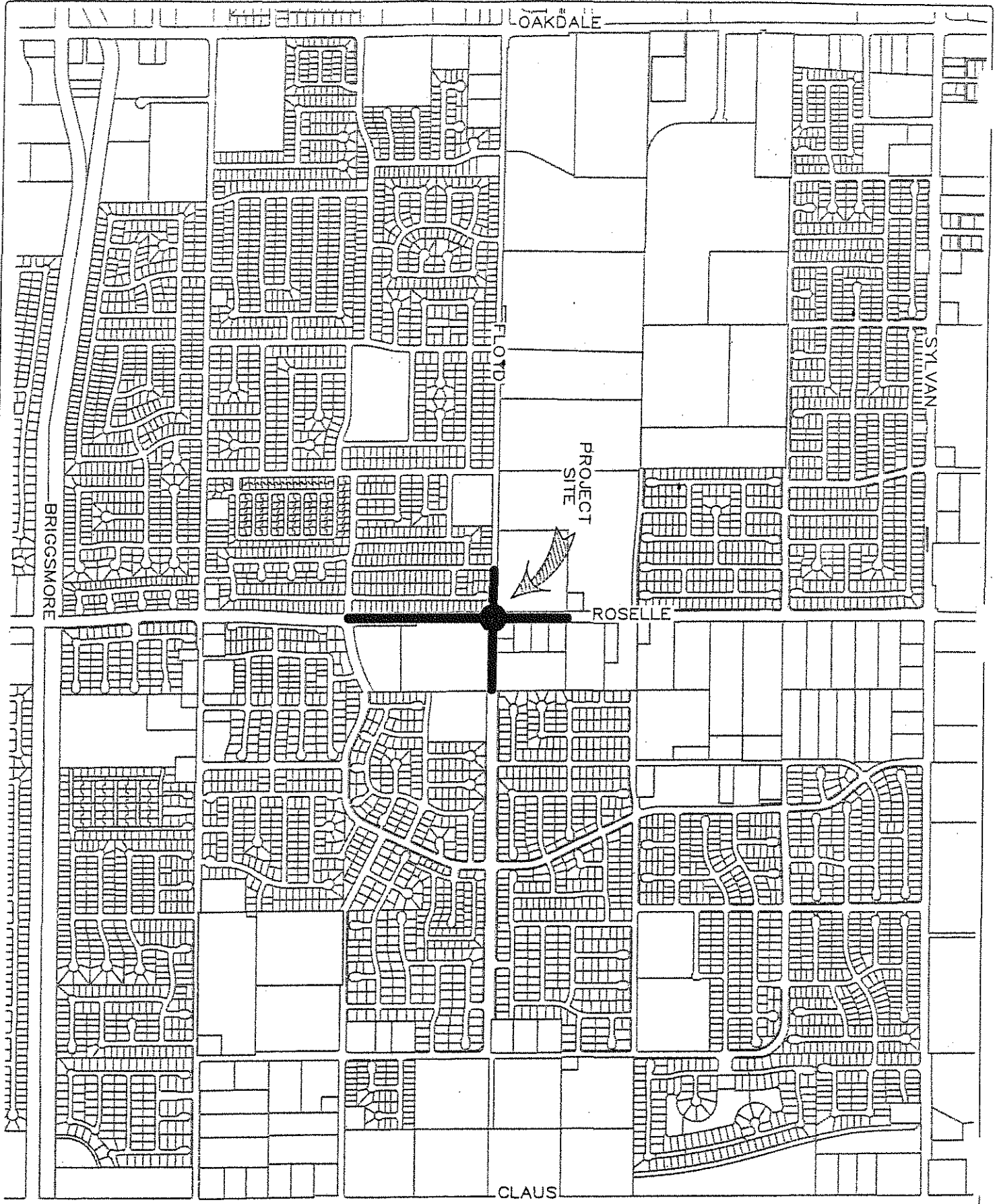
**XVI. Utilities and Service Systems**


None

**XVII. Mandatory Findings of Significance**

None

# EXHIBIT A: LOCATION MAP



<p>DATE: _____          DRAWN BY: _____          CHECKED BY: _____          APPROVED BY: _____</p>	<p>WELL 63 AT MILDRED PERKINS PARK</p>	 <p>1010 10th STREET          P.O. BOX 642          MODESTO, CA 95302          PHONE: (209) 577-3215</p> <p><b>CITY of MODESTO</b>          PUBLIC WORKS DEPARTMENT</p>	<p>PROJECT NO: _____          DATE: _____</p>	<table border="1"> <tr> <td>NO.</td> <td>DATE</td> <td>REVISION</td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>	NO.	DATE	REVISION												
NO.	DATE	REVISION																	



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-302**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN  
ACCEPTANCE FORMS FOR GRANT DEEDS FOR THE ACQUISITION OF  
PROPERTIES OWNED BY IGNACIO HERNANDEZ (APN: 085-050-004);  
ALTAGRACIA RAMIREZ (APN: 085-050-005); AND ROBERT J. HESS AND  
PATRICIA M. HESS (APN: 085-050-006) FOR THE FLOYD-ROSELLE  
ROUNABOUT 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 portions of the following parcels for right of way for the Floyd-Roselle Roundabout Project from: Ignacio Hernandez (APN: 085-050-004); Altagracia Ramirez (APN: 085-050-005); and Robert J. Hess and Patricia M. Hess (APN: 085-050-006).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager is hereby authorized to sign an acceptance form on behalf of the City of Modesto for three (3) Grant Deeds for the acquisition of portions of the properties owned by Ignacio Hernandez (APN: 085-050-004); Altagracia Ramirez (APN: 085-050-005); and Robert J. Hess and Patricia M. Hess (APN: 085-050-006) for the Floyd-Roselle Roundabout Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-303**

**A RESOLUTION APPROVING A LIST OF QUALIFIED UTILITY RATE  
PROFESSIONALS TO ASSIST CITY WITH UTILITY USER FEE STUDIES  
(WATER, WASTEWATER (SEWER), STORM DRAIN),  
WATER/WASTEWATER (SEWER) CONNECTION FEE STUDY AND PEER  
REVIEWS FOR A PERIOD OF FIVE (5) YEARS**

WHEREAS, the last City of Modesto Wastewater (Sewer) Rate Study was completed in 1998, and

WHEREAS, Public Works and Finance representatives developed a list of needs for new studies. In March 2006, a Request for Qualifications (“RFQ”) was mailed to 25 vendors and posted to our web site for Utility User Fee Studies (Water, Sewer, Storm Drain), Water/Wastewater Connection Fee Study and Peer Reviews, and

WHEREAS, the objectives of the fee studies are to ensure that the City's water and wastewater (sewer) utilities are adequately funded, and to have a strategy for identifying and financing future operating and capital needs. More importantly, these studies ensure that the City's user rates and fees are fair and equitable to its customers, and

WHEREAS, on March 30 2006, the qualification committee consisting of an outside banker, a Council member observer, and representatives from Public Works, Finance, and the City Manager’s Office reviewed 9 RFQs and found all firms submitting a statement of qualification to be qualified firms and recommended that only the top 5 firms be placed on an “approved” list for a period of 5 years and that interviews take place with the top 3 firms. The five firms to be considered for the “approved list” includes CH2MHill, Brown and Caldwell, CDM, Hilton, Farnkopf & Hobson, and

MuniFinancial. On April 14<sup>th</sup> 2006, the selection committee comprised of staff from Public Works and Finance, with a Council member observer, conducted interviews with the top 3 firms, and

WHEREAS, a result of the formal presentations and interviews, the selection committee recommended Brown and Caldwell to conduct 2 rate projects (Wastewater (Sewer) Rate Study and Wastewater (Sewer) Connection Fee Study) and Hilton, Farnkopf and Hobson to conduct Peer Reviews of the studies as well as conduct the Water Connection Fee Study Review and Update,

WHEREAS, the Wastewater (Sewer) Rate Study, Wastewater (Sewer) Connection Fee study and Peer Review Selection Status was brought before the Finance Committee on April 24, 2006 as an informational item,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves a list consisting of the top 5 qualified utility rate professional firms (CH2MHill, Brown and Caldwell, CDM, Hilton, Farnkopf & Hobson, and MuniFinancial) for a period of five (5) years.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-304**

**A RESOLUTION APPROVING AN AGREEMENT FOR CONSULTANT SERVICES WITH BROWN AND CALDWELL FOR THE PREPARATION OF A WASTEWATER (SEWER) RATE STUDY IN THE AMOUNT OF \$108,000 AND A WASTEWATER (SEWER) CONNECTION FEE STUDY IN THE AMOUNT OF \$35,800, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT**

WHEREAS, Public Works and Finance representatives developed a list of needs for new studies, and

WHEREAS, the objectives of the rate/fee studies are to ensure that the City's water and wastewater (sewer) utilities are adequately funded, and have a strategy for identifying and financing future operating and capital needs, and

WHEREAS, as a result of the formal presentations and interviews, the selection committee recommended to City Council an Agreement For Consultant Services with Brown and Caldwell for the preparation of a Wastewater (Sewer) Rate Study in the amount of \$108,000 and a Wastewater (Sewer) Connection Fee Study in the amount of \$35,800, and authorizing the City Manager, or his designee, to execute said agreement,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves an Agreement For Consultant Services with Brown and Caldwell for the preparation of a Wastewater (Sewer) Rate Study in the amount of \$108,000 and a Wastewater (Sewer) Connection Fee Study in the amount of \$35,800.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-305**

**A RESOLUTION APPROVING AN AGREEMENT FOR CONSULTANT SERVICES WITH HILTON, FARNKOPFT AND HOBSON FOR THE PREPARATION OF A PEER REVIEW FOR THE WASTEWATER (SEWER) RATE STUDY IN THE AMOUNT OF \$21,850 AND A PEER REVIEW FOR THE WASTEWATER (SEWER) CONNECTION FEE STUDY IN THE AMOUNT OF \$18,450, AND PREPARTION OF THE WATER CONNECTION FEE REVIEW AND UPDATE IN THE AMOUNT OF \$19,590, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT**

WHEREAS, Public Works and Finance representatives developed a list of needs for new utility studies, and

WHEREAS, the objectives of the rate/fee studies are to ensure that the City's water and wastewater utilities are adequately funded, and have a strategy for identifying and financing future operating and capital needs, and

WHEREAS, the Building Industry Association (BIA) requested a review and update for the Water Connection Fees, and

WHEREAS, the City Council has recommended to staff that peer reviews for Wastewater (Sewer) Rate Study, and Wastewater (Sewer) Connection Fee Study be conducted, and

WHEREAS, as a result of the formal presentations and interviews, the selection committee recommended to City Council an Agreement For Consultant Services with Hilton, Farnkopft and Hobson for the preparation of a Peer Review for the Wastewater (Sewer) Rate Study in the amount of \$21,850 and a Peer Review for the Wastewater (Sewer) Connection Fee Study in the amount of \$18,450, and preparation of a Water Connection Fee Review and Update in the amount of \$19,590,



NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves an Agreement For Consultant Services with Hilton, Farnkopft and Hobson for the preparation of a Peer Review for the Wastewater (Sewer) Rate Study in the amount of \$21,850 and a Peer Review for the Wastewater (Sewer) Connection Fee Study in the amount of \$18,450, and preparation of a Water Connection Fee Review and Update in the amount of \$19,590.

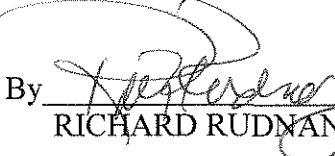
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> of May, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-306**

**A RESOLUTION APPROVING AN AGREEMENT FOR CONSULTANT SERVICES WITH HARRIS AND ASSOCIATES FOR THE WASTEWATER (SEWER) RATES PROPOSITION 218 PROPERTY NOTICING AND PROTEST HEARING PROCESS IN THE AMOUNT OF \$79,800, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT**

WHEREAS, Public Works and Finance representatives developed a list of needs for new utility studies, and

WHEREAS, the objectives of the rate/fee studies are to ensure that the City's water and wastewater utilities are adequately funded, and have a strategy for identifying and financing future operating and capital needs, and

WHEREAS, the City Council adheres to Proposition 218 when increasing sewer rates, and

WHEREAS, City staff desires the assistance of Harris and Associates with regard to Protest Noticing and the Public Hearing Process related to an increase in Wastewater (Sewer) Rates, and Harris and Associates has agreed to assist with regard to the Wastewater (Sewer) Rates Proposition 218 Property Noticing and Protest Hearing Process for the amount of \$79,800,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves an Agreement For Consultant Services with Harris and Associates for the Wastewater (Sewer) Rates Proposition 218 Property Noticing and Protest Hearing Process in the amount of \$79,800,

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

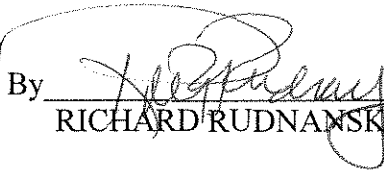
AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-307**

**A RESOLUTION AMENDING THE FY 05-06 OPERATING BUDGET TO  
APPROPRIATE FUNDS TO CONDUCT UTILITY RATE STUDIES, REVIEWS  
AND RELATED ACTIVITIES AND CARRYING FORWARD THE BALANCES  
INTO THE FY 06/07 BUDGET IN ORDER TO COMPLETE THE RATE  
PROJECTS**

WHEREAS, Public Works and Finance representatives developed a list of needs for new utility studies, and

WHEREAS, the objectives of the rate/fee studies are to ensure that the City's water and wastewater utilities are adequately funded, and have a strategy for identifying and financing future operating and capital needs, and

WHEREAS, the utility rate projects include a Wastewater (Sewer) Rate Study (\$108,000); Wastewater (Sewer) Connection Fee Study (\$ 35,800); Wastewater (Sewer) Rate Study Peer Review (\$21,850); Wastewater (Sewer) Connection Fee Peer Review (\$18,450); Water Connection Fee Review and Update (\$19,590); Wastewater (Sewer) Rate Protest Notice and Public Hearing Process (\$79,800); and (\$15,000) in Wastewater (Sewer) data extract, development, testing, and other costs, and

WHEREAS, in 2005 the Wastewater (Sewer) Rate Study's budget was estimated at \$150,000 and the Wastewater (Sewer) Connection Fee Study at \$50,000. \$122,160 of Wastewater (Sewer) money remains and will be transferred from the Finance Department to the Wastewater (Sewer) Fund in the administration account: 6210-480-5212-0235, to be used towards the Wastewater (Sewer) related rate projects. The sum of \$15,000 will be used for data extracts and analysis, parcel database development, testing and miscellaneous expenses, while \$107,160 will be used for rate/fee study invoices. An

additional \$156,740 will be appropriated from the Wastewater (Sewer) reserves to the administration account to combine with the remaining \$107,160 to pay for the \$263,900 of Wastewater (Sewer) Rate projects and related peer reviews, and

WHEREAS, after July 1, 2006, the entire \$278,900 (or remaining balance) will be transferred from the old administration account: 6210-480-5212-0235 to the new Wastewater (Sewer) administration account: 6210-480-5209-0235, and

WHEREAS, the Water Connection Fee Review, \$19,590 will be appropriated from the Water Fund Reserves and transferred to the: 6100-480-5000-0235 account and this amount will be rolled over to FY 06/07 to complete the review,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves a resolution amending the FY 05-06 Operating Budget to Appropriate Funds into the proper professional services accounts to conduct rate studies, reviews and related activities in the Wastewater (Sewer) fund in the amount of \$278,900 and in the water fund in the amount of \$19,590 and said balances will be carried forward into the FY 06/07 budget in order to complete the rate projects.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:


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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-308**

**A RESOLUTION APPROVING AMENDMENT NO. 2 OF THE MASTER  
PROPERTY TAX AGREEMENT WITH THE COUNTY OF STANISLAUS,  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE  
THE AMENDMENT, AND ACCEPT \$490,216 IN GENERAL FUND REVENUE  
FOR CORRECTED PROPERTY TAX ALLOCATION**

WHEREAS, the County of Stanislaus entered into a Master Property Tax Agreement with its nine cities on May 7, 1996, and

WHEREAS, on March 23, 2004, the City and County entered into Amendment No. 1 to the Master Property Tax Agreement which added a 1.8 acre parcel to the property tax revenue provisions of the original agreement, and

WHEREAS, pursuant to the Master Property Tax Agreement, the county agreed to share future growth in the assessed valuation of land increases in property tax revenue above the base amount, with 70% of the tax growth going to the County and 30% to the Cities, and

WHEREAS, City staff has identified the need to clarify the Master Property Tax Agreement with regard to the manner in which the calculation of said 70%/30% split was made, and

WHEREAS, County met with city representatives to review the allocation methodology and implementing language contained in the Master Property Tax Agreement, and

WHEREAS, County and city representatives concluded that the allocation methodology did not reflect the original intent of the Master Property Tax Agreement and that said Agreement should be amended to remove any ambiguity, and

WHEREAS, on September 21, 2005, representatives from the cities and County met again and developed recommended changes to the existing Master Property Tax Agreement, and

WHEREAS, representatives of the cities and County met with the County Auditor-Controller staff to review the revised allocations, and

WHEREAS, on March 7, 2006, the Chief Executive Office confirmed their review of the revised allocations to the cities and affirmed that the methodology was sound and complied with the spirit of the agreement, and

WHEREAS, the County Auditor-Controller will issue a check to the City of Modesto in the amount of \$490, 216 to correct City's allocation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby approves the Amendment No. 2 of the Master Property Tax Agreement with the County.

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

BE IT FURTHER RESOLVED that City staff is hereby authorized and directed to accept \$490,216 from the County and to deposit \$490, 216 into the General Fund Reserves.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the Resolution adopted by the following vote:


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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-309**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF RENTAL EQUIPMENT ON A CITY WIDE BASIS FOR AN INITIAL THREE (3) YEAR PERIOD, WITH TWO (2) ADDITIONAL ONE-YEAR CONTRACT EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF \$350,000**

WHEREAS, the Public Works Department has requested the purchase of rental equipment, and is the primary user of rental equipment, and

WHEREAS, various divisions within the Public Works Department may have a need for rental equipment for City projects, and

WHEREAS, rental equipment has been used in the following projects over the last year:

1. The Water Division utilizes trailers, loaders and trenchers for City projects. The trailers are used to haul materials on large projects and loaders for large construction projects and the trenchers are used for water service replacement projects.
2. The Electrical Division's use of routine, short-term rental equipment is needed for routine repair projects, accident/damage recoveries and during installation of new streetlights and traffic signals. Concrete saws and trenchers are the most frequently used pieces of equipment for routine operations, and
3. The Primary and Secondary Water Quality Control (WQC) facilities use various types of rental equipment for maintenance of the primary and secondary treatment plants, as well as the Ranch and Compost facilities.

The equipment is not used frequently enough to justify its purchase by the City and is not available through the City Fleet Services Division. Each year, managers, re-evaluate the rental cost of various pieces of rental equipment to determine if purchase of the equipment is more economical than renting.

4. The Forestry/Parks Divisions utilizes trenchers to install irrigation equipment for various City projects.

and

WHEREAS, rental equipment used over the last fiscal year consisted of: trenchers, rollers, concrete saws, saws, trailers, one-half ton pickups, water trucks, dump trucks, forklifts, loaders, crane trucks, compactors, air compressors, and jack hammers, and

WHEREAS, by soliciting competitive bids, the City will achieve the best value for rental equipment and meet Modesto Municipal Code, (MMC) requirement for formal bids, and

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

WHEREAS, this Request for Bid (RFB) for the purchase of rental equipment on a City wide basis process conforms to Modesto Municipal Code Section 8-3.203, and

WHEREAS, the City Council has appropriated funds for rental equipment in the following accounts: 6180-Various-85 (Water Fund-CIP), 0100-350-32522-0216 (General Fund), 6210-480-5213-0216 (Sewer Operations), 6210-480-5214-0216 (Sewer

Operations), 0700-480-4622-0218 (Street, Traffic & Forestry), 0700-160-1612-0365 (Street, Traffic & Forestry), 0700-160-1612-0308 (Street , Traffic & Forestry), and

WHEREAS, the Purchasing Division has coordinated the drafting of bid specifications for rental equipment with the Public Works Department staff,

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 competitive sealed bids for the purchase of rental equipment, for an initial three (3) year period, with two (2) additional one-year contract extension options, at the sole discretion of City, to be opened in the office of the City Clerk, 1010 10<sup>th</sup> 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 bids are opened they shall be tabulated and analyzed by the Purchasing Division and a report submitted to the Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May 2006, by Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-310**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR DIGESTER CLEANING FOR AN INITIAL THREE (3) YEAR PERIOD, WITH TWO (2) ADDITIONAL ONE-YEAR CONTRACT EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF \$35,936, WITH FUNDING BUDGETED IN FY 2006/2007**

WHEREAS, the Public Works Department-Water Quality Control Division has requested the cleaning of digesters, and

WHEREAS, digesters are utilized to reduce the volume of organic waste that is removed from the waste water in the Primary clarifiers, and

WHEREAS, cleaning of digesters removes solids that will not break down in the digestion process, and

WHEREAS, this cleaning ensures that proper operating and energy efficiency is maintained, and

WHEREAS, the anaerobic digester process does not break down inorganic material such as sand and plastic, and

WHEREAS, cleaning of anaerobic digesters is standard operating procedure for all wastewater treatment plants, and

WHEREAS, by soliciting competitive bids, the City will achieve the best value for digester cleaning and meet Modesto Municipal Code (MMC) requirements for formal bids, and

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

WHEREAS, this Request for Bid (RFB) for digester cleaning conforms to Modesto Municipal Code Section 8-3.203, and

WHEREAS, the City Council has appropriated funds for digester cleaning in account number 6210-480-5213-0235 (SEWER OPERATIONS FUND) for FY 2006/2007, and

WHEREAS, the Public Works Department has included \$35,936 in their operating budget for sewer operations fund, which includes finding for digester cleaning, and

WHEREAS, the estimated annual cost for digester cleaning is \$35,936, and

WHEREAS, the Purchasing Division has coordinated the drafting of bid specifications for digester cleaning with Public Works Department-Water Quality Control,

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 competitive sealed bids for digester cleaning for an initial three (3) year period, with two (2), additional one-year contract extension options, at the sole discretion of the City, to be opened in the office of the City Clerk, 1010 10<sup>th</sup> 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 sealed bids are opened they shall be tabulated and analyzed by the Purchasing Division and a report submitted to the Council.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-311**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT TO COOPER CONTROLS AND ELECTRICAL SERVICES OF ACAMPO, CA FOR INDUSTRIAL FLOW METER CALIBRATIONS FOR AN INITIAL THREE (3) YEAR PERIOD, WITH TWO (2) ADDITIONAL ONE-YEAR CONTRACT EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF \$12,832**

WHEREAS, the Public Works Department-Environmental Compliance Section has requested that a certified impartial vendor perform industrial and Water Quality Control Facility (WQCF) flow meter calibrations, and

WHEREAS, the Environmental Compliance Section is responsible for monitoring flow meter data to determine industry compliance with City issued Pretreatment Wastewater Discharge Permit requirements, and

WHEREAS, pretreatment permits require industries to install and maintain effluent meters, and

WHEREAS, meter calibration confirms compliance with permit requirements, and

WHEREAS, impartial meter calibration reduces potential challenges, based on effluent meter accuracy, should a permitted industry not meet compliance with a permit limit requirement, and

WHEREAS, industrial flow meter calibration is needed because local industries that meet the requirements in the Code of Federal Regulation (40 CFR, 403.12) must be enrolled in the City's Pretreatment Program, and

WHEREAS, these industries are assigned permit limits for pollutants that are discharged to the City sewer system, and

WHEREAS, flow meter data is required to track compliance with permitted discharge limits, and

WHEREAS, flow meter data is required to calculate industrial sewer billing for flow, Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS), and

WHEREAS, the effluent flow meter provides a signal for flow proportional sampling equipment to collect samples, and

WHEREAS, accurate flow measurement ensures valid and representative sample collection at each industry, and

WHEREAS, sample results and flow data are required to calculate industrial user compliance with permit concentration limits for BOD and TSS, and

WHEREAS, the WQCP and the Jennings Road Facility site have both the influent (measures incoming flows) and effluent (measures discharge flows) meters, and

WHEREAS, the industries enrolled in the pretreatment program have effluent meters, and must be calibrated semi-annually, and

WHEREAS, industry effluent meters and all meters (influent, effluent and operational process) within the WQCF system are checked before the start of the cannery-processing season, and

WHEREAS, the second calibration is scheduled for approximately six months later, and

WHEREAS, the City of Modesto WQCF NPDES Permit, Board Order 5-01-120, requires submission of a written report each year by January 30<sup>th</sup>, to the California Regional Water Quality Control Board, United States Environmental Protection Agency

(USEPA), Regional Administrator, and the State Water Resource Control Pretreatment Program Manager, and

WHEREAS, the report must contain a statement certifying when the flow meters and other monitoring instruments and devices were last calibrated, including who performed the calibration, and

WHEREAS, the City contracts with a certified third party vendor to ensure impartial meter calibrations, and

WHEREAS, Resolution No. 2005-475 authorized the Purchasing Manager to solicit bids for industrial flow meter calibrations, and

WHEREAS, the Purchasing Division solicited formal bids for industrial flow meter calibration on Request for Bid (RFB) 0506-12, with a bid opening date of March 14, 2006, and

WHEREAS, thirteen (13) vendors were solicited, of which none were local vendors, and

WHEREAS, out of thirteen (13) vendors solicited, two (2) chose to respond, and

WHEREAS, the Purchasing Division and Public Works Department-Environmental Compliance Section evaluated bids, and

WHEREAS, Cooper Controls and Electrical Services was deemed to be the lowest responsive and responsible bidder, and

WHEREAS, the total approximate annual amount for industrial flow meter calibrations is \$12,932 with a five-year total approximate amount of \$64,160, and

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

WHEREAS, the code also states that purchases whose total maximum cost to the City exceeds \$50,000 shall receive preliminary approval of Council, MCC (8-3.203 (a), and

WHEREAS, this requirement for industrial flow meter calibration received said approval with Resolution No. 2005-475, and

WHEREAS, this Request for Bid (RFB) process conforms to City Code, and

WHEREAS, the City Council has appropriated funds for industrial flow meter calibrations in account number 6210-480-5217-0235-50 (SEWER OPERATIONS FUND),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes award of bid and contract for industrial flow meter calibrations to Cooper Controls and Electrical Services of Acampo, CA for an initial three (3) year period, with two (2) additional one-year contract extension options, at the sole discretion of the City, for a total approximate annual cost of \$12,832.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for industrial flow meter calibrations as set forth herein.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-312**

**RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF LIQUID SULPHUR DIOXIDE FOR AN INITIAL THREE (3) YEAR PERIOD, WITH TWO (2) ADDITIONAL ONE-YEAR CONTRACT EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF \$60,000, WITH FUNDING BUDGETED IN FY 2006/2007**

WHEREAS, the Public Works Department-Water Quality Control Plant (WQCP) has requested the purchase of sulphur dioxide (SO<sub>2</sub>), and

WHEREAS, liquid sulphur dioxide is used at the Secondary Water Quality Control facility to dechlorinate secondary treated wastewater before it is discharged into the San Joaquin River, and

WHEREAS, the Secondary Water Control Plant was constructed in 1967, and

WHEREAS, a liquid sulphur dioxide system was installed in 1985, and

WHEREAS, the system consists of one (1) 50,000 pound bulk storage tank and two (2) 1,900 pound sulfonators, and

WHEREAS, failure to perform dechlorination can result in fines up to \$10,000 per day, and

WHEREAS, the City of Modesto is responsible for the proper disinfection of water that is discharged into the San Joaquin River based on the Regional Water Quality Control Board (RWQCB) permit. The RWQCB permit is designed to protect the river habitat and surrounding environment, and

WHEREAS, the river discharge season is from October 1<sup>st</sup> through May 31<sup>st</sup>, and

WHEREAS, by soliciting competitive bids, the City will achieve the best value for liquid sulphur dioxide and meet Modesto Municipal Code (MMC) requirements for formal bids, and

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

WHEREAS, this Request for Bid (RFB) for the purchase of liquid sulphur dioxide conforms to Modesto Municipal Code Section 8-3-203, and

WHEREAS, the City Council has appropriated funds and made funds available in account number 6210-480-5214-0312 (SEWER OPERATIONS FUND) for FY 2006/2007, and

WHEREAS, the Public Works Department has included \$60,000 in their operating budget for sewer operations fund, which includes funding for liquid sulphur dioxide, and

WHEREAS, the estimated annual cost for liquid sulphur dioxide is \$60,000 for FY 2006/2007.

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 competitive sealed bids for the purchase of liquid sulphur dioxide, for an initial three (3) year period, with two (2) additional one-year contract extension options, at the sole discretion of the City, to be opened in the office of the City Clerk, 1010 10<sup>th</sup> 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 bids are opened they shall be tabulated and analyzed by the Purchasing Division and a report submitted to the Council.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-313**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO SOLICIT FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF LIQUID FERRIC CHLORIDE FOR AN INITIAL THREE (3) YEAR PERIOD, WITH TWO (2) ADDITIONAL ONE-YEAR CONTRACT EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF \$66,300, WITH FUNDING BUDGETED IN FY 2006/2007**

WHEREAS, the Water Quality Control Plant (WQCP) has requested the purchase of liquid ferric chloride, and

WHEREAS, odors and corrosion are generated in the wastewater collections system and treatment process due to natural occurring levels of hydrogen sulfide, and

WHEREAS, to properly control the hydrogen sulfide gas, staff must inject a non-hazardous solution of iron, in the form of ferric chloride, into the influent wastewater at the primary treatment plant, and

WHEREAS, ferric chloride can be safely handled and does not require specialized control or safety devices for use, and

WHEREAS, the WQCP has estimated the normal annual usage of liquid ferric chloride to be approximately 147,680 gallons or approximately 2,840 gallons per week, and

WHEREAS, by soliciting competitive bids, the City will achieve the best value for liquid ferric chloride and meet Modesto Municipal Code (MMC) requirements for formal bids, and

WHEREAS, Modesto Municipal Code 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, this Request for Bid (RFB) for the purchase of liquid ferric chloride process conforms to Modesto Municipal Code, and

WHEREAS, the City Council has appropriated funds and made funds available for liquid ferric chloride in account number: 6210-480-5213-0312 (SEWER OPERATIONS FUND) for FY 2006/2007, and

WHEREAS, the Public Work Department has included \$66,300 in their operating budget for sewer operations fund for FY 2006/2007, which includes funding for liquid ferric chloride, and

WHEREAS, the estimated annual cost for liquid ferric chloride based on normal usage volume is \$66,300,

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 competitive sealed bids for the purchase of liquid ferric chloride, for an initial three (3) year period, with two (2) additional one-year contract extension options, at the sole discretion of the City, to be opened in the office of the City Clerk, 1010 10<sup>th</sup> 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 bids are opened they shall be tabulated and analyzed and a report submitted to the Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:


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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-314**

**A RESOLUTION AUTHORIZING NO AWARD OF PROPOSAL AND  
CONTRACT FOR THE INTEGRATED PUBLIC SAFETY SYSTEM RFP  
RELEASED IN OCTOBER 2004, BY GARTNER CONSULTING, ON BEHALF  
OF THE CITY OF MODESTO**

WHEREAS, Gartner Consulting released an Integrated Public Safety System RFP on behalf of the City of Modesto in October 2004, and

WHEREAS, the RFP responses and proposals were reviewed, evaluated, and ranked by the inter-agency selection team, and

WHEREAS, a single solution or vendor consensus could not be reached after having extensive discussions and evaluations, and

WHEREAS, the Executive team for the RFP process agreed that under the existing RFP requirements, a vendor could not be selected, and

WHEREAS, Section I-K paragraph 2 in the RFP states, "SR911 members agencies and the City reserve the right to reject any or all proposals, or to make no award." Section I.R in the RFP further states, "SR911 and the City reserve the right to reject any or all bids and any item or items therein."

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes no award of proposal and contract for the Integrated Public Safety System RFP released in October 2004, by Gartner Consulting, 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 23<sup>rd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmemeber Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-315**

**A RESOLUTION AUTHORIZING THE AGENCY-APPROVED CONSULTANT  
(THAYER CONSULTING), TO RE-ISSUE A FORMAL REQUEST FOR  
PROPOSAL (RFP) FOR INTEGRATED PUBLIC SAFETY SYSTEMS**

WHEREAS, in December 2003, the Joint Powers Agency (JPA) approved a project with Gartner Consulting to select a replacement/upgrade system for our Computer Aided Dispatch System (CAD) and Integrated Public Safety System, and

WHEREAS, Gartner Consulting issued a Request For Proposal (RFP) with responses due on or before January 11, 2005, and

WHEREAS, after an in-depth review, it was determined that the proposed solutions provided in the submitted proposal responses did not meet all of the requirements of the participating agencies, and

WHEREAS, as a result, the evaluation committee could not make a recommendation to award the proposal, and

WHEREAS, on October 12, 2004, City Council approved the request to issue a RFP for CAD and Integrated Public Safety system, and

WHEREAS, the primary Gartner Consultant is now employed with the agency-approved Thayer Consulting LLC and continues to work on the CAD project, and

WHEREAS, this project represents a joint effort between the City and the County, with costs to be shared equally, and

WHEREAS, funding sources for the project are yet to be determined, but City and County are continuing to jointly pursue several possible funding sources for the implementation phase of this project, including Local, State, and Federal grants, and

WHEREAS, City desires to reissue the Integrated Public Safety System RFP in order to take advantage of new technologies that are available to Public Safety organizations.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the JPA's Consultant, Thayer Consulting LLC, to re-issue a formal request for proposal (RFP) for Integrated Public Safety Systems.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Council member Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-316**

**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 CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the County of Stanislaus and the City of Modesto have a Service Agreement with Covanta Stanislaus for the operation of the Waste-to-Energy Facility, and

WHEREAS, 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 provide input into any issuance of new debt on the



facility, 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 March 23, 2006, meeting the Waste-to-Energy Financing Agency 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 Financing Agency 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 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 23<sup>rd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-317**

**A RESOLUTION AUTHORIZING STAFF TO SEND INVITATIONS TO  
QUALIFIED AND INVOLVED NON-PROFIT 501(c)3 ORGANIZATIONS TO  
SUBMIT "LETTERS OF INTEREST" TO BE CONSIDERED TO ENTER INTO  
A MANAGEMENT AGREEMENT WITH THE CITY OF MODESTO TO  
OPERATE THE KING-KENNEDY MEMORIAL CENTER (KKMC)**

WHEREAS, in March 1966, the Westside Neighborhood Center Steering Committee was formed to discuss and try to 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 the WNCI, which stated that, the Westside Neighborhood Center Inc. 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 \$400,799 annually for the facilities, staffing and programming budget at KKMC, and

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department believes that the timing may be right to inquire if a non-profit community group is interested in operating the KKMC under a management agreement, and

WHEREAS, at its meeting on May 1, 2006, the Safety and Communities Committee supported staff's recommendation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to send invitations to qualified and involved non-profit 501(c)3 organizations to submit "Letters of Interest" to be considered to enter into a management agreement with the City of Modesto to operate the King-Kennedy Memorial Center (KKMC).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-318**

**AMENDED**  
on August 6, 2008  
By Resolution 2008-460  
2008-461

**A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING  
(MOU) BETWEEN THE CITY OF MODESTO AND THE MODESTO CITY  
EMPLOYEES ASSOCIATION (MCEA) FOR A TERM OF MAY 23, 2006  
THROUGH JULY 23, 2007 AND RESCINDING RESOLUTION NO. 2005-484  
EFFECTIVE MAY 22, 2006**

WHEREAS, the Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto City Employees Association (MCEA) expired on July 25, 2005, and

WHEREAS, the CITY and MCEA have been operating under the terms and conditions of an Implementation Document, imposed by City Council on September 27, 2005, pursuant to Resolution Number 2005-484, 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, pursuant to an Agenda Report dated May 9, 2006, a copy of which report is on file in the office of the City Clerk, the CITY and MCEA have reached agreement on a new MOU which, upon execution, shall replace the Implementation Document and shall be attached hereto and made a part hereof, and

WHEREAS, the MOU provides as follows:

SECTION 1. SALARY INCREASE. The current salary schedule effective February 21, 2006 shall remain in full force and effect through February 19, 2007. An across-the-board salary increase of 2.5% shall be effective February 20, 2007. This

AMENDED

~~salary increase is~~ in lieu of the 3% increase previously authorized by Resolution No. 2005-484, and which would have been effective on February 20, 2007.

SECTION 2. HEALTH, DENTAL AND VISION BENEFITS. The City's contribution to employees' Health, Dental and Vision coverage shall be as follows:

	<u>7/26/05</u>	<u>7/25/06</u>
Family	\$617	\$812
Single	400	445
Opt Out	350	375

SECTION 3. ADDITIONAL CHANGES. Other negotiated additions, deletions or amendments to the text of the Memorandum of Understanding deal with standby, licenses and certificates, fatigued employees, call back, pay differentials, coveralls, sick leave accrual, health contributions, outside employment renegotiations, maintenance of membership, job actions, and full understanding and waiver, and

WHEREAS, the Council considered this matter at its meeting of May 23, 2006,

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 Employees Association (MCEA), which covers a term from May 23, 2006 through July 23, 2007, and upon execution of same, a copy of the MOU will be on file in the office of the City Clerk.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that Resolution No. 2005-484 is hereby rescinded effective May 22, 2006.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



*"Exhibit A" Amended  
M 10/23/07 by  
Resolution No.  
2007-60*

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-319**

**A RESOLUTION APPROVING THE CLASS RANGE TABLE FOR GENERAL NON-SWORN CLASSES AS SET FORTH IN EXHIBIT "A" ATTACHED HERETO EFFECTIVE MAY 23, 2006, AND ADOPTED CONCURRENTLY WITH RESOLUTION NO. 2006-31 APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO CITY EMPLOYEES ASSOCIATION (MCEA) ADOPTING SALARY AND BENEFIT CHANGES AND SETTING FORTH SALARY SCHEDULES FOR GENERAL NON-SWORN CLASSES AND RESCINDING RESOLUTION NO. 2005-485 EFFECTIVE MAY 22, 2006**

WHEREAS, on May 23, 2006, the City Council adopted Resolution No. 2006-318 approving a Memorandum of Understanding (MOU) between the City of Modesto and the Modesto City Employees Association (MCEA) and setting forth salary schedules for general non-sworn classes, 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 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 May 23, 2006" 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. 2005-485 is hereby rescinded effective May 22, 2006.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:


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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

CITY OF MODESTO  
CLASS RANGE TABLE  
GENERAL NON-SWORN CLASSES  
Effective **May 23, 2006**

---

RANGE	TITLE
101	Custodian I
103	Administrative Office Assistant I
104	
105	
106	
107	Administrative Office Assistant II Custodian II Police Clerk I
108	
109	Customer Services Account Clerk I
110	Security Officer Maintenance Worker I
111	Account Clerk Administrative Office Assistant III Customer Services Account Clerk II Police Clerk II
112	
113	Administrative Technician Computer Operator Drafting and Graphics Technician
114	Animal Control Officer I Electrical Technician I Equipment Service Technician Evidence and Property Specialist Maintenance Worker II Production Technician Storeskeeper

RANGE	TITLE
115	Accounting Technician Administrative Services Technician I Code Enforcement Officer I Community Service Officer I Customer Services Account Clerk III Senior Administrative Office Assistant Wastewater Treatment Plant Attendant
116	Equipment Operator Fire Prevention Technician I Motor Sweeper Operator Traffic Operations Technician Used Oil Coordinator Wastewater Collection System Operator Water Distribution System Operator
117	Electrical Technician II
118	Customer Services Accounting Technician Fleet Procurement Specialist Parking Lot Maintenance Crewleader Parks Crewleader Recreation Coordinator Senior Storeskeeper Tree Trimmer
119	Administrative Services Technician II Animal Control Officer II Assistant Buyer Building Maintenance Mechanic Civil Engineering Technician I Code Enforcement Officer II Community Service Officer II Maintenance Mechanic – Parks Maintenance Mechanic – Pumps Public Information Technician Wastewater Treatment Plant Operator

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

RANGE	TITLE
127	Civil Engineering Assistant Identification Technician II Senior Fire Equipment Mechanic
128	Community Development Program Specialist II Environmental Compliance Inspector II Instrument Repair Technician Senior Wastewater Treatment Plant Operator
129	
130	Building Inspector II Construction Inspector Housing Rehabilitation Specialist II Project Coordinator
131	Senior Civil Engineering Assistant
132	Environmental Review Specialist Senior Environmental Compliance Inspector
133	
134	Deputy Fire Marshal Plan Review Engineer Senior Building Inspector Senior Construction Inspector

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-320**

**A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING  
(MOU) BETWEEN THE CITY OF MODESTO AND THE MODESTO  
MANAGEMENT AND CONFIDENTIAL ASSOCIATION (MCMA) FOR A  
TERM OF MAY 23, 2006 THROUGH JUNE 25, 2007 AND RESCINDING  
RESOLUTION NO. 2005-493 EFFECTIVE MAY 22, 2006**

WHEREAS, the Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto Confidential and Management Association (MCMA) expired on June 27, 2005, and

WHEREAS, the CITY and MCMA have been operating under the terms and conditions of an Implementation Document, imposed by City Council on October 4, 2005, pursuant to Resolution Number 2005-493, 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 May 16, 2006, 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 replace the Implementation Document and 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:

	<u>7/26/05</u>	<u>7/25/06</u>
Family	\$722	\$812
Single	435	480
Opt Out	385	390

SECTION 2. ADDITIONAL CHANGES. Other negotiated additions, deletions or amendments to the text of the Memorandum of Understanding deal with compensatory time off, acting and out-of-class pay, catastrophic leave, sick leave accrual, job actions, and full understanding and waiver, and

WHEREAS, the Council considered this matter at its meeting of May 23, 2006,

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 May 23, 2006 through June 25, 2007, and upon execution of same, a copy of the MOU will be on file in the office of the City Clerk.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that Resolution No. 2005-493 is hereby rescinded effective May 22, 2006.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-321**

**A RESOLUTION APPROVING THE CLASS RANGE TABLE FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES AS SET FORTH IN EXHIBIT "A" ATTACHED HERETO EFFECTIVE MAY 23, 2006, AND ADOPTED CONCURRENTLY WITH RESOLUTION NO. 2006-320 APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO CONFIDENTIAL AND MANAGEMENT ASSOCIATION (MCMA) ADOPTING SALARY AND BENEFIT CHANGES AND SETTING FORTH SALARY SCHEDULES FOR REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES AND RESCINDING RESOLUTION NO. 2005-494 EFFECTIVE MAY 22, 2006.**

WHEREAS, on May 23, 2006, the City Council adopted Resolution No. 2006-320 approving a Memorandum of Understanding (MOU) between the City of Modesto and the Modesto Confidential and Management Association (MCMA) setting forth salary schedules for Represented Management and Confidential Non-Sworn Classes and rescinding Resolution No. 2005-493 effective May 22, 2006, 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 May 23, 2006" 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. 2005-494 is hereby rescinded effective May 22, 2006.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:


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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

CITY OF MODESTO  
CLASS RANGE TABLE  
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES  
Effective May 23, 2006

---

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	Senior Administrative Office Assistant (Confidential) Secretary
416	
417	
418	Legal Secretary Systems Technician I
419	Public Information Technician (Confidential)
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (Represented) Legal Services Technician
421	

City of Modesto  
Class Range Table – Management and Confidential Non-Sworn Classes  
Page -2

---

RANGE	TITLE
422	Office Supervisor Utility Dispatch Supervisor Workers' Compensation Claims Examiner I Systems Technician II
423	Custodian Supervisor
424	Assistant Planner Buyer Police Facilities Coordinator
425	Administrative Analyst I
426	Supervising Animal Control Officer Police Civilian Supervisor Stores Manager Systems Technician III
427	Assistant City Clerk/Auditor Legal Services Administrator Workers' Compensation Claims Examiner II
428	Accountant II (Represented) Senior Buyer
429	
430	Associate Planner Community Services Supervisor Events Coordinator Junior Civil Engineer Junior Traffic Engineer 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  
      Neighborhood Preservation Supervisor  
      Operations and Maintenance Supervisor  
      Recreation Supervisor II  
      Senior Accountant  
      Water Quality Control Maintenance Supervisor  
      Water Quality Control Operations Supervisor
  
- 433    Organizational Development Specialist
  
- 434    Assistant Civil Engineer  
      Assistant Traffic Engineer  
      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  
      Senior Personnel Analyst  
      Weed and Seed Program Coordinator
  
- 436    Electrical Supervisor  
      Senior Planner
  
- 437

---

RANGE	TITLE
-------	-------

---

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

RANGE      TITLE

---

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

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-322**

**A RESOLUTION GRANTING HEALTH CONTRIBUTION CHANGES TO  
UNREPRESENTED MANAGEMENT AND CONFIDENTIAL EMPLOYEES,  
INCLUDING CHARTER OFFICERS AND EXECUTIVES EFFECTIVE MAY 23,  
2006, AND RESCINDING SECTION 3 OF RESOLUTION NO. 2005-602,  
EFFECTIVE MAY 22, 2006**

WHEREAS, by Section 3 of Resolution No. 2005-602 which became effective December 27, 2005, the City Council increased the City's contribution to health, dental and vision benefits for unrepresented Management and Confidential employees for FY 05-06 and FY 06-07, and

WHEREAS, the Council of the City of Modesto desires to approve an additional increase in the City's contribution to health, dental and vision benefits for non-sworn employees with Family coverage by \$20/month effective July 25, 2006, in addition to increases previously authorized by Resolution No. 2005-602,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City's contribution to health, dental and vision benefits for unrepresented Management and Confidential employees, for both sworn and non-sworn employees and for Charter Officers and Executives, is hereby designated to be the following:

	<u>City Contribution - Sworn and Non-Sworn</u> <u>Effective July 26, 2005</u>	<u>Effective July 25, 2006</u>
Family	\$722/month	\$812/month
Employee Only	\$435/month	\$480/month
Opt Out	\$385/month	\$390/month



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 3 of Resolution No. 2005-602 is hereby rescinded effective May 22, 2006.

BE IT FURTHER RESOLVED that all other sections and provisions of Resolution No. 2005-602 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 23<sup>rd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006- 323**

**A RESOLUTION APPROVING AN AMENDMENT TO PURCHASE  
AGREEMENT WITH ALVIN LUCHESSA AND WILLIAM LUCHESSA  
RELATING TO THE ACQUISITION OF PROPERTY LOCATED ON THE  
NORTHEAST CORNER APN: 046-02-01 (PORTION) OF PELANDALE  
AVENUE AND TULLY ROAD IN THE AMOUNT OF \$4,420.80, AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE  
THE AMENDMENT**

WHEREAS, on July 12, 2005, the City Council of the City of Modesto approved a Purchase Agreement between the City of Modesto and Alvin Luchessa and William Luchessa to purchase a portion of the necessary real property owned by Alvin & William Luchessa (APN: 046-002-001) at the northeast corner of Pelandale Avenue and Tully road related to the Pelandale Intersection Improvements and Signalization Project in the total amount of \$124,235.80, and

WHEREAS, said purchase price of \$124,235.80 included compensation for removal of 30 almond trees in the amount of \$4,420.80, and

WHEREAS, the Pelandale Signalization project proceeded on construction and actually removed 30 additional almond trees for which Alvin Luchessa and William Luchessa have asked compensation for in the amount of \$4,420.80, and

WHEREAS, City staff agrees to pay Alvin Luchessa and William Luchessa the sum of \$4,420.80, as just compensation in full for the interference to, loss of production of and removal of the additional 30 almond trees and no further payment of any kind shall accrue,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that an Amendment to Purchase Agreement between City of Modesto and Alvin

Luchessa and William Luchessa (APN:046-002-001) for the Pelandale Intersection Improvements and Signalization Project for removal of the 30 additional almond trees in the total amount of \$4,420.80 is hereby approved.

BE IT FURTHER RESOLVED that the execution of said Amendment by the City Manager, or his designee, on behalf of the City of Modesto is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudmanský  
RICHARD RUDMANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006- 324**

**A RESOLUTION APPROVING AN AMENDMENT TO A PURCHASE AGREEMENT WITH ALVIN LUCHESSA AND WILLIAM LUCHESSA RELATING TO THE ACQUISITION OF PROPERTY LOCATED ON THE NORTHWEST CORNER APN: 046-07-37 (PORTION) OF PELANDALE AVENUE AND TULLY ROAD IN THE AMOUNT OF \$2,763.00, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, on July 12, 2005, the City Council of the City of Modesto approved a Purchase Agreement between the City of Modesto and Alvin Luchessa and William Luchessa to purchase a portion of the necessary real property owned by Alvin Luchessa and William Luchessa (APN: 046-007-037) at the northwest corner of Pelandale Avenue and Tully Road related to the Pelandale Intersection Improvements and Signalization Project in the total amount of \$142,380.60, and

WHEREAS, said purchase price of \$142,380.60 included compensation for removal of 30 almond trees in the amount of \$3,315.60, and

WHEREAS, the Pelandale Signalization project proceeded on construction and actually removed 25 additional almond trees for which Alvin Luchessa and William Luchessa have asked compensation for in the amount of \$2,763.00, and

WHEREAS, City staff agrees to pay Alvin Luchessa and William Luchessa the sum of \$2,763.00, as just compensation in full for the interference to, loss of production of and removal of the additional 25 almond trees and no further payment of any kind shall accrue,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that an Amendment to a Purchase Agreement between City of Modesto and Alvin

Luchessa and William Luchessa (APN:046-007-037) for the Pelandale Intersection Improvements and Signalization Project for removal of the 25 additional almond trees in the total amount of \$2,763.00 is hereby approved.

BE IT FURTHER RESOLVED that the execution of said Amendment by the City Manager, or his designee, on behalf of the City of Modesto is hereby authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23rd day of May, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:

  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-325**

**A RESOLUTION REJECTING THE SOLE BID FOR THE PROJECT TITLED  
"COLLECTION SYSTEM REHABILITATION 2006" AND AUTHORIZING  
STAFF TO RE-ADVERTISE THE PROJECT AT A FUTURE DATE**

WHEREAS, the bids received for "Collection System Rehabilitation 2006" were opened at 11:00 a.m. on May 2, 2006, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, during the bid evaluation process staff determined that the sole bid for the project unreasonably exceeded the engineer's estimate. Therefore, staff recommends the bids be rejected and staff be allowed to re-advertise the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the sole bid received for "Collection System Rehabilitation 2006" opened in the office of the City Clerk on May 2, 2006, is hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project at a future date.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-326**

**A RESOLUTION APPROVING AN AGREEMENT WITH APPLIED PROCESS TECHNOLOGY, INC., TO INSTALL A PILOT TEST PROGRAM FOR NITRATE DESTRUCTION AT THE GRAYSON WATER SYSTEM IN THE NOT-TO-EXCEED AMOUNT OF \$45,000.00, AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto operates the Grayson Water System that has two water wells (Wells #274 and #295), which both have concentrations of Nitrates that exceed the State of California limitations, and

WHEREAS, to treat the water, the City has contracted with Basin Water to install an Ion/Exchange system to remove the Nitrates. The Ion/Exchange system is working satisfactorily, however, there is a brine waste stream (approximately 7% of the treated water) that is generated and must be disposed of through a maintenance agreement.

WHEREAS, the Ion/Exchange produces a brine solution of 2,000– 5,000 gallons/day that is delivered to the East Bay Municipal Utilities District (East Bay MUD) for disposal. If East Bay MUD ever declines our brine solution, the City has no other alternatives for its disposal, and

WHEREAS, the existing Ion/Exchange system has a high cost of operation of approximately \$150,000/year, and

WHEREAS, Applied Process Technology (Applied) has contacted the City to negotiate the installation of a Pilot Test Program for a new form of nitrate destruction technology that is more efficient and cost effective than the current system to reliably transform nitrates into nitrogen gas reducing waste product to 5% that can go directly into the sanitary sewer, and has asked compensation in the not-to-exceed amount of \$45,000.00, and

WHEREAS, water samples will be tested, and the State of California Department of Health Services (DHS) will be kept informed of the results. Within 12 months of successful completion of the pilot test and approval from DHS, Applied will provide a 20 Year Life-Cycle cost for a filtration unit capable of treating 1,000 gallons per minute, and

WHEREAS, City staff agrees to pay Applied Process Technology, Inc. the not-to-exceed sum of \$45,000.00, as just compensation,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between City of Modesto and Applied Process Technology, Inc. for the Nitrate Removal Pilot Program – Grayson Water System project in the not-to-exceed amount of \$45,000.00.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-327**

**A RESOLUTION APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND LOUIS BOER, JR., AN INDIVIDUAL, FOR LEASE OF CITY-OWNED PROPERTY LOCATED AT THE NORTHWEST CORNER OF FRAZINE ROAD AND LA COSTE LANE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LEASE AGREEMENT**

WHEREAS, City acquired approximately 12 acres consisting of almond and peach orchards located at the northwest corner of Frazine Road and La Coste Lane, and

WHEREAS, this land was acquired as part of a larger purchase to provide land for the Regional Water Treatment Plant storage tanks, and

WHEREAS, this property has been leased to Alcorn Farms for \$800 per year for the last 12 years, and

WHEREAS, the lease agreement with the Alcorn Farms has lapsed without request for renewal, and

WHEREAS, staff advertised for new tenants and received applications from three (3) interested parties, and

WHEREAS, after credit and reference checks on the three (3) applicants were completed, Louis Boer, Jr. was selected for the lease, and

WHEREAS, the term of the new agreement includes an annual rent of \$1,500 plus 15% of the net profit above \$1,500 on the sale of the crops, and

WHEREAS, lessee is responsible for paying property and irrigation taxes, as well as maintaining the property and trees, and

WHEREAS, rental and profit share revenues will be deposited in the Water Enterprise Fund Account No. 6100-480-5012-6201, and

WHEREAS, the Finance Committee considered this item at its April 24, 2006 meeting and recommended its approval and consideration by the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the lease agreement between the City of Modesto and Louis Boer, Jr., and individual, for the lease of the city-owned property located at the northwest corner of Frazine road and La Coste Lane.

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 regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-328**

**A RESOLUTION APPROVING THE DAY SPA USE IN THE SUMMIT  
BUSINESS PARK AND GRANTING AN APPEAL OF A STAFF  
DETERMINATION REGARDING A PROPOSED USE PERMIT FOR  
PROPERTY LOCATED AT 4345 SPYRES WAY, SOUTH OF BANGS AVENUE  
AND WEST OF McHENRY AVENUE IN THE KIERNAN/McHENRY  
COMPREHENSIVE PLANNING DISTRICT**

WHEREAS, the City of Modesto and the County of Stanislaus have entered into an agreement which states in part that the County will amend its General Plan to limit development within the City's Sphere of Influence to agricultural uses, churches, and such other uses that may be mutually agreed upon and which excludes some areas from this limitation, and

WHEREAS, Stanislaus County has adopted a General Plan policy which sets forth the procedure for referring development proposals within the Cities' Spheres of Influence for those uses that are neither a church nor an agricultural use and indicates that proposals should be evaluated against the general plan land use designation and that cities should also submit conditions to ensure that development complies with city development standards, and

WHEREAS, the City of Modesto adopted Policy 4.028, effective January 8, 1991, which establishes that staff determinations regarding County development referrals must be appealed to the City Council and identifying various distinct areas within the City's Sphere of Influence, noting that staff responses will consist of recommendations, suggested modifications, and suggested conditions of approval, and

WHEREAS, the City of Modesto received a development referral from Stanislaus County on March 10, 2006, and

WHEREAS, the subject site is located in the City's Sphere of Influence and within the Kiernan/McHenry Community Planning District, in which the site is designated BP, Business Park, and

WHEREAS, City staff determined that the proposed use is inconsistent with the general plan designation of BP, Business Park, and

WHEREAS, on April 13, 2006, an appeal to the staff determination was filed with the Office of the City Clerk by L Street Architects, and

WHEREAS, said appeal was set for a duly noticed public hearing before the City Council on Tuesday, May 9, 2006, at 5:30 p.m. in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, and

WHEREAS, said appeal was continued with the consent of the appellant to a duly noticed public hearing before the City Council on Tuesday, May 23, 2006, at 5:30 p.m. in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, at which time said public hearing was held, and evidence both oral and documentary was received and considered, and

WHEREAS, upon evaluating the conditionally permitted uses of the BP, Business Park Zone, staff has determined that, if the site were within the City and zoned BP, a day spa would fall within the "personal services" provision of the BP Zone, which allows such uses, when incidental to and serving the needs of already established industries and employment-intensive offices within the Zone, and

WHEREAS, the proposed day spa use is limited in size to no more than 13,000 square feet in the Summit Business Park, which can accommodate a maximum of one million square feet of development of which 13,000 square feet is less than one-and-one-

half percent and therefore is incidental to the entire Summit Business Park, and the business is limited in scope to a day spa including a luxury hair salon, therapeutic massage salon, and personal fitness center, therefore approving this use supports the intent of the BP, Business Park Zone.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of L Street Architects to the staff determination is hereby granted for the following reasons:

1. A day spa is consistent with the “personal services” provision of the BP Zone, which allows such uses when incidental to and serving the needs of already established industries and employment-intensive offices within the Zone.
2. The proposed day spa use is limited in size to no more than 13,000 square feet in the Summit Business Park, which can accommodate a maximum of one million square feet of development of which 13,000 square feet is less than one-and-one-half percent and therefore is incidental to the entire Business Park.
3. The proposed day spa is limited in scope to a day spa including a luxury hair salon, therapeutic massage salon, and personal fitness center.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the following condition be recommended to the Stanislaus County Board of Supervisors:

1. Recommend the Stanislaus County Board of Supervisors approve the request on the condition that this use be subject to reviewed by the appropriate jurisdiction to establish and ensure its legitimacy consistent with Title 5, Chapter 2, Article 1, Section 5-2.101 et seq. 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 23<sup>d</sup> day of May, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: R. Rudnansky, Asst.  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-329**

**A RESOLUTION APPROVING AN AGREEMENT FOR CONSULTANT  
SERVICES BETWEEN THE CITY OF MODESTO AND EDAW, INC. FOR THE  
PREPARATION OF ENVIRONMENTAL DOCUMENTS FOR THE EXPANSION  
OF GOULD MEDICAL CENTER IN AN AMOUNT NOT TO EXCEED \$98,016.00  
AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE  
AGREEMENT**

WHEREAS, Gould Medical Center proposes to expand its facility on Coffee Road in order to better serve its customers, and

WHEREAS, the project is subject to the California Environmental Quality Act, and

WHEREAS, the Community and Economic Development Department maintains a prequalified list of environmental consultants, of which EDAW, Inc. is one, and

WHEREAS, City staff recommends EDAW, Inc. to prepare the appropriate environmental documents because of their extensive experience on similar projects in other jurisdictions, and

WHEREAS, the scope of work, as proposed by EDAW, Inc. and modified by City staff constitutes an amount not to exceed \$98,016.00, and

WHEREAS, the preparation of environmental documents is to be entirely funded from developer fees and to have no direct fiscal impact on the City.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Agreement for Consultant Services between the City of Modesto and EDAW, Inc. is hereby approved in an amount not to exceed \$98,016.00.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-330**

**A RESOLUTION AUTHORIZING A TRANSFER FROM WASTEWATER  
RESERVES TO CIP B628 FOR EMERGENCY REPAIRS FOR EMERALD  
AVENUE SEWER LINES**

WHEREAS, there are 24" and 27" parallel sewer lines located on Emerald Avenue between California Avenue and Muriel Avenue and adjacent to Mark Twain Jr. High School, and

WHEREAS, these two pipelines are the downstream continuance of a 30" sewer trunk line, and

WHEREAS, a 500-ft. section of the 24" sewer line has failed due to corrosion and is need of emergency replacement, and

WHEREAS, an approximate 200-ft. section of this nearly 54-year-old pipe has fallen into the flow line creating an obstruction, and

WHEREAS, viewing these lines through closed circuit television (CCTV) indicates erosion in the earth above the pipe, which could cause the road to collapse, and

WHEREAS, if the road collapses, a sinkhole could potentially form as well as a complete blockage in the pipe creating a Sanitary Sewer Overflow (SSO), and

WHEREAS, due to the nature of the emergency and concerns regarding the safety of citizens in the area, staff has closed the southbound lanes of Emerald Avenue between Muriel Avenue and Lenore Drive to all traffic, and

WHEREAS, staff has completed an assessment of the area and is working with construction companies to complete the work within 30 days, and

WHEREAS, staff recommended continuing the upstream 30" line north 517 feet, replacing both the 24" and the 27" lines at the same time, and

WHEREAS, replacing both the 24" and 27" lines reduces the risk of further damage to the pipes due to their close proximity, and

WHEREAS, the recommendation to extend the 30" sewer line is consistent with the Wastewater Master Plan, and

WHEREAS, Municipal Code 8-3.102 Section Contracting Authority (e) 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 replacement will exceed \$200,000 and may total \$500,000 to complete the pipeline replacement in the timeframe required, and

WHEREAS, current Wastewater Division Operating budgets cannot absorb the cost of these emergency repairs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes a transfer from Wastewater Reserves to CIP Account # 6210-480-B628-6040 Emerald Avenue Emergency Repairs – Construction.

BE IT FURTHER RESOLVED that the Finance Department is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-331**

**A RESOLUTION AUTHORIZING AN AWARD OF FOR EMERGENCY  
REPAIRS TO THE EMERALD AVENUE SEWER LINE, AND AUTHORIZING  
THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT  
IN A FORM APPROVED BY CITY ATTORNEY**

WHEREAS, there are 24" and 27" parallel sewer lines located on Emerald Avenue between California Avenue and Muriel Avenue and adjacent to Mark Twain Jr. High School, and

WHEREAS, these two pipelines are the downstream continuance of a 30" sewer trunk line, and

WHEREAS, a 500-ft. section of the 24" sewer line has failed due to corrosion and is need of emergency replacement, and

WHEREAS, an approximate 200-ft. section of this nearly 54-year-old pipe has fallen into the flow line creating an obstruction, and

WHEREAS, viewing these lines through closed circuit television (CCTV) indicates erosion in the earth above the pipe, which could cause the road to collapse, and

WHEREAS, if the road collapses, a sinkhole could potentially form as well as a complete blockage in the pipe creating a Sanitary Sewer Overflow (SSO), and

WHEREAS, due to the nature of the emergency and concerns regarding the safety of citizens in the area, staff has closed the southbound lanes of Emerald Avenue between Muriel Avenue and Lenore Drive to all traffic, and

WHEREAS, staff has completed an assessment of the area and is working with construction companies to complete the work within 30 days, and

WHEREAS, staff recommended continuing the upstream 30" line north 517 feet, replacing both the 24" and the 27" lines at the same time, and

WHEREAS, replacing both the 24" and 27" lines reduces the risk of further damage to the pipes due to their close proximity, and

WHEREAS, the recommendation to extend the 30" sewer line is consistent with the Wastewater Master Plan, and

WHEREAS, Municipal Code Section 8-3.102, Contracting Authority (e) 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 replacement will exceed \$200,000 and may total \$500,000 to complete the pipeline replacement in the timeframe required, and

WHEREAS, staff has contacted three local contractors who have previously done this type of work for the City, and

WHEREAS, repaving Emerald Avenue after the pipeline replacement will be paid from CIP B618 Utility Cuts Repavement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of contract for emergency repairs to Emerald Avenue sewer lines and authorizes the City Manager, or his designee, to execute the contract.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the contract in a form approved by City Attorney.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 23<sup>rd</sup> day of May, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-332**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005-2006 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 2005-2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2005-2006 budget have been adjusted as shown in Schedule A.

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 6<sup>th</sup> day of June 2006, 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 votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
RICHARD RUDNANSKY, Interim City Attorney

**SCHEDULE A**

From:	Acct #6310-800-8000-8003	\$(11,181)
To:	Acct #6310-440-5412-0209	\$ 11,181

From:	Acct #6540-800-8000-8003	\$(200,000)
To:	Acct #6540-480-5612-0330	\$ 200,000



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-333**

**A RESOLUTION APPROVING AN AMENDMENT TO THE BUDGET TO  
APPROPRIATE FUNDS FROM CITATION PROCESSING RESPECTIVE  
EXPENSE ACCOUNTS FOR REQUEST FOR BID FOR A NEW SOFTWARE  
SYSTEM**

WHEREAS, a request has been submitted to authorize the Purchasing Manager to formally solicit a Request for Bid for a parking citation system, and

WHEREAS, the Request for Bid allows for the cost of said system to cost \$97,000, and

WHEREAS, due to additional revenues received in Citation Processing Acct #0100-120-1234-7113, funds are available to fully fund the cost of the software system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the budget amendment set forth herein for the parking citation system, and authorizes the appropriation of funds in the amount of \$97,000 and as shown on the attached Appropriation Transfer, and

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6<sup>th</sup> of June, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: R. Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-334**

**A RESOLUTION APPROVING AN AMENDMENT TO THE BUDGET TO  
APPROPRIATE FUNDS FROM CITATION PROCESSING RESPECTIVE  
EXPENSE ACCOUNTS FOR REQUEST FOR BID FOR A NEW SOFTWARE  
SYSTEM**

WHEREAS, a request has been submitted to authorize the Purchasing Manager to formally solicit a Request for Bid for a parking citation system, and

WHEREAS, the Request for Bid allows for the cost of said system to cost \$97,000, and

WHEREAS, due to additional revenues received in Citation Processing Acct #0100-120-1234-7113, funds are available to fully fund the cost of the software system,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the budget amendment set forth herein for the parking citation system, and authorizes the appropriation of funds in the amount of \$97,000 and as shown on the attached Appropriation Transfer, and

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6<sup>th</sup> of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: R. Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-335**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE A FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF WATER VALVES AND FIRE HYDRANTS FOR AN INITIAL THREE (3) YEAR PERIOD, WITH TWO (2) ADDITIONAL ONE-YEAR CONTRACT EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF \$240,000.00**

WHEREAS, the Finance Department-Central Stores Division has requested the purchase of water valves and fire hydrants, and

WHEREAS, water valves and fire hydrants are used exclusively by the Public Works Department-Water Division, and

WHEREAS, the City's fire hydrants are being replaced at a rate of thirty (30) per week, and

WHEREAS, the water valves are used to replace existing valves which may be non-operable, to extend existing water lines, and for new service laterals to new businesses, and

WHEREAS, the hydrants being replaced have outlets less than four inches, and

WHEREAS, the new hydrants have a four and one half-inch (4½") outlet, which allows for greater flow of water in the event of a fire, and

WHEREAS, hydrants are also used in new developments, and

WHEREAS, the removed hydrants are then made available for sale, to the public, and

WHEREAS, by soliciting competitive bids, the City will achieve the best value for water valve and fire hydrants and meet Modesto Municipal Code (MMC) requirements for formal bids, 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, this Request for Bids (RFB) for the purchase of water valves and fire hydrants process conforms to Modesto Municipal City Code Section 8-3.203, and

WHEREAS, the alternatives would be not to competitively bid these products, or to solicit bids for the products on an “order by order” basis, thus losing any quantity related discounts afforded by vendors, and

WHEREAS, the water valves and fire hydrants are purchased through Central Stores-7110-120-8311-0439 (Inventory Purchases) and are sold as needed to the Water Division, and

WHEREAS, the Water Division has budgeted and made available funds for water valves and fire hydrants in account number 6100-480-5012-0360-50 Real Property Maintenance and Repair Supplies. and

WHEREAS, anticipated expense for the water valves and fire hydrants is \$240,000.00 per year, and

WHEREAS, all annual extensions are based upon continuous funding for that purpose by the City Council, and

WHEREAS, failure to fund any annual extension will result in an immediate termination of the contract without redress,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to solicit formal Request for Bids (RFB) for water valves and fire hydrants for an initial three (2) year period, with a two

(2) additional one-year contract extension options, at the sole discretion of the City, for the estimated annual cost of \$240,000 as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for the purchase of water valves and fire hydrants for an initial three (3) year period, with two (2) additional one-year contract extension options, at the sole discretion of the City, for an estimated annual cost of \$240,000, to be opened in the office of the City Clerk, 1010 10<sup>th</sup> 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 sealed bids are opened they shall be tabulated and analyzed by the Purchasing Division and a report submitted to the Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-336**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF CONCRETE BOXES AND COVERS, CAST IRON COVERS AND FRAMES FOR AN INITIAL THREE (3) YEAR PERIOD, WITH TWO (2) ADDITIONAL ONE-YEAR CONTRACT EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF \$138,000**

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

WHEREAS, the Central Stores Division of the Finance Department inventories various materials for use by the Public Works Department and Parks and Recreation Department for City projects for City projects, and

WHEREAS, materials include concrete boxes and covers, and cast iron covers and frames (See Exhibit C), and

WHEREAS, concrete boxes and covers, and cast iron covers and frames are used to house water valves and meters, and

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

WHEREAS, competitively bidding and inventorying these materials benefits the City in many ways, and

WHEREAS, some of the benefits include:

- Consolidation of Citywide requirements to obtain firm pricing for a specified period of time, thereby avoiding price increases in a potentially volatile market

- Materials are readily available in one location and crews are on the job more quickly and for longer periods
- Reduction of staff time used in processing one-time bids throughout the year, and

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

WHEREAS, this Request for Bid (RFB) for the purchase of concrete boxes and covers and cast iron covers and frames conforms to Modesto Municipal Code Section 8-3.203, and

WHEREAS, City staff can purchase these materials by using established blanket purchase orders with several local vendors, and

WHEREAS, studies have shown, however, that this purchasing method will result in 50-75% higher costs than they same materials obtained from the same vendors through the competitive bid process, and

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

WHEREAS, material is purchased using these funds and recouped through sales to City Divisions, and

WHEREAS, the Purchasing Division has coordinated the drafting of bid specifications with Central Stores staff based upon City divisional usage data compiled over the past several years,



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 competitive bids for the purchase of concrete boxes and covers, cast iron covers and frames for an initial three (3) year period, with two (2), additional one-year contract extension options, at the sole discretion of the City, for an estimated annual cost of \$138,000, to be opened in the office of the City Clerk, 1010 10<sup>th</sup> 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 sealed bids are opened they shall be tabulated and analyzed by the Purchasing Division and a report submitted to the Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-337**

**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 88-338 pursuant to Rule 2 of the Personnel Rules and Regulations of the City of Modesto, and

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

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

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

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

Recreation Program Manager

The job specification for this classification is being created as part of a reorganization in the PR&N Department and will provide general oversight and supervision of the Recreation Unit. The job specification for the classification of Recreation Program Manager, as shown on the attached **Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. CLASSIFICATION DELETED. The Position Classification Plan of the City of Modesto is hereby amended to delete the classification of Recreation Superintendent, as it is no longer being used.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after June 6, 2006.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 6th day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:

  
RICHARD RUDNANSKY, Interim City Attorney

## RECREATION PROGRAM MANAGER

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

### DEFINITION

Under general direction, the Recreation Program Manager is responsible to manage, direct and coordinate the activities of the Recreation Work Unit including youth and adult recreation programs, sports, special events, social services, and community services, to oversee the maintenance and operations of recreation facilities; to coordinate recreational activities with other divisions and departments; and to provide highly complex staff assistance to the Parks, Recreation and Neighborhoods Director.

### SUPERVISION EXERCISED AND RECEIVED

Receives general direction from the Deputy Director of Recreation and Neighborhoods Division.

Exercises direct supervision over professional, technical and clerical staff.

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

#### Essential Functions:

Direct, oversee and participate in the development of the unit's work plan; assign work activities, projects and programs; monitor workflow; implement policies and procedures; recommend goals and objectives.

Administer recreation programs and activities including youth and adult recreation programs, sports activities and leagues, aquatics programs, adult and youth classes, special events and recreation facilities maintenance and operations.

Participate in the selection of staff; provide and coordinate staff training, work with employees to correct deficiencies; implement disciplinary procedures as necessary; implement timely performance evaluations of staff and recreation programs.

Essential Functions: (Continued)

Lead a team of co-workers and subordinates in a team-orientated environment.

Develop, prepare and submit all required or requested reports and or studies including any quarterly reports and annual reports.

Prepare the Recreation Division budget; assist in budget implementation; participate in the forecast of additional funds needed for staffing, equipment, materials, and supplies; administer the approved budget.

Coordinate division activities with those of other departments and outside agencies and organizations; promote public relations; prepare and present staff reports and other necessary correspondence.

Prepare and present information to the public; work with diverse, grass roots neighborhood groups, leaders and residents; investigate complaints and recommend corrective action as necessary to resolve complaints.

Prepare and make presentations to the City Council, various committees, advisory groups and neighborhood groups. Prepare policy statements and alternatives for City Council consideration in a number of areas, including but not limited to: recreation activities, recreation facilities and recreation staffing.

Applicable federal, state and local laws, codes and regulations.

Serve as a liaison to the assigned citizens committees.

Marginal Functions:

Performs related duties as assigned.

QUALIFICATIONS:

Knowledge of:

Principles and practices of organization, administration, supervision, training and personnel management.

Principles and practices of general Parks and Recreation programs.

Understanding issues that affect the different clients involved in recreation activities and the challenges for different groups of participants.

Knowledge of: (Continued)

Record keeping and reporting procedures, including computerized systems.

Methods and techniques of statistical analysis, effective technical report preparation and presentation (both oral and graphic).

Principles of budgeting and expenditure control, including any federal and/or grant reporting requirements, as necessary.

Ability to:

Effectively manage assigned areas of the departmental program.

Interpret and apply pertinent laws, rules and regulations.

Ensure program compliance with Federal, State and local rules, laws and regulations.

Prepare and administer a budget.

Supervise contracts with outside agencies for compliance.

Supervise one-stop facility with consisting of multiple agencies.

Supervise, train, coach and evaluate assigned staff.

Prepare and analyze technical and comprehensive administrative reports, statements and correspondence.

Communicate clearly and concisely, both orally and in writing.

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

Work effectively with diverse, grass roots neighborhood groups, leaders and residents.

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 responsible, administrative level experience involving recreation or social service program development and implementation including one year of administrative and supervisor responsibility.

Training:

Equivalent to a Bachelor's degree from an accredited college with major coursework in recreation and park administration, public administration or a related field.

License or Certificate:

Possession of, or the ability to obtain, an appropriate, valid California driver's license.

WORKING CONDITIONS

Environmental Conditions:

Office and field environment; travel from site to site.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for walking, standing or sitting for prolonged periods of time using a personal computer and attending meetings.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-338**

**A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2006-321  
TO AMEND THE CLASS RANGE TABLE FOR REPRESENTED  
MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES TO ADD  
RECREATION PROGRAM MANAGER AT SALARY RANGE 441 AND TO  
DELETE RECREATION SUPERINTENDENT FROM THE CLASS RANGE  
TABLE**

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2006-321, 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. 2006-321 Exhibit "A" entitled, "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective May 23, 2006", attached to Resolution No. 2006-321, is hereby amended as shown on the amended Exhibit "A" entitled "City of Modesto Class Range Table Represented Management and Confidential Non-Sworn Classes Effective June 6, 2006", which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" adds the classification of Recreation Program Manager at Salary Range 441 (\$5,760 - \$7,018 per month) and deletes the classification of Recreation Superintendent from the Class Range Table.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after June 6, 2006.



The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 6<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

CITY OF MODESTO  
CLASS RANGE TABLE  
REPRESENTED MANAGEMENT AND CONFIDENTIAL NON-SWORN CLASSES  
Effective June 6, 2006

---

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	Senior Administrative Office Assistant (Confidential) Secretary
416	
417	
418	Legal Secretary Systems Technician I
419	Public Information Technician (Confidential)
420	Accountant I (Confidential) Deputy City Clerk Employee Benefits Coordinator Executive Secretary (Represented) Legal Services Technician
421	

Exhibit "A"

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

Exhibit "A"

RANGE      TITLE

---

- 432    Communications Specialist  
      Compost Facility Supervisor  
      Customer Services Supervisor  
      Neighborhood Preservation Supervisor  
      Operations and Maintenance Supervisor  
      Recreation Supervisor II  
      Senior Accountant  
      Water Quality Control Maintenance Supervisor  
      Water Quality Control Operations Supervisor
- 433    Organizational Development Specialist
- 434    Assistant Civil Engineer  
      Assistant Traffic Engineer  
      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  
      Senior Personnel Analyst  
      Weed and Seed Program Coordinator
- 436    Electrical Supervisor  
      Senior Planner
- 437

Exhibit "A"

RANGE      TITLE

---

- 438    Budget Officer  
      Events Supervisor  
      Fire Business Services Analyst  
      Housing Program Supervisor  
      Land Surveyor  
      Property Agent  
      Senior Business Analyst  
      Software Analyst III  
      Systems Engineer II
- 439    Administrative Services Officer  
      Community Facilities Districts Administrative Officer
- 440    Associate Civil Engineer  
      Associate Traffic Engineer  
      Transportation Planner
- 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  
      Water Superintendent
- 442    Customer Services Division Manager  
      Manager of Budget and Financial Analysis  
      Software Analyst IV  
      Supervising Building Inspector  
      Supervising Construction Inspector  
      Systems Engineer III

443

Exhibit "A"

RANGE	TITLE
-------	-------

---

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

Exhibit "A"

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-339**

**A RESOLUTION APPROVING AN AGREEMENT FOR THE PURCHASE OF  
RETIRED CITY OF MODESTO POLICE CANINE BY THE ASSIGNED  
MODESTO POLICE DEPARTMENT CANINE HANDLER, OFFICER  
PARSONS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE,  
TO EXECUTE AN 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 Parsons, wishes to  
purchase and assume possession of his assigned canine, Tony, 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 their assigned department handler,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto  
that it hereby approves the agreement with Officer Parsons for the purchase of his retired  
police canine, Tony, 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 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 6<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:


By:   
RICHARD RUDNANSKY, Interim City Attorney



Exhibit A  
Modesto Police Department Canine  
Transfer Contract – Officer Parsons

## MODESTO POLICE DEPARTMENT CANINE TRANSFER CONTRACT

This AGREEMENT, made and entered into in the City of Modesto, State of California, this 17 day of April, 2006, by and between the City of Modesto, a municipal corporation of the State of California, hereinafter referred to as "CITY", and Todd Parsons, canine handler for the Modesto Police Department, hereinafter referred to as "HANDLER".

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 "Tony". *HANDLER* was previously the assigned canine handler for "Tony". Tony has worked eight (8) years on patrol and is being retired due to his age and health. Tony is currently ten (10) years of age.

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 "Tony", 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 **April 18, 2006**.

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

4. The retired police canine "Tony" 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. 99-370 adopted by the City Council of the City of Modesto on the 20th day of July, 1999.

NEW OWNER



\_\_\_\_\_  
Todd Parsons, Handler

CITY OF MODESTO


\_\_\_\_\_  
George Britton, City Manager

ATTEST:

By

JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By 

Richard Rudnansky, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2006-340**

**A RESOLUTION ACCEPTING THE 2006 EDWARD BYRNE JUSTICE ASSISTANCE GRANT PROGRAM IN THE AMOUNT OF \$79,092 FROM THE U.S. DEPARTMENT OF JUSTICE AND AUTHORIZING THE CITY MANAGER, OR HIS AUTHORIZED DESIGNEE, TO EXECUTE THE NECESSARY GRANT DOCUMENTS**

WHEREAS, by Resolution No. 2006-094, the City Council authorized submittal of an application to the U.S. Department of Justice on February 14, 2006, for the 2006 Byrne Justice Assistant Grant in the amount of \$79,092, and

WHEREAS, on April 26, 2006, the U.S. Department of Justice (DOJ) notified the Modesto Police Department that they were awarded the 2006 Byrne Justice Assistance Grant in the amount of \$79,092, and

WHEREAS, acceptance of said \$79,092 grant will assist in the continued funding for the Stanislaus Regional 911 Computer Aided Dispatch System (CAD), Integrated Public Safety System, and Records Management System (RMS), and

WHEREAS, there is no local match required for this program,

NOW, THEREFORE, BE IT RESOLVED that the Council hereby accepts the 2006 Edward Byrne Justice Assistance Grant from the U.S. Department of Justice in the amount of \$79,092.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents, including any extensions or amendments thereof and any subsequent contract with the Federal Government in relation thereto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2006-341**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006/07 OPERATING  
BUDGET TO RECOGNIZE REVENUE AND APPROPRIATE FUNDS FOR THE  
2006 BYRNE JUSTICE ASSISTANCE GRANT (BJAG) WITH THE U.S.  
DEPARTMENT OF JUSTICE**

WHEREAS, the Police Department acquired a grant award in the sum of \$79,092 from the U.S. Department of Justice for the 2006 Byrne Justice Assistance Grant (BJAG) to assist in funding of the Modesto Police Department's Stanislaus Regional 911 Computer Aided Dispatch System (CAD), Integrated Public Safety System, and Records Management System (RMS) upgrade, and

WHEREAS, the grant will commence on October 1, 2005 and end on September 30, 2009, and

WHEREAS, the City shall be compensated \$79,092 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 fiscal year 2006/2007 Operating Budget is hereby amended as indicated below to initiate said grant project:

	<u>Expenses:</u>		
To:	7130-190-M552-M483-6040	\$79,092	2006 Edward Byrne Justice Assistance Grant Program
	<u>Revenue:</u>		
From:	7130-190-M552-3508	\$79,092	Grant Revenue

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 6<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

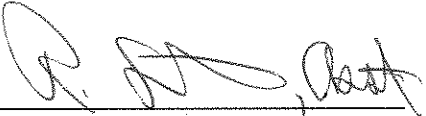
AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-342**

**A RESOLUTION APPROVING AND AUTHORIZING SUBMISSION OF THE  
CITY'S TRANSPORTATION DEVELOPMENT ACT TRANSIT CLAIM FOR FISCAL  
YEAR 2006/07 IN THE AMOUNT OF \$7,077,421 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 2006/07 TDA reimbursement pursuant to Section 99233.3 of the California PUC, and

WHEREAS, the City's Transit TDA Claim for Fiscal Year 2006/07 is \$7,077,421, composed of \$5,375,503 in LTF funds and \$1,701,918 in STA funds, and

WHEREAS, the total Transit Operating Budget for Fiscal Year 2006/07 is \$12,123,014, and

WHEREAS, the added Transit Capital Budget for Fiscal Year 2006/07 is \$1,882,082, 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 2006/07 in the amount of \$7,077,421.

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 2006/07.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-343**

**A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH WEST YOST ASSOCIATES, INC. (WEST YOST) FOR ADDITIONAL WORK IN THE AMOUNT OF \$6,000, TO COMPLETE THE WATER CAPACITY STUDY FOR PELANDALE/MCHENRY DEVELOPMENT PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AMENDMENT TO AGREEMENT**

WHEREAS, West Yost & Associates (West Yost) was hired to conduct the Water Capacity Study for the Pelandale/McHenry development, and the McHenry/Claratina development, and

WHEREAS, on March 8, 2005, the City Manager approved an agreement with West Yost to prepare both Water Capacity Studies for the Pelandale/McHenry and the McHenry/Claratina Development Projects in the amount of \$26,500, and

WHEREAS, the costs associated for West Yost to prepare the Water Capacity Study specifically for the Pelandale/McHenry Development Project portion is in the amount of \$21,400, of which \$19,117.85 has been expended at this time, and

WHEREAS, in the course of preparing the Water Capacity Study for the Pelandale/McHenry Development Project portion, refinements to that site plan and actual land-use density were provided to City staff and, as a result, City staff concluded additional work under the tasks is required to incorporate these refinements into the draft study, and

WHEREAS, the additional work under the tasks is beyond the scope of the original agreement and is considered critical to the successful completion of the Water Capacity Study, and

WHEREAS, the additional work to be performed by West Yost is as follows: 1) Incorporate refinements to the Pelandale/McHenry Specific Pan into the City's hydraulic water system model; 2) Conduct a revised hydraulic analysis and incorporate any additional City comments into the July 2005 Draft Technical Memorandum (TM); 3) Prepare a revised Draft TM which addresses City comments, incorporate any new, additional findings due to the refinements to the proposed Pelandale/McHenry Specific Plan, and provide this revised draft to City for final review and comment; 4) As needed teleconference meeting with City Staff to receive any additional City comments, and then prepare a Final TM; 5) Provide City with fifteen (15) hard copies of the revised Draft TM; 6) Provide City with fifteen (15) hard copies of the Final TM, and

WHEREAS, City agrees to pay West Yost the sum of \$6,000.00 for the additional work to complete the Water Capacity Study for the Pelandale/McHenry Development Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendment to Agreement between the City of Modesto and West Yost for additional work in the amount of \$6,000 to complete the Water Capacity Study for the Pelandale/McHenry Development Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-344**

**A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH CAROLLO ENGINEERS, P.C. (CAROLLO) FOR ADDITIONAL WORK IN THE AMOUNT OF \$12,000, TO COMPLETE THE WASTEWATER CAPACITY STUDY FOR PELANDALE/MCHENRY DEVELOPMENT PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AMENDMENT TO AGREEMENT**

WHEREAS, on January 31, 2005, the City Manager approved an agreement with Carollo Engineers, P.C. (Carollo) to prepare the Wastewater Capacity Study for the Pelandale/McHenry Development Project in the amount of \$17,500, and

WHEREAS, in the course of preparing the Wastewater Capacity Study for the Pelandale/McHenry Development Project, refinements to the site plan and actual land-use density were provided to City staff and, as a result, City staff concluded additional work under the tasks is required to incorporate these refinements into the draft study, and

WHEREAS, the additional work under the tasks is beyond the scope of the original agreement and is considered critical to the successful completion of the Wastewater Capacity Study, and

WHEREAS, the additional work to be performed by Carollo is as follows: 1) Incorporate Land Use updates to the May 2005 Draft Report. Review corresponding revised calculations on land use and acreages; 2) As needed teleconference meetings with City staff at various milestones of the Project. These milestones shall include the publishing of the First Draft, Second Draft, and Final Report; 3) Produce five (5) hard copies and one (1) screen check (electronic PDF) version of the First Draft Report; 4) Produce five (5) hard copies and one (1) screen check (electronic PDF) version of the

Second Draft Report; 5) Produce fifteen (15) hard copies and one (1) screen check (electronic PDF) version of the Final Report, and

WHEREAS, City agrees to pay Carollo the sum of \$12,000 for the additional work to complete the Wastewater Capacity Study for the Pelandale/McHenry Development Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendment to Agreement between the City of Modesto and Carollo for additional work in the amount of \$12,000 to complete the Wastewater Capacity Study for the Pelandale/McHenry Development Project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-345**

**A RESOLUTION APPROVING A ONE (1)-YEAR AGREEMENT FOR CONSULTANT TESTING SERVICES WITH CONSOLIDATED ENGINEERING LABORATORIES TO PERFORM CONSTRUCTION MATERIALS TESTING SERVICES FOR VARIOUS PUBLIC WORKS PROJECTS CONSTRUCTED DURING THE 2006/2007 FISCAL YEAR, WITH TWO (2), ONE (1)-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF CITY, IN AN AMOUNT NOT-TO-EXCEED \$52,795.00 IN THE FIRST YEAR, \$57,167.25 IN THE SECOND YEAR AND \$60,025.10 IN THE THIRD YEAR; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT AND UP TO TWO (2) ONE (1)-YEAR EXTENSION OPTIONS. TOTAL COST FOR THREE YEARS IS NOT TO EXCEED \$169,987.35**

WHEREAS, the Construction Administration Office in the Capital Improvement Services Division of the Public Works Department finds it necessary to utilize the services of a material testing firm during the course of administering the construction on public improvement projects, and

WHEREAS, the consultant services are required to help achieve compliance with the specification requirements of the various projects, and

WHEREAS, staff does not have the required equipment or certifications to perform all the required testing services, and

WHEREAS, bids were opened on April 25, 2006, for the Construction Materials Testing Services, and

WHEREAS, the firm of Consolidated Engineering Laboratories was the low responsive bidder,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a one (1)-year Agreement For Consultant Testing Services between City of Modesto and Consolidated Engineering Laboratories to perform



Construction Materials Testing Services for various Public Works projects constructed during the 2006/2007 fiscal year, with two (2), one (1)-year extension options, at the sole discretion of City, in an amount not-to-exceed \$52,795.00 in the first year, \$57,167.25 in the second year and \$60,025.10 in the third year. Total cost for three years is not to exceed \$169,987.35.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement and up to two (2) one (1)-year extension options.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6th day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Richard Rudnansky  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-346**

**A RESOLUTION AUTHORIZING ADDITIONAL WORK FOR THE  
INSTALLATION OF THE DUPLEX MOVED FROM 2512 & 2524 SYLVAN  
AVENUE TO THE MODESTO POLICE DEPARTMENT TACTICAL TRAINING  
CENTER FOR A TOTAL COST NOT TO EXCEED \$90,864**

WHEREAS, on April 26, 2005, the City Council approved Resolution No. 2005-221 to acquire property and two structures for the 2500 Sylvan Avenue Widening project, and

WHEREAS, on August 9, 2005, the City Council, by Resolution No. 2005-413, approved soliciting bids from house moving companies to relocate the two structures, and

WHEREAS, the Modesto Police Department needed a permanent structure at the Tactical Training Center, and

WHEREAS, Valley Wide Movers, Inc., submitted the only bid, and

WHEREAS, Valley Wide Movers, Inc., relocated the Duplex to the Modesto Police Department Tactical Training Center for the amount of \$39,000, and

WHEREAS, on December 9, 2005, the Modesto Police Department advertised a separate informal bid to install the foundation, and

WHEREAS, Azevedo Concrete submitted the only bid, and

WHEREAS, Azevedo Concrete set the concrete foundation for the Duplex for a total amount of \$19,864, and

WHEREAS, the combined cost of moving the duplex and setting the foundation has exceeded \$50,000, and

WHEREAS, additional utility connections and miscellaneous improvements remain prior to occupancy for a cost not to exceed \$32,000, and

WHEREAS, the total work to relocate the duplex will exceed \$50,000 and require agreement by the full Council, and

WHEREAS, findings were made to satisfy the California Environmental Quality Act (CEQA), and

WHEREAS, the installation of a small structure to an existing facility is categorically exempt under CEQA,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the additional work for the installation of the Duplex, moved from 2512 and 2524 Sylvan Avenue to the Modesto Police Department Tactical Training Center, for a total cost not to exceed \$90,864.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6<sup>th</sup> day of June 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-347**

**A RESOLUTION AMENDING THE FY05-06 OPERATING AND CAPITAL  
IMPROVEMENT PROGRAM BUDGET TO DECREASE 0100-190-1901-0239  
POLICE ADMINISTRATION BY \$32,000 ALLOCATION TO INCREASE THE  
POLICE TACTICAL TRAINING CENTER CIP FUND 1300-190-M168 BY  
\$32,000**

WHEREAS, on April 26, 2005, the City Council approved Resolution No. 2005-221 to acquire property and two structures for the 2500 Sylvan Avenue Widening project, and

WHEREAS, on August 9, 2005, the City Council, by Resolution No. 2005-413, approved soliciting bids from house moving companies to relocate the two structures, and

WHEREAS, the Modesto Police Department needed a permanent structure at the Tactical Training Center, and

WHEREAS, Valley Wide Movers, Inc., submitted the only bid, and

WHEREAS, Valley Wide Movers, Inc., relocated the Duplex to the Modesto Police Department Tactical Training Center for the amount of \$39,000, and

WHEREAS, on December 9, 2005, the Modesto Police Department advertised a separate informal bid to install the foundation, and

WHEREAS, Azevedo Concrete submitted the only bid, and

WHEREAS, Azevedo Concrete set the concrete foundation for the Duplex for a total amount of \$19,864, and

WHEREAS, the combined cost of moving the duplex and setting the foundation has exceeded \$50,000, and

WHEREAS, additional utility connections and miscellaneous improvements remain prior to occupancy for a cost not to exceed \$32,000, and

WHEREAS, the total work to relocate the duplex will exceed \$50,000 and require agreement by the full Council, and

WHEREAS, the Public Works Director has determined that \$32,000 in additional funds is required to fully fund the additional utility connections and miscellaneous improvements, and

WHEREAS, the Police Department has indicated that there are sufficient funds in the Police Administration Account 0100-190-1921-0239 for the appropriation of this project within the FY 2005-2006 Capital Improvement Program Budget to fully fund MY-1300-190-M168,

WHEREAS, the appropriation transfer requests are as follows:

- Decrease \$32,000 from the Police Administration Account (0100-190-1901-0239)
- Increase \$32,000 to the Police Tactical Training Center account: (MY-1300-190-M168-6040),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a reduction of \$32,000 from the Police Administration Account (0100-190-1901-0239), and an increase of \$32,000 to the Police Tactical Training Center account: (MY-1300-190-M168-6040) to fully fund the Modesto Police Department Training Center Duplex Installation.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the steps necessary to amend the Capital Improvement Program Budget.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6<sup>th</sup> day of June 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-348**

**A RESOLUTION APPROVING AN AGREEMENT WITH CAD MASTERS, INC., FOR ON-CALL AUTOCAD DESIGN, DRAFTING AND RELATED ENGINEERING SUPPORT SERVICES FOR VARIOUS PUBLIC WORKS – CAPITAL IMPROVEMENT SERVICES PROJECTS FOR ONE (1) YEAR WITH THREE (3) ONE (1) YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF CITY IN AN AMOUNT NOT TO EXCEED \$40,000 PER YEAR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND UP TO THREE (3) ONE (1) YEAR EXTENSION OPTIONS. TOTAL COST FOR FOUR (4) YEARS IS NOT TO EXCEED \$160,000**

WHEREAS, the Public Works Department – Capital Improvement Services Division performs a number of tasks requiring AutoCAD design, drafting and related engineering support services that, because of workload levels and/or staff experience, are beyond the ability of City’s engineering staff to accomplish in a timely manner, and

WHEREAS, the Public Works Department – Capital Improvement Services Division has utilized the services of specialized consulting design and drafting firms to perform targeted AutoCAD design, drafting and related engineering support services, and

WHEREAS, retaining an on-call AutoCAD design and drafting consultant allows the Capital Improvement Services Division to have quick access to specific AutoCAD design, drafting and related engineering support services when needed, and

WHEREAS, the Public Works Department – Capital Improvement Services Division has a large undertaking of numerous Capital Improvement Projects presently scheduled for review and processing by City staff, and

WHEREAS, an on-call AutoCAD design and drafting consultant can provide services for projects using an expert AutoCAD trainer/operator in design and drafting and offer a quick turnaround, which is essential to efficient response, and

WHEREAS, the goal is to standardize the outcome of the review process and reduce response time which will reflect on overall project budget and cost savings to the Capital Improvement Program, and

WHEREAS, CAD Masters has provided prior services in conjunction with the City's design engineering planning efforts, and has demonstrated satisfactory services to the City on past projects, and

WHEREAS, CAD Masters is familiar with the City's existing production drawings that will conform to the City's CAD standards, is fully equipped to complete all or a portion of the design and drafting for the City's engineering projects and can provide on-site project management and assistance by Principal Engineer (PE) Level technicians, and

WHEREAS, CAD Masters has provided design and drafting support to the City on key projects including the Briggsmore Avenue Roselle to Claus widening, the Pelandale Avenue Expressway-Dale to Prescott, and the Pelandale Avenue Expressway-Prescott to McHenry projects. In addition, CAD Masters has previously provided AutoCAD training and classes for City staff, and

WHEREAS, CAD Masters technicians have an intimate knowledge of advanced AutoCAD software and conversion procedures and can provide rendered images on various products and data file formats, dimensions and media as specified, and

WHEREAS, CAD Masters is deemed the most qualified to provide the requested on-call AutoCAD design and drafting services in a timely and cost effective manner, and



WHEREAS, City staff recommends consultant, CAD Masters be awarded a one-year contract for On-call AutoCAD Design, Drafting and Related Engineering Support Services, with three (3) one (1) year extension options at the sole discretion of City, and

WHEREAS, the consultant is paid on an hourly basis for actual hours required to perform specific task orders at a set rate, and

WHEREAS, the consultant will submit a written scope of services outlining the specific work, schedule and cost estimate associated with each task order, and

WHEREAS, CAD Masters 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 CAD Masters prior to commencement of services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with CAD Masters, Inc., for On-call AutoCAD Design, Drafting and Related Engineering Support Services for various Public Works – Capital Improvement Services projects for one (1) year with three (3) one (1) year extension options at the sole discretion of City in an amount not to exceed \$40,000 per year, and authorizing the City Manager, or his designee, to execute the Agreement and up to three (3) one (1) year extension options. Total cost for four (4) years is not to exceed \$160,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement with CAD Masters, Inc., and up to three (3) one (1) year extension options.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

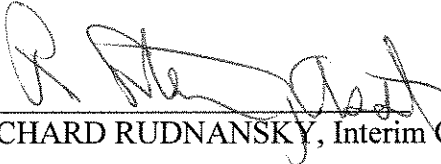
AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-349**

**A RESOLUTION OF INTENTION TO LEVY AND COLLECT ASSESSMENTS  
FOR LANDSCAPE MAINTENANCE ASSESSMENT DISTRICT NO. 1 FOR DRY  
CREEK MEADOWS SUBDIVISIONS NOS. 1 – 6**

WHEREAS, Resolution No. 88-935, adopted by the Council of the City of Modesto on December 13, 1988, initiated proceedings for the formation of Landscape Assessment District No. 1 for the purpose of administering the maintenance of landscaping in the public right-of-way within the street medians and adjacent to the access control walls in Dry Creek Meadows Subdivisions Nos. 1-6, and

WHEREAS, said assessment district was formed in accordance with the “Landscape and Lighting Act of 1972”, (Street 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, Section 22623 of the Street and Highways Code 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 2006-07.
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 2nd day of August, 2006, at the hour of 5:30 p.m., the City Council will conduct a public hearing on the question of the levy of the proposed annual assessment. The hearing will be held at the meeting place of the City

Council located in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California.

6. The City Clerk is authorized and directed to give the notice of hearing required by the "Landscape and Lighting Act of 1972".

7. The levy and collection of assessments as set forth in this resolution are exempt from the procedural and substantive requirements of Proposition 218 pursuant to Article XIII, Section 5(a) of the California Constitution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6<sup>th</sup> day of June, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

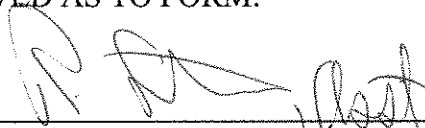
AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-350**

**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**

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, Section 22623 of the Streets and Highways Code 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 2006-07.
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 2nd day of August, 2006, at the hour of 5:30 p.m., the City Council will conduct a public hearing on the question of the levy of the proposed annual assessment. The hearing will be held at the meeting place of the City

Council located in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California.

6. The City Clerk is authorized and directed to give the notice of hearing required by the "Landscaping and Lighting Act of 1972".

7. The levy and collection of assessments as set forth in this resolution shall follow the procedural and substantive requirements of Proposition 218 pursuant to Article 13D, Section 5(a) of the California Constitution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-351**

**A RESOLUTION REJECTING THE SOLE BID FOR THE REPLACEMENT OF  
STAIRCASES AT THE PRIMARY TREATMENT PLANT AND AUTHORIZING  
STAFF TO RE-ADVERTISE THE PROJECT**

WHEREAS, on April 4, 2006, by Resolution No. 2006-215, the City Council authorized a request for proposals for replacement of staircases at the Primary Treatment Plant, and

WHEREAS, the sole bid was received for replacement of staircases at the Primary Treatment Plant and was opened at 2 p.m. on April 28, 2006, and

WHEREAS, staff recommends the sole bid be rejected and staff be allowed to re-advertise the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the sole bid for the replacement of staircases at the Primary Treatment Plant opened on April 28, 2006, is hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project at a future date.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 6<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember O'Bryant, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: [Signature]  
RICHARD RUDNANSKY, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-352**

**A RESOLUTION OF NECESSITY DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF CERTAIN REAL PROPERTY AND IMPROVEMENTS TO REAL PROPERTY FROM JOAN L. WHITACRE, SURVIVING TRUSTEE OF THE WHITACRE FAMILY 1993 TRUST OF DECEMBER 16, 1993 AND DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS FOR THE FLOYD/ROSELLE INTERSECTION CONTROL PROJECT.**

**REAL PROPERTY AND IMPROVEMENTS TO REAL PROPERTY LOCATED AT 3019 FLOYD AVENUE (APN 085-050-007 (PORTION)) AND 2606 ROSELLE AVENUE (APN 085-050-008 (PORTION)) (OWNER ON THE COUNTY OF STANISLAUS ASSESSMENT ROLL: JOAN L. WHITACRE, SURVIVING TRUSTEE ON THE WHITACRE FAMILY 1993 TRUST).**

WHEREAS, in accordance with the Modesto Urban Area General Plan, it is desirable and necessary for the City of Modesto to acquire portions of real property and improvements to real property on APN 085-050-007 commonly identified as 3019 Floyd Avenue and APN 085-050-008 commonly identified as 2606 Roselle and more particularly described and depicted in Exhibits "A", "B", "C" and "D", attached hereto and made a part hereof by reference, in order to implement the Floyd/Roselle Intersection Control project (the "Project"), and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property by virtue of Article I, Section 19, of the Constitution of the State of California, and the California Eminent Domain Law, California Code of Civil Procedure Section 1230.010, et seq., and pursuant to Section 37350.5 of the Government Code of California, and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to all persons whose

property is to be acquired by eminent domain, all of whom have been given a reasonable opportunity to appear and be heard before the Modesto City Council 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 sought to be acquired is necessary for the Project; and
- (d) Whether the offers required by Government Code Section 7267.2 have been made to the owner(s) of record.

and,

WHEREAS, the hearing was held on June 13, 2006, at 5:30 p.m. in the Tenth Street Place Chambers located at 1010 10th Street, Modesto, California, 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 based upon the evidence presented, the Council by vote of two-thirds or more of its members hereby FINDS, DETERMINES, AND ORDERS as follows:

- 1. The public interest and necessity require the Project;
- 2. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury;
- 3. The taking of the fee simple title in and to the real property and improvements to real property more particularly described in said Exhibits "A", "B", "C" and "D" is necessary for the Project;
- 4. The offers required by Section 7267.2 of the Government Code of the State of California have been made to the owner/ owners representative of record of the real property;
- 5. All conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the property described herein have been complied with by the City of Modesto;

6. The Office of the City Attorney of the City of Modesto or counsel retained by the Office of the City Attorney of the City of Modesto is hereby authorized and directed to institute and conduct to conclusion an action in eminent domain for the acquisition of the estates and interests aforesaid and to take such action as it may deem advisable or necessary in connection therewith
  
7. The Office of the City Attorney of the City of Modesto or counsel retained by the Office of the City Attorney of the City of Modesto is hereby authorized and empowered to deposit with the State Treasury Condemnation Fund the probable amount of compensation, based on appraisals, and to apply to the Court for an order of prejudgment possession of the subject property for said public uses and purposes.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 6th day of June 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

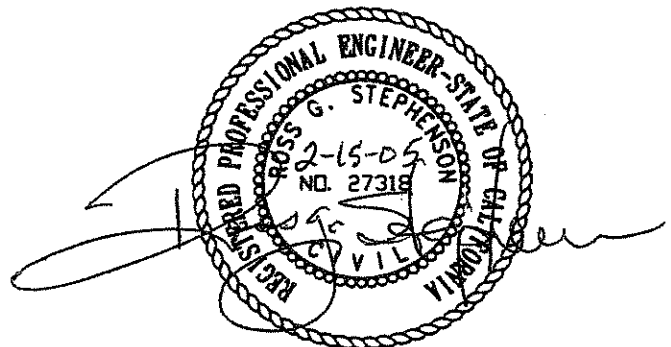
By   
RICHARD RUDNANSKY, Interim City Attorney

### Legal Description

Being a portion of the Lands of Whitacre as conveyed by deed filed as Document Number 96-0111978-00 Official Records Stanislaus County, California also being a portion of the Northwest Quarter of the Northwest Quarter of Section 13, Township 3 South, Range 9 East, M.D.M., City of Modesto, Stanislaus County, California and being more particularly described as follows:

Commencing at the southwest corner of the Northwest Quarter of the Northwest Quarter of said Section 13, said corner being the centerline intersection of Roselle Avenue and Floyd Avenue; thence North 89°49'41" East on the centerline of Floyd Avenue, 188.00 feet to the southwest corner of Parcel Two as described in said Document Number 96-0111978-00; thence leaving said centerline, North 00°32'22" West, 30.00 feet to a point on the northerly right-of-way line of Floyd Avenue and the 'True Point of Beginning' ; thence North 89°49'41" East on said northerly line, 125.00 feet to the easterly line of said Parcel Two; thence North 00°32'22" West, on the easterly line of said Parcel Two, 22.00 feet; thence North 85°53'23" West, 125.35 feet to the west line of said Parcel Two; thence South 00°32'22" East, on said westerly line 31.36 feet; to the 'True Point of Beginning'.

Containing 3,335.14 square feet more or less.



EXPIRES 3-31-07

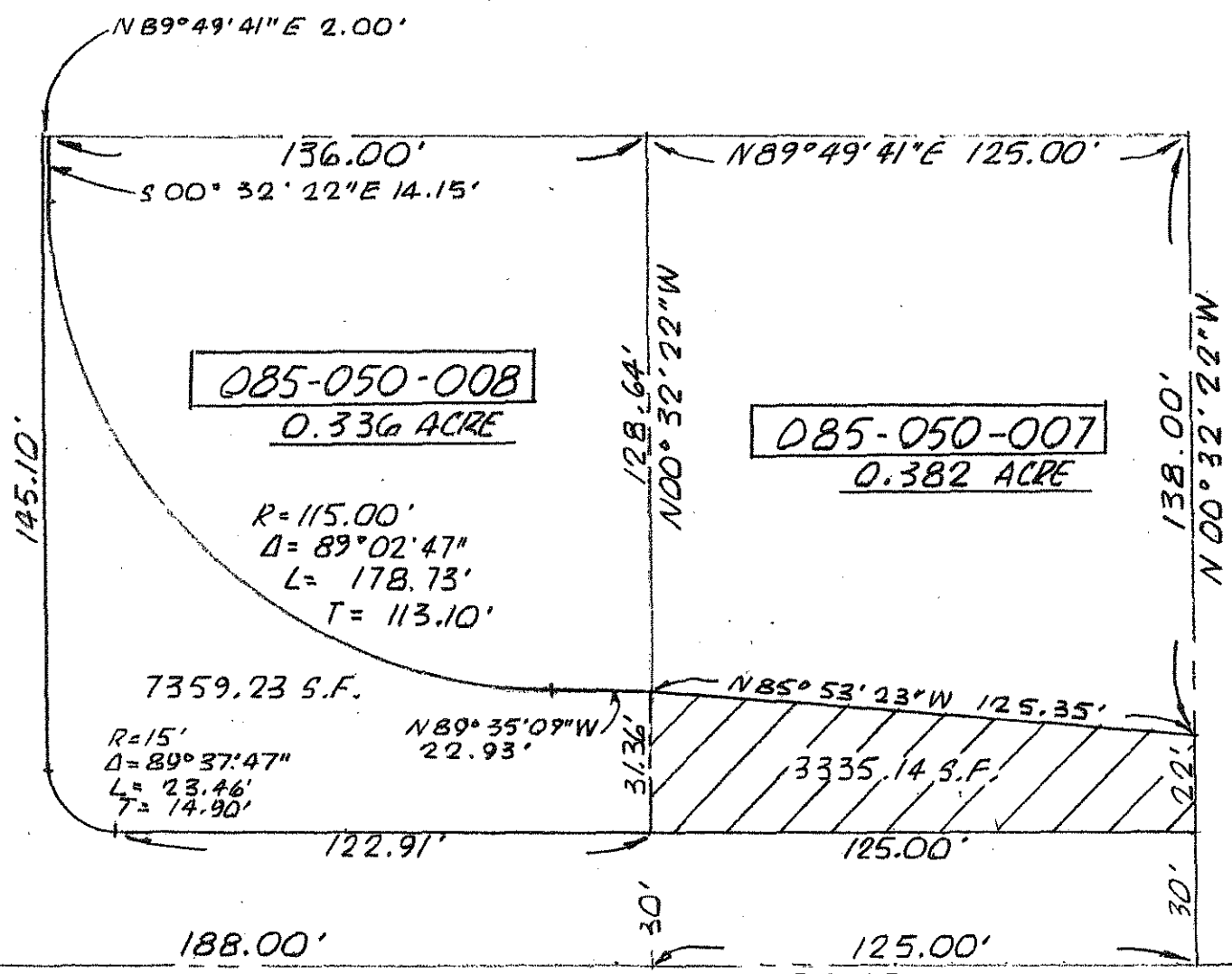
Exhibit A

11 12  
14 13

N00°32'22"W 1322.86'  
ROSELLE AVE.



50'  
1:40'



**085-050-008**  
0.336 ACRE

**085-050-007**  
0.382 ACRE

R=15'  
Δ=89°37'47"  
L=23.46'  
T=14.90'

R=115.00'  
Δ=89°02'47"  
L=178.73'  
T=113.10'

N89°35'09"W  
22.93'

N85°53'23"W 125.35'

14 13

S/W CORNER OF THE NW 1/4  
OF THE NW 1/4 OF SECT. 13

N89°49'41"E 2232.63'  
FLOYD AVE.

3/4" I.P. IN MON.  
WELL AT MILLBROOK AVE

✦ SECT. CORNER OR 1/4 CORNER  
▨ RIGHT OF WAY ACQUISITION

NW 1/4 OF SECT. 13, T35, R9E,  
M. D. M. CITY OF MODESTO  
STANISLAUS COUNTY, CALIF.

1-25-05  
-12-05

JOB NO. 36-02

RIGHT OF WAY ACQUISITION  
A.P. 085-050-007  
OWNER: WHITACRE, JOAN

CITY OF MODESTO PUBLIC WORKS  
INTERSECTION IMPROVEMENTS  
ROSELLE AVE. AT FLOYD AVE.

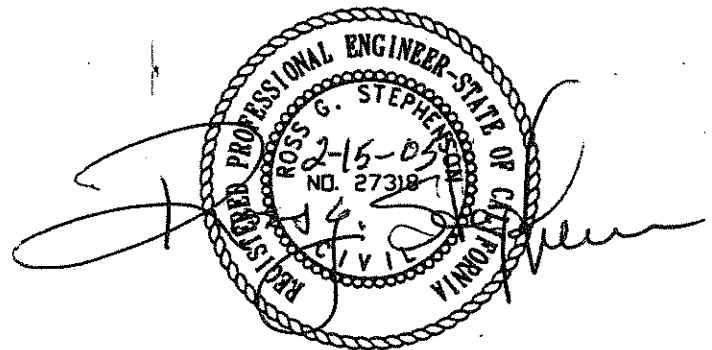


### Legal Description

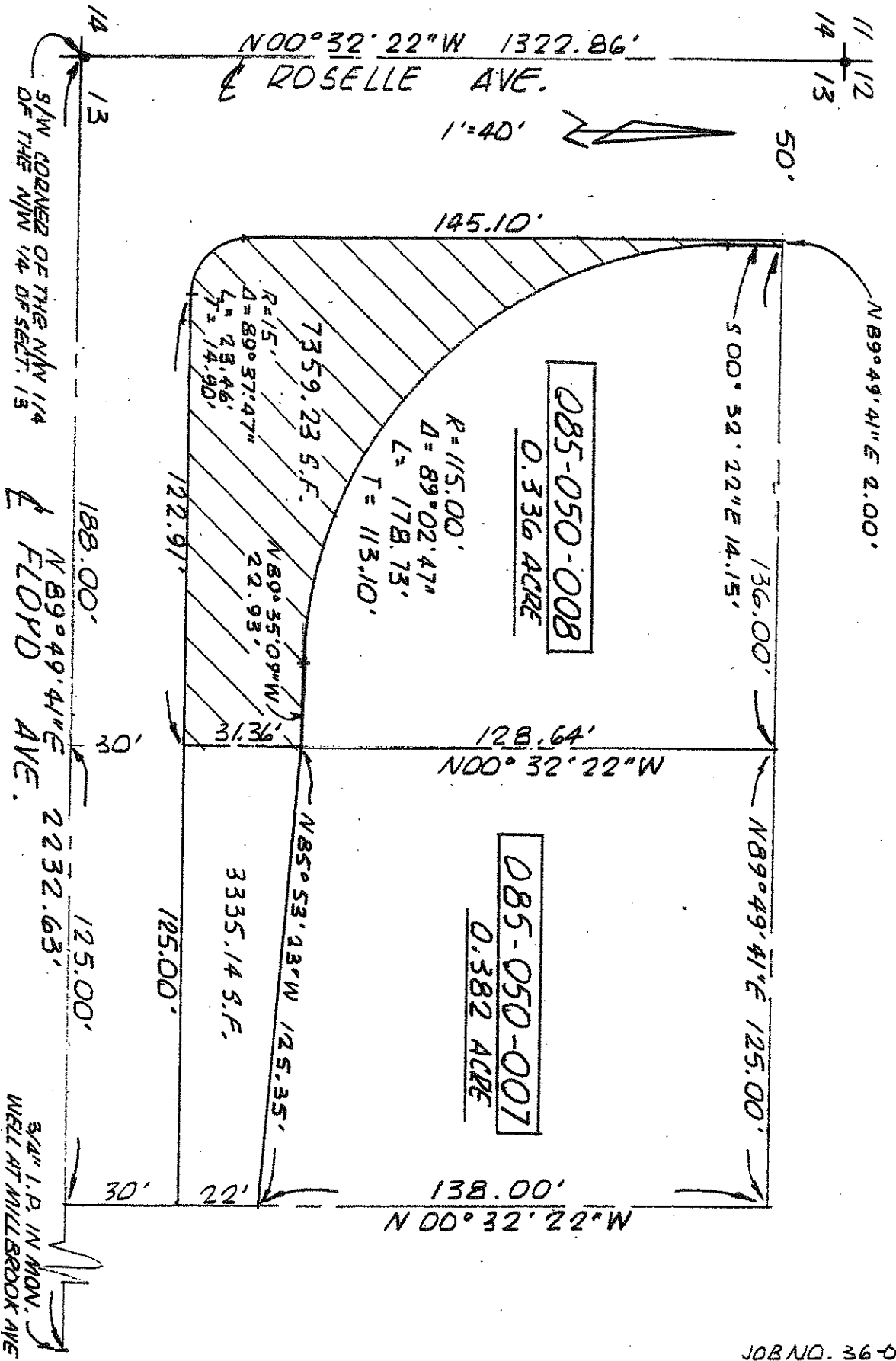
Being a portion of the Lands of Whitacre as conveyed by deed filed as Document Number 96-0111978-00 Official Records Stanislaus County, California also being a portion of the Northwest Quarter of the Northwest Quarter of Section 13, Township 3 South, Range 9 East, M.D.M., City of Modesto, Stanislaus County, California and being more particularly described as follows:

Commencing at the southwest corner of the Northwest Quarter of the Northwest Quarter of said Section 13, said corner being the centerline intersection of Roselle Avenue and Floyd Avenue; thence North  $89^{\circ}49'41''$  East, on the centerline of Floyd Avenue, 188.00 feet to the southeast corner of Parcel One as described in said Document Number 96-0111978-00; thence leaving said centerline, North  $00^{\circ}32'22''$  West, 30.00 feet to a point on the northerly right-of-way line of Floyd Avenue; thence South  $89^{\circ}49'41''$  West on said northerly line, 122.91 feet; thence on a tangent curve to the right with a radius of 15.00 feet, through a delta of  $89^{\circ}37'47''$  for a length of 23.46 feet; thence North  $00^{\circ}32'22''$  West, parallel with and 50.00 feet easterly of the centerline of Roselle Avenue, 145.10 feet to the southerly line of the Lands of Hess as conveyed by deed recorded 12-10-87 by Instrument Number 136208; thence North  $89^{\circ}49'41''$  East, on said southerly line, 2.00 feet; thence South  $00^{\circ}32'22''$  East, 14.15 feet; thence on a tangent curve to the left with a radius of 115.00 feet, through a delta of  $89^{\circ}02'47''$  for a length of 178.73 feet; thence South  $89^{\circ}35'09''$  East, 22.93 feet to a point on the easterly line of said Parcel One; thence South  $00^{\circ}32'22''$  East, on said easterly line 31.36 feet to the 'True Point of Beginning'.

Containing 7,359.23 square feet more or less.



EXPIRES 3-31-07



NW 1/4 OF SECT. 13, T35, R9E,  
M.D.M. CITY OF MODESTO  
STANISLAUS COUNTY, CALIF.

1-25-05  
1-12-05

JOB NO. 36-02

CITY OF MODESTO PUBLIC WORKS  
INTERSECTION IMPROVEMENTS  
ROSELLE AVE. AT FLOYD AVE.

RIGHT OF WAY ACQUISITION  
A.P. 085-050-008  
OWNED: WHITACRE, JOAN

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-353**

**A RESOLUTION APPOINTING JOSEPH R. 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 May 25, 2006, and recommended appointment of JOSEPH R. 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 R. TREVENA is hereby appointed to the Airport Advisory Committee with a term expiration of January 1, 2008.

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

AMENDED FOR CLERICAL ERROR

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13<sup>th</sup> day of June 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-354**

**A RESOLUTION APPOINTING RONALD D. JESKE TO 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 May 25, 2006, and recommended appointment of RONALD D. 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 D. JESKE, is hereby appointed to the Board of Building Appeals with a term expiration of January 1, 2008.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed 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 13th day of June 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-355

A RESOLUTION APPOINTING 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 May 25, 2006, and recommended appointment of 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. DOROTHY S. GRIGGS is hereby appointed to the Citizens Advisory Committee on Recycling with a term expiration of January 1, 2008.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed member 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 13<sup>th</sup> day of June 2006, 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: Dunbar, Hawn, Keating, Marsh, Olsen, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-356

A RESOLUTION APPOINTING MICHAEL PRATT 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 May 25, 2006, and recommended appointment of MICHAEL PRATT 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. MICHAEL PRATT 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 13<sup>th</sup> day of June 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-357**

**A RESOLUTION APPOINTING MEMBERS 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 May 25, 2006, and recommended appointment of ANTHONY GONSALVES, a northeast resident, CHRISTINA MACILLUS, a southeast resident, FRED HAWKINS, a northwest resident, and DENNIS SEVILLA, a southwest resident, to the Community Qualities Forum.

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

SECTION 1. ANTHONY GONSALVES, a northeast resident, is hereby appointed to the Community Qualities Forum with a term expiration of January 1, 2007.

SECTION 2. CHRISTINA MACILLUS, a southeast resident, FRED HAWKINS, a northwest resident, and DENNIS SEVILLA, a southwest resident, are hereby appointed to the Community Qualities Forum with term expirations of January 1, 2010.

SECTION 3. 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.



AMENDED FOR CLERICAL ERROR

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13<sup>th</sup> day of June 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-358**

**A RESOLUTION APPOINTING CLEO GRIFFITH AND BRIAN HADDIX 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 May 25, 2006, and recommended appointment of CLEO GRIFFITH and BRIAN HADDIX to the Culture Commission.

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

SECTION 1. CLEO GRIFFITH, with a term expiration of January 1, 2007, and BRIAN HADDIX, with a term expiration of January 1, 2010, are hereby appointed to the Culture Commission.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13<sup>th</sup> day of June 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-359**

**A RESOLUTION APPOINTING MEMBERS TO THE EQUAL  
OPPORTUNITY/DISABILITY COMMISSION AND HUMAN RELATIONS  
COMMISSION**

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

WHEREAS, the Economic Development Committee met on May 25, 2006, and recommended appointment of PRERAK SHAH, GREG DUB and BRUCE MERCHANT to the Equal Opportunity/Disability Commission, and JOE ROCHA JR. to serve jointly on the Equal Opportunity/Disability Commission and Human Relations Commission, and

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

SECTION 1. PRERAK SHAH with a term expiration of January 1, 2008, GREG DUB with a term expiration of January 1, 2009, and BRUCE MERCHANT with a term expiration of January 1, 2011, are hereby appointed to the Equal Opportunity/Disability Commission.

SECTION 2. JOE ROCHA JR., with a term expiration of January 1, 2011, is hereby appointed to serve jointly on the Equal Opportunity/Disability Commission and Human Relations Commission.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed members of the Equal Opportunity/Disability Commission and 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 13<sup>th</sup> day of June 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: S Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-360**

**A RESOLUTION APPOINTING SARAH JEPPSON AND RONALD D. JESKE  
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 May 25, 2006, and recommended appointment of SARAH JEPPSON and RONALD D. JESKE, to the Golf Courses Advisory Committee.

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

SECTION 1. SARAH JEPPSON with a term expiration of January 1, 2009 and RONALD D. JESKE with a term expiration of January 1, 2010, 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 13<sup>th</sup> day of June 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-361**

**A RESOLUTION APPOINTING TOM HALLINAN TO THE LANDMARK  
PRESERVATION COMMISSION**

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

WHEREAS, the Economic Development Committee met on May 25, 2006, and recommended appointment of TOM HALLINAN to the Landmark Preservation Commission.

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

SECTION 1. TOM HALLINAN is hereby reappointed to the Landmark Preservation Commission with a term expiration of January 1, 2010.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the reappointed members of the Landmark Preservation Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13<sup>th</sup> day of June 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney



MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-362

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF  
WILLIAM SCROGGINS FROM THE BOARD OF ZONING ADJUSTMENT**

WHEREAS, WILLIAM SCROGGINS was appointed a member of the Board of Zoning Adjustment on February 28, 2006, and

WHEREAS, WILLIAM SCROGGINS has tendered his resignation from the aforementioned committee, and

WHEREAS, WILLIAM SCROGGINS 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 WILLIAM SCROGGINS from the Board of Zoning Adjustment 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 WILLIAM SCROGGINS 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 13<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-363**

**A RESOLUTION AUTHORIZING CHANGES TO THE CONGESTION  
MITIGATION AIR QUALITY FUNDING FOR CITY OF MODESTO PROJECTS  
IN THE 2004 FEDERAL TRANSPORTATION IMPROVEMENT PROGRAM AS  
CONSTITUTED IN AMENDMENT #14**

WHEREAS, Stanislaus Council of Governments (StanCOG) is the designated metropolitan planning organization for the Stanislaus Region and is responsible for managing state and federal funds through a document called the Federal Transportation Improvement Program (FTIP), and

WHEREAS, this document contains the entire list of projects to which state and federal funds have been awarded by StanCOG, Caltrans, or other agencies, and

WHEREAS, the StanCOG Policy Board adopted the latest version of the FTIP on August 11, 2004, and

WHEREAS, in order to best utilize these funds this document must be amended from time to time to add new projects, modify project descriptions or funding amounts, change program-funding year, or delete projects, and

WHEREAS, StanCOG is currently preparing an amendment to the 2004 FTIP that will add, amend and delete various transportation projects for jurisdictions throughout Stanislaus County, and

WHEREAS, the recommended changes that are included in Amendment #14 for the City of Modesto are:

**1) Delete Project: Orangeburg Avenue onto McHenry Avenue – Construct Right Turn Lane**

Right of way costs were not originally included in the project. As a result, the additional cost for the right of way versus the benefit of the project cannot be justified. The

\$350,000 originally planned for this project will be transferred to the Dale Road and Kiernan Avenue – Intersection Improvements project.

**2) Add Project: Intersection of Dale Road and Kiernan Avenue – Intersections Improvements**

The \$350,000 that was allocated to the Orangeburg Avenue onto McHenry Avenue project will now be transferred to the Dale Road at Kiernan Avenue – Intersection Improvement

**3) Amend Project: Construct New Traffic Signals Downtown**

Reduce scope to one signal and reduce funding by \$152,040. These funds will be transferred into the Arterial Roundabouts @ 2 Locations project.

**4) Delete Project: Dale Road – Construct Right-Turn Lane Onto Pelandale**

The Dale Road/Pelandale Avenue improvement project is being funded by the Kaiser project and the City is requesting that the \$203,618 in CMAQ funds previously assigned to this project be allocated to the Arterial Roundabouts @ 2 Locations project.

**5) Amend Project: Arterial Roundabouts @ 2 Locations**

One of the roundabouts included in this project is the Sylvan and Roselle intersection roundabout. This amendment will increase the CMAQ funding for this project by \$355,658 (See Items 3 and 4 above).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes changes to the Congestion Mitigation Air Quality funding for City of Modesto projects in the 2004 Federal Transportation Improvement Program as constituted in Amendment #14, 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 13<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-364**

**A RESOLUTION AMENDING THE  
FISCAL YEAR 2005-2006 ANNUAL BUDGET**

WHEREAS, a 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 2005-2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2005-2006 budget have been adjusted as shown in Schedule A.

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 13<sup>th</sup> day of June 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-365**

**A RESOLUTION AWARDING A PROFESSIONAL SERVICES CONTRACT TO  
COOPERATIVE PERSONNEL SERVICES (CPS) FOR CLASSIFICATION AND  
COMPENSATION SERVICES**

WHEREAS, the City Council approved a supplemental budget allocation of \$20,000 for job audit services during the FY 2005-06 supplemental budget process, and

WHEREAS, it is necessary to use outside classification and compensation services due to staffing constraints within the Personnel Department, and

WHEREAS, in the course of preparing the Request for Proposals (RFP), staff determined that it was appropriate to add various engineering classes to the RFP because of recruitment difficulties, and

WHEREAS, the addition of these classes increased the cost beyond that originally anticipated in the supplemental budget process, and

WHEREAS, Cooperative Personnel Services has the experience and professional expertise to complete this work and has provided the City with a cost proposal of \$40,135,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of contract for classification and compensation services to Cooperative Personnel Services in an amount not to exceed \$40,135.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute said contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-366**

**A RESOLUTION AUTHORIZING A TRANSFER FROM THE GENERAL FUND  
RESERVES TO FULLY FUND CLASSIFICATION AND COMPENSATION  
SERVICES PROVIDED BY COOPERATIVE PERSONNEL SERVICES**

WHEREAS, the City Council approved a supplemental budget allocation of \$20,000 for job audit services during the FY 2005-06 supplemental budget process, and

WHEREAS, in the course of preparing the Request for Proposals (RFP), staff determined that it was appropriate to add various engineering classes to the RFP because of recruitment difficulties, and

WHEREAS, the addition of these classes increased the cost beyond that originally anticipated in the supplemental budget process, and

WHEREAS, Cooperative Personnel Services has the experience and professional expertise to complete this work and has provided the City with a cost proposal of \$40,135, and

WHEREAS, funding is unavailable to fund the increased contract costs with the Personnel Department's Operating Budget,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes a transfer of \$20,135 from the General Fund reserves to the Personnel Department's Operating Budget to fully fund the contract in the amount of \$40,135.

BE IT FURTHER RESOLVED that the Finance Department is hereby authorized to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13<sup>th</sup> day of June 2006 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-367**

**A RESOLUTION APPROVING A FOURTH AMENDMENT TO AGREEMENT  
FOR WEB CONSULTING SERVICES WITH MICAHLYNN RIVERA, IN AN  
AMOUNT NOT TO EXCEED \$55,000; AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE AMENDMENT TO AGREEMENT**

WHEREAS, the Community & Economic Development Department (CEDD) website is an important tool used to provide the public with information about the Department's services, and

WHEREAS, the Community & Economic Development Department has four (4) websites that were designed, developed, created and are maintained by the department's web consultant, Micahlynn Rivera, and

WHEREAS, the Community & Economic Development Department website, [www.modestogov.com/ced](http://www.modestogov.com/ced) represents the department within the City of Modesto website and serves as a portal to all department information including links to Planning Commission information, Board of Zoning information, CED division information, and detailed contact information for department staff, and

WHEREAS, on average the CEDD website has over 7,700 visitors per month, and

WHEREAS, The Development Center website, [www.modestogov.com/development](http://www.modestogov.com/development), provides extensive information on development related issues such as each step in the building permit and review process including basic descriptions, application examples, steps to start the process, and a list of information required to submit an application as well as links to all related forms and information, and

WHEREAS, The Development Center website includes additional online resources including a building permit fee calculator, monthly water/sewer cost calculator, and a growing collection of development related documents and guides to assist the community through the development process, and

WHEREAS, on average The Development Center website has over 2,700 visitors per month, and

WHEREAS, the Business Development website, [www.choosemodesto.com](http://www.choosemodesto.com), serves as a tool for site selectors and businesses looking to relocate to the City of Modesto, and contains an expansive collection of data related to the City as well as comparison statistics for four other cities, and

WHEREAS, on average [www.choosemodesto.com](http://www.choosemodesto.com) has over 6,100 visitors per month, and

WHEREAS, the Redevelopment Agency website, [www.modestorda.com](http://www.modestorda.com), serves as the official site of the Modesto Redevelopment Agency and is home to program information, related documents, meeting agendas, minutes, project information and a photo gallery featuring the progress of the Redevelopment Agency, and

WHEREAS, on average the Redevelopment Agency website has over 1,000 visitors per month, and

WHEREAS, the Web Consultant also provides assistance to the City Manager's Department and other City departments in the areas of graphic design and development of publications used to provide information to the public, and

WHEREAS, the Web Consultant has unique skills and abilities that are critical in maintaining current web services and meeting future goals and demands, and

WHEREAS, the City desires to extend Consultant's contract through June 30, 2007, for an additional amount not to exceed \$55,000 for services as set forth in Exhibit "A" attached hereto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Fourth Amendment to Agreement for website consulting services with Micahlynn Rivera through June 30, 2007, in an amount not to exceed \$55,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13<sup>th</sup> day of June, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

Exhibit "A"  
PROJECT SCOPE

- C&ED Intranet  
Duties: Maintain internal websites for C&ED Department:
  - C&ED Intranet Site
  - Property Management Site
  - Online NewsletterLinks to documents, forms, staff gallery and other department related information. Not available to the public.
  
- C&ED Websites  
Duties: Maintain public website that houses all C&ED sub-sites:
  - Board of Zoning
  - Building & Development Site
  - Business Development
  - Economic Development
  - Housing Element
  - Planning Commission
  - Planning Division
  - Redevelopment Agency
  - Urban Area Growth ReviewUpdate pages as requested, routine maintenance and reformatting as necessary.
  
- Graphic Design  
Duties: Create graphics for all marketing materials, presentations and other items as requested.
  
- Presentation Design  
Duties: Design Power Point presentations as needed.
  
- Technical Support  
Duties: Troubleshoot software problems and hardware problems as capable
  
- Management of special projects

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-368**

**A RESOLUTION ESTABLISHING THE CALCULATION FOR THE  
APPROPRIATION LIMIT FOR THE FISCAL YEAR 2006-2007 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 XIII B of the California Constitution specifies that appropriations made by State and local governments may increase annually by a factor comprised of the change in population combined with either the change in California per capita personal income or the change in the local assessment roll due to local nonresidential construction, and

WHEREAS, the attached schedule shows the preferred price and population factors to be used and the appropriation limit with the recommended factors in calculating the limit are the price factor of "state growth in per capita income" and the population factor of "growth rate in 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 13<sup>th</sup> day of June 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-369**

**A RESOLUTION APPROVING A STANDARD AGREEMENT FOR  
CONSULTANT SERVICES WITH ROBERT SARHAD INVESTIGATIONS, AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE  
THE AGREEMENT**

WHEREAS, the City desires to obtain the private investigation firm of Robert Sarhad Investigations with respect to administrative investigations, and

WHEREAS, the firm of Robert Sarhad Investigations is specially trained, experienced and competent to perform such services, and

WHEREAS, the public interest, economy and general welfare will be served by this agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Standard Agreement For Consultant Services” with the firm of Robert Sarhad Investigations with respect to administrative investigations.

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

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 13<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALACALA WOOD, Interim City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-370**

**A RESOLUTION APPROVING AN AGREEMENT WITH THE DEPARTMENT OF CALIFORNIA HIGHWAY PATROL (CHP) IN THE AMOUNT OF \$20,000 FOR MODESTO POLICE OFFICER AND/OR A SERGEANT OVERTIME TO REDUCE THE PEDESTRIAN-INVOLVED COLLISIONS IN THE MODESTO POLICE DEPARTMENT JURISDICTION FOR THE PEDESTRIAN SAFETY PROJECT GRANT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the Office of Traffic Safety awarded the California Highway Patrol (CHP) a Pedestrian Safety Project Grant to address pedestrian-involved collisions on two selected segments of roadway, and

WHEREAS, the Modesto CHP area was selected as the second of the two corridors, SR 132 from Carpenter Rd. to Claus Rd to the Hwy. 99 corridor, because of its high incidence of pedestrian-involved collisions on Highway 99, and

WHEREAS, the California Highway Patrol requires uniformed Modesto Police Officer and/or Sergeant overtime to perform law enforcement activities on the portion of SR 99 within the City of Modesto jurisdiction, and

WHEREAS, the Modesto Police Department would like to collaborate with the CHP to reduce pedestrian fatalities and injuries, and

WHEREAS, the term of this Agreement is May 1, 2006, to April 30, 2007, and

WHEREAS, the City shall be compensated \$20,000 for the services of a uniformed Modesto Police Officer and/or Sergeant for salary and overtime benefits, and

WHEREAS, the City will not be compensated for overhead or indirect costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with the Department of California Highway Patrol



in the amount of \$20,000 for the provision of Modesto Police Officer and/or Sergeant overtime to address the pedestrian fatal and injury collision problem in the Modesto Police Department jurisdiction for the Pedestrian Safety Project Grant.

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 13<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: S Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2006-371**

**A RESOLUTION AMENDING THE 2005/06 AND 2006/07 POLICE  
DEPARTMENT BUDGET, ALLOCATING MULTI-YEAR APPROPRIATIONS  
AND REVENUE OF \$20,000 TO FUND MODESTO POLICE OFFICER AND/OR  
SERGEANT OVERTIME FOR THE DEPARTMENT OF CALIFORNIA  
HIGHWAY PATROL PEDESTRIAN SAFETY PROJECT GRANT**

WHEREAS, the Department of California Highway Patrol (CHP) has been awarded an Office of Traffic Safety grant to reduce pedestrian-involved collisions, and

WHEREAS, the Modesto CHP area, SR 132 from Carpenter Rd. to Claus Rd. to the Hwy 99 corridor, was selected as the second of the two corridors for high incidences of pedestrian-involved collisions on Hwy. 99, and

WHEREAS, the CHP requires Modesto Police Officer and/or Sergeant overtime to perform law enforcement activities on the portion of SR 99 within the City of Modesto jurisdiction, and

WHEREAS, the term of this Agreement is May 1, 2006 to April 30, 2007, and

WHEREAS, the City shall be compensated \$20,000 for the services of a uniformed Modesto Police Officer and/or Sergeant for salary and overtime benefits, and

WHEREAS, the City will not be compensated for overhead or indirect costs,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2005/06 and 2006/07 Police Department budget, allocating multi-year appropriations and revenue of \$20,000 is hereby amended as follows:

Appropriate:

To:	0420-190-2066-0130	\$20,000	CHP Pedestrian
-----	--------------------	----------	----------------

Revenue:

To:	0420-190-2066-4025	\$20,000	PD Contract Services
-----	--------------------	----------	----------------------

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 13<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2006-372**

**A RESOLUTION AMENDING THE 2006/07 PROPOSED FISCAL YEAR  
BUDGET TO APPROPRIATE \$14,950 IN 0100-190-1901-0110 AND \$9,700 IN  
0100-190-1941-0110 FROM THE GENERAL FUND RESERVES**

WHEREAS, the Modesto Police Department recommends reallocating the current Public Information Officer (PIO) who is a Police Officer to a Sergeant position to better serve the needs of the department, and

WHEREAS, the PIO currently oversees the work of several assistant PIO's who may hold the rank of Detective or Sergeant, and it will allow for better efficiency and communication between line and command staff and overall accountability throughout the department, and

WHEREAS, with a Sergeant in charge, other administrative functions can be considered for the PIO, including the supervision of part-time retired sworn personnel who handle department background investigations and/or other full-time staff, and

WHEREAS, reallocating the Alcohol Beverage Control (ABC) Officer to a Detective position will allow a long-term assignment relating to ABC issues and investigations, and

WHEREAS, the position has evolved and the current duties and responsibilities, which include planning and conducting sting and undercover operations, are more consistent with other Detective positions within the Investigations Division, and

WHEREAS, the position requires considerable specialized training and the three-year rotation guide that applies to Police Officer special assignments results in the incumbent rotating out too quickly, and

WHEREAS, the upgrade of the Police Officer to Detective assignment for this position will allow for the department to be more responsive to ABC issues,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2006/07 Fiscal Year Budget is hereby amended as indicated below:

To:	0100-190-1901-0110	\$14,950	Police/Admin. Salaries
To:	0100-190-1941-0110	\$ 9,700	Police/ISD Salaries
From:	0100-800-8000-8003	\$24,650	General Fund Reserve

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 13<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-373**

**A RESOLUTION ACCEPTING THE 2006 ALCOHOLIC BEVERAGE CONTROL (ABC) GRANT PROJECT IN THE AMOUNT OF \$125,000 FROM THE STATE DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL TO REDUCE CRIME AND EXCESSIVE CALLS FOR SERVICE IN AND AROUND STANISLAUS COUNTY'S DISORDERLY AND DISRUPTIVE ABC LICENSED ESTABLISHMENTS AND TO REDUCE SALES OF ALCOHOL TO MINORS 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, acceptance of said \$125,000 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 that the City Council hereby accepts the \$125,000 grant entitled the Modesto ABC Project from the State Department of Alcoholic Beverage Control.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents, including any extensions or amendments thereof and any subsequent contract with the State in relation thereto.

BE IT FURTHER RESOLVED that any liability arising out of the performance of said grant contract, including civil court actions for damages, shall be the responsibility

of the grant recipient and the authorizing agency. The State of California and ABC disclaim responsibility for any such liability.

BE IT FURTHER RESOLVED that grant funds received hereunder shall not be used to supplant expenditures controlled by this body.

BE IT FURTHER RESOLVED that this award is not subject to local hiring freezes.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2006-374**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006/2007 OPERATING  
BUDGET ESTIMATING REVENUE OF \$125,000 AND APPROPRIATING  
FUNDS**

WHEREAS, the Police Department acquired a grant award in the sum of \$125,000 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 2006/2007 Annual Operating Budget is hereby amended as indicated below to initiate said grant project:

	<u>Expense:</u>		
To:	0410-190-2992-0130	\$91,500	Officers' Overtime Hours
	0410-190-2992-0240	\$25,000	Intergovernmental Services
	0410-190-2992-0262	2,500	Officers' Operating Expenses
	0410-190-2992-0356	2,500	Program Equipment
	0410-190-2992-0207	3,500	Required Conferences
	<b>Total</b>	<b>\$125,000</b>	
	<u>Revenue:</u>		
To:	0410-190-2992-3190	\$125,000	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 13<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: S Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-375**

**A RESOLUTION AUTHORIZING THE MODESTO IRRIGATION DISTRICT (MID) TO EXECUTE AN AGREEMENT WITH BUREAU VERITAS (BV) IN AN AMOUNT NOT TO EXCEED \$120,000 TO PROVIDE BUILDING CODE AND SAFETY ASSESSMENT PLAN REVIEW SERVICES AS PART OF THE DESIGN WORK RELATED TO THE PHASE TWO EXPANSION OF THE MODESTO REGIONAL WATER TREATMENT PLANT (MRWTP)**

WHEREAS, the City and MID have been working together for several years planning the 30 million gallon per day (mgd) Phase Two Expansion of the MRWTP (from the plant's original 30 mgd capacity) and the associated Downstream Improvements, and

WHEREAS, the two portions of this project are needed to provide existing users with a reliable water source and to keep pace with the City's projected growth, and

WHEREAS, as related to the on-going design work being performed by Black & Veatch (B&V), MID staff is recommending that a consulting firm specializing in California Code compliance be hired to assure that the design documents related to the Phase Two Expansion portion of the project are in conformance to current building code standards, and

WHEREAS, B&V are developing plans and related documents to comply with code standards, however, their work is not required to be submitted to the local plan checking authority (Stanislaus County Building Department) since, under California law, MID is exempt from this process, and

WHEREAS, MID is recommending that the Phase Two Expansion design documents undergo this additional level of plan checking, and

WHEREAS, the project plans, specifications, and related documents submitted by B&V to MID at the 30%, 90%, and 100% completion stages will be checked against the current California Building, Plumbing, Electrical, Mechanical, Fire, Energy, and other applicable codes, and

WHEREAS, this Agreement between MID and BV will provide for building code and safety assessment plan review work, and

WHEREAS, the cost of the services described in the Agreement will not exceed \$120,000, and

WHEREAS, as with certain other aspects of this project, MID will initially front the cost for this work, but the Revised and Restated Treatment and Delivery Agreement requires that the City reimburse MID for such costs once the project's financing structure is in place, and

WHEREAS, the cost for these services were included in the original project budget and are not an additional cost above that amount, and

WHEREAS, this action is consistent with the Council's goal that the City's water system is sufficient to meet all current needs and to provide for future economic growth,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes Modesto Irrigation District (MID) to enter into an agreement with Bureau Veritas (BV) in an amount not to exceed \$120,000 to provide building code and safety assessment plan review services as part of the design work related to the Phase Two Expansion of the Modesto Regional Water Treatment Plant (MRWTP).

BE IT FURTHER RESOLVED that the Modesto Irrigation District (MID), is hereby authorized to execute said Agreement with Bureau Veritas (BV) in an amount not

to exceed \$120,000 to provide building code and safety assessment plan review services as part of the design work related to the Phase Two Expansion of the Modesto Regional Water Treatment Plant (MRWTP).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-376**

**A RESOLUTION ACCEPTING IMPROVEMENTS IN THE TRAILS AT DRY CREEK SUBDIVISION ALONG PARKER ROAD, AND AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF COMPLETION AND AUTHORIZING THE RELEASE OF SECURITIES UPON EXPIRATION OF STATUTORY PERIODS**

WHEREAS, JOHN J. MACHADO AND JUDY A. MACHADO, Co-Trustees of the Machado Family Trust Agreement, are the subdividers of TRAILS AT DRY CREEK ("SUBDIVISION"), and

WHEREAS, JOHN J. MACHADO AND JUDY A. MACHADO, Co-Trustees of the Machado Family Trust Agreement, have filed irrevocable letters of credit to secure faithful performance and payment for labor and materials in the amounts of \$1,058,000.00 and \$529,000.00, respectively, and

WHEREAS, JOHN J. MACHADO AND JUDY A. MACHADO, Co-Trustees of the Machado Family Trust Agreement, have filed a warranty letter of credit in the amount of \$46,845.76 to guarantee improvements in the TRAILS AT DRY CREEK Subdivision, and

WHEREAS, the City Engineer, in a memorandum to Council, indicates that all public improvements required by the Subdivision Agreement has been completed to the satisfaction of the Public Works Department, and

WHEREAS, the City Engineer 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 record a Notice of Completion and release the securities upon expiration of the statutory periods,

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

that:

1. The public improvements in the TRAILS AT DRY CREEK Subdivision are hereby accepted and the City Clerk is hereby authorized to record a Notice of Completion for the public improvements.
2. The City Clerk is hereby authorized to release the subdivision security for faithful performance in the amount of \$1,058,000.00 upon recordation of the Notice of Completion.
3. The City Clerk is hereby authorized to release the subdivision security for labor and materials in the amount of \$529,000.00 sixty (60) days after the 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 the public improvements in the amount of \$46,845.76 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 13<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-377**

**A RESOLUTION AUTHORIZING STAFF TO PROCEED WITH A REQUEST  
FOR PROPOSALS AND APPROVING THE PROPOSED EVALUATION  
CRITERIA FOR A DESIGN/BUILD WATER WELL 226 – ARSENIC  
TREATMENT PROJECT**

WHEREAS, effective January 1, 2006, the United States Federal Environmental Protection Agency (EPA) set new standards for arsenic in drinking water, and

WHEREAS, the new EPA standards reduced the arsenic from 50 parts per billion (ppb) to 10 ppb, and

WHEREAS, the City of Modesto tests all water wells for arsenic compliance, and

WHEREAS, City Water Well No. 226 located at the Conant Avenue/Brenner Way intersection had a reading of 12 ppb for the first quarter of 2006, and

WHEREAS, the 12 ppb amount exceeds the new EPA limitation and well treatment is now necessary, and

WHEREAS, Ion Exchange using Iron Infused Resin is a proven method of removing arsenic from drinking water, and

WHEREAS, staff proposes the City issue a Request for Proposals to provide a Design/Build Ion Exchange Arsenic Treatment facility, and

WHEREAS, qualified consultant/construction firms will be contacted to submit a Design and Cost Proposal, and

WHEREAS, a Committee designated by the Director of Public Works will evaluate all Proposals received based on criteria set forth in the RFP, and

WHEREAS, the Committee will recommend a consultant/construction company to provide the Arsenic Treatment Facility, and



WHEREAS, the City Council will consider approval of the Proposal,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to proceed with a Request for Proposals to secure an Ion Exchange Arsenic Treatment facility at City Water Well No. 226.

BE IT FURTHER RESOLVED that the proposed evaluation criteria for a design/build of Water Well 226-Arsenic Treatment Project is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:

  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-378**

**A RESOLUTION ACCEPTING THE SHACKELFORD SANITARY SEWER  
IMPROVEMENTS AND PROVIDING SANITARY SEWER SERVICE FOR  
STANISLAUS COUNTY OUTLINE AREA KNOWN AS SHACKELFORD**

WHEREAS, Stanislaus County administered the design and construction of the Shackelford Sanitary Sewer System, and

WHEREAS, City of Modesto has inspected and approved the facilities constructed, and

WHEREAS, the City of Modesto collection system can service the Shackelford outline area defined as bordered by Pecos Avenue on the north, Rio Grande Avenue on the south, Crows Landing on the west, and Main Street on the east, and

WHEREAS, the Shackelford area requires a positive sewer service to replace aging residential septic systems,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Shackelford Sanitary Sewer Improvements and will provide Sanitary Sewer Service for the Stanislaus County outline area known as Shackelford.

BE IT FURTHER RESOLVED that the Council hereby directs City staff to provide for the operation and maintenance of the Shackelford Sanitary Sewer system.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 13<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-379**

**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.  
12)**

WHEREAS, this Council did, on April 25, 2006, adopt its Resolution No. 2006-228 (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. 12 of Community Facilities District No. 2004-1 (Village One #2) of the City of Modesto, County of Stanislaus, State of California," was recorded on April 26, 2006, 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 42; and

WHEREAS, at the time and date set for the hearing (June 13, 2006) 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.

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 13th day of June 2006. 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 8:00 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 13<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**SAMPLE**

**OFFICIAL BALLOT**

**BALLOT NO. \_\_\_\_\_**

**CITY OF MODESTO  
COMMUNITIES FACILITIES DISTRICT NO. 2004-1  
(VILLAGE ONE #2)**

**ANNEXATION NO. 12**

**SPECIAL TAX ELECTION**

June 13, 2006

**\_\_\_\_% OF LAND IN TERRITORY PROPOSED TO BE ANNEXED TO DISTRICT  
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. 2006-228, 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. 12)" adopted by the City Council of the City of Modesto on April 25, 2006, 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. \_\_\_\_\_

\_\_\_\_% of land in territory proposed to be annexed to District  
THIS BALLOT HAS A VALUE OF \_\_\_\_ VOTES

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-380**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO  
CANVASSING THE RESULTS OF THE JUNE 13, 2006, 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. 12)**

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. 2006-228, 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. 12)" adopted on April 25, 2006, 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. 2006-379, adopted on June 13, 2006, and, as a result, this Council called an election within the territory proposed to be annexed to the District (the "Election") for June 13, 2006, or as soon thereafter as practicable, relative to the foregoing; and

WHEREAS, on June 13, 2006, the Election was held; and

WHEREAS, the City Clerk has certified that at the Election the proposition of levying the District Special Taxes within the territory proposed to be annexed to the District was approved by more than two-thirds (2/3) of the votes cast at the Election;

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

SECTION 1. The Election was duly and validly conducted in conformity with all applicable laws pertaining thereto. It is hereby determined that the owner or owners of the territory proposed to be annexed are as set forth in the Certificate of City Clerk as to Distribution of Official Ballots, submitted to this Council and on file with the City Clerk.

SECTION 2. The ballot proposition presented to the qualified electors of the territory proposed to be annexed at the Election received at least two-thirds (2/3) of the votes cast at the Election. A copy of the City Clerk's certificate of election results is attached.

SECTION 3. Pursuant to Section 53339.8 of the Act, it is hereby ordered that the territory proposed to be annexed to the District pursuant to Resolution No. 2006-228 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 13<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**CERTIFICATE OF CITY CLERK**

I, JEAN MORRIS, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2006-379, 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. 12) adopted on April 25, 2006, by the City Council of the City of Modesto, I did conduct the Special Tax Election on June 13, 2006, 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. 2006-228, 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. 12)" adopted by the City Council of the City of Modesto on April 25, 2006, 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 27      NO 0  
Jean Morris  
Jean Morris  
City Clerk of the City of Modesto  
Dated: 6/21, 2006

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-381

A RESOLUTION EXTENDING THE TERM OF SAM PIERSTORFF AS POET  
LAUREATE OF THE CITY OF MODESTO THROUGH JUNE 30, 2008

WHEREAS, on July 13, 1993, by Resolution No. 93-412, the City Council established a non-salaried honorary position to be known as "The Poet Laureate of the City of Modesto", and

WHEREAS, the Culture Commission has the responsibility for nominating and recommending appointments to the Poet Laureate position, and

WHEREAS, on June 22, 2004, by Resolution 2004-304, the City Council appointed Sam Pierstorff as the Poet Laureate of the City of Modesto for a two-year term from July 1, 2004, through June 30, 2006, and

WHEREAS, the Culture Commission met on February 27, 2006, and concluded that Sam Pierstorff had appropriately fulfilled his obligations as Poet Laureate and recommended that his term be extended through June 30, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves extending the term of Sam Pierstorff's appointment as the Poet Laureate of the City of Modesto through June 30, 2008.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of June 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-382**

**A RESOLUTION APPOINTING RYAN SWEHLA TO THE BOARD OF ZONING  
ADJUSTMENT**

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

WHEREAS, the Economic Development Committee met on June 12, 2006, and recommended appointment of RYAN SWEHLA to the Board of Zoning Adjustment.

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

SECTION 1. RYAN SWEHLA is hereby appointed to the Board of Zoning Adjustment with a term expiration of January 1, 2010.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the newly 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 27<sup>th</sup> day of June 2006, by Councilmember Keating, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-383

A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF  
HENRY DOTINGA FROM THE COMMUNITY QUALITIES FORUM

WHEREAS, HENRY DOTINGA was appointed a member of the Community  
Qualities Forum on March 22, 2005, and

WHEREAS, HENRY DOTINGA has tendered his resignation from the  
Community Qualities Forum, and

WHEREAS, HENRY DOTINGA 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 HENRY  
DOTINGA 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 HENRY DOTINGA 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 27<sup>th</sup> day of June 2006, by Councilmember Dunbar, who  
moved its adoption, which motion being duly seconded by Councilmember Hawn, was  
upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-384**

**A RESOLUTION APPROVING A CFD RIGHT OF WAY ACQUISITION AGREEMENT BETWEEN CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) AND VILLAGE ONE PLAZA, A LIMITED LIABILITY COMPANY, FOR APPROXIMATELY 0.397 ACRES ON THE SOUTHEAST CORNER OF FLOYD AVENUE AND ROSELLE AVENUE, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND FINDING THAT THE POTENTIAL ENVIRONMENTAL EFFECTS OF THIS AGREEMENT HAVE BEEN ADEQUATELY ADDRESSED BY THE PREVIOUSLY CERTIFIED VILLAGE ONE SPECIFIC PLAN PROGRAM EIR AS MODIFIED BY THE 1994 FINAL SUPPLEMENTAL EIR (SCH NO. #90020181), AND AS AMENDED BY THE 2003 ADDENDUM TO THE EIR**

WHEREAS, the City of Modesto desires to complete the core infrastructure needed to serve the Village One area, and

WHEREAS, Village One Plaza, A Limited Liability Company (“Developer”) has agreed to sell approximately 0.397 acres on the southeast corner of Floyd and Avenue and Roselle Avenue to the City of Modesto so that certain improvements to the intersection of Floyd Avenue and Roselle Avenue can occur, and

WHEREAS, the City Council has considered the proposed CFD Right Of Way Acquisition Agreement (“Agreement”) between City of Modesto Community Facilities District No. 2004-1 (Village One #2) and Developer, and

WHEREAS, said agreement shall have a maximum reimbursement amount of \$143,118.50, and

WHEREAS, the City Council has received and considered the Written Checklist, Environmental Assessment EA/PW No. 2006-09, which concludes that acquisition of the right of way for which the Developer will be reimbursed under the proposed agreement, is within the scope of the previously certified Village One Specific Plan Program EIR as

modified by the 1994 Final Supplemental EIR (SCH No. 90020181), and as amended by the 2003 Addendum to the EIR, 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. The proposed CFD Right of Way Acquisition Agreement between City of Modesto Community Facilities District No. 2004-1 and Village One Plaza, A Limited Liability Company, (“Project”) is consistent with the Village One Specific Plan and the Modesto Urban Area General Plan.
2. 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.
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/PW No. 2006-09, provides the substantial evidence to support findings 1-5, above.

BE IT FURTHER RESOLVED that the CFD Right of Way Acquisition Agreement between the City of Modesto Community Facilities District No. 2004-1 (Village One #2) and Village One Plaza, LLC, for right of way acquisition for construction of certain improvements to the intersection of Floyd Avenue and Roselle Avenue is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement and all related property documents as Grantee 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 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-385**

**A RESOLUTION AUTHORIZING THE AWARD OF CONTRACTS FOR THE FURNISHING OF TEMPORARY LABOR SERVICES FOR THE CITY OF MODESTO TO THE FOLLOWING COMPANIES AS "PRIMARY" CONTRACTORS: ADECCO USA, INC., MODESTO, CA, REMEDY INTELLIGENT STAFFING, INC., MODESTO, CA, VALLEY STAFFING SERVICES, MODESTO, CA AND WESTAFF (USA), INC., MODESTO, CA; AND WITH THE FOLLOWING COMPANIES AS "SECONDARY/THIRD" POSITION CONTRACTORS: AEROTEK, INC., STOCKTON, CA AND TEKSYSTEMS, INC., RANCHO CORDOVA, CA, TO BEGIN JULY 1, 2006, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY**

WHEREAS, last fiscal year the City as a whole spent approximately \$1.9 million dollars on temporary labor services, and

WHEREAS, historically the largest departmental users of temporary labor have been the Public Works and Parks, Recreation & Neighborhoods Departments, and

WHEREAS, a Request for Proposal (RFP) addresses the following issues:

- Citywide contract
- Possible risk exposure
- Consolidate Citywide requirements
- Consistency of service delivery
- Tracking and Reporting, and

WHEREAS, on February 14, 2006, Council approved Resolution No. 2006-088 authorizing the Purchasing Manager to formally solicit Request for Proposals for the furnishing of Temporary Labor Services for the City of Modesto, for a two (2) year agreement with three (3) one-year extension options, and

WHEREAS, an RFP was issued to accomplish the following:

- Consolidation of Citywide requirements obtaining the best services for the price offered.
- Consistency of service delivery and the ability to provide activity reports to better monitor the cost and utilization of temporary services Citywide.
- Concise monitoring will allow quarterly reporting on usage hours and expenditures, and

WHEREAS, the Purchasing Division solicited Request for Proposal No. 0506-27 for the furnishing of Temporary Labor Services for the City of Modesto to thirty-four (34) prospective proposers, twenty-one (21) of which were local companies, posted the proposal on the City's web site, and formally advertised as required by law, and

WHEREAS, on March 28, 2006, RFP's were formally opened in the City Clerk's office. Of the thirty-four (34) prospective proposers solicited, ten (10) companies chose to respond, and

WHEREAS, on March 30, 2006, the evaluation committee met and proposal evaluation packets were given to each committee member to individually review and score, and

WHEREAS, on April 12, 2006, the evaluation committee met to discuss the proposal submittals and how they individually rated and scored each submittal. Committee member scores were combined and averaged to arrive at a committee score, and

WHEREAS, on April 19, 2006, proposer interviews were held for the top candidates to clarify any questions committee members had regarding their proposal

submittals. Immediately following the interviews the committee members had an open discussion of the candidates and then came to a consensus for award recommendation.

WHEREAS, based on being ranked highest in total evaluation criteria, as determined by the evaluation committee, the following companies were selected as primary contractors:

- Adecco USA, Inc., Modesto, CA
- Labor Ready Southwest, Inc., Modesto, CA
- Remedy Intelligent Staffing, Inc., Modesto, CA
- Valley Staffing Services, Modesto, CA
- Weststaff (USA), Inc., Modesto, CA, and

WHEREAS, in order to provide for backup, as determined by the evaluation committee, the following companies were selected as secondary/third position contractors:

- Aerotek, Inc., Stockton, CA
- Labor Ready Southwest, Inc., Modesto, CA
- Remedy Intelligent Staffing, Inc., Modesto, CA
- TEKsystems, Inc., Modesto, CA
- Valley Staffing Services, Modesto, CA, and

WHEREAS, on May 9, 2006, Council approved Resolution No. 2006-285 authorizing the award of proposal, and directing staff to enter into contract negotiations for the furnishing of Temporary Labor Services for the City of Modesto with the following companies as “primary” contractors, Adecco USA, Inc., Modesto, CA, Labor Ready Southwest, Inc., Modesto, CA, Remedy Intelligent Staffing, Inc., Modesto, CA,



Valley Staffing Services, Modesto, CA and Westaff (USA), Inc., Modesto, CA, to begin July 1, 2006, for a two (2) year agreement, with three (3) one-year extension options, at the sole discretion of the City, and

WHEREAS, additionally, contracts would also be awarded to companies as secondary and third position contractors, in order to provide for backup, as determined by the evaluation committee and contingent upon successful contract negotiations, and

WHEREAS, during contract negotiations, Labor Ready Southwest, Inc., a “primary” contractor was not able to accept the City’s indemnity language for automobile liability coverage, and therefore made a business decision not to enter into a contract with the City, sighting “that they could not meet the full commitments of the contract with the City of Modesto”. Because of Labor Ready Southwest, Inc. decision not to accept a contract, job title positions awarded to Labor Ready Southwest, Inc. had to be re-assigned to the next highest rated proposers, as outlined in the following matrix:

Job Title Position	Primary Contractor
Water Conservation Specialist	Valley Staffing Services, Modesto, CA

Job Title Position	Secondary Position Contractor
Administrative Office Assistant I	Valley Staffing Services
Computer Operator	Valley Staffing Services
Equipment Operator	Remedy Intelligent Staffing, Inc., Modesto, CA
Maintenance Worker I	Aerotek, Inc., Stockton, CA
Maintenance Worker II	Remedy Intelligent Staffing, Inc., Modesto, CA

Job Title Position	Third Position Contractor
Account Clerk	Remedy Intelligent Staffing, Inc., Modesto, CA

and,

WHEREAS, City departments intermittently have the need for temporary employees to:

- Fill vacancies created through retirements, resignations, and terminations.
- Fill need during periods of high demand and handle workload fluctuations, and

WHEREAS, based on being ranked highest in total evaluation criteria, as determined by the evaluation committee, City staff recommends the award of contracts for the furnishing of Temporary Labor Services for the City of Modesto with the following companies as “primary” contractors, Adecco USA, Inc., Modesto, CA, Remedy Intelligent Staffing, Inc., Modesto, CA, Valley Staffing Services, Modesto, CA and Westaff (USA), Inc., Modesto, CA, and with the following companies as “secondary/third” position contractors, Aerotek, Inc., Stockton, CA and TEKsystems, Inc, Rancho Cordova, CA, to begin July 1, 2006, for a two (2) year agreement, with three (3) one-year extension options, at the sole discretion of the City,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of contracts for the furnishing of Temporary Labor Services for the City of Modesto to the following companies as “primary” contractors: Adecco USA, Inc., Modesto, CA, Remedy Intelligent Staffing, Inc., Modesto, CA, Valley Staffing Services, Modesto, CA and Westaff (USA), Inc., Modesto, CA; and with the following companies as “secondary/third” position contractors: Aerotek, Inc., Stockton, CA and TEKsystems, Inc, Rancho Cordova, CA, to begin July 1, 2006, for a two (2) year agreement, with three (3) one-year extension options, at the sole discretion of the City.

BE IT FURTHER RESOLVED, that the City Manager, or his designee, is hereby authorized to execute the contracts for the furnishing of Temporary Labor Services for the City of Modesto with the following companies as "primary" contractors: Adecco USA, Inc., Modesto, CA, Remedy Intelligent Staffing, Inc., Modesto, CA, Valley Staffing Services, Modesto, CA and Westaff (USA), Inc., Modesto, CA; and with the following companies as "secondary/third" position contractors: Aerotek, Inc., Stockton, CA and TEKsystems, Inc, Rancho Cordova, CA, to begin July 1, 2006, 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 27<sup>th</sup> day of June 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-386**

**A RESOLUTION APPROVING A STANDARD AGREEMENT FOR  
CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND  
SHIBUMI CONSULTING SERVICES, LLC, AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the Customer Service Division of the City of Modesto Finance Department desires to enter into consulting service agreement with Shibumi Consulting Service, LLC for a two (2) year period, not to exceed \$50,000 per fiscal year, and

WHEREAS, in 1999 the HTE Utility billing System was implemented, requiring the City of Modesto to seek additional support for the new Utility Billing System, and

WHEREAS, Mark Roberts, owner and sole proprietor of Shibumi Consulting, provides software support, additional training and specialized report writing to City in regards to the HTE Utility Billing System, and

WHEREAS, the Council of the City of Modesto is required to approve all contractual agreements that may exceed \$50,000 in fees for contracted services, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that a Standard Agreement For Consulting Services between the City of Modesto and Shibumi Consulting Services, LLC is hereby approved.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27<sup>th</sup> day of June, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-387**

**A RESOLUTION AUTHORIZING FIVE (5) DESIGNATED CITY OF MODESTO  
STAFF TO SERVE AS GENERAL SERVICES ADMINISTRATION (GSA)  
SURPLUS PROPERTY SCREENERS**

WHEREAS, The Federal Property and Administrative Services Act of 1949, as amended, provides for the transfer of federal surplus personal property to the State Agency for Surplus Property (SASP) within each state, and

WHEREAS, the Department of General Services (DGS) is the State of California's State Agency for Surplus Property (SASP), and

WHEREAS, each SASP is responsible for administering the surplus property donation program within its respective state, and

WHEREAS, surplus GSA personal property is made available to the City of Modesto at a reduced cost through the donation program administered by the State of California, Department of General Services, and

WHEREAS, federal surplus personal property can be used by all City departments, and

WHEREAS, federal surplus personal property includes all types and categories of property including but not limited to the following: airplanes, boats, communication equipment, furniture, tools, and motor vehicles, and

WHEREAS, Council approval is required by the State of California, Department of General Services, Office of Procurement, -Surplus Property, to authorize designated City of Modesto personnel to review ( screen) and obtain surplus Federal personal

property that is available through the General Services Administration's ( GSA) Federal Surplus Personal Property Program, and

WHEREAS, in previous years the City was able to designate fifteen (15) "screeners" through the GSA's Federal Surplus Personal Property Program, and

WHEREAS, the City's approval to participate in the program has expired and needs to be renewed, and

WHEREAS, a new requirement of that renewal process is to authorize no more than five (5) designated City of Modesto staff to serve as "screeners", and

WHEREAS, the five (5) City staff designated as screeners are: Mark L. Averell, Jim Richards, Lori Martinez, Gary L. Watts, and Cindy Medley,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes Mark L. Averell, Jim Richards, Lori Martinez, Gary L. Watts, and Cindy Medley as the five (5) designated City of Modesto staff to serve as "screeners" as required by the State Department of General Services, Office of Procurement-Surplus Property, to review and obtain surplus Federal personal property that is available through the General Services Administration's (GSA) Federal Surplus Personal property Program.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alacala Wood  
SUSANA ALACALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-388**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT  
FOR TWO (2) NEW, CURRENT YEAR/MODEL, ELGIN EAGLE STREET  
SWEEPERS TO RICKER MACHINERY COMPANY OF OAKLAND, CA. FOR  
THE ESTIMATED COST OF \$418,620.77**

WHEREAS, the Public Works Department-Fleet Services Division has requested the purchase of two (2) new, current year/model, Elgin Eagle Street Sweepers, and

WHEREAS, the two (2) Elgin Eagle street sweepers will be used to replace current equipment, and

WHEREAS, the old equipment is being replaced because it has reached the end of its useful service life, and

WHEREAS, Resolution No. 2005-381 authorized the Purchasing Supervisor to solicit bids for new vehicles and heavy equipment throughout FY 05/06 using various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, the Purchasing Division solicited formal bids for two (2) new, current year/model, Elgin Eagle street sweepers on Request for Bid (RFB) 0506-25, with a bid opening date of March 14, 2006, and

WHEREAS, twelve (12) vendors were solicited of which one (1) was a local vendor, and

WHEREAS, out of twelve (12) vendors solicited, three (3) vendors chose to respond to the RFB, and

WHEREAS, the bid submitted by Municipal Maintenance Equipment, Inc. was deemed to be non-responsive because their bid did not meet bid specifications, and

WHEREAS, the 2% local vendor preference was not a factor in determining the lowest responsive and responsible bidder, and

WHEREAS, the Purchasing Division and Public Works-Fleet Division staff evaluated bids, and

WHEREAS, based on the evaluation of bids, Ricker Machinery Company of Oakland, CA. is hereby deemed to be the lowest responsive and responsible bidder for two (2) new, current year/model, Elgin Eagle Street Sweepers, and

WHEREAS, the estimated total amount for two (2) new, current year/model, Elgin Eagle Street Sweepers is \$418,620.77, and

WHEREAS, the Modesto Municipal Code (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, the code also states that purchases whose total maximum cost to the City exceeds \$50,000 shall receive preliminary approval of Council, MMC (8-3.203 (a)), and

WHEREAS, the two (2) new, current year/model, Elgin Eagle Street Sweepers received said approval with Resolution No. 2005-381, and

WHEREAS, this Request for Bid (RFB) process conforms to the Modesto Municipal Code, and

WHEREAS, the City Council could choose to reject the bids for two (2) new, current year/model, Elgin Eagle Street Sweepers,

WHEREAS, the City Council has appropriated funds in account number 7210-480-5814-5274 (Fleet Equipment, Replacement) and account number 6280-480-5313-5700 (Storm Drainage 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 two (2) new, current year/model, Elgin Eagle Street Sweepers to Ricker Machinery Company of Oakland, CA. for the estimated cost of \$418,620.77.

BE IT FURTHER RESOLVED by the Council of the City of Modesto, that it hereby authorizes the Purchasing Manager to issue a purchase order to Ricker Machinery Company of Oakland, CA. for the estimated cost of \$418,620.77.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-389**

**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 (1) CONTRACT FOR A 500-COLUMN-INCH “NO-COMMITMENT” ADVERTISING RATE OF \$50.87 PER COLUMN INCH AND THE OTHER CONTRACT FOR A “12X COMMITMENT” BUSINESS PACKAGE ADVERTISING PLAN “D”, AT A STANDARD AD SIZE AVERAGE RATE OF \$29.46 PER COLUMN INCH AND AUTHORIZING THE CITY MANAGER TO EXECUTE BOTH 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, 2006, 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, a price increase associated with the contract renewal will put the “non-profit no-commitment” contract rate at \$50.87 per column inch, and

WHEREAS, this year the “12x -commitment business package” rate will once again include a single insertion in the Saturday Shopper and Vida with the average per column inch rate remaining at \$29.46, 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 MMC 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), twelve (12) month retail advertising contracts with the Modesto Bee (McClatchy Newspaper Group), to coincide with the fiscal year calendar, consisting of one contract for a 500 column inch “no-commitment” non-profit rate at

\$50.87 per column inch and the other contract for a "12x-commitment" business package advertising plan "D" at an average rate of \$29.46 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 Saturday Shopper and Vida as outlined in plan "D".

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 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-390**

**A RESOLUTION APPROVING A THREE (3) YEAR WALK-IN PAYMENT  
SERVICES AGREEMENT BETWEEN THE CITY OF MODESTO AND  
CHECKFREEPAY CORPORATION, AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE SAID CONTRACT**

WHEREAS, in October, 2003, the City of Modesto entered into an agreement with CheckFreePay for electronic processing of utility payments made at designated pay stations, and

WHEREAS, the Customer Service Division of the City of Modesto Finance Department desires to renew a three (3) year agreement with CheckFreePay for electronic utility pay station collection and remittal services, and

WHEREAS, CheckFreePay Corporation's designated pay station agents collect and electronically remit approximately 6,500 City of Modesto utility payments each month providing convenient citywide pay stations where citizens may pay their City of Modesto utility bills, and

WHEREAS, the Council of the City of Modesto is required to approve all contractual agreements that may exceed \$50,000 in fees for contracted services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a three (3) year Walk-In Payment Processing Services Agreement between the City of Modesto and CheckFreePay Corporation to provide electronic pay station collection and remittance processing services.

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 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-391**

**A RESOLUTION AUTHORIZING THE FINANCE DEPARTMENT TO  
PURCHASE QUERY REPORTING SOFTWARE FROM SUNGARD, HTE, A  
SOLE SOURCE VENDOR, FOR UTILITY BILLING AND COLLECTION  
SERVICES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE,  
TO EXECUTE THE SOFTWARE LICENSE AND SERVICES AGREEMENT**

WHEREAS, the City of Modesto, Finance Department, Customer Service Division is tasked with the responsibility of managing, providing and distributing a large amount of utility billing and consumption data to various entities including other City departments, and

WHEREAS, following the 1999 installation of the current utility billing software system an alternative reporting tool, Crystal Reports, was chosen as the Citywide standard. Consequently, the Finance Department requires the assistance of an outside consultant to extract data from this reporting system, and

WHEREAS, the Query Reporting Software available from Sungard, HTE, will provide a technical tool to query data and quickly create professional reports without external assistance,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the purchase of the Query Reporting Software from Sungard HTE, a sole source vendor, in the amount of \$34,000.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-392**

**A RESOLUTION AMENDING THE BUDGET TO APPROPRIATE WATER,  
WASTEWATER AND GENERAL FUNDS IN ORDER TO PAY FOR THE COST  
OF A NEW UTILITY DATA EXTRACTION PROGRAM FROM SUNGARD HTE**

WHEREAS, the City Council has approved the purchase of the Query Reporting (Q-Rep) software program for the purpose of supporting utility system data extraction using city staff, and

WHEREAS, the cost of the new software, including installation and training is \$34,000.00 and is allocable to the water and wastewater utility funds, and

WHEREAS, a new appropriation from water and wastewater fund reserves is needed to provide sufficient resources within the General Fund to pay for the cost of the new software,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes amending the budget as shown in Attachment A to this resolution, which is incorporated herein by reference.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby directed 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 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

Attachment A

**Water Enterprise Fund:**

Increase/(Decrease)

***Reserves:***

Retained Earnings 06-6100-800-8000-8003 (\$17,000.00)

***Expenditures:***

City Forces Labor 06-6100-440-5099-0255 \$17,000.00

**Wastewater Enterprise Fund:**

***Reserves:***

Retained Earnings 06-6210-800-8000-8003 (\$17,000.00)

***Expenditures:***

City Forces Labor 06-6210-440-5299-0255 \$17,000.00

**General Fund**

Revenue:

Service Credit Revenue 06-0100-120-1223-4909 \$34,000.00

Expenditure:

06-0100-120-1223-5400 \$34,000.00

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-393**

**A RESOLUTION APPROVING COLLECTION SERVICE CONTRACT  
BETWEEN THE CITY OF MODESTO AND ACCESS CAPITAL SERVICES,  
INC., AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE  
CONTRACT**

WHEREAS, the Customer Service Division of the City of Modesto Finance Department desires to enter into collection service contract with Access Capital Services, Inc. for delinquent receivables, and

WHEREAS, the Finance Department currently has no contracted services for collection of delinquent receivables, and

WHEREAS, on March 25, 2005, an RFP was issued to agencies which focus on collections for government entities and provide enhanced technology services, and

WHEREAS, out of the four (4) proposals received, Access Capital Services, Inc., was found most qualified to meet the City's collection needs offering lower collection rates, advanced technology and experience with government agencies and court collections, and

WHEREAS, the Council of the City of Modesto is required to approve all contractual agreements that may exceed \$50,000 in fees for contracted services, and

WHEREAS, on August 10, 2005, the Finance Committee recommended approval of said contract and supported its presentation to full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the collection service contract between the City of Modesto and Access Capitol Services, Inc.

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 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-394**

**A RESOLUTION APPROVING THE FY 2006-2007 BUDGET FOR THE  
STANISLAUS RESOURCE RECOVERY (“WASTE-TO-ENERGY”) FACILITY**

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

WHEREAS, since that time, the City has been 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 1<sup>st</sup> 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 Fiscal Year 2006-07 WTE budget was based on the Assumptions, Revenues, Expenditures and Tip Fee Calculation shown on Attachment A, a copy of which is attached hereto and incorporated herein by reference, and

WHEREAS, at its May 11, 2006, meeting, the Executive Committee also considered the proposed FY 2006/2007 Budget as shown on Attachment B, a copy of which is attached hereto and incorporated herein by reference, and the Executive



Committee unanimously approved forwarding this proposed FY 2006-2007 Budget to the Modesto City Council and the Stanislaus County Board of Supervisors for approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the FY 2006-2007 Waste-to-Energy Project Budget, a copy of which is attached hereto as Attachment B and incorporated herein by reference, as recommended by the Executive Committee.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

## Assumptions, Revenues, Expenditures, and Tip Fee Calculation

Fiscal Year Ending June 30,

	2004	2005	2006	2007	2008	2009	2010
<b>Assumptions</b>							
Solid Waste Delivered (tons)	270,000	255,000	260,000	260,000	260,000	260,000	260,000
Ferrous Metals (tons)	5,300	5,300	5,300	5,300	5,300	5,300	5,300
Solid Waste Processed (tons)	270,000	255,000	260,000	260,000	260,000	260,000	260,000
kWh per ton	525	525	525	525	525	525	525
Net Electricity Generated (mWh)	141,750	133,875	136,500	136,500	136,500	136,500	136,500
Price per kWh	\$0.05370	\$0.05370	\$0.05370	\$0.06450	\$0.06515	\$0.06580	\$0.06645
Revenue from Electricity Sales	\$7,611,975	\$7,189,088	\$7,330,050	\$8,804,250	\$8,892,293	\$8,981,215	\$9,071,028
Fixed Capacity Charge	\$3,273,344	\$3,273,344	\$3,273,344	\$3,273,344	\$3,273,344	\$3,273,344	\$3,273,344
Gross Electric Revenues	\$10,885,319	\$10,462,432	\$10,603,394	\$12,077,594	\$12,165,637	\$12,254,559	\$12,344,372
Ash Disposal Price per Ton	\$16.00	\$16.00	\$16.00	\$16.00	\$16.00	\$16.00	\$16.00
Ash Production (% of solid waste processed)	28.700%	31.100%	31.100%	31.100%	31.100%	31.100%	31.100%
Process Rejects (% of solid waste processed)	0.023%	0.023%	0.023%	0.023%	0.023%	0.023%	0.023%
Ferrous Metals (\$ per ton)	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00	\$5.00
Property Tax Rate	1.000%	1.000%	1.000%	1.000%	1.000%	1.000%	1.000%
Assessed Value	\$69,126,400	\$70,508,928	\$71,919,107	\$71,919,107	\$71,919,107	\$71,919,107	\$71,919,107
O&M/Energy/Sales Tax Inflation	3.500%	3.500%	3.500%	3.500%	3.500%	3.500%	3.500%
Insurance/Air Permit/Carbon Expense Inflation	1.000%	1.000%	1.000%	1.000%	1.000%	1.000%	1.000%
Bond/DSRF Interest Rate	0.930%	3.300%	3.000%	4.000%	4.000%	4.000%	4.000%
Principal Account Interest Earnings Rate	0.050%	3.000%	3.000%	3.000%	3.000%	3.000%	3.000%
RRA Interest Earnings Rate	1.770%	2.500%	4.000%	3.750%	3.750%	3.750%	3.750%
Liquidity Fee	0.245%	0.350%	0.20%	0.195%	0.195%	0.195%	0.195%
Remarketing Fee	0.060%	0.060%	0.060%	0.060%	0.060%	0.060%	0.060%
<b>Operatings &amp; Maintenance Expense</b>	<b>\$9,798,796</b>	<b>\$10,141,754</b>	<b>\$10,498,715</b>	<b>\$10,864,100</b>	<b>\$11,244,344</b>	<b>\$11,637,896</b>	<b>\$12,045,222</b>
<b>Pass-Through Costs</b>							
Ash Disposal	\$1,239,840	\$1,253,079	\$1,293,760	\$1,293,760	\$1,293,760	\$1,293,760	\$1,293,760
Process Rejects	\$1,739	\$4,911	\$1,495	\$1,495	\$1,495	\$1,495	\$1,495
Recovered Materials (credit)	(\$63,250)	(\$63,250)	(\$63,250)	(\$63,250)	(\$63,250)	(\$63,250)	(\$63,250)
Insurance	\$656,219	\$487,857	\$669,409	\$676,103	\$682,864	\$689,693	\$696,590
Ferrous Metals	\$26,500	\$25,770	\$26,500	\$26,500	\$26,500	\$26,500	\$26,500
Property Tax	\$691,264	\$613,134	\$719,191	\$719,191	\$719,191	\$719,191	\$719,191
Sales Tax	\$136,721	\$179,353	\$185,630	\$192,127	\$198,852	\$205,812	\$213,015
Trustee Fees	\$4,720	\$9,360	\$4,720	\$4,720	\$4,720	\$4,720	\$4,720
Site Lease	\$198,000	\$198,000	\$198,000	\$198,000	\$198,000	\$198,000	\$198,000
Air Permit Fees	\$48,857	\$47,105	\$49,839	\$50,337	\$50,841	\$51,349	\$51,863
Other Permit Fees	\$8,030	\$125,829	\$8,030	\$8,030	\$8,030	\$8,030	\$8,030
Franchise Fees	\$10,446	\$9,550	\$10,446	\$10,446	\$10,446	\$10,446	\$10,446
Carbon Expense	\$212,242	\$201,578	\$216,508	\$218,673	\$220,860	\$223,068	\$225,299
Dolomitic Lime Expense	\$0	\$119,406	250,470	\$252,975	\$ 255,504	\$ 258,059	\$ 260,640
<b>Total Pass-Through Costs</b>	<b>\$3,171,328</b>	<b>\$3,092,276</b>	<b>\$3,570,748</b>	<b>\$3,589,108</b>	<b>\$3,607,813</b>	<b>\$3,626,874</b>	<b>\$3,646,299</b>
Bond Principal Payment Due January 1st	\$3,665,000	\$5,600,000	\$6,150,000	\$6,505,000	\$6,935,000	\$7,370,000	\$13,885,000
Cumulative Principal Payments	\$12,335,000	\$17,935,000	\$24,085,000	\$30,590,000	\$37,525,000	\$44,895,000	\$58,780,000
Outstanding Par	\$48,277,551	\$43,645,143	\$37,770,000	\$31,442,600	\$24,722,800	\$17,570,000	\$6,942,600
Bond Interest Expense	\$448,981	\$1,440,290	\$1,133,100	\$1,257,704	\$988,904	\$702,800	\$277,704
Liquidity Fee	\$118,280	\$152,758	\$73,652	\$61,313	\$48,209	\$34,262	\$13,538
Remarketing Fee	\$28,967	\$26,187	\$22,662	\$18,866	\$14,834	\$10,542	\$4,166
DSRF Interest Earnings	\$54,665	\$193,974	\$176,340	\$235,120	\$235,120	\$235,120	\$117,560
Principal Account Interest Earnings	\$1,037	\$86,063	\$93,581	\$99,188	\$105,656	\$134,981	\$90,079
Use of DSRF to Pay Debt Service	\$0	\$0	\$0	\$0	\$0	\$0	\$5,878,000
<b>Net Debt Service Expense</b>	<b>\$4,205,525</b>	<b>\$6,939,198</b>	<b>\$7,109,493</b>	<b>\$7,508,575</b>	<b>\$7,646,171</b>	<b>\$7,747,503</b>	<b>\$8,094,769</b>



**Stanislaus Waste to Energy Project  
Proposed Budget FY 2006-2007**

**Expenditures**

**Revenues**

<b>Operatings &amp; Maintenance Expense</b>	<b>\$ 10,864,100</b>
<b>i-Through Costs</b>	
Disposal	1,293,760
Process Rejects	1,495
Recovered Materials (credit)	-63,250
Insurance	676,103
Ferrous Metals	26,500
Property Tax	719,191
Sales Tax	192,127
Trustee Fees	4,720
Site Lease	198,000
Air Permit Fees	50,337
Other Permit Fees	8,030
Franchise Fees	10,446
Carbon Expense	218,673
Dolomitic Lime Expense	252,975
<b>Total Pass-Through Costs</b>	<b>\$ 3,589,108</b>

<b>Debt Service Expense</b>	
Bond Principal Payment Due January 1st	6,505,000
Bond Interest Expense	1,257,704
Liquidity Fee	61,313
Remarketing Fee	18,866
DSRF Interest Earnings	235,120
Principal Account Interest Earnings	99,188
<b>Net Debt Service Expense</b>	<b>\$ 7,508,575</b>

<b>Annual Administrative Expenses</b>	
00-Communications	0
00-Maintenance	0
00-Memberships (IEPA)	20,500
62410-Rebates & Refunds (Arbitrage Liability)	100,000
62600-Office Supplies	500
62780-Books/Periodicals	500
63000-Professional & Special Services (Leg. Lobbyist, Audits, F/A's, Energy Consultant)	200,000
63280-Contracts	0
63400-Engineering Services (Consulting Eng.)	150,000
63410-City of Modesto Admin.	223,000
63640-Legal Services (outside Counsel)	100,000
65000-Public/Legal Notices	200
65100-Rent/Equipment	0
65300-Rent/Structure	0
65780-Education/Training	3,000
67040-Travel Expenses (Wte conf.)	7,500
74080-Central Services Printing	0
74250-County Counsel	20,000
74301-County Auditor	70
74302-County Purchasing	90
74370-County Stores	0
74520-County Admin. (incl. project position)	304,300
74881-A-87 Charges	-129
82130-Office Equipment	0
84420-Personal Computer Equipment	0
73010-Contributions to other agencies (HHW and AB939 surcharges)	810,000
<b>tal Administrative Expenses</b>	<b>\$ 1,939,531</b>

**tal Expenditure \$ 23,901,314**

<b>Electric Credit</b>	
Revenue from Electricity Sales	8,804,250
Fixed Capacity Charge	3,273,344
Gross Electric Revenues	<u>12,077,594</u>
90% of Gross Electric Revenues	10,869,835
<b>Total Electric Credit</b>	<b>\$ 10,869,835</b>
<b>Disposal Fees</b>	<b>\$ 6,500,000</b>
<b>Misc. Reimbursements</b>	<b>\$ -</b>
<b>Use of RRA Fund Balance</b>	<b>\$ 6,531,479</b>
<b>RRA Interest Earnings (revert to Reserves)</b>	<b>\$ 1,240,466</b>

**Total Revenue \$ 23,901,314**

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-395**

**A RESOLUTION APPROVING THE INSTALLATION OF AN ELECTRONIC  
OUTDOOR MESSAGE BOARD ONTO AN OUTSIDE WALL OF THE  
REMODELED MADDUX YOUTH CENTER AT 615 SIERRA DRIVE**

WHEREAS, Acme Construction Company of Modesto has been working on the Maddux Youth Center \$2.3 million Remodel/Addition project for the past ten months, and

WHEREAS, the finishing touches are being applied to the interior walls and ceilings, with completion expected by in mid-June, 2006, and

WHEREAS, staff has determined that due to the expanded programming that will be facilitated at the new Center, a new outdoor electronic message board is needed to advise of upcoming events, classes and activities, and

WHEREAS, the building contractor has been asked to provide a 3-foot tall by 9-foot wide electronic, programmable message board, mounted to the exterior of the 3<sup>rd</sup> Street side of the building, and

WHEREAS, this message board will be lighted and will follow current Municipal Code regulations by being programmed to change copy no more frequently than (5) second intervals,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the installation of an electronic outdoor message board onto an outside wall of the remodeled Maddux Youth Center at 615 Sierra Drive.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-396**

**A RESOLUTION APPROVING AN AMENDMENT TO TWO (2) PROMISSORY  
NOTES BETWEEN THE CITY OF MODESTO AND STANISLAUS COUNTY  
AFFORDABLE HOUSING, INC. (STANCO) TO CHANGE THE TERMS OF  
THE PROMISSORY NOTES FOR THE CARVER ESTATES PROJECT AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENTS  
TO THE PROMISSORY NOTES**

WHEREAS, the City of Modesto provided two HOME loans to STANCO for the development of Carver Estates, consisting of eighteen (18) affordable apartment units, fourteen (14) units of which are for low-income households and four (4) units are for very low-income households, and

WHEREAS, on November 23, 2005, STANCO submitted an official letter to the City of Modesto indicating that the loan terms, in effect, make STANCO appear unbankable and unable to carry on its mission of developing more affordable housing, and

WHEREAS, this condition is due to the accounting principal that, although the interest of these loans is deferred for 25 years under the terms of both agreements, STANCO is required to book the interest of both loans causing STANCO's financial picture to appear insolvent, and

WHEREAS, STANCO is requesting a change in the terms of the promissory note for both loans executed by STANCO, and

WHEREAS, staff is hesitant to waive the interest in total since future program income could be lost and such action could trigger similar requests by other agencies, further affecting program income and future development of affordable housing, and

WHEREAS, staff understands STANCO's position, however, staff recommended to the CH&CDC that the Carver Estates loans be amended so that interest charges would not accrue for ten (10) years, and

WHEREAS, at its December 9, 2005, meeting, the CH&CDC accepted staff recommendations to defer the interest on the Carver Estates loans for 10 years,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to two (2) promissory notes between the City of Modesto and Stanislaus County Affordable Housing, Inc. to change the terms of the promissory notes for the Carver Estates project to provide for deferral on interest charges for the first ten (10) years of each loan and directs that such amendments be made to each promissory note.

BE IT FURTHER RESOLVED that said loans shall not accrue interest for the first ten (10) years of each loan.

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



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-397**

**A RESOLUTION APPROVING AN AMENDMENT TO THE HOME LOAN AGREEMENT AND PROMISSORY NOTE FOR A LOAN OF \$933,600 FOR THE CONSTRUCTION OF 20 AFFORDABLE RENTAL UNITS IN THE VILLAGE ONE TOWN CENTER HOUSING PROJECT (PREVIOUSLY KNOWN AS BELHARBOR ESTATES) AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO THE HOME AGREEMENT AND PROMISSORY NOTE**

WHEREAS, in fiscal year 2002-2003, the City of Modesto loaned \$245,000 to the Housing Authority to fund project pre-development costs for affordable housing in Village I, and

WHEREAS, the City pledged \$933,600, 80% of that year's HOME funds, for the construction of this project, and

WHEREAS, since the last update to the Council, the project description for the Village One multi-family housing has changed, and

WHEREAS, the Loan Agreement has several provisions which have not been met due to circumstances beyond the control of the Housing Authority, and

WHEREAS, the Housing Authority of the County of Stanislaus is requesting that the City grant the Housing Authority an extension of time under the provisions of the agreement, and

WHEREAS, the Housing Authority is also requesting that the amount of the permanent loan be reduced from \$5,100,000 to \$1,350,000, and

WHEREAS, at its June 23, 2006, meeting, the Citizens Housing and Community Development (CH&CDC) will consider staff recommendations amend the loan agreement and promissory note to reflect these changes, and

WHEREAS, staff will provide Council with any comments and concerns that are brought forth at the CH&CDC meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an amendment to the HOME Loan Agreement and Promissory Note for a loan of \$933,000 for the construction of 20 affordable rental units in the Village One Town Center Housing project.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment to the loan agreement and amendment to the promissory note.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-398**

**A RESOLUTION CONFIRMING THE APPROVAL BY COUNCIL  
RESOLUTION NO. 2004-564 OF A SECOND HOME INVESTMENT PROGRAM  
LOAN FOR \$1,030,791 FOR THE CONSTRUCTION 20 AFFORDABLE RENTAL  
UNITS IN THE VILLAGE ONE TOWN CENTER HOUSING PROJECT AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE HOME LOAN  
AGREEMENT AND RELATED LOAN DOCUMENTS**

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

WHEREAS, at that time, staff submitted a report indicating that this project will add 50 affordable rental units to the City's housing stock, and

WHEREAS, since the last update to the Council, the project description for the Village One multi-family housing has changed, and

WHEREAS, due to the delays in the project, an agreement for the allocation of funds approved in Resolution No. 2004-564 has not been executed, and

WHEREAS, staff is now requesting that the City Council confirm the allocation of these funds, and

WHEREAS, at its June 23, 2006, meeting, the Citizens Housing and Community Development (CH&CDC) will consider staff recommendations for the loan agreement and related loan documents to reflect these changes, and

WHEREAS, staff will provide Council with any comments and concerns that are brought forth at the CH&CDC meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby confirms the approval by Council Resolution No. 2004-564 of a second construction HOME loan for \$1,030,791 for the construction 20 affordable rental units in the Village One Town Center Housing project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-399**

**A RESOLUTION APPROVING AN AGREEMENT WITH SYLVAN UNION  
SCHOOL DISTRICT IN THE AMOUNT OF \$48,194 FOR THE PROVISION OF  
ONE HALF OF A MODESTO POLICE OFFICER/SCHOOL RESOURCE  
OFFICER (SRO) SALARY AND BENEFITS TO PROVIDE DIRECT LAW  
ENFORCEMENT SERVICES, EXPERTISE AND TRAINING, 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 September 1, 2006 to June 15, 2007, and

WHEREAS, the Sylvan Union School 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, Sylvan Union School District will reimburse the City of Modesto \$48,194 for the services of one half a Modesto Police 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 \$48,194.

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 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-400**

**A RESOLUTION APPROVING AN AGREEMENT WITH MODESTO CITY SCHOOLS IN THE AMOUNT OF \$446,428 FOR THE PROVISION OF NINE MODESTO POLICE OFFICERS/SCHOOL RESOURCE OFFICERS (SROs) TO PROVIDE CAMPUS SUPERVISOR TRAINING, IN SERVICES, AND CONSULTATIONS WITH SITE STAFF AND DISTRICT ADMINISTRATORS, AND 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 requires nine Modesto Police Officers to provide prevention, intervention, and enforcement services to students, families and staff at Beyer, Davis, Downey, Johansen, Enochs and Modesto High Schools, and Elliott Alternative Education Center, Mark Twain 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 Modesto Police Officers can act as a liaison between Modesto Police Department and Modesto City Schools, and

WHEREAS, Police Officers can direct law enforcement action at the district school sites, if warranted, and

WHEREAS, the officers' presence with the students provides mentoring and protection of youth in our community, and

WHEREAS, the term of this agreement is July 1, 2006, to June 30, 2007, and

WHEREAS, the City shall be compensated \$446,428 for the services of nine Modesto Police Officers, one 12-month officer at \$60,876 and eight 9.5 month officers at \$385,552,



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 Modesto City Schools in the amount of \$446,428 to provide nine Modesto Police Officers at Beyer, Davis, Downey, Johansen, Enochs and Modesto High Schools, and Elliott Alternative Education Center, Mark Twain and Roosevelt Junior High 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 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-401**

**A RESOLUTION APPROVING AN AGREEMENT WITH MODESTO CITY  
SCHOOLS IN THE AMOUNT OF \$48,300 FOR THE PROVISION OF ONE  
HALF-TIME POLICE OFFICER TO SERVE AS A MEMBER OF THE  
MODESTO OUTREACH AND INTERVENTION TEAM, AND AUTHORIZING  
THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, Modesto City School District has proposed a “Modesto Outreach and Intervention Team”, and

WHEREAS, the Modesto Police Officer will assist with the Wake-Up and Diversion programs which has previously been handled as a collateral/overtime assignment, and

WHEREAS, these juveniles will be tracked and assisted by a Probation Officer, a Modesto Police Officer and a school official, and

WHEREAS, the Modesto Police Officer will handle scheduled in-office visits, home visits and facilitation of resources for juveniles and their parents, to offer them direction and any needed assistance, and

WHEREAS, Modesto City School District will pay for one half-time Police Officer, salary, benefits and incentives, and will reimburse the City of Modesto for said costs estimated at \$48,300, and

WHEREAS, the Modesto Outreach and Intervention Team program is scheduled to begin on July 1, 2006, and will terminate on June 30, 2007, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby approves the agreement with Modesto City Schools in the amount of \$48,300.

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 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-402**

**A RESOLUTION APPROVING AN AGREEMENT WITH MODESTO CITY SCHOOLS IN THE AMOUNT OF \$68,932 FOR THE PROVISION OF TWO FULL-TIME MODESTO POLICE OFFICERS TO PROVIDE PREVENTION, INTERVENTION, AND ENFORCEMENT SERVICES TO STUDENTS, FAMILIES AND STAFF AT FRANKLIN ELEMENTARY SCHOOL AND LA LOMA JUNIOR HIGH SCHOOLS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, Modesto City Schools requires two Modesto Police Officers to provide prevention, intervention, and enforcement services to students, families, and staff at Franklin Elementary School and La Loma Junior High Schools, and

WHEREAS, the Modesto Police Department can provide specially trained, uniformed police officers to provide intervention programs and youth court programs and take any enforcement action at the district school sites, if warranted, and

WHEREAS, the officers' presence with the students provides mentoring and protection of youth in our community, and

WHEREAS, the term of this agreement is July 1, 2006, to June 30, 2007, and

WHEREAS, the City shall be compensated \$68,932 for the services of two Modesto Police Officers,

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 Modesto City Schools in the amount of \$68,932 for the provision of two Modesto Police Officers at Franklin Elementary School and La Loma Junior High School.

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 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-403**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006/07 OPERATING  
BUDGET ESTIMATING REVENUE OF \$68,983 FOR TWO SCHOOL  
RESOURCE OFFICERS**

WHEREAS, Modesto City Schools requires two Modesto Police Officers to provide prevention, intervention, and enforcement services to students, families, and staff at Franklin Elementary School and La Loma Junior High Schools, and

WHEREAS, the Modesto Police Department can provide specially trained, uniformed police officers to provide intervention programs and youth court programs and take any enforcement action at the district school sites, if warranted, and

WHEREAS, the officers' presence with the students provides mentoring and protection of youth in our community, and

WHEREAS, the term of this agreement is July 1, 2006, to June 30, 2007, and

WHEREAS, the City shall be compensated \$68,932 for the services of two Modesto Police Officers,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2006/07 Operating Budget is hereby amended as follows:

Revenue

To:	0100-190-1921-3727	\$68,932.00	School Police Reimbursement
-----	--------------------	-------------	--------------------------------

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 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-404**

**A RESOLUTION APPROVING AN AGREEMENT WITH STANISLAUS  
COUNTY OFFICE OF EDUCATION IN THE AMOUNT OF \$44,678 FOR THE  
PROVISION OF ONE MODESTO POLICE OFFICER AT PETERSEN  
ALTERNATIVE CENTER FOR EDUCATION (P.A.C.E.) CAMPUS AND  
TRAINING, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE,  
TO EXECUTE THE AGREEMENT**

WHEREAS, the Stanislaus County Office of Education requires one Modesto Police Officer to provide direct law enforcement services, expertise and training and act as a School Police 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 will 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 23, 2006 to June 30, 2007, and

WHEREAS, the City shall be compensated by the Stanislaus Office of Education in the amount of \$44,678 for the services of this Modesto Police Officer, and

WHEREAS, the City will match the amount of \$44,678 in partnership with the Stanislaus County Office of Education,

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 Stanislaus County Office of Education in the amount of \$44,678 for the provision of one Modesto Police Officer at Petersen Alternative Center for Education (P.A.C.E.).



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 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-405**

**A RESOLUTION ACCEPTING THE WORK BY TEICHERT CONSTRUCTION  
FOR THE PROJECT TITLED "RUMBLE ROAD SIDEWALKS" AS  
COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF  
COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE  
TOTALING \$133,941.50**

WHEREAS, a report has been filed by the Public Works Director that the project titled "Rumble Road Sidewalks" has been completed by Teichert Construction, in accordance with the contract agreement dated April 26, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "Rumble Road Sidewalks" project is hereby accepted as complete from said contractor, Teichert Construction, that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$133,941.50, as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-406**

**A RESOLUTION APPROVING A FIRST AMENDMENT TO LICENSE AGREEMENT WITH ORCHARD SUPPLY HARDWARE (OSH) FOR THE LEASE OF FIFTY (50) PARKING SPACES TO SERVE MAX BART EXPRESS PASSENGERS AT THE OSH STORE LOCATED ON SISK ROAD AT A COST OF \$900 PER QUARTER YEAR (\$3,600 PER YEAR) TO BE FUNDED WITH LOCAL TRANSPORTATION FUND (LTF) MONEY, COMMENCING RETROACTIVE TO OCTOBER 1, 2005, AND EXPIRING SEPTEMBER 30, 2008, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENT TO LICENSE AGREEMENT**

WHEREAS, the City of Modesto's Modesto Area Express (MAX) transit system operates an express commuter bus service between Modesto and the Dublin/Pleasanton BART station, and

WHEREAS, customers of that service need a place where they can park and then board the bus, and

WHEREAS, the City began using the parking lot at Orchard Supply Hardware (OSH) on Sisk Road beginning July 1, 2003, and

WHEREAS, the owners of OSH, are willing to lease fifty (50) spaces in the OSH Sisk Road parking lot at a cost of \$900 per quarter commencing retroactive to October 1, 2005 and expiring on September 30, 2008, and

WHEREAS, the California Department of Transportation (Caltrans) has agreed to continue to provide liability insurance for the Park and Ride lot, and

WHEREAS, by an agenda report to the City Council dated May 26, 2006, from the Public Works Director, City staff recommended to the Council that it approve the First Amendment To License Agreement with OSH,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the First Amendment To License Agreement with OSH for the lease of 50 parking spaces for park and ride purposes at a cost of \$900 per quarter year, commencing October 1, 2005 and expiring September 30, 2008.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-407**

**A RESOLUTION APPROVING A FIRST AMENDMENT TO LICENSE AGREEMENT WITH ORCHARD SUPPLY HARDWARE (OSH) FOR THE LEASE OF FIFTY (50) PARKING SPACES TO SERVE MAX BART EXPRESS PASSENGERS AT THE OSH STORE LOCATED ON SISK ROAD AT A COST OF \$900 PER QUARTER YEAR (\$3,600 PER YEAR) TO BE FUNDED WITH LOCAL TRANSPORTATION FUND (LTF) MONEY, COMMENCING RETROACTIVE TO OCTOBER 1, 2005, AND EXPIRING SEPTEMBER 30, 2008, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENT TO LICENSE AGREEMENT**

WHEREAS, the City of Modesto's Modesto Area Express (MAX) transit system operates an express commuter bus service between Modesto and the Dublin/Pleasanton BART station, and

WHEREAS, customers of that service need a place where they can park and then board the bus, and

WHEREAS, the City began using the parking lot at Orchard Supply Hardware (OSH) on Sisk Road beginning July 1, 2003, and

WHEREAS, the owners of OSH, are willing to lease fifty (50) spaces in the OSH Sisk Road parking lot at a cost of \$900 per quarter commencing retroactive to October 1, 2005 and expiring on September 30, 2008, and

WHEREAS, the California Department of Transportation (Caltrans) has agreed to continue to provide liability insurance for the Park and Ride lot, and

WHEREAS, by an agenda report to the City Council dated May 26, 2006, from the Public Works Director, City staff recommended to the Council that it approve the First Amendment To License Agreement with OSH,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the First Amendment To License Agreement with OSH for the lease of 50 parking spaces for park and ride purposes at a cost of \$900 per quarter year, commencing October 1, 2005 and expiring September 30, 2008.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27<sup>th</sup> day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-408**

**A RESOLUTION APPROVING THE PLANS & SPECIFICATIONS,  
ACCEPTING THE BID AND APPROVING A \$240,515.20 CONTRACT WITH  
PLAYGROUND PLUS, FOR THE PROJECT TITLED, “PLAY EQUIPMENT  
UPGRADES FOR MODESTO PLAYGROUNDS GROUP 2,” AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, City staff has recommended approval of the plans and specifications for the “Play Equipment Upgrades for Modesto Playgrounds - Group 2” project, and

WHEREAS, the bid received for “Play Equipment Upgrades for Modesto Playgrounds – Group 2” project was opened at 11:00 a.m. on May 16, 2006, 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 \$240,515.20 received from Playground Plus, be accepted as the lowest responsible bid and the contract be awarded to Playground Plus,

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 Playground Plus, in the amount of \$240,515.20, and hereby awards Playground Plus, the contract titled “Play Equipment Upgrades for Modesto Playgrounds – Group 2”.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of June 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-409**

**A RESOLUTION AMENDING THE FISCAL YEAR 2005-06 CAPITAL IMPROVEMENT PLAN TO: A) CLOSE OUT MULTI-YEAR ORGANIZATIONS 0400-310-3163 (ROOSEVELT NEIGHBORHOOD PARK), 0400-310-3132 (SHERWOOD PARK PLAY EQUIPMENT REPLACEMENT), 0400-310-3133 (CHRYSLER PARK PLAY EQUIPMENT REPLACEMENT), 0400-310-3134 (WHITMORE PARK PLAY EQUIPMENT REPLACEMENT), 0400-310-3136 (SYLVAN PARK PLAY EQUIPMENT REPLACEMENT); B) INCREASE BUDGETED REVENUES BY \$15,053 AND APPROPRIATE \$15,053 IN EXPENDITURES TO PROJECT 0400-310-3137-6040, CATHERINE EVERETT PLAY EQUIPMENT REPLACEMENT; C) INCREASE BUDGETED REVENUES BY \$35,000 FROM THE PER CAPITA GRANT PROGRAM UNDER THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS AND COASTAL PROTECTION ACT OF 2002 AND APPROPRIATE SAID REVENUE TO PROJECT 2300-310-N442-6040, PLAY EQUIPMENT UPGRADES; D) REALLOCATE \$15,053 IN REVENUE FROM THE PER CAPITA GRANT PROGRAM UNDER THE CALIFORNIA CLEAN WATER, CLEAN AIR, SAFE NEIGHBORHOOD PARKS AND COASTAL PROTECTION ACT OF 2002 FROM PROJECT 0400-310-3137, CATHERINE EVERETT PLAY EQUIPMENT REPLACEMENT TO 2300-310-N442-6040, PLAY EQUIPMENT UPGRADES; AND E) REALLOCATE \$24,724 IN REVENUE FROM PARKS INFRASTRUCTURE ACCOUNT 1400-310-M185-6050 TO PROJECT 2300-310-N442-6040, PLAY EQUIPMENT UPGRADES.**

WHEREAS, various multi-year organizations have been established for the purpose of funding play equipment replacement at various neighborhood parks, and

WHEREAS, by Resolution No. 2002-140, the City Council authorized staff to apply for \$1,708,000 in grant funds for the Per Capita grant program under the Safe Neighborhood Parks, Clean Water, Clean Air and Coastal Protection Bond Act of 2000 (Proposition 12), and

WHEREAS, \$500,000 in Proposition 12 Per Capita funding was allocated to various multi-year organizations for playground equipment replacement, and

WHEREAS, several of these projects have been completed and have unexpended funds which may be re-allocated to other playground equipment replacement projects, and

WHEREAS, \$1,578 is available from multi-year organization 0400-310-3163, Roosevelt Neighborhood Park Play Equipment Replacement, and

WHEREAS, \$2,689 is available from multi-year organization 0400-310-3132, Sherwood Neighborhood Park Play Equipment Replacement, and

WHEREAS, \$5,136 is available from multi-year organization 0400-310-3133, Chrysler Neighborhood Park Play Equipment Replacement, and

WHEREAS, \$702 is available from multi-year organization 0400-310-3134, Whitmore Neighborhood Park Play Equipment Replacement, and

WHEREAS, \$4,948 is available from multi-year organization 0400-310-3136, Sylvan Neighborhood Park Play Equipment Replacement, and

WHEREAS, by Resolution No. 2005 -361, the City Council authorized staff to apply for \$873,000 in grant funds for the Per Capita grant program under the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Bond Act of 2002 (Proposition 40), and

WHEREAS, staff recommended that \$500,000 of the Proposition 40 Per Capita funding be directed to replacement of playground equipment in neighborhood parks, and

WHEREAS, \$465,000 of the Proposition 40 Per Capita funding has been allocated to replacement of playground equipment in neighborhood parks, and

WHEREAS, the balance of \$35,000 needs to be allocated, and

WHEREAS, \$15,053 in Proposition 40 Per Capita Funds needs to be reallocated from multi-year organization 0400-310-3137, Catherine Everett Play Equipment Replacement to Project 2300-310-N442-6040, Play Equipment Upgrades to accurately reflect Per Capita funding allocations, and

WHEREAS, \$24,724 in the Parks Infrastructure CIP account 1400-310-M185-6050 and is available to be transferred to Project 2300-310-N442-6040, Play Equipment Upgrades to complete the funding needed to award the construction contract,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2005-06 Capital Improvement Program is hereby amended to:

1. Close out multi-year organizations 0400-310-3163 (Roosevelt Neighborhood Park), 0400-310-3132 (Sherwood Park Play Equipment Replacement), 0400-310-3133 (Chrysler Park Play Equipment Replacement), 0400-310-3134 (Whitmore Park Play Equipment Replacement), 0400-310-3136 (Sylvan Park Play Equipment Replacement), increase budgeted revenues by \$15,053 and appropriate \$15,053 in expenditures to project 0400-310-3137-6040, Catherine Everett Play Equipment Replacement;
2. Increase budgeted revenues by \$35,000 from the Per Capita grant program under the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal Protection Act of 2002 and appropriate said revenue to project 2300-310-N442-6040, Play Equipment Upgrades; and
3. Reallocate \$15,053 in revenue from the Per Capita grant program under the California Clean Water, Clean Air, Safe Neighborhood Parks and Coastal

Protection Act of 2002 from project 0400-310-3137, Catherine Everett Play  
Equipment Replacement to 2300-310-N442-6040, Play Equipment Upgrades; and

4. Reallocate \$24,724 from the CIP project 1400-310-M185-6050, Parks  
Infrastructure to project 2300-310-N442-6040, Play Equipment Upgrades.

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

The foregoing resolution was introduced at a regular meeting of the Council of  
the City of Modesto held on the 27th day of June, 2006, by Councilmember Hawn, who  
moved its adoption, which motion being duly seconded by Councilmember Dunbar, was  
upon roll call carried and the resolution adopted by the following vote:

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

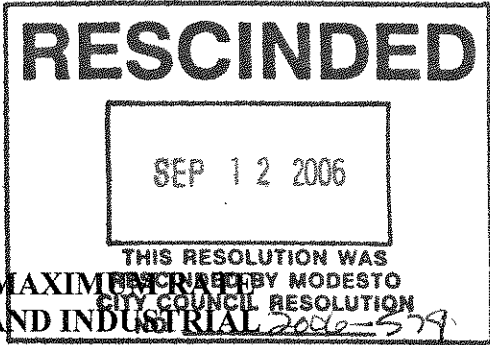
NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-410**

**A RESOLUTION APPROVING ADJUSTMENTS TO THE MAXIMUM RATES BY MODESTO  
SCHEDULE FOR CITY RESIDENTIAL, COMMERCIAL, AND INDUSTRIAL  
SOLID WASTE COLLECTION SERVICES, AND RESCINDING RESOLUTION  
NO. 2006-060**

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 has 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 have been calculated, and a recommendation for a new maximum rate schedule has been developed, and

WHEREAS, the Economic Development Committee met on June 12, 2006, and supported the recommendation to approve adjustments to the maximum rate schedule for City solid waste collection services, and

WHEREAS, a report dated June 13, 2006, from the Parks, Recreation and Neighborhoods Department, a copy of which is on file in the office of the City Clerk, sets forth said recommendations, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on June 27, 2006, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto California, and

WHEREAS, 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,

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

1. 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 on July 1, 2006, 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. 2006-060 is hereby rescinded, effective July 1, 2006.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27<sup>th</sup> day of June, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
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 **\$19.60 per month** regardless of size of container. **A fuel component of \$0.85 per month is included in the maximum rate for the quarter beginning July 1, 2006 and ending September 30, 2006.** The fuel component may be adjusted quarterly.
- b. The maximum rate for each additional garbage container shall be **\$14.62 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 **\$16.55 per month.** **A fuel component of \$0.85 per month is included in the maximum rate for the quarter beginning July 1, 2006 and ending September 30, 2006.** The fuel component may be adjusted quarterly.
- b. The maximum rate for each additional garbage container shall be **\$14.62 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\***  
**Number of Collections Per Week**

Container Size	NUMBER OF COLLECTIONS PER WEEK					
	1	2	3	4	5	6
<b>1 CY</b>	\$ 32.43	\$ 54.37	\$ 76.28	\$ 98.21	\$ 120.14	\$ 142.07
Fuel Component	\$ 0.17	\$ 0.34	\$ 0.51	\$ 0.68	\$ 0.85	\$ 1.02
<b>Total</b>	<b>\$ 32.60</b>	<b>\$ 54.71</b>	<b>\$ 76.79</b>	<b>\$ 98.89</b>	<b>\$ 120.99</b>	<b>\$ 143.09</b>
<b>1 1/2 CY</b>	\$ 43.42	\$ 76.28	\$ 109.21	\$ 141.82	\$ 175.32	\$ 207.87
Fuel Component	\$ 0.26	\$ 0.51	\$ 0.77	\$ 1.02	\$ 1.28	\$ 1.53
	<b>\$ 43.68</b>	<b>\$ 76.79</b>	<b>\$109.98</b>	<b>\$142.84</b>	<b>\$ 176.60</b>	<b>\$ 209.40</b>
<b>2 CY</b>	\$ 54.37	\$ 98.21	\$ 142.07	\$ 185.92	\$ 229.76	\$ 273.61
Fuel Component	\$ 0.34	\$ 0.68	\$ 1.02	\$ 1.36	\$ 1.70	\$ 2.04
	<b>\$ 54.71</b>	<b>\$ 98.89</b>	<b>\$143.09</b>	<b>\$187.28</b>	<b>\$ 231.46</b>	<b>\$ 275.65</b>
<b>3 CY</b>	\$ 76.28	\$ 142.07	\$ 207.84	\$ 273.61	\$ 339.40	\$ 405.17
Fuel Component	\$ 0.51	\$ 1.02	\$ 1.53	\$ 2.04	\$ 2.55	\$ 3.06
	<b>\$ 76.79</b>	<b>\$143.09</b>	<b>\$209.37</b>	<b>\$275.65</b>	<b>\$ 341.95</b>	<b>\$ 408.23</b>
<b>4 CY</b>	\$ 98.21	\$ 185.92	\$ 273.61	\$ 361.32	\$ 449.02	\$ 536.73
Fuel Component	\$ 0.68	\$ 1.36	\$ 2.04	\$ 2.72	\$ 3.40	\$ 4.08
	<b>\$ 98.89</b>	<b>\$187.28</b>	<b>\$275.65</b>	<b>\$364.04</b>	<b>\$ 452.42</b>	<b>\$ 540.81</b>
<b>5 CY</b>	\$ 120.14	\$ 229.76	\$ 339.40	\$ 449.02	\$ 558.66	\$ 668.28
Fuel Component	\$ 0.85	\$ 1.70	\$ 2.55	\$ 3.40	\$ 4.25	\$ 5.10
	<b>\$ 120.99</b>	<b>\$231.46</b>	<b>\$341.95</b>	<b>\$452.42</b>	<b>\$ 562.91</b>	<b>\$ 673.38</b>
<b>6 CY</b>	\$ 142.07	\$ 273.61	\$ 405.17	\$ 536.73	\$ 668.28	\$ 799.84
Fuel Component	\$ 1.02	\$ 2.04	\$ 3.06	\$ 4.08	\$ 5.10	\$ 6.12
	<b>\$ 143.09</b>	<b>\$275.65</b>	<b>\$408.23</b>	<b>\$540.81</b>	<b>\$ 673.38</b>	<b>\$ 805.96</b>

\* 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 \$0.17 per cubic yard is included in the maximum rate for the quarter beginning July 1, 2006, and ending September 30, 2006. 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** - \$202.10 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 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

**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

**Roll-Off Type:**

1. **6 CY to 40 CY** \$202.10 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.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-411**

**A RESOLUTION APPROVING AN AGREEMENT FOR THE DISPOSITION OF  
THAT CERTAIN REAL PROPERTY IDENTIFIED AS ASSESSORS PARCEL  
NUMBER 106-006-002 (17<sup>th</sup> & G STREETS – “TOWER PARK”) AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE ALL DOCUMENTS  
RELATED TO THE DISPOSITION OF SAID PROPERTY**

WHEREAS, the City of Modesto currently owns one (1) parcel of land (“Parcel”) which is more particularly described as Assessor’s Parcel Number 106-006-002 and is depicted in “Exhibit A” which is attached hereto and made a part hereof by this reference, and

WHEREAS, on May 10, 2005 said Parcel was declared surplus to the City’s needs and Council directed staff to dispose of said Parcel in accordance with applicable laws, and

WHEREAS, all required documents were completed for the publication of said Parcel to qualified buyers in accordance with Section 54220, et seq. of the Government Code of the State of California, and

WHEREAS, in response to said publication, the Modesto Redevelopment Agency expressed interest in acquiring said Parcel for purposes of developing an affordable housing project, and

WHEREAS, at the direction of the City, City staff has completed their negotiations with Agency staff which negotiations included a review of the fair market appraisal provided by the City as well as a review of land market values in proximity to said Parcel, and

WHEREAS, City and Agency staffs have mutually agreed and are recommending that the City sell said Parcel to the Agency for the fair market value of Seven hundred, seventy thousand dollars and no cents (\$770,000), and

WHEREAS, the City did conduct a public hearing on June 27, 2006 to receive input on said disposition,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the disposition of the real property located at 17<sup>th</sup> Street & G Streets in Modesto, California (APN: 106-006-002) to the Modesto Redevelopment Agency in the amount of \$770,000 is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or designee, is hereby authorized and directed to take all appropriate actions and execute all documents related to said property disposition.

The foregoing resolution was introduced at a special meeting of the City Council of the City of Modesto held on the 27<sup>th</sup> day of June 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

PORTION SW 1/4 SECTION 28 T.3S.R.9E. M. D. B. & M.  
CITY OF MODESTO - BLK. 127

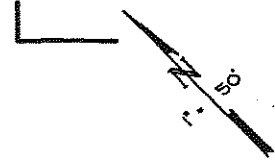
002 001

106 - 06

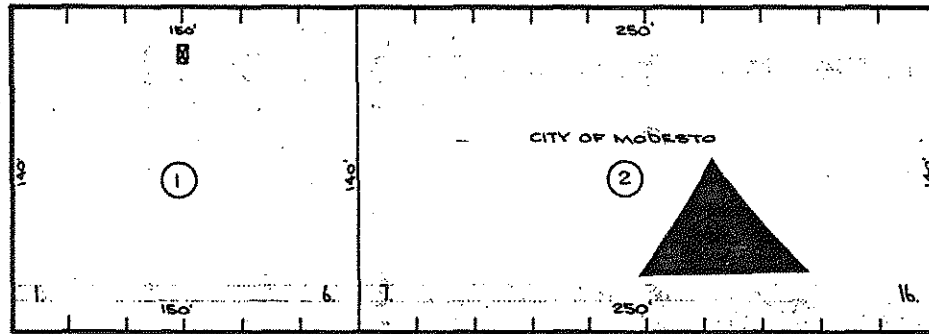
THIS MAP FOR ASSESSMENT  
PURPOSES ONLY

Copyright 2001 Stanislaus County.  
All rights reserved

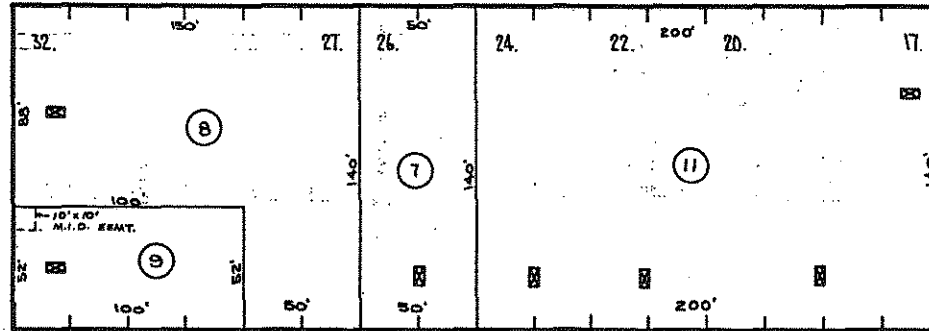
02



80' 17th ST.



20' ALLEY



80' 16th ST.

FROM 104-26  
~~102-600-11~~  
1-28-68 UPDATED 12-28-82

07

Back To  
Book  
Index



70

106 - 06

EXHIBIT A

05

BK.105

ST.

H

80'

ST.

G

80'

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-412**

**A RESOLUTION APPROVING A MITIGATED NEGATIVE DECLARATION  
(SCH No: 2006052134) FOR THE 17<sup>TH</sup> & G STREET PARK (TOWER PARK)  
DISPOSITION FOR AFFORDABLE HOUSING PROJECT**

WHEREAS, on August 15, 1995, the City Council of the City of Modesto certified the Final Master Environmental Impact Report ("Master EIR") (SCH No. 92052017) for the Modesto Urban Area General Plan, and

WHEREAS, on May 10, 2005, the City Council declared the City-owned parcel located at 17<sup>th</sup> & G Streets in the City of Modesto (Assessors Parcel No. 106-006-002) as surplus to the City's needs and directed staff to offer the parcel for sale in accordance with the Government Code (hereinafter referred to as "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 as being within the scope of the project, and

WHEREAS, the City's Community & Economic Development Department prepared an Initial Study leading to a Mitigated Negative Declaration (SCH No. 2006052134) which reviewed the proposed subsequent Project to the City's General Plan Master EIR and said Initial Study determined that the property disposition alone would have no direct effects, but that the subsequent development of affordable housing proposed by the Modesto Redevelopment Agency would have new impacts, which

impacts could be reduced to less-than-significant levels by new or additional mitigation measures, and

WHEREAS, the Initial Study/Mitigated Negative Declaration was released for public review pursuant to CEQA Section 21092 in order to avoid or mitigate the identified effects to a point where clearly no significant effect on the environment will occur, and

WHEREAS, Government Code Section 21175.5 permits the adoption of Mitigated Negative Declarations, and

WHEREAS, the City's Community & Economic Development Department by Environmental Assessment Initial Study EA No. 2006-15, determined that a Mitigated Negative Declaration should be adopted for the proposed project under the General Plan Master Environmental Impact Report (SCH No. 92052017), and

WHEREAS, the Draft Mitigated Negative Declaration (SCH No. 2006052134) was released for public review and comment for the required 30-day period ending on June 19, 2006, and

WHEREAS, the Final Mitigated Negative Declaration (SCH No. 2006052134), incorporates all comments received during the circulation period and response to comments, including the Mitigation Monitoring and Reporting Program, and

WHEREAS, no new unavoidable significant effect was identified and mitigation measures or project revisions were required to be added in order to reduce potential effects to less than significance as a result of public comments on the Draft Mitigated Negative Declaration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it has reviewed and considered the Initial Study/Mitigated Negative Declaration prepared for the proposed Project as defined in this resolution, including the Mitigation Monitoring and Reporting Program, a copy of which is on file with the City Clerk and incorporated herein by reference, and based on the substantial evidence included in said Initial Study makes the following findings:

1. An Initial Study/Mitigated Negative Declaration prepared for the proposed project pursuant to CEQA Section 21157.1, has identified additional significant environmental effects that were not analyzed in the General Plan Master EIR. These additional significant effects are potential impacts to the sale of City park land.
2. No additional mitigation measures, beyond those included in the MEIR, were determined to be required before the Mitigated Negative Declaration and Initial Study were released for public review.
3. There is no substantial evidence in light of the whole record before the public agency that the project, as revised, may have a significant effect on the environment (CEQA Section 21064.5(2)).
4. Based on the above referenced Initial Study and based on the Project as defined in this resolution, no significant effect on the environment will occur and staff finds that a Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program



should be adopted pursuant to CEQA Section 21157.5 et seq. for the proposed projects.

5. The Mitigated Negative Declaration and the Mitigation Monitoring and Reporting Program will therefore be certified.
6. Finding 1 above provides the substantial evidence to support the certification and adoption of the Initial Study/Mitigated Negative Declaration and City Council finds that the document reflects the independent judgment of the lead agency.
7. As required by CEQA Section 21081.6 et seq., a Mitigation Monitoring and Reporting Program will be adopted by incorporating the mitigation measures into the project plan (Section 21081.6 (b)).

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 project. The City of Modesto shall promptly notify the applicant of any claim, action or proceeding and shall cooperate fully in the defense. If the City fails to do so, the applicant shall not thereafter be responsible to defend, indemnify, or hold City harmless.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Department 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 the regular meeting of the Council of the City of Modesto held on the 27<sup>th</sup> day of June 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-413**

**A RESOLUTION APPOINTING A WATER BOND FINANCING TEAM  
CONSISTING OF JONES HALL, BOND COUNSEL; STRADLING YOCCA  
CARLSON & RAUTH, DISCLOSURE COUNSEL; PUBLIC FINANCIAL  
MANAGEMENT INC., FINANCIAL ADVISOR; BANC OF AMERICA  
SECURITIES LLC, UNDERWRITER, AND CITY STAFF WITH RESPECT TO  
THE PROPOSED ISSUANCE OF CERTAIN WATER REVENUE BONDS 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, staff has identified the need to restructure water debt, issue water revenue bonds and prepare for the Modesto Irrigation District to issue bonds which will be considered as parity debt for the City of Modesto, and

WHEREAS, the City desires to appoint certain professionals to assist the City in connection with such proposed issuance, and to authorize such professionals and City staff to take all actions necessary, including the preparation of documents to effect such issuance, for future consideration by this City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby appoints Jones Hall, 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 issuance of water revenue bonds of the City; Public Financial Management Inc., San Francisco, California, as Financial Advisor (“Financial Advisor”), and Banc of America Securities LLC as the Underwriter.

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 issuance of the City’s water revenue 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 27<sup>th</sup> day of June, 2006, by Councilmember Dunbar, 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:	Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-414

**A RESOLUTION APPROVING AN AGREEMENT FOR BOND COUNSEL SERVICES WITH JONES HALL FOR THE 2006-2007 WATER REVENUE BONDS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT**

WHEREAS, Public Works and Finance representatives developed a list of needs for new utility studies, and

WHEREAS, the objectives of the rate/fee studies are to ensure that the City's water infrastructure is developed and have a strategy for identifying and financing capital needs, and

WHEREAS, City staff desires the assistance of Jones Hall regard to the 2006-2007 Water Bond Financing,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves an Agreement For Legal Services with Jones Hall for bond counsel services for the 2006-2007 Water Bond Financing,

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27<sup>th</sup> day of June 2006, by Councilmember Dunbar, 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: Dunbar, Hawn, Marsh, Keating, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-415**

**A RESOLUTION APPROVING A DISCLOSURE COUNSEL AGREEMENT  
WITH STRADLING YOCCA CARLSON & RAUTH FOR LEGAL SERVICES  
FOR THE 2006-2007 WATER REVENUE BONDS, AND AUTHORIZING THE  
CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT.**

WHEREAS, Public Works and Finance representatives developed a list of needs for new utility studies, and

WHEREAS, the objectives of the rate/fee studies are to ensure that the City's water infrastructure is developed and have a strategy for identifying and financing capital needs, and

WHEREAS, City staff desires the assistance of Stradling Yocca Carlson & Rauth in regard to the 2006-2007 Water Bond Financing,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves a Disclosure Counsel Agreement for legal services with Stradling Yocca Carlson & Rauth for the 2006-2007 Water Bond Financing,

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27<sup>th</sup> of June 2006, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-416**

**A RESOLUTION ADOPTING PIERCE MANUFACTURING'S APPARATUS AS  
THE STANDARD APPARATUS FOR THE MODESTO FIRE DEPARTMENT**

WHEREAS, the Modesto Fire Department uses sixteen engine companies and three truck companies in its current fire/life safety delivery system, and

WHEREAS, front line apparatus consists of twelve 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, in 1989 the Modesto Fire Department established an apparatus committee consisting of our Senior Fire Mechanic and representation from all suppression ranks, and

WHEREAS, their charge was to develop apparatus specifications and to review the capabilities of fire apparatus manufacturing facilities, and

WHEREAS, Pierce Manufacturing was the successful manufacturer during this process, and

WHEREAS, the City has since purchased twelve engines and three trucks from Pierce Manufacturing, and

WHEREAS, product quality, reliability, and technical support realized from Pierce Manufacturing over the past twelve years have contributed to maintaining our operational costs and system reliability, and

WHEREAS, Pierce Manufacturing apparatus is sold in Northern California exclusively through Golden State Fire Apparatus, a business located and operated in the City of Modesto, and

WHEREAS, the Safety and Communities Committee approved this request on May 22, 2006 for recommendation to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts Pierce Manufacturing's apparatus as the standard apparatus for the Modesto Fire Department.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of June 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-417**

**A RESOLUTION APPROVING A SEVEN (7) YEAR PURCHASE AGREEMENT  
WITH PIERCE MANUFACTURING FOR FIRE APPARATUS**

WHEREAS, the Modesto Fire Department uses sixteen engine companies and three truck companies in its current fire/life safety delivery system, and

WHEREAS, front line apparatus consists of twelve 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, in 1989 the Modesto Fire Department established an apparatus committee consisting of our Senior Fire Mechanic and representation from all suppression ranks, and

WHEREAS, their charge was to develop apparatus specifications and to review the capabilities of fire apparatus manufacturing facilities, and

WHEREAS, Pierce Manufacturing was the successful manufacturer during this process, and

WHEREAS, the City has since purchased twelve engines and three trucks from Pierce Manufacturing, and

WHEREAS, product quality, reliability, and technical support realized from Pierce Manufacturing over the past twelve years have contributed to maintaining our operational costs and system reliability, and

WHEREAS, Pierce Manufacturing apparatus is sold in Northern California exclusively through Golden State Fire Apparatus, a business located and operated in the City of Modesto, and

WHEREAS, City staff will negotiate with Pierce Manufacturing an acceptable price increase based on the Consumer Price Index, and

WHEREAS, the agreement would contain an annual increase based upon either CPI or four (4) percent, whichever is less, and

WHEREAS, said agreement will be reviewed annually to ensure the City obtains the best pricing from Pierce Manufacturing, and

WHEREAS, the Safety and Communities Committee approved this request on May 22, 2006 for recommendation to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the establishment of a seven (7) year purchase agreement with Pierce Manufacturing for fire apparatus.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 27th day of June, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-418**

**A RESOLUTION REJECTING THE SOLE BID FOR SIX (6) NEW, CURRENT YEAR/MODEL UTILITY TRUCKS, AND AUTHORIZING THE PURCHASING MANAGER TO ISSUE A NEW REQUEST FOR BID FOR SIX (6) NEW, CURRENT YEAR/MODEL UTILITY TRUCKS FOR AN ESTIMATED TOTAL COST OF \$332,000**

WHEREAS, the Public Works Department-Fleet Services Division has requested the purchase of six (6), new, current year/model utility trucks, and

WHEREAS, the vehicles requested consist of and will be used as follows:

- One (1), one (1) ton, DRW utility truck-This truck is to replace a current utility truck in the Traffic ENGINEERING Department. The old truck is being replaced because it has reached the end of its service life, and was on the scheduled replacement list approved by Council.
- One (1), crew cab & chassis F550 truck with utility body- This truck is to replace a current pickup in the Streets Department. The old truck is being replaced because it has reached the end of its service life, and was on the scheduled replacement list approved by Council.
- Two (2), Stencil trucks-These trucks are to replace two (2) current Stencil trucks in the Traffic Engineering Department. The old trucks are being replaced because they have reached the end of their service life, and were on the scheduled replacement list approved by Council.
- One (1), ¾ ton, regular cab, 2WD pickup- This truck is to replace a current pickup in the Streets Department. The old pickup is being replaced because it has reached the end of its service life, and was on the scheduled replacement list approved by Council
- One (1), ¾ ton, crew cab, dumping flatbed/liftgate pickup- This truck is to replace a current crew cab pickup with dump at John Therman Ball Field. The old pickup is being replaced because it has reached the end of its service life, and was on, and was on the scheduled replacement list approved by Council

, and

WHEREAS, Resolution No. 2005-381 authorized the Purchasing Supervisor to solicit bids for new vehicles and heavy equipment throughout FY 05/06 through various

competitive processes, with the Purchasing Division coming back to Council for award and authorization, and

WHEREAS, the Purchasing Division solicited formal bids for six (6) new, current year/model utility trucks on Request for Bid (RFB) 0506-29, with a bid opening date of May 16, 2006, and

WHEREAS, twenty-eight (28) vendors were solicited of which five (5) were local vendors, and

WHEREAS, out of twenty-eight (28) vendors solicited, one (1) chose to respond to the RFB, and

WHEREAS, only one bid was received for one (1) crew cab & chassis F550 truck with utility body, with the bid amount exceeding the budgeted amount of \$70,000, and

WHEREAS, the City can achieve the best value for dollars spent by rebidding the six (6) vehicles, and

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

WHEREAS, the code also states that purchases whose total maximum cost to the City exceeds \$50,000 shall receive preliminary approval of Council (MCC 8-3.203(a)), and

WHEREAS, the six (6) new, current year/model utility trucks received said approval with Resolution No. 2005-381, and

WHEREAS, this Request for Bid (RFB) process conforms to City Code, and

WHEREAS, funds are available in the following accounts: 7210-480-5814-5295 (Fleet Equipment, Replacement), 7210-480-5814-5291 (Fleet Equipment, Replacement), 7210-480-5814-5294 (Fleet Equipment, Replacement), 7210-480-5814-5311 (Fleet Equipment, Replacement), and 7210-480-5814-5290 (Fleet Equipment, Replacement), and 7210-480-5814-5292 (Fleet Equipment, Replacement) in the estimated amount of \$332,000 for six (6) new, current year/model utility trucks, and

WHEREAS, the Purchasing Division and Public Works-Fleet Services Division staff evaluated bids,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby rejects the sole bid received for one (1) crew cab & chassis F550 truck with utility body, and authorizes the Purchasing Manager to issue a new Request for Bid for six (6) new, current year/model utility trucks for the estimated total cost of \$332,000.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a new Request for Bid (0506-29-1) for six (6) new, current year/model utility trucks as set forth herein.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of July 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-419**

**A RESOLUTION AUTHORIZING THE PERSONNEL DIRECTOR TO  
PREPARE AND RELEASE A REQUEST FOR PROPOSALS FOR A  
PROFESSIONAL SERVICES CONTRACT TO CONDUCT A  
COMPREHENSIVE CLASSIFICATION STUDY OF SELECT POSITIONS FOR  
THE CITY OF MODESTO**

WHEREAS, the City's Classification Plan is long overdue for a comprehensive review, and

WHEREAS, the City Council has entered into agreements with the Modesto City Employees' Association (MCEA) and the Modesto Confidential and Management Association (MCMA), to conduct a comprehensive study of all positions that had not been reviewed within the 18 month period prior to the implementation of this comprehensive review, and

WHEREAS, the review will also exclude positions subject to review by the Clerical Review Committee, and

WHEREAS, this review will include non-sworn management classifications in the unrepresented group, and

WHEREAS, a comprehensive review is beyond the workload capacity of Personnel Department staff, and

WHEREAS, existing policy requires Council approval of all Requests for Proposals in excess of \$50,000. This study is anticipated to exceed \$50,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Personnel Director is hereby authorized to prepare and release a Request for Proposals as follows:



SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed proposals for a Comprehensive Classification Study for the City of Modesto 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 5th day of July 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-420**

**A RESOLUTION APPROVING A STANDARD AGREEMENT FOR  
CONSULTANT SERVICES WITH BEESON, TAYER AND BODINE FOR  
NEGOTIATIONS TRAINING AND FACILITATION SERVICES, AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE  
THE AGREEMENT**

WHEREAS, the City desires to obtain the services of the firm of Beeson, Tayer and Bodine to provide negotiations training and facilitation relating to the Interest Based Negotiations model, and

WHEREAS, the firm of Beeson, Tayer and Bodine is specially trained, experienced and competent to perform such services, and

WHEREAS, the public interest, economy and general welfare will be served by this agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Standard Agreement For Consultant Services with the firm of Beeson, Tayer and Bodine with respect to training and negotiations facilitation.

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

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of July 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-421**

**A RESOLUTION AMENDING THE FISCAL YEAR 06-07 OPERATING  
BUDGET TO APPROPRIATE \$26,000 FROM 0100-800-8000-8003 GENERAL  
FUND RESERVE TO 0100-030-0301-0235 PROFESSIONAL SERVICES TO  
PROVIDE FUNDING FOR INTEREST-BASED NEGOTIATIONS TRAINING  
AND NEGOTIATIONS FACILITATION WITH MODESTO CITY FIRE  
FIGHTERS ASSOCIATION**

WHEREAS, the City Council desires to provide training for designated management and employee association representatives in interest-based bargaining principles and techniques and provide negotiations facilitation services, and

WHEREAS, the FY 06-07 costs associated with this training and negotiations facilitation with the Modesto City Fire Fighters Association are estimated at \$26,000, and

WHEREAS, this expenditure has not yet been budgeted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2006-07 Operating Budget is hereby amended to transfer \$26,000 from the General Fund Reserve, 0100-800-8000-8003, to Personnel Department, Professional Services, 0100-030-0301-0235.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of July 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-422**

**A RESOLUTION APPROVING THE PLANS & SPECIFICATIONS FOR THE “RECONSTRUCTION OF THE SYLVAN AVENUE AND ROSELLE AVENUE INTERSECTION”, ACCEPTING THE BID AND APPROVING A \$2,819,992.25 CONTRACT WITH A. TEICHERT & SON, INC., DBA TEICHERT CONSTRUCTION, FOR THE PROJECT TITLED, “RECONSTRUCTION OF THE SYLVAN AVENUE AND ROSELLE AVENUE INTERSECTION” AND AUTHORIZING THE DISTRICT ADMINISTRATOR TO EXECUTE THE CONTRACT, AND FINDING THAT THE 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)**

WHEREAS, City staff has recommended approval of the plans and specifications for the “Reconstruction of The Sylvan Avenue and Roselle Avenue Intersection” project, and

WHEREAS, the bid received for “Reconstruction of the Sylvan Avenue and Roselle Avenue Intersection” project was opened at 11:00 a.m. on June 6, 2006, 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 \$2,819,992.25 received from Teichert Construction, be accepted as the lowest responsible bid and the contract be awarded to Teichert Construction, and

WHEREAS, the City Council has received and considered the Written Checklist, Environmental Assessment No. EA/PW No. 2005-17, that concludes that the project entitled “Reconstruction of the Sylvan Avenue and Roselle Avenue Intersection,” 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 approves the plans and specifications for said project, and accepts the bid of Teichert Construction, in the amount of \$2,819,992.25, and hereby awards Teichert Construction, the contract titled "Reconstruction of the Sylvan Avenue and Roselle Avenue Intersection."

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

BE IT FURTHER 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. 2005-17, which provides the substantial evidence to support findings 1-4 above.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of July 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-423**

**A RESOLUTION AMENDING THE FY 06-07 OPERATING AND CAPITAL IMPROVEMENT PROGRAM BUDGET TO DECREASE THE WATER CONTINGENCY ACCOUNT NUMBER 6100-800-8000-8003 BY \$175,354 TO INCREASE A NEW CIP FOR SYLVAN/ROSELLE ROUNDABOUT WATER IMPROVEMENTS-SECONDARY CONSTRUCTION ACCOUNT NUMBER 6180-480-W798-6040 BY \$159,413 AND CONSTRUCTION ADMINISTRATION ACCOUNT NUMBER 6180-480-W798-6060 BY \$15,941**

WHEREAS, the Village One Facilities Master Plan was updated in May 2003 and contains a prioritization list that contains all of the infrastructure projects that remain to be built in Village One, and

WHEREAS, the Sylvan/Roselle intersection improvement project was listed as a Priority 1 project, and

WHEREAS, the Sylvan/Roselle intersection improvement project includes the extension of waterlines that are part of the ultimate distribution and transmission grid identified by West Yost & Associates in the Hydraulic Model and the Tivoli Capacity Study, and

WHEREAS, this budget amendment is to provide funding for this project to include the following water line extensions and necessary valves: 1) Extension of 700 feet of 12" water line from the Sylvan/Roselle intersection up Roselle Avenue to the project limits, 2) Extension of 717 feet of 12" water line from the Sylvan/Roselle intersection west along Sylvan to the project limits, and 3) Extension of 421 feet of 16" water line from the Sylvan/Roselle intersection up Roselle Avenue, and

WHEREAS, the primary purpose for installing this waterline at this time is to avoid cutting new pavement at a later date, and

WHEREAS, these water improvements including valves and connections total \$175,354 for construction and construction management, and

WHEREAS, funds were not included in the Village One #2 Community Facilities District to pay for these water improvements, and

WHEREAS, the water improvement portion of Teichert Construction's contract (and associated construction management costs) will be funded under the new secondary CIP Account 6180-480-W798-Sylvan/Roselle Roundabout Water Improvements-Secondary by a transfer of funds to decrease the Water Contingency Account 6100-800-8000-8003 by \$175,354, and

WHEREAS, these costs will be ultimately paid by connection charges and development fees,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a reduction of \$175,354 from the Water Contingency (6100-800-8000-8003), and an increase of \$159,413 to the new CIP for Sylvan/Roselle Roundabout Water Improvements – Secondary Construction Account (6180-480-W798-6040) and \$15,941 to Construction Administration Account (6180-480-W798-6060).

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the steps necessary to amend the Capital Improvement Program Budget.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of July 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-424**

**A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH MARK THOMAS & COMPANY, INC., FOR DESIGN AND RIGHT-OF-WAY SUPPORT SERVICES IN THE AMOUNT OF \$26,213.00, CONTRACT TOTAL OF \$204,900.00, FOR ADDITIONAL WORK NOT INCLUDED IN THE ORIGINAL AGREEMENT AND FOR REIMBURSABLE EXPENSES FOR THE PROJECT TITLED “PELANDALE AVENUE AT SISK ROAD AND STATE ROUTE 99 NORTHBOUND ON RAMP”, AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AMENDMENT TO 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 intersection improvements at Pelandale Avenue at Sisk Road to SR99 Northbound On-Ramp are scheduled to commence in fiscal year 2006, and

WHEREAS, the project scope of work proposes extending the outside lane on Pelandale Avenue at the Costco frontage to Sisk Road and adding merging and weaving capacity for traffic entering the northbound SR99 on-ramp from Pelandale Avenue and Sisk Road, and

WHEREAS, extending the outside lane requires adjustment of existing MID irrigation lines; and adding the merging lane at the SR99 on-ramp requires additional right-of-way support services as determined by the City Attorney for right-of-way acquisition along the Pelandale, and

WHEREAS, the City has evaluated the cost and time benefit of phasing the MID irrigation line adjustment and the additional right-of-way support services in this combined amendment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement with Mark Thomas & Company, Inc., for additional work to CIP H424: Pelandale Avenue - Sisk Road to SR99 Northbound On-Ramp in the amount of \$26,213 (Twenty-Six Thousand Two Hundred Thirteen Dollars) for providing complete plans, specifications, and cost estimates for extending the MID 30 inch irrigation line at Pelandale Avenue and Sisk Road, and providing additional Right-of-Way support services for the impacted parcels as requested by the City Attorney.

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

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of July 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-425**

**A RESOLUTION APPROVING AND ADOPTING THE WATER SUPPLY ASSESSMENT (WSA) PREPARED FOR THE PROPOSED TIVOLI PROJECT (PROJECT), LOCATED IN THE NORTHEAST AREA OF THE CITY SPHERE OF INFLUENCE, WITHIN THE ROSELLE – CLARIBEL COMPREHENSIVE PLANNING DISTRICT (CPD) BORDERED BY SYLVAN AVENUE ON THE SOUTH, OAKDALE ROAD ON THE WEST AND ROSELLE AVENUE ON THE EAST. THE WSA HAS DETERMINED THAT AN ASSURED LONG-RANGE WATER SUPPLY FOR THE PROJECT CAN BE MADE ON THE CONDITION THAT TWO NEW WELLS IN THE VICINITY OF THE PROJECT ARE CONSTRUCTED TO ACCESS THE GROUNDWATER SUPPLY IN ADDITION TO THE PHASE 2 MODESTO IRRIGATION DISTRICT (MID) PROJECT AND CONJUNCTIVE USE WATER MANAGEMENT MEASURES AS IDENTIFIED IN THE WSA**

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

WHEREAS the proposed Tivoli Project (Project) is 480 acres of land, located in the northeast area of the City Sphere of Influence within the Roselle –Clarabelle Comprehensive Planning District (CPD) bordered by Sylvan Avenue on the south Oakdale Road on the west and Roselle Avenue on the east, proposed to be developed with mixed use of low, medium, medium high density residential dwelling units, neighborhood and regional commercial uses, mixed use commercial, professional office, elementary school site and park open space, and

WHEREAS, Public Works staff completed a WSA for the Project, and



WHEREAS, a determination was made that an assured water supply for the Project is available on the condition that two new wells be developed in the vicinity of the Project prior to its completion in addition to the implementation of the Phase 2 Modesto Irrigation District (MID) project and conjunctive use water management measures as outlined in the WSA.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Water Supply Assessment dated July 2006 for the proposed Tivoli Specific Plan is hereby approved and adopted, a copy of which is on file with the City Clerk.

BE IT FURTHER RESOLVED that pursuant to the California Water Code Section 10912, the Council hereby finds and determines that an assured water supply is available to meet the demands of the proposed Tivoli Specific Plan, and that the WSA for the proposed Tivoli Specific Plan provides substantial evidence to support this determination.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5th day of July 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-426**

**A RESOLUTION ACCEPTING THE WASTEWATER/SEWER NEAR TERM  
CAPACITY FUNDING REPORT AND DIRECTING STAFF TO RETURN WITH  
A PLAN TO COMPLETE THE FINANCING FOR THE PHASE 1 AND PHASE  
1A CAPITAL COSTS**

WHEREAS, the City Council has reviewed the Wastewater/Sewer Near Term Capacity Funding Report; and

WHEREAS, the Wastewater/Sewer Near Term Capacity Funding Report recommends a plan for financing those costs that are necessary to meet the near term capacity needs of the wastewater system; and

WHEREAS, the City Council concurs with the recommendations contained in the Wastewater/Sewer Near Term Capacity Funding Report;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Wastewater/Sewer Near Term Capacity Funding Report and directs city staff to return with a plan to complete the financing for the Phase 1 and Phase 1A capital costs.

BE IT FURTHER RESOLVED that this resolution shall become effective immediately upon adoption.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of July 2006, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-427**

**A RESOLUTION APPROVING THE STANISLAUS COUNTY 30-YEAR  
COUNTYWIDE TRANSPORTATION FINANCIAL EXPENDITURE PLAN  
(EXPENDITURE PLAN) AND AUTHORIZING THE IMPOSITION OF A ONE  
HALF OF ONE PERCENT TAX ON RETAIL TRANSACTIONS TO FUND  
PROGRAMS AND PROJECTS DESCRIBED IN THE EXPENDITURE PLAN**

WHEREAS, the Stanislaus Council of Governments is designated the Stanislaus County Local Transportation Authority (Authority), pursuant to the provisions of Public Utilities Code Section I, Division 19 commencing with Section 180000, and

WHEREAS, pursuant to the provisions of the Public Utilities Code, a retail transactions and use tax ordinance applicable in the incorporated and unincorporated territory of a county may be imposed by the Authority if the tax ordinance is adopted by a two-thirds vote of the Authority and imposition of the tax is subsequently approved by a two-thirds vote of the electors voting on the measure at an election called for that purpose by the Board of Supervisors, at the request of the Authority, and a county transportation expenditure plan is adopted, and

WHEREAS, pursuant to the provisions of Public Utilities Code the Expenditure Plan which supports the tax ordinance must be approved by the Board of Supervisors and the city councils representing both a majority of the cities in the county and a majority of the population residing in the incorporated areas of the county, and

WHEREAS, the Stanislaus County 30-Year Countywide Transportation Financial Expenditure Plan (Expenditure Plan) was prepared by the Stanislaus Council of Governments in concert with community leaders, elected officials, management and

technical staff from member cities and the County and interested members of the general public, and

WHEREAS, the Expenditure Plan is aimed at remedying the existing and future deficiency in transportation funding in Stanislaus County while promoting reduced traffic congestion and improved air quality, and

WHEREAS, the Expenditure Plan calls for pavement management, street repairs, safety and operational improvements on local streets and roads, projects to reduce congestion on streets and highways, commuter rail transit and paratransit for seniors and disabled persons, and

WHEREAS, revenue to fund the Expenditure Plan will come from the passage of the one half percent (1/2 %) sales tax and will be limited to a 30-year period.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Stanislaus County 30-year Expenditure Plan.

BE IT FURTHER RESOLVED that the Council hereby authorizes the imposition of a one-half of one percent tax on retail transactions to fund programs and projects described in the Stanislaus County 30-year Expenditure Plan, a copy of which is on file in the Office of the City Clerk.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of July 2006, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-428**

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF  
MARY ARIAS FROM THE PLANNING COMMISSION**

WHEREAS, MARY ARIAS was appointed a member of the Planning Commission on November 9, 2004, and

WHEREAS, MARY ARIAS has tendered her resignation from the aforementioned committee, and

WHEREAS, MARY ARIAS 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 MARY ARIAS from the Planning 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 MARY ARIAS for her 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 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood  
Susana Alcala Wood, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-429**

**A RESOLUTION APPROVING AMENDMENT NO. 1 TO THE STANDARD CONSULTANT AGREEMENT 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, IN AN AMOUNT NOT TO EXCEED \$90,000 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE 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 \$49,000, and

WHEREAS, the term of the current agreement continues through acceptance of payment for all services authorized by the City, in an amount not to exceed \$49,999, and services rendered as of June 21, 2006 total \$49,999, and

WHEREAS, Mr. Osner, AICP, is currently providing planning services to the Community & Economic Development Department, including interpreting and applying environmental quality laws, and regulations to ensure City projects are in compliance with State and Federal laws, assisting in preparing request for proposals, preparing amendments to the Zoning Code for review and consideration, preparing ordinances for review and consideration, developing recommendations and preparing planning reports on various development proposals and applications and special studies, preparing appropriate planning, statistical, financial and narrative reports with technical studies, preparing planning applications, brochures and handout material associated with the development review process, and

WHEREAS, Amendment No. 1 to the Standard Consultant Agreement with George Osner, AICP, Planning Consultant, expands the services to include planning services to the Community & Economic Development, Planning Division and to the Public Works Department, Capital Improvement Services Division, and

WHEREAS, the Community & Economic Development Department, Planning Division and the Public Works Department, Capital Improvement Services Division

perform a number of tasks requiring planning, environmental and processing support services that, because of workload levels, and/or staff experience, are beyond the ability of the City's planning and engineering staff to accomplish in a timely manner, and

WHEREAS, the Community & Economic Development Department, Planning Division, and the Public Works Department, Capital Improvement Services Division has utilized the services of specialized consulting firms to perform targeted planning services, and

WHEREAS, George Osner, AICP, is familiar with the City's standards, policies, municipal code and operating procedures, having 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, staff has selected Mr. Osner, AICP, to provide on-call planning and environmental support services because of his extensive experience in the planning field and on similar projects, and

WHEREAS, Mr. Osner, AICP, will be paid on an hourly basis for actual hours required to perform specific tasks orders at a set rate, and

WHEREAS, funding for the services to the Community and Economic Development Department is allocated in the FY 06/07 CEDD budget in the amount of \$50,000, located in the 0235 Professional Services Object of organization 1430, and

WHEREAS, costs for on-call environmental planning support services for the Public Works Department, Capital Improvement Services (CIS) Division, will not exceed \$40,000.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves Amendment No. 1 to the Agreement between the City of Modesto and George Osner, AICP, Planning Consultant, for on-call planning and environmental support services for the Community & Economic Development Department, Planning Division and Public Works Department, Capital Improvement Services Division in an amount not to exceed \$90,000, a copy of which is on file in the City Clerk's office.

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 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: Susan Alcala Wood  
SUSAN ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-430**

**A RESOLUTION APPROVING AN AGREEMENT FOR MARCIA HERRMANN DESIGN TO COMPLETE THE MARKETING PLAN THE CITY OF MODESTO ECONOMIC DEVELOPMENT STRATEGY AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID CONTRACT.**

WHEREAS, the economic development (ED) program for the City includes the creation of a marketing plan including the certain concepts, design and research, and

WHEREAS, staff has determined that Marcia Herrmann Design can provide the required services to complete said marketing design services, and

WHEREAS, staff recommends the approval of a Service Contract with Marcia Herrmann Design for said design services,

**NOW, THEREFORE, BE IT RESOLVED** that the Council of the City of Modesto does hereby approve the Agreement which is attached hereto as **“Exhibit A”** and made a part hereof by this reference for the Marcia Herrmann Design to complete the marketing plan for the City of Modesto economic development strategy in an amount not to exceed \$36,000

**BE IT FURTHER RESOLVED** that the Council does hereby authorize and direct its City Manager, or his designee, to execute said Agreement for the development of said marketing plan.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of July, 2006, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, Olsen, Mayor Ridenour

NOES: Councilmembers: Keating, O’Bryant

ABSENT: Councilmembers: None

ATTEST Jean Morris  
Jean Morris, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
Susana Alcala Wood, City Attorney

## STANDARD AGREEMENT FOR CONSULTANT SERVICES

THIS AGREEMENT, made and entered into in the City of Modesto, State of California, this \_\_\_ day of \_\_\_\_\_, 2006 by and between the CITY OF MODESTO, a municipal subdivision of the State of California, hereinafter referred to as "CITY", and Marcia Herrmann Design, \_\_\_\_\_, hereinafter referred to as "CONSULTANT".

This Agreement is made with regard to the following recitals:

A. The CITY intends to create a comprehensive marketing plan that is intended to compliment and supplement the marketing efforts of The Stanislaus County Alliance by focusing on the following four targeted areas: (1) Modesto Area Commercial Brokers, (2) Local Business which are experiencing strong growth, with an emphasis on the Financial and Medical sectors, (3) Local Branches of Regional or National Companies which are experiencing strong growth. (Satellites) and, (4) Agribusiness companies with emphasis on technology.

B. The CITY has determined that it needs assistance with the preparation of said marketing plan.

C. CONSULTANT represents that it is qualified, willing and able to provide the design and marketing assistance referenced above.

D. CONSULTANT acknowledges that it will coordinate its work with the CITY's Business Development Division team members including the CITY's management staff, as needed.

NOW, THEREFORE, in consideration of this agreement, and the mutual promises, covenants, and stipulations hereinafter contained, the parties agree as follows:

### 1. SCOPE OF SERVICES.

CONSULTANT shall undertake and complete the preparation of the scope of work as set forth and described in the documents attached hereto and referred to as Exhibit "A" or "project". The CONSULTANT shall perform the services as described in Exhibit "A" in a manner compatible with the standards of its profession, and shall produce a fully complete project that is acceptable to CITY.

**2. TERM OF AGREEMENT.**

This Agreement is effective as of the date first above written and will continue in effect until CITY's acceptance of and payment for all services authorized by CITY and performed by CONSULTANT, unless terminated earlier in accordance with the provisions of the termination clause in this Agreement.

CITY hereby gives CONSULTANT notice to proceed with the preparation of the project in the manner described in Exhibit "A", as of the effective date of this agreement. CONSULTANT shall diligently proceed with the preparation of the project and agrees to complete said preparation within the time period set forth in Exhibit "A", as measured from the date this Agreement is signed by the City Manager.

**3. COMPENSATION.**

CONSULTANT agrees to work on a time and materials basis for a sum not to exceed \$ 36,000, as remuneration for performing the services called for in Exhibit "A", which is attached hereto and incorporated herein by this reference, and for performance by CONSULTANT of all of its duties and obligations under this Agreement. Monthly billing of time and materials shall be based upon the current schedule of hourly rates set forth in Exhibit "A".

**4. OBLIGATIONS OF CONSULTANT.**

Throughout the term of this Agreement, CONSULTANT shall possess, or secure all licenses, permits, qualifications and approvals legally required to conduct business. CONSULTANT warrants that it has all of the necessary professional capabilities and experience, as well as all tools, instrumentalities, facilities and other resources necessary to provide the CITY with the services contemplated by this Agreement. CONSULTANT further warrants that it will follow the best current, generally accepted and professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding this project.

**5. PERFORMANCE BY KEY EMPLOYEE.**

CONSULTANT has represented to CITY that Marcia Herrmann 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.

**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. Any reuse of such materials by CITY for any project other than the project which is the subject of this agreement shall be at CITY's sole risk.

## **Title to Data**

If, as a part of the agreement, CONSULTANT is required to produce data such as, but not limited to, drawings, plans, specifications, calculations, models, flow diagrams, visual aids and other related materials, the originals of all such data generated under this agreement will be delivered to CITY upon the completion or termination of services under the contract.

All materials, documents, data or information obtained from the CITY data files or any CITY medium furnished to CONSULTANT in the performance of this Agreement will at all times remain the property of the CITY. Such data or information may not be used or copied for direct or indirect use by CONSULTANT after termination of this Agreement without written consent of the CITY.

### **7. NEWS AND INFORMATION RELEASE.**

CONSULTANT agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from CITY through the City Manager.

### **8. INTEREST OF CONTRACTOR.**

CONSULTANT warrants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. CONSULTANT warrants that, in performance of this Agreement, CONSULTANT shall not employ any person having any such interest. CONSULTANT agrees to file a Statement of Economic Interests with the City Clerk at the start and end of this contract if so required at the option of CITY.



9. **AMENDMENTS.**

Both parties to this Agreement understand that it may become desirable or necessary during the execution of this Agreement, for CITY or CONSULTANT to modify the scope of services provided for under this Agreement. Any material extension or change in the scope of work shall be discussed with CITY and the change and cost shall be memorialized in a written amendment to the original contract prior to the performance of the additional work.

Until a change order is so executed, CITY will not be responsible to pay any charges CONSULTANT may incur in performing such additional services, and CONSULTANT shall not be required to perform any such additional services.

10. **INDEPENDENT CONTRACTOR.**

All acts of CONSULTANT, its agents, officers, and employees and all others acting on behalf of CONSULTANT relating to the performance of this Agreement, shall be performed as independent contractors and not as agents, officers, or employees of CITY. CONSULTANT, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of CITY. CONSULTANT has no authority or responsibility to exercise any rights or power vested in the CITY. No agent, officer, or employee of the CITY is to be considered an employee of CONSULTANT. It is understood by both CONSULTANT and CITY that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture.

CONSULTANT, its agents, officers and employees are and, at all times during the terms of this Agreement, shall represent and conduct themselves as independent contractors and not as employees of CITY.

CONSULTANT shall determine the method, details and means of performing the work and services to be provided by CONSULTANT under this Agreement. CONSULTANT shall be responsible to CITY only for the requirements and results specified in this Agreement, and, except as expressly provided in this Agreement, shall not be subjected to CITY's control with respect to the physical action or activities of the CONSULTANT in fulfillment of this Agreement. CONSULTANT has control over the manner and means of performing the services under this Agreement. CONSULTANT is permitted to provide services to others during the same period service is provided to CITY under this Agreement. If necessary, CONSULTANT has the responsibility for employing other persons or firms to assist CONSULTANT in fulfilling the terms and obligations under this Agreement.

If in the performance of this Agreement any third persons are employed by CONSULTANT, such persons shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. All terms of employment including hours, wages, working conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by the CONSULTANT.

It is understood and agreed that as an independent contractor and not an employee of CITY neither the CONSULTANT or CONSULTANT's assigned personnel shall have any entitlement as a CITY employee, right to act on behalf of the CITY in any capacity whatsoever as an agent, or to bind the CITY to any obligation whatsoever.

It is further understood and agreed that CONSULTANT must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of CONSULTANT's personnel.

As an independent contractor, CONSULTANT hereby indemnifies and holds CITY harmless from any and all claims that may be made against CITY based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

**11. ASSIGNMENT.**

Neither this Agreement nor any portion thereof shall be subcontracted or assigned without the express prior written consent of the CITY in each and every instance.

**12. PATENT/COPYRIGHT MATERIALS.**

Unless otherwise expressly provided in the contract, CONSULTANT shall be solely responsible for obtaining the right to use any patented or copyrighted materials in the performance of this Agreement. CONSULTANT shall furnish a warranty of such right to use to CITY at the request of CITY.

**13. NOTICES.**

Any and all notices permitted or required to be given hereunder shall be deemed duly given and effective (1) upon actual delivery, if delivery is by hand; or (2) five (5) days after delivery into the United States mail if delivery is by postage paid registered or certified (return receipt requested) mail. Each such notice shall be sent to the parties at the address respectively indicated below or to any other address as the respective parties may designate from time to time.

FOR CONSULTANT: Marcia Herrmann

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

FOR CITY: City of Modesto  
Attention: Linda Boston  
1010 Tenth Street, Suite 3300

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, postage pre-paid, for all of the following stated insurance policies.

(a) Worker's Compensation - in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of liability of \$500,000.

(b) General Liability insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and \$100,000 for property damage or \$1,000,000 combined single limit. This insurance shall indicate on the certificate of insurance the following coverages and indicate the policy aggregate limit applying to: premises and operations; broad form contractual; independent CONSULTANTS and subcontractors; products and completed operations; and professional liability.

(c) Automobile Liability insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and \$100,000 for property damage or \$1,000,000 combined single limit. This insurance shall cover any automobile for bodily injury and property damage.

(d) Professional Liability insurance with a minimum limit of \$1,000,000 per claim and policy aggregate.

If at any time any of said policies shall be unsatisfactory to the CITY, as to form or substance, or if a company issuing such policy shall be unsatisfactory to the CITY, the CONSULTANT shall promptly obtain a new policy, submit the same to the Risk Manager for approval and submit a certificate thereof as hereinabove provided. Upon failure of the CONSULTANT to furnish, deliver or maintain such insurance and certificates as above provided, this Agreement, at the election of the CITY, may be forthwith declared suspended, or terminated. Failure of the CONSULTANT to obtain and/or maintain any required insurance shall not relieve the CONSULTANT from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the CONSULTANT concerning indemnification. The CITY, its agents, officers, employees, and volunteers shall be named as an additional insured on all insurance policies required herein, except Workers' Compensation and Professional Liability. The Workers' Compensation insurer shall agree to waive all rights of subrogation against the CITY, its agents, officers, employees, and volunteers for losses arising from work performed by CONSULTANT for the CITY. The CONSULTANT's insurance policy(ies) shall include a provision that the coverage is primary as respects the CITY; shall include no special limitations to coverage provided to additional insured; and, shall be placed with insurer(s) with acceptable Best's rating of A:VII or with approval of the Risk Manager.

The CONSULTANT must deliver certificates evidencing existence of the insurance called for in the contract specifications to the City Clerk at the time the contract is signed. CONSULTANT shall provide CITY with separate endorsements evidencing proof of the CITY's additional insured status as to both the general liability and

automobile liability insurance policies. In addition, CONSULTANT shall provide CITY with a Workers Compensation subrogation waiver by way of a separate endorsement. All endorsements referenced above must include the applicable policy number.

For any claims related to this project, the CONSULTANT'S insurance coverage shall be primary insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the CONSULTANT'S insurance and shall not contribute with it.

## **15. TERMINATION OF AGREEMENT.**

### **Termination on Occurrence of Stated Events**

This Agreement shall terminate automatically on the date on which any of the following events occur: (1) bankruptcy or insolvency of CONSULTANT, (2) legal dissolution of CONSULTANT, or (3) death of key principal(s) of CONSULTANT.

### **Termination by CITY for Default of CONSULTANT**

Should CONSULTANT default in the performance of this Agreement or materially breach any of its provisions, at its option CITY may terminate this Agreement by giving written notification to CONSULTANT. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to perform required services or duties, willful destruction of CITY's property by CONSULTANT, dishonesty or theft.

### **Termination by CONSULTANT for Default of CITY**

Should CITY default in the performance of this Agreement or materially breach any of its provisions, at its option CONSULTANT may terminate this Agreement by giving written notice to CITY. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to cooperate reasonably with

CONSULTANT, willful destruction of CONSULTANT's property by CITY, dishonesty or theft.

**Termination by CITY for Lack of Budgeted Funds**

The CITY may terminate this Agreement effective July 1 of any given year upon the CITY's determination to not appropriate sufficient funds for this Agreement for the ensuing fiscal year. In such event CITY shall give CONSULTANT not less than 30 days written notice.

**Termination for Failure to Make Agreed-Upon Payments**

Should CITY fail to pay CONSULTANT all or any part of the payments set forth in this Agreement on the date due, at its option CONSULTANT may terminate this Agreement if the failure is not remedied within thirty (30) days after CONSULTANT notifies CITY in writing of such failure to pay. The termination date shall be the effective date of the notice.

**Termination by CITY for Change of CONSULTANT's Tax Status**

If CITY determines that CONSULTANT does not meet the requirements of federal and state tax laws for independent contractor status, CITY may terminate this Agreement by giving written notice to CONSULTANT. The termination date shall be the effective date of the notice.

**Voluntary Termination**

Termination of this contract is in the unilateral discretion of either party upon ten (10) calendar days 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 on the project. Further, if CITY so requests, and at CITY's cost, CONSULTANT shall deliver to CITY any work products whether in draft or final form which have been produced to date.

If the Agreement is terminated pursuant to any of the subsections contained in this paragraph, CITY will pay CONSULTANT an amount based on the percentage of work completed on the termination date, this percentage shall be determined by CITY in its sole discretion. If the Agreement is terminated pursuant to the subparagraph entitled Termination by CITY for Default of CONSULTANT, CONSULTANT understands and agrees that CITY may, in CITY's sole discretion, refuse to pay CONSULTANT for that portion of CONSULTANT's services which were performed by CONSULTANT on the project prior to the termination date and which remain unacceptable and/or not useful to CITY as of the termination date.

**16. INDEMNITY.**

CONSULTANT 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 wrongful or negligent act or omission of CONSULTANT, its agents, officers and employees, accept if 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.

**17. ENTIRE AGREEMENT.**

This Agreement and its exhibits contain the entire understanding between CONSULTANT and CITY. Additional or new terms contained in this Agreement which vary from CONSULTANT's proposal are controlling and are deemed accepted by CONSULTANT by shipment of any article or other commencement of performance hereunder. All previous proposals, offers and communications relative to this Agreement, whether oral or written, are hereby superseded except to the extent that they have been incorporated into this Agreement. No future waiver of or exception to any of the terms, conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to in writing by all the parties.

**18. PARTIAL INVALIDITY.**

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

**19. WAIVER.**

The waiver by any party to this Agreement of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof unless specifically stated in writing.

**20. AUDIT.**

The CITY's duly authorized representative shall have access at all reasonable times to all reports, contract records, contract documents, contract files, and personnel necessary to audit and verify CONSULTANT's charges to CITY under this Agreement.

CONSULTANT agrees to retain reports, records, documents, and files related to charges under this Agreement for a period of four (4) years following the date of final payment for CONSULTANT services. CITY's representative shall have the right to reproduce any of the aforesaid documents.

21. **GOVERNING LAW.**

This Agreement shall be governed according to the laws of the State of California.

22. **HEADINGS NOT CONTROLLING.**

Headings used in the Agreement are for reference purposes only and shall not be considered in construing this Agreement.

23. **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. \_\_\_\_\_, adopted by the Council of the City of Modesto on the \_\_\_\_ day of \_\_\_\_\_, 2006, and has caused this agreement to be duly executed.

CITY OF MODESTO

CONSULTANT\*

\_\_\_\_\_  
GEORGE W. BRITTON, City Manager

\_\_\_\_\_  
Marcia Herrmann Design

CONSULTANT Federal ID #

ATTEST:

\_\_\_\_\_  
By: JEAN MORRIS, City Clerk

(Seal)

APPROVED AS TO FORM:

\_\_\_\_\_  
By: SUSANA ALCALA WOOD  
City Attorney

**\* Corporations - signature of two (2) officers required or one (1) officer plus corporate seal.  
Partnership - signature of a partner required  
Sole Proprietorship - signature of proprietor required**

## EXHIBIT "A"

### SCOPE OF WORK and SCHEDULE OF FEES

The information below describes the cost for concepts, design and research to develop a brand campaign for the City of Modesto Economic Development Department. Marcia Herrmann Design will update the visual presence of the City of Modesto's Economic Development Department. The current company portfolio reflects a series of different visual treatments that were created at various points in time to fulfill different business objectives. As a result the materials lack visual cohesiveness and clarity. After reviewing the past, present, and future objectives and gleaning a healthy understanding of the process that the City of Modesto Economic Development division offers businesses the brand strategy has been defined as follows. The design marketing materials will target males between 35-50 along with the following industries:

- Modesto Area Commercial Brokers
- Local Business which are experiencing strong growth, with an emphasis on the Financial and Medical sectors
- Local Branches of Regional or National Companies which are experiencing strong growth. (Satellites)
- Agribusiness companies with emphasis on technology.

The design marketing materials listed below will keep the identified target market in mind at all times. These demographics involve individuals who have limited time. They are looking for quick information that answer questions like - What does Modesto have to offer? Might Modesto fit with my clients needs? Can Modesto be a good fit for our business? Should we stay in Modesto or relocate? The visuals need to be strong **not** necessarily clever. The audience needs to get the message instantly and the information needs to be consistent with the promises building brand trust along the way. The concepts will be reflective of the final promise and tag line and become the mantra of the City of Modesto Economic Development division.

#### **Marketing Materials will be divided into two phases with two proposals:**

Phase 1: Finalizing the promise and tag lines, Corporate Identity design, Direct Mailer Postcards and Modesto Economic Development Brochure.

Phase 2: Website analysis and art direction, advertising campaign design and media placement. Phase 2 proposal will be sent once the concepts have been approved from Phase 1.

#### **Finalizing Promise and Tag lines**

\$125 per hour not to exceed 15 hours \$1,875

Time Frame - finalized by mid June once proposal accepted

#### **Corporate Identity / Logo development:**

The items to be included in the corporate identity package are the development of the corporate logo which is the entry point for any new brand development. The corporate logo facilitates brand consistency on all future collateral materials. Once the logo is selected it will be applied to the following business papers:

Letterhead, #10 business envelopes, window envelopes, mailing labels, 4-8 employee business cards, digital logo and digital fax form. Please let us know if we have forgotten any other business papers that will be needed.

#### **Design Cost for Corporate Identity**

Design of logo \$3,500

Design and layout of all stationery items \$1,800

Pre press costs for making all items print ready

\$700

Time Frame - 4-6 weeks project to begin once proposal accepted

Not to exceed \$6,000

## **2) Direct Mailer Postcards**

The direct mail pieces are designed and printed in advance to convey new information to target markets in a timely manner. The postcards can be customized on the back with additional messages or information before being sent out. They are stored at the printer and are not trimmed out until they are ready to be sent to the mailing house. This allows for quick response and flexibility to your departments marketing needs. Based on the various concepts and topics listed below 8-12 cards will be designed. These postcard concepts can effectively be used as advertisements in magazines, newsletters and or billboards. When applied to advertising additional expense would be required based on size variations and production specifications rather than concept development.

The mailers will concepts will include:

A) Logo introduction - (1 card)

B) Promise introductions (1 card )

C) Recipe for success (case studies of local successful businesses) (2-4 cards)

D) Shepherding - (2 cards)

E) Testimonials (2 - 4 cards)

F) Stanislaus County Facts and Figures (1 card)

G) Department Profile

1) planning

2) permits and fees

*(making these areas user friendly - 2 cards)*

Total cost for 8 - 12 postcards

Time frame 6-8 weeks once logo and promise have been completed

Not to exceed \$13,000

### **3) The City of Modesto Economic Development Information Brochure**

This brochure will provide quick information about what the City of Modesto Economic Development Department offers businesses. The brochure will provide facts and figures about Modesto, answer common questions, supply tips on how to get started. It should also describe the process the business will experience and how The Modesto City Economic Development division can make their interaction with the city rewarding. These will be used as handouts or can be sent with letters in #10 business envelopes.

Time Frame 6-8 weeks - brochure design begins once direct mailer design concepts have been approved.

Not to exceed \$4,000

#### **Additional expenses:**

All vendor costs or out of pocket expenses required for production of camera ready art include i.e. color mock-ups, extensive photoshop work, file preparation, purchase of royalty free photography and illustration and copy writing.

Not to exceed \$8,000

**The items listed above will not exceed the total of \$32, 875 without sales tax**

**Does the city pay sales tax? (CA tax \$2,424.53 = \$35, 299.53)**

This does not include printing, specialty illustrations and professional photography. Phase 2 will be sent once the concepts have been approved from Phase 1.

**Terms of engagement: 1/2 up front required to begin projects. \$17,649.77**

Remaining balance will be submitted with issued P.O. number once the above projects have been completed.

MHD reserves the right to modify the proposal should delays occur beyond MHD control or the time frame has been exceeded or a new target direction is requested. Should the brief need to be modified after job has begun change orders will be submitted to the client to keep costs and accountability established by both parties.

**Contract will be sent once proposal has been accepted. Once deposit and signed contract are received work will commence.**

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 431

A RESOLUTION AMENDING THE FISCAL YEAR 2005-2006 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 2005-2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2005-2006 budget have been adjusted as shown in **Schedule A.**

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 11<sup>th</sup> day of July 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(seal)

APPROVED AS TO FORM:

By: Susan Alcala Wood  
SUSAN ALCALA WOOD, City Attorney

**SCHEDULE A**

***Finance Department***

Capital Improvement Support Fund - Finance staff supports a variety of capital projects and some of these costs are credited to the Capital Improvement Support account. Projects worked on for the Public Works Engineering Divisions get reimbursed from CalTrans for administrative and financial charges related to capital projects. This action recognizes revenue received for this work. The budget adjustments are shown below:

From:	Acct #0300-120-1240-0255	\$(51,250)
To (Expense):	Acct #0300-410-4112-0255	\$ 25,625
	Acct #0300-420-4212-0255	\$ 25,625
To (Revenue):	Acct #0300-410-4112-4909	\$ 25,625
	Acct #0300-420-4212-4909	\$ 25,625

Copier Fund #7100 – The Engineering/Solid Waste divisions are in need of a new copier. Fund #7100 has enough available cash in their reserve account to purchase the replacement copier. Funds in the amount of \$25,000 will be moved to the Operating Account as shown below:

From:	Acct #7100-800-8000-8003	\$(25,000)
To:	Acct #7100-120-1252-5500	\$ 25,000

***Public Works Department***

Local Transportation Fund (LTF) – When the City receives LTF monies from the State; it is deposited into the LTF Reserve Account. This budget adjustment moves funds in the amount of \$2,477,274 to the Special Gas Tax Fund to pay for a variety of streets projects as shown below:

From:	Acct #0510-800-8000-8003	\$(2,477,274)
To:	Acct #0700-800-8000-8003	\$ 2,477,274

***Community and Economic Development Department***

Creation of Multi-Year Operating Organization for a Developer funded Project:

The City of Modesto Financial Policies, adopted by the City Council on June 6, 2006, require City Council approval for the creation of any multi-year budget organization. We are therefore requesting approval of organization 0800-140-1455, Vintage Faire Mall Expansion Project, for the purpose of processing all planning related documents in connection with this project. The total cost of this project is anticipated to be \$100,000 with all funding to be provided by the applicant.



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2005-432**

**A RESOLUTION APPROVING A TWO-YEAR LEASE RENEWAL WITH STANISLAUS COUNTY AFFORDABLE HOUSING CORPORATION (STANCO) FOR THE USE OF A CITY OWNED HOUSE AT 308 LOCUST STREET BY STANCO'S TRANSITIONAL HOUSING PROGRAM AT THE COST OF \$1.00 PER YEAR AND AUTHORIZING THE CITY MANAGER 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 house 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 home to Stanislaus County Affordable Housing Corporation (STANCO) at the cost of \$1.00 per year; the house was not needed for relocations at that time and had been vacant, and

WHEREAS, STANCO has expressed interest in renewing the lease which expires on July 13, 2006, and

WHEREAS, City staff anticipates relatively few temporary relocations from the Housing Maintenance Program during the next year and the home is not located near the current mandatory target area of Highway Village, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) recommended support of this item at its June 23, 2006, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a two-year lease renewal with Stanislaus County Affordable Housing Corporation (STANCO) for the use of a city-owned house at 308 Locust Street by STANCO's transitional housing program at the cost of \$1.00 per year.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-433**

**A RESOLUTION APPROVING AN AMENDMENT TO THE FISCAL YEAR 2005-2006 EMERGENCY SHELTER GRANT (ESG) AGREEMENT WITH THE SALVATION ARMY FOR THEIR WINTER EMERGENCY SHELTER AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN AND EXECUTE THE AMENDED AGREEMENT AND RELATED DOCUMENTS.**

WHEREAS, on April 26, 2005, by Resolution No. 2005-202, the City Council approved the allocation of the public service grant funding for Fiscal year 2005-2006, and

WHEREAS, on April 26, 2005, the City Council authorized staff to conduct a second round of review for proposals for CDBG Homeless Services for \$22,199 and Emergency Shelter Grant (ESG) funds for \$81,380, and

WHEREAS, during the second round, staff recommended allocating the ESG funds to two (2) non-profit organizations for three (3) projects, and

WHEREAS, the Salvation Army was allocated funds for rent for its Winter Emergency Shelter in the amount of \$51,784, and,

WHEREAS, on January 1, 2006, the Salvation Army requested an amendment to the ESG Winter Shelter Agreement to reallocate \$24,000 from the winter shelter's rent to staff costs due to the fact that the organization now owns the winter shelter building and no longer pays rent, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) recommended amending this agreement at its June 23, 2006, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the Fiscal Year 2005-2006 Emergency Shelter Grant (ESG) Agreement with the Salvation Army for their Winter Emergency Shelter to reallocate \$24,000 from the winter shelter's rent to staff costs.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager or his authorized designee is hereby authorized to sign and execute the amended agreement and related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-434**

**A RESOLUTION APPROVING AN AMENDMENT TO THE FISCAL  
YEAR 2005-2006 EMERGENCY SHELTER GRANT (ESG)  
AGREEMENT WITH COMMUNITY HOUSING AND SHELTER  
SERVICES (CHSS) FOR CASE MANAGEMENT AND AUTHORIZING  
THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN AND EXECUTE  
THE AMENDED AGREEMENT AND RELATED DOCUMENTS.**

WHEREAS, on April 26, 2005, the City Council authorized staff to conduct a second round of review for proposals for CDBG Homeless Services for \$22,199 and Emergency Shelter Grant (ESG) funds for \$81,380, and

WHEREAS, during the second round, staff recommended allocating the ESG funds to two (2) non-profit organizations for three (3) projects, and

WHEREAS, Community Housing and Support Services was allocated funds for Emergency Shelter Case Management in the amount of \$16,096, and

WHEREAS, on October 21, 2005, the Community Housing and Shelter Services (CHSS) requested an amendment to the ESG Case Management Agreement to enable them to utilize \$7,200 of the total monies allocated for motel vouchers, since there was a need for more motel vouchers for homeless families, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) recommended amending this agreement at its June 23, 2006, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the approving an amendment to the Fiscal Year 2005-2006 Emergency Shelter Grant (ESG) Agreement with Community Housing and Shelter Services (CHSS) for Case Management to enable CHSS to utilize \$7,200 of the total monies allocated for motel vouchers.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager or his authorized designee is hereby authorized to sign and execute the amended agreement and related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-435**

**A RESOLUTION APPROVING AN AMENDMENT TO THE FISCAL  
YEAR 2005-2006 EMERGENCY SHELTER GRANT (ESG)  
AGREEMENT WITH COMMUNITY HOUSING AND SUPPORT  
SERVICES (CHSS) FOR LAURA'S HOUSE SEWER REPAIR AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN  
AND EXECUTE THE AMENDED AGREEMENT AND RELATED  
DOCUMENTS.**

WHEREAS, on April 26, 2005, by Resolution No. 2005-202, the City Council approved the allocation of the public service grant funding for Fiscal year 2005-2006, and

WHEREAS, on April 26, 2005, the City Council authorized staff to conduct a second round of review for proposals for CDBG Homeless Services for \$22,199 and Emergency Shelter Grant (ESG) funds for \$81,380, and

WHEREAS, during the second round, staff recommended allocating the ESG funds to two non-profit organizations for three projects, and

WHEREAS, Community Housing and Support Services was allocated funds for Sewer Repair at Laura's House in the amount of \$13,500, and

WHEREAS, on May 19, 2006, the Community Housing and Shelter Services (CHSS) requested an amendment to the ESG Laura's House Sewer Repair Agreement to enable them to utilize \$2,530 of the total monies allocated for emergency deck repair, since there was a safety issue regarding the deck, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) recommended amending this agreement at its June 23, 2006, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the Fiscal Year 2005-2006 Emergency Shelter Grant (ESG) Agreement with Community Housing and Support Services (CHSS) for Laura's House Sewer to

repair a bathroom on the second floor, instead of repairing a damaged ceiling and garbage disposal at an estimated cost of \$2,891.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager or his authorized designee is hereby authorized to sign and execute the amended agreement and related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-436**

**A RESOLUTION APPROVING AN AMENDMENT TO THE FISCAL YEAR 2005-2006 EMERGENCY SHELTER GRANT (ESG) AGREEMENT WITH THE CENTER FOR HUMAN SERVICES (CHS) FOR HUTTON HOUSE REPAIRS AND MAINTENANCE AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SIGN AND EXECUTE THE AMENDED AGREEMENT AND RELATED DOCUMENTS.**

WHEREAS, on April 26, 2005, by Resolution No. 2005-202, the City Council approved the allocation of the public service grant funding for Fiscal year 2005-2006, and

WHEREAS, the Center for Human Services (CHS) received an allocation of Emergency Shelter Grant (ESG) funds for \$8,971 to be utilized for repairs and maintenance of the Hutton House Youth Shelter, and

WHEREAS, on May 15, 2006, CHS requested to amend the Agreement to repair a bathroom on the second floor, instead of repairing a damaged ceiling and garbage disposal at an estimated cost of \$2,891, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) recommended amending the agreement with the Center for Human Services at its June 23, 2006, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an amendment to the Fiscal Year 2005-2006 Emergency Shelter Grant (ESG) Agreement with the Center for Human Services (CHS) for Hutton House Repairs and Maintenance to repair a bathroom on the second floor, instead of repairing a damaged ceiling and garbage disposal at an estimated cost of \$2,891.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager or his authorized designee is hereby authorized to sign and execute the amended agreement and related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-437**

**A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH THE MODESTO SENIOR HOUSING INVESTORS CHANGING THE TERMS OF THE HOME LOAN FOR SHERWOOD MANOR AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE HOME AMENDMENT TO THE AGREEMENT.**

WHEREAS, on February 14, 1994, the City Council, by Resolution No. 94-425, approved the allocation of a loan in the amount of \$85,000 in HOME funds to Modesto Senior Housing Investors for the development of a senior housing project known as Sherwood Manor located at 725 Maze Blvd., Modesto, and

WHEREAS, this is a 38 unit elderly affordable housing complex, although only two units are HOME assisted, and

WHEREAS, one of the HOME units must be rented to a household earning no more than fifty percent (50%) of the Area Median Income (AMI), and the other unit must be rented to a household earning no more than sixty percent (60%) of the AMI, and

WHEREAS, the City of Modesto and Modesto Senior Housing Investors executed an agreement with the following terms: the interest compounds annually; the interest was at the applicable Federal Rate in effect on the date of the loan closing, which was 6.01% annually; the loan is amortized for 30 years; and, the City could at its discretion forgive the loan if the property provides affordable units for senior citizens, and

WHEREAS, the Modesto Senior Housing Investors are requesting that the City of Modesto forgive the loan or reduce the compounded interest rate to a simple interest rate retroactive to 1994, and

WHEREAS, staff has calculated the interest accumulated for the past 10 years to be \$67,367; the interest plus the principal due in 30 years will be \$489,580, and

WHEREAS, if the terms of the loan change to a 3% simple interest, the balloon payment at the end of the 30 years will be \$161,500, and

WHEREAS, staff is recommending to reduce the compound interest rate to a simple interest rate, and to change the interest rate to an annual rate of 3%, and

WHEREAS, the intent of the HOME funds is to provide funding for the development of affordable housing; by reducing the rate and charging a simple rate this senior complex will be able to maintain its affordability and to repay the loan, and

WHEREAS, at this point staff is not recommending forgiveness of the loan in order to collect program income for future affordable housing development, and

WHEREAS, the Citizens Housing and Community Development Committee met on June 23, 2006, and supported the recommendation to reduce the compound interest rate to a simple interest rate, and to change the interest rate to an annual rate of 3%,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the amendment to agreement with the Modesto Senior Housing Investors changing the terms of the HOME loans for Sherwood Manor.

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 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-438**

**A RESOLUTION APPROVING HOME COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO) AGREEMENT WITH HABITAT FOR HUMANITY OF STANISLAUS TO ALLOCATE SET ASIDE FUNDS IN THE AMOUNT OF \$196,612 FOR THE PREDEVELOPMENT OF HOPE VILLAGE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE HOME CHDO AGREEMENT.**

WHEREAS, the City of Modesto receives annual entitlements from the U.S. Department of Housing and Urban Development (HUD) based on the population size, number of households living below poverty level and number of sub-standard housing units, and

WHEREAS, a percentage of the HOME Investment Partnership Program (HOME) entitlement plus estimated program income may be allocated for the purposes of providing assistance consistent with the functions of HOME funding, and

WHEREAS, Community Housing Development Organization (CHDO) funds can be allocated only to non-profit organizations that have been approved by the City of Modesto as CHDOs, and are active in Modesto and operating in compliance with the HOME regulations, and

WHEREAS, in Fiscal Year 2005-2006, HUD allocated \$1,310,745 in HOME entitlement funds and \$35,832 in American Dream Down payment Initiative (ADDI) funds to the City of Modesto and staff estimated program income to be \$150,000; which brings the total of HOME funds up to \$1,496,577, and

WHEREAS, on May 24, 2005, the City Council, by Resolution No. 2005-279, approved the City of Modesto draft 2005-2006 HUD Annual Action Plan, which included

the allocation of \$196,612 CHDO set-aside to cover the project costs of affordable housing, and

WHEREAS, ON January 10, 2006, letters were sent to the three eligible CHDOs (Habitat for Humanity Stanislaus, ACLC, Inc. and STANCO) inviting them to submit a Letter of Interest were sent to the CHDOs on January 10, 2006, and

WHEREAS, a review committee consisting of a Councilmember and two members of the Citizens Housing and Community Development (CH&CDC) recommended that CHDO set aside funds in the amount of \$196,612 be allocated to ACLC, Inc. for the acquisition and rehabilitation of Cameron Villa to preserve 68 affordable rental units, and

WHEREAS, since that time, ACLC, Inc. has withdrawn its application, and

WHEREAS, the HOME CHDO funding process and recommendation were discussed at CH&CDC meetings on October 28, 2005, and June 23, 2006, and

WHEREAS, at the June 23, 2006, CH&CDC meeting, the committee recommended allocating the CHDO set aside funds in the amount of \$196,612 to Habitat for Humanity of Stanislaus for the predevelopment of Hope Village,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a HOME Community Housing Development Organization (CHDO) agreement with Habitat For Humanity Of Stanislaus to allocate set aside funds in the amount of \$196,612 for the predevelopment of Hope Village and authorizing the City Manager to execute the HOME CHDO agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-439**

**A RESOLUTION APPROVING A HOME COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (CHDO) AGREEMENT WITH HABITAT FOR HUMANITY OF STANISLAUS TO ALLOCATE OPERATING FUNDS TO IN THE AMOUNT OF \$65,537 TO CONTINUE ASSISTING WITH THE OPERATIONAL COSTS OF THE ORGANIZATION TO CONTINUE WITH THE DEVELOPMENT OF HOPE VILLAGE AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE HOME CHDO AGREEMENT.**

WHEREAS, the City of Modesto receives annual entitlements from the U.S. Department of Housing and Urban Development (HUD) based on the population size, number of households living below poverty level and number of sub-standard housing units, and

WHEREAS, a percentage of the HOME Investment Partnership Program (HOME) entitlement plus estimated program income may be allocated for the purposes of providing assistance consistent with the functions of HOME funding, and

WHEREAS, Community Housing Development Organization (CHDO) funds can be allocated only to non-profit organizations that have been approved by the City of Modesto as CHDOs, and are active in Modesto and operating in compliance with the HOME regulations, and

WHEREAS, in Fiscal Year 2005-2006, HUD allocated \$1,310,745 in HOME entitlement funds and \$35,832 in American Dream Down payment Initiative (ADDI) funds to the City of Modesto and staff estimated program income to be \$150,000; which brings the total of HOME funds up to \$1,496,577, and

WHEREAS, on May 24, 2005, the City Council, by Resolution No. 2005-279, approved the City of Modesto draft 2005-2006 HUD Annual Action Plan, which included

the allocation of \$65,537 in CHDO Operating funds to assist with the operational costs of the organization, and

WHEREAS, on January 10, 2006, letters were sent to the three eligible CHDOs (Habitat for Humanity Stanislaus, ACLC, Inc. and STANCO) inviting them to submit a Letter of Interest, and

WHEREAS, a review committee consisting of a Councilmember and two members of the Citizens Housing and Community Development Committee (CH&CDC) recommended that CHDO Operating funds in the amount of \$65,537 be allocated to Habitat for Humanity Stanislaus to continue assisting with the operational costs of the organization to continue with the development of Hope Village, and

WHEREAS, the HOME CHDO funding process and recommendation were discussed at CH&CDC meetings on October 28, 2005, and June 23, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a HOME Community Housing Development Organization (CHDO) agreement with Habitat for Humanity of Stanislaus to allocate operating funds to in the amount of \$65,537 to continue assisting with the operational costs of the organization to continue with the development of Hope Village.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-440**

A RESOLUTION AMENDING THE FISCAL YEAR 06-07 BUDGET TO REALLOCATE \$196,612 IN FY 05-06 COMMUNITY HOUSING DEVELOPMENT ORGANIZATION SET-ASIDE FROM THE HOME FUND RESERVE, 1170-800-8000-8003, TO 1170-320-3259-0508, AND TO REALLOCATE \$65,537 IN FY 05-06 COMMUNITY DEVELOPMENT OPERATING FUNDS FROM THE HOME FUND RESERVE, 1170-800-8000-8003, TO 1170-320-3259-0509.

WHEREAS, the City of Modesto receives annual entitlements from the U.S. Department of Housing and Urban Development (HUD) based on the population size, number of households living below poverty level and number of sub-standard housing units, and

WHEREAS, a percentage of the HOME Investment Partnership Program (HOME) entitlement plus estimated program income may be allocated for the purposes of providing assistance consistent with the functions of HOME funding, and

WHEREAS, Community Housing Development Organization (CHDO) funds can be allocated only to non-profit organizations that have been approved by the City of Modesto as CHDOs, and are active in Modesto and operating in compliance with the HOME regulations, and

WHEREAS, on May 24, 2005, the City Council, by Resolution No. 2005-279, approved the City of Modesto draft 2005-2006 HUD Annual Action Plan, which included the allocation of \$196,612 CHDO set-aside to cover the project costs of affordable housing and \$65,537 in CHDO Operating funds to assist with the operational costs of the organization, and

WHEREAS, a review committee recommended allocating CHDO set aside funds in the amount of \$196,612 to ACLC, Inc. for the acquisition and rehabilitation of

Cameron Villa to preserve 68 affordable rental units and CHDO Operating funds in the amount of \$65,537 to Habitat for Humanity Stanislaus to continue assisting with the operational costs of the organization to continue with the development of Hope Village, and

WHEREAS, since that time ACLC, Inc. has withdrawn its application, and

WHEREAS at its June 23, 2006, meeting the Citizens Housing and Community Development Committee recommended allocating CHDO set aside funds in the amount of \$196,612 to Habitat for Humanity of Stanislaus for predevelopment of Hope Village,

WHEREAS, these funds were budgeted but not expended in Fiscal Year 2005-06 and therefore need to be reallocated from the HOME Fund reserve,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 06-07 budget to reallocate \$196,612 in FY 05-06 Community Housing Development Organization set-aside from the HOME Fund reserve, 1170-800-8000-8003, to 1170-320-3259-0508, and to reallocate \$65,537 in FY 05-06 Community Development operating funds from the HOME Fund reserve, 1170-800-8000-8003, to 1170-320-3259-0509.

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 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-441**

**A RESOLUTION APPROVING A STANDARD AGREEMENT FOR  
CONSULTANT SERVICES WITH MANAGEMENT PARTNERS,  
INCORPORATED, AND AUTHORIZING THE CITY MANAGER, OR HIS  
DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the City desires to obtain the services of Management Partners, Incorporated (Management Partners) to provide an organizational assessment, and

WHEREAS, the City desires to enter into a Standard Consultant Agreement with Management Partners in the total amount of \$37,900 which includes professional fees and expenses, and

WHEREAS, the firm of Management Partners is specially trained, experienced and competent to conduct an organizational assessment of the City, and

WHEREAS, the public interest, economy and general welfare will be served by this agreement,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a "Standard Agreement For Consultant Services" with the firm of Management Partners, Incorporated in the amount of \$37,900 with respect to conducting an organizational assessment.

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 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-442**

**A RESOLUTION AMENDING THE FISCAL YEAR 06-07 OPERATING BUDGET TO APPROPRIATE \$37,900 FROM 0100-800-8000-8003 GENERAL FUND RESERVE TO 0100-020-0201-0235 PROFESSIONAL SERVICES TO PROVIDE FUNDING FOR ORGANIZATIONAL ASSESSMENT.**

WHEREAS, the City Council desires to implement an organizational assessment in preparation for creating a new business plan, and

WHEREAS, the FY 06-07 costs associated with this organizational assessment total \$37,900, and

WHEREAS, this expenditure has not yet been budgeted,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2006-07 Operating Budget is hereby amended to transfer \$37,900 from the General Fund Reserve, 0100-800-8000-8003, to the City Manager's Department, Professional Services, 0100-020-0201-0235.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-443**

**A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH WOOD RODGERS INC. FOR DESIGN SERVICES IN THE AMOUNT OF \$51,060.00, CONTRACT TOTAL OF \$695,383.00, FOR ADDITIONAL WORK NOT INCLUDED IN THE ORIGINAL AGREEMENT AND FOR REIMBURSABLE EXPENSES FOR THE PROJECT TITLED “PELANDALE AVENUE 6-LANE WIDENING - DALE ROAD TO MCHENRY AVENUE” AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AMENDMENT TO AGREEMENT.**

WHEREAS, the widening of Pelandale Avenue to full six-lane expressway status is scheduled to commence fiscal year 2006, 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, the City plans to install an extension of an existing 12 inch water main requiring open cut excavation, and

WHEREAS, the City has evaluated the cost and time benefit of phasing the waterline construction with the Pelandale Avenue roadwork, and

WHEREAS, the construction of the waterline prior to final pavement installation on Pelandale Avenue will avoid future traffic disruption, eliminate the need to remove and restore sections of newly constructed asphalt pavement, and will offer the most effective cost and time alternative for both projects, and

WHEREAS, an amendment to the current consultant design contract for the Pelandale Avenue 6-Lane Widening – Dale Road to McHenry Avenue Project is necessary in order to facilitate design and construction of the waterline, 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, at the Pelandale/McHenry intersection the City plans to extend the easterly limit of work by 1,800 feet to accommodate required lane transition design east of McHenry Avenue, and

WHEREAS, an amendment to the current consultant design contract for providing the lane transition design east of McHenry Avenue to accommodate the Pelandale 6-Lane Widening Project is necessary in order to facilitate design and construction of the overall project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement between the City of Modesto and Wood Rodgers, Inc. in the amount of \$51,060 (Fifty-one Thousand Sixty Dollars) for additional work to complete plans, specifications, and cost estimates for the construction of 3,900 linear feet of 12 inch waterline to be located within the Pelandale Avenue right-of-way, and providing complete plans, specifications, and cost estimates for construction of an eastbound lane transition east of McHenry Avenue and including design plans in the Pelandale Avenue 6-Lane Widening – Dale Road to McHenry Avenue project.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who

moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-444**

**A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH STANTEC CONSULTING, INC., FOR ADDITIONAL WORK REQUESTED BY THE CITY, IN THE AMOUNT OF \$8,000, TO COMPLETE THE EVALUATION OF THE STORM DRAIN CROSS CONNECTIONS TO THE SANITARY SEWER SYSTEM AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, part of the ongoing work to update the Wastewater Master Plan and complete the Engineer's Report (needed to update the wastewater utility rates and connection fees), is to determine how best to minimize the amount of storm water runoff entering into the sanitary sewer system, and

WHEREAS, on August 23, 2005, the City entered into an Agreement with Stantec Consulting, Inc., (Stantec) for \$25,000, to conduct a study that would determine how best to eliminate as many of the storm drainage cross connections to the sanitary sewer system as possible, and

WHEREAS, the original scope of work included an examination of possible methods to eliminate indirect cross connections associated with the pumping, of standing surface water into the sanitary sewer system within storm drainage "hot zones" (areas that experience frequent flooding), and

WHEREAS, in order for the outcome of this work to be more usable for the ongoing wastewater studies, an amendment to the current consultant contract for the Storm Drain Cross Connections to the Sanitary Sewer System is necessary for the following additional technical analysis to be completed: 1) That the cross connection locations be evaluated for a lower cost initial phase of implementation, and 2) That the study include possible solutions for removing storm drainage cross connections in the downtown area, and

WHEREAS, the additional work identified above is specialized and City staff does not have the time or expertise to conduct this level of analysis to enable this project to be completed in a timely manner, and

WHEREAS, the original Agreement was for \$25,000 and the additional work associated with this Amendment is \$8,000, which will increase the total Agreement to an amount not-to-exceed \$33,000, and

WHEREAS, the current budgeted amount of \$8,000 for the Amendment to Agreement is available in the CIP Account "Wastewater Master Plan Update" 6210-430-A208-6010 to cover the cost for these additional services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement between City of Modesto and Stantec Consulting, Inc. in the amount of \$8,000 for additional services related to the Evaluation of the Storm Drainage Cross Connections to the Sanitary Sewer System analysis.

BE IT FURTHER RESOLVED that the City Manager, or 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 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST   
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 – 445**

**A RESOLUTION APPROVING THE ACCEPTANCE OF AN AIRPORT IMPROVEMENT PROGRAM GRANT IN THE AMOUNT OF \$285,000 FROM THE FEDERAL AVIATION ADMINISTRATION TO FUND THE IMPLEMENTATION OF AN AIRPORT NOISE PROGRAM AT THE MODESTO CITY-COUNTY AIRPORT 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's noise contours have changed due to newer and quieter aircraft that use the airport, and

WHEREAS, on March 28, 2006, the City Council authorized staff to submit a grant application to the Federal Aviation Administration (FAA), in the amount of \$1 million for funding of Airport Capital Improvement Plan projects approved by the FAA, and

WHEREAS, the FAA notified the City that an AIP Grant Offer of \$285,000 has been made for funding of airport development or noise program implementation, and,

WHEREAS, this Grant Offer must be accepted on or before July 30, 2006, and

WHEREAS, acceptance of the grant will provide the City with the funds to conduct a Part 150 noise study,

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the acceptance of an Airport Improvement Program grant in the amount of \$285,000 from the Federal Aviation Administration to fund the implementation of an Airport Noise program at the Modesto City-County Airport.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the acceptance of the grant 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 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

by   
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 – 446**

**A RESOLUTION ACCEPTING A DEED OF AVIGATION AND HAZARD EASEMENT FROM BEARD LAND IMPROVEMENT COMPANY THAT ALLOWS AIRCRAFT FLIGHT OVER COMMERCIAL PROPERTY ON FINCH ROAD ADJACENT TO THE MODESTO CITY-COUNTY AIRPORT, AND AUTHORIZING THE CITY MANAGER TO SIGN THE ACCEPTANCE OF THIS EASEMENT ON BEHALF OF THE CITY.**

WHEREAS, Beard Land Improvement Company intends to sell real property located on Finch Road in the City of Modesto adjacent to Modesto City-County Airport, and

WHEREAS, Modesto City-County Airport is an active airport with commercial and general aviation aircraft arrivals and departures that will be flying over and near the parcel of land that is being sold, and

WHEREAS, Beard Land Improvement Company has provided the City of Modesto with a Deed of Avigation and Hazard Easement (Deed), at no cost, that will assign perpetual, assignable easement in and over the real property named in that document, and

WHEREAS, the Deed gives the Airport certain rights that ensure safe flight over that property, and authorizes access to the property for specific purposes stated in the Deed, and

WHEREAS, the Deed dedicates easement and right-of-way that will allow continued flight operations at Modesto City-County Airport,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Deed of Avigation and Hazard Easement from Beard Land Improvement Company, that allows aircraft flight over commercial property on Finch Road adjacent to the Modesto City-County Airport.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to sign the Deed of Avigation and Hazard Easement on behalf of the City of Modesto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

by Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-447**

**A RESOLUTION APPROVING CONSULTANT SERVICES AGREEMENT  
WITH NICHOLS CONSULTING ENGINEERS, CHTD. IN THE AMOUNT OF  
\$27,250.00 FOR PAVEMENT TESTING, EVALUATION, AND ANALYSIS  
REPORT IN CONNECTION WITH DESIGN OF 9<sup>TH</sup> STREET, H STREET AND I  
STREET REHABILITATION, AND AUTHORIZING THE CITY MANAGER,  
OR DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, 9<sup>th</sup> Street from L Street to MID Lateral No. 4, 9<sup>th</sup> Street from B Street to D Street, H Street from 17<sup>th</sup> Street to Burney Street, and I Street from 14<sup>th</sup> Street to Downey Avenue are included in the City's 05-06 Pavement Maintenance Program for rehabilitation, and

WHEREAS, pavement testing and analysis of the deflection results are needed to determine thickness of required overlays or to determine the need for street reconstruction if overlay of the existing pavement is not feasible, and

WHEREAS, the firm of Nichols Consulting Engineers is deemed the most qualified to provide the requested pavement testing services and have demonstrated satisfactory pavement testing services to the City in the past, and

WHEREAS, as an example, Nichols Consulting Engineers provided pavement testing, evaluation and analysis report in connection with Kansas Avenue-Carpenter Road to Emerald Avenue, and

WHEREAS, Nichols Consulting Engineers is a highly qualified firm recognized for their expertise in pavement testing and analysis, and they have rendered excellent services to the City in the past, and

WHEREAS, as a result, City staff recommends that City Council approve an Agreement with the consulting firm of Nichols Consulting Engineers, Chtd.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Nichols Consulting Engineers, Chtd., in the amount of \$27,250.00 for the pavement testing, evaluation, and analysis report in connection with design of 9<sup>th</sup> Street, H Street and I Street Rehabilitation.

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

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-448**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PUMP STATION FOR WELL 64 AT MCKINNEY COLONY PARK PROJECT, ACCEPTING THE BID AND APPROVING A \$965,618.06 CONTRACT WITH AMERINE SYSTEMS, INC., FOR THE PROJECT TITLED, "PUMP STATION FOR WELL 64 AT MCKINNEY COLONY PARK," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, plans and specifications have been prepared for the "Pump Station For Well 64 at McKinney Colony Park" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "Pump Station For Well 64 at McKinney Colony Park" were opened at 11:00 a.m. on June 13, 2006, 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 \$965,618.06 received from Amerine Systems, Inc., of Oakdale, California be accepted as the lowest responsible bid and the contract be awarded to Amerine Systems, 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 Amerine Systems, Inc., in the amount \$965,618.06, and hereby awards Amerine Systems, Inc., the contract titled "Pump Station For Well 64 at McKinney Colony Park".

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 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who

moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-449**

**A RESOLUTION REJECTING THE SOLE BID FOR THE PROJECT TITLED  
“SYLVAN AVENUE PEDESTRIAN OVERCROSSING” AND AUTHORIZING  
STAFF TO RE-ADVERTISE THE PROJECT AT A FUTURE DATE**

WHEREAS, the sole bid received for “Sylvan Avenue Pedestrian Overcrossing” was opened at 11:00 a.m. on May 2, 2006, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, a sole bid by MCM Construction, Inc., was 112.5% above the engineer’s estimate, and

WHEREAS, the sole bid for the project exceeded the engineer’s estimate by an excessive amount, and

WHEREAS, the plans included a metal canopy over the pedestrian walkway to complement the high school architecture, and

WHEREAS, the sole bid included a bid for the canopy that was approximately 23% of the total bid, and

WHEREAS, staff recommends that the canopy be deleted from the plans and replaced with a Caltrans' standard fence, and

WHEREAS, during the bid evaluation process staff determined that there was insufficient bid competition. Therefore, staff recommends the bid be rejected and staff be allowed to re-advertise the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the sole bid received for “Sylvan Avenue Pedestrian Overcrossing,” opened in the office of the City Clerk on May 2, 2006, is hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project at a future date.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 – 450**

**A RESOLUTION APPROVING THE “POLICY REGARDING THE DETERMINATION OF REASONABLE CERTAINTY FOR THE PROVISION OF WASTEWATER TREATMENT AND DISPOSAL CAPACITY” FOR THE DETERMINATION OF REASONABLE CERTAINTY FOR THE IMPLEMENTATION OF UTILITY IMPROVEMENTS.**

WHEREAS, the City of Modesto is in the process of updating its 1995 Wastewater Master Plan (WWMP), and

WHEREAS, the WWMP will be used for overall planning for both the wastewater collection and the wastewater treatment and disposal system, and

WHEREAS, the WWMP will provide staff with tools to identify improvements that are needed to repair existing deficiencies, accommodate future development, and meet anticipated regulatory requirements, and

WHEREAS, permitting, design, and construction of a full scale advance treatment facility is a lengthy process it is essential to consider short-term improvements as an interim step to allow for continued development within the City, and

WHEREAS, on October 4, 2005, by Resolution No. 2005-496, the City Council authorized Carollo Engineers of Walnut Creek, California (Carollo) to develop a Near-term Capacity Study (Study) to analyze interim solutions for treated effluent disposal, and

WHEREAS, this Study concluded that adding Dissolved Air Flotation (DAF) with tertiary treatment for year-round discharge into the San Joaquin River is the most cost effective and compatible alternative to reduce the City’s risk of exceeding its regulatory permits, and to meet the City’s long-term wastewater treatment and disposal objectives, and

WHEREAS, the Finance Committee considered this item at its March 13, 2006 meeting and recommended approval to the full Council, and

WHEREAS, at its April 4, 2006 meeting, the Council, by Resolution No. 2006-220, adopted the Study's findings and recommendations, and

WHEREAS, staff developed a proposed policy to address how to proceed with annexations and related actions ahead of the completion of wastewater improvements and facilities for the disposal of tertiary treated effluent, and

WHEREAS, this proposed policy is based on a concept of making a determination of "reasonable certainty", which would only be applied on a case-by-case basis, and would only be needed during times where wastewater capacity is not available "on paper", and

WHEREAS, staff presented the proposed policy to the Economic Development Committee (EDC) on June 12, 2006, and

WHEREAS, the EDC provided several comments and suggestions regarding the proposed policy, and

WHEREAS, staff incorporated the comments and suggestions into a draft policy format attached hereto as Exhibit "A", and

WHEREAS, the Economic Development Committee, at its July 10, 2006 meeting, and recommended approval by full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the "Policy Regarding the Determination of Reasonable Certainty for the Provision of Wastewater Treatment and Disposal Capacity" for the determination of reasonable certainty for the implementation of utility improvements 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 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**POLICY REGARDING THE DETERMINATION OF  
REASONABLE CERTAINTY FOR THE PROVISION OF WASTEWATER  
TREATMENT AND DISPOSAL CAPACITY**

**PURPOSE:** To clarify the provision of wastewater treatment and disposal capacity for the purpose of annexations during the development of interim wastewater facilities and improvements.

**BACKGROUND:** The City of Modesto is updating its 1995 Wastewater Master Plan (WWMP). The WWMP demonstrates that there is approximately 1.6 million gallon per day discharge capacity deficit for treated effluent. The WWMP has identified wastewater treatment improvements that can be implemented in a short period of time to as an interim step to provide disposal capacity and allow development to proceed within the City of Modesto.

The wastewater disposal capacity deficit makes it difficult to proceed with annexations due to the need to demonstrate the ability to serve areas proposed for annexation. The disposal capacity issue hinders economic development and the development of housing, therefore a policy that defines reasonable certainty for the delivery of wastewater treatment and disposal capacity is essential for continued development. The following policy provides a framework for making a determination of reasonable certainty. It should be noted that this policy only applies to the Near Term Capacity Improvements that are being made as part of the WWMP update and this policy will no longer be needed once the improvements are completed.

**POLICY:** It is the policy of the City of Modesto that a finding of reasonable certainty can be made for the provision of wastewater treatment and disposal capacity for the purposes of annexation based on the following guidelines:

- 1) An adopted engineering solution (capital improvement plan) is in place that provides a schedule and anticipated dates of completion for the development and construction of the required facilities and improvements.
- 2) A financing program, or mechanism to fund the required facilities and improvements is identified and being developed per the schedule for completion.
- 3) The necessary regulatory approvals (i.e. environmental documentation, permits) to proceed with the required facilities and improvements per the schedule for completion are either obtained or in the process of being obtained.
- 4) A review of the timing for the need of sewer service for development and the timing for the completion of the required facilities and improvements is completed to ensure that the City's wastewater disposal capacity remains within an acceptable percentile for river disposal.

**IMPLEMENTATION:** The City Public Works Department shall apply the guidelines to proposed annexations to determine if there is reasonable certainty regarding the provision of wastewater treatment and disposal capacity for the area being considered for annexation. This determination will be presented to the City Council as a part of the annexation process. This determination will not be required once the Near Term Capacity Improvements are completed. The completion of these improvements will allow for the "sunsetting" of this policy.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-451**

**A RESOLUTION ACCEPTING THE PUBLIC IMPROVEMENTS IN THE  
KODIAK VILLAGE III SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN  
AREA, AND AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF  
COMPLETION AND AUTHORIZING TO RELEASE THE SECURITIES UPON  
EXPIRATION OF THE STATUTORY PERIODS**

WHEREAS, PPC TUOLUMNE GROVE 2 LLC, a California Limited Liability Company, is the subdivider of KODIAK VILLAGE III SUBDIVISION (“SUBDIVISION”), and

WHEREAS, PPC TUOLUMNE GROVE 2 LLC, a California Limited Liability Company, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of \$379,116.97 and \$189,558.49, respectively, and

WHEREAS, PPC TUOLUMNE GROVE 2 LLC, a California Limited Liability Company, has filed a warranty bond in the amount of \$37,911.70 to guarantee improvements in the KODIAK VILLAGE III SUBDIVISION, and

WHEREAS, the City Engineer, 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 City Engineer has indicated that it would be in order for the City Council to accept the improvements in said subdivision as complete, and authorize the City Clerk to record a Notice of Completion and release the bonds upon expiration of the statutory periods,

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

that:

1. The improvements in the KODIAK VILLAGE III SUBDIVISION are hereby accepted and the City Clerk is hereby authorized to record a Notice of Completion for the improvements.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of \$379,116.97 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 \$189,558.49 sixty (60) days after the 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 improvements in the amount of \$37,911.70 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of July, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-452**

**A RESOLUTION GRANTING THE APPEAL OF DAVID O. ROMANO TO A  
PLANNING COMMISSION DECISION DETERMINING THAT A  
SUPERMARKET IS NOT CONSISTENT WITH THE REGIONAL  
COMMERCIAL GENERAL PLAN AND SPECIFIC PLAN DESIGNATIONS  
FOR THE NORTHPOINTE SHOPPING CENTER LOCATED AT THE  
NORTHEAST CORNER OF PELANDALE AVENUE AND CHAPMAN ROAD**

WHEREAS, on December 16, 1999, by Ordinance No. 3163-C.S. the City Council approved P-D(537) to allow the development of a regional shopping center located on the north side of Pelandale Avenue on either side of Chapman Road, which has subsequently been partially developed as the Northpointe Shopping Center, and

WHEREAS, the Modesto Urban Area General Plan designates the site of the Northpointe Shopping Center site as Regional Commercial “to provide for large-scale commercial areas for the sale of goods and services which meet the needs of the region as well as the community”, and

WHEREAS, the shopping center site is located in the Kiernan Business Park Specific Plan, which also designates the site as Regional Commercial “to accommodate limited retail uses that are generally dependent on a regional rather than a local population for their support”, and

WHEREAS, an application to locate a grocery store in the undeveloped portion of the shopping center located at the northeast corner of Pelandale Avenue and Chapman Road, was filed by Dave Romano on May 9, 2006, and



WHEREAS, the Community and Economic Development Director determined to refer the application to the Planning Commission for a determination as to whether a grocery store would be consistent with the Regional Commercial General Plan and Specific Plan Designations for the site, and

WHEREAS, a hearing was held by the Planning Commission on June 5, 2006, 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 determined by its Resolution No. 2006-45, after much deliberation, that a grocery store use is not consistent with the Regional Commercial General Plan and Specific Plan Designations for the Northpointe Shopping Center site, on the basis that the Commission was concerned that allowing a grocery store use in an area designated as Regional Commercial is contrary to the City Council-adopted definitions in the Modesto Urban Area General Plan and Kiernan Business Park Specific Plan, and

WHEREAS, an appeal to the Planning Commission's determination was filed with the Office of the City Clerk by David O. Romano, on June 9, 2006, 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 10<sup>th</sup> Street, Modesto, California, at 5:30 p.m. on July 11, 2006, 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 of the City of Modesto found and determined that the appeal to the decision of the Planning Commission should be granted and the decision of the Planning Commission should be reversed for the following reason:

A grocery store use in the Northpointe Shopping Center, which is designated as Regional Commercial in the Modesto Urban Area General Plan and Kiernan Business Park Specific Plan, is consistent with the City Council-adopted definitions, as the Northpointe Shopping Center is a well-established regional commercial center which already contains two regional-serving anchor stores, and a grocery store would be considered an ancillary use in this context.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of David O. Romano to the decision of the Planning Commission determining that a supermarket is not consistent with the Regional Commercial General Plan and Specific Plan designations for the Northpointe Shopping Center located at the northeast corner of Pelandale Avenue and Chapman Road is granted and the Council hereby determines that a grocery store use in the Northpointe Shopping Center is consistent with the Regional Commercial General Plan and Specific Plan designations for the Northpointe Shopping Center for the reasons cited above.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11<sup>th</sup> day of July, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-453**

**A RESOLUTION DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY  
REQUIRE THE ACQUISITION OF CERTAIN PROPERTY INTERESTS AND  
DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS FOR THE  
PELANDALE AVENUE CAPITAL IMPROVEMENT PROJECT**

**William R. Luchessa, Trustee of THE WILLIAM R. LUCHESSA 2004 Trust  
Alvin Luchessa and Natividad Luchessa, Trustees of the Alvin Luchessa and Natividad  
Luchessa 2004 Trust, Property Owners  
Property Address: 1218 Bangs Avenue, Stanislaus County, California  
Assessor's Parcel No.: 046-002-001**

**William R. Luchessa, Trustee of THE WILLIAM R. LUCHESSA 2004 Trust  
Alvin Luchessa and Natividad Luchessa, Trustees of the Alvin Luchessa and Natividad  
Luchessa 2004 Trust, Property Owners  
Property Address: 4305 Tully Road, Stanislaus County, California  
Assessor's Parcel No.: 046-007-037**

WHEREAS, the City's Capital Improvement Program (CIP), amended on February 22, 2005, by Council Resolution No. 2005-118, included a project to widen Pelandale Avenue to six lanes, the Pelandale Avenue Widening Project (the "Project"), and

WHEREAS, the City of Modesto and the County of Stanislaus entered into the Pelandale Avenue Joint Powers Agreement on December 6, 2005, to facilitate cooperation between the City and the County for the improvement of Pelandale Avenue between State Route 99 and a point 1,400 feet east of McHenry Avenue for the Project, which Project area is partially located within the City limits and partially within the unincorporated area of the County, and

WHEREAS, pursuant to the Pelandale Avenue Joint Powers Agreement, the County of Stanislaus consents to the acquisition of Project rights-of-way by the City outside its boundaries in the unincorporated area of the County, and

WHEREAS, the Pelandale Avenue Joint Powers Agreement gives the City of Modesto the right and power to acquire, by purchase or eminent domain, all property or rights-of-way necessary for completion of the Project, including property outside its boundaries in the unincorporated area of the County, and

WHEREAS, the Project, when completed, will improve traffic circulation within the City and the County and to areas east of Coffee Road, and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution of the State of California, Government Code Sections 37350.5, 37353, 39792, 40401 and 40404; Sections 1240.010, 1240.020, 1240.030, 1240.040, 1240.050, 1240.110, 1240.120, 1240.140, 1240.150,

and 1240.350 of the Code of Civil Procedure of the State of California; and California Government Code section 1810; and<sup>[m1]</sup>, the Pelandale Avenue Joint Powers Agreement by and between the City of Modesto and the County of Stanislaus, and

WHEREAS, it is desirable and necessary for the City of Modesto to acquire certain real property interests on Assessor's Parcel Nos. 046-002-001 and 046-007-037, including fee title together with all improvements situated thereon and together with all rights appurtenant thereto, as described in Exhibits A<sup>[m2]</sup> and A-1 and C and C-1 hereto, and temporary construction easements as described in Exhibits B and B-1 and D and D-1 hereto, which exhibits are attached hereto and made a part hereof by this reference and hereinafter referenced as the "Subject Property," in order to construct, widen and/or improve Pelandale Avenue between Dale Road and McHenry Avenue in the City of Modesto and the County of Stanislaus (the "Project"), and

WHEREAS, Assessor's Parcel Nos. 046-002-001 and 046-007-037 are currently encumbered by a Williamson Act contract; and

WHEREAS, the location of the Project generally, and specifically on these parcels, is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve, but rather on the current location of Pelandale Avenue, the residential neighborhoods abutting Pelandale Avenue, and the purpose of increasing circulation on a six lane expressway, and

WHEREAS, there is no other land within or outside the preserve on which it is reasonably feasible to locate the Project, and

WHEREAS, the appraisal of the land was without consideration of the involved Williamson Act contract pursuant to Civil Code section 51295, and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to all persons whose property is to be acquired by eminent domain and whose names and addresses appear on the last Stanislaus County equalized assessment roll, all of whom have been given a reasonable opportunity to appear and be heard before 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 sought to be acquired is necessary for the Project;
- (d) Whether the offer required by Government Code Section 7267.2 has been made to the owner(s) of record, and

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of Modesto has made an offer to the owner or owners of record to acquire the Subject Property for just compensation, and

WHEREAS, the City of Modesto has satisfied the provisions and complied with all requirements of the California Environmental Quality Act ("CEQA") for the Project,

**NOW, THEREFORE, IT IS FOUND, DETERMINED, AND ORDERED** as follows:

1. The public interest and necessity require the Project for the acquisition of the fee simple and the temporary construction easement in and through the above-identified parcels of land.
2. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.
3. The Project is planned and located in the manner which was not based primarily, nor in part, on a consideration of the lower cost of acquiring land in an agricultural preserve.
4. There is no other land within or outside the agricultural preserve on which it is reasonably feasible to plan and locate the Project.
5. The taking of the fee simple title in and to the real property or other interests as may be more particularly described in Exhibits A, B, C, and D and depicted in [m3]Exhibits A-1, B-1, C-1 and D-1, are necessary for the Project.
6. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner or owners of record of the real property and without consideration of the Williamson Act contract pursuant to Civil Code section 51295.
7. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure Section 1240.510 in that the City's use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public utilities as they now exist or may reasonably be expected to exist in the future.
8. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure Section 1240.610 in that the City's use of the Subject Property is a more necessary public use than the use to which the property is appropriated.
9. The Office of the City Attorney of the City of Modesto and Special Counsel, Meyers, Nave, Riback, Silver & Wilson, are hereby authorized, empowered and directed to acquire in the name of the City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such

proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation based on an appraisal.

10. An order for prejudgment possession may be obtained in said actions and warrants issued to the State Treasury Condemnation Fund, in the amounts determined by the Court to be so deposited, as a condition to the right of immediate possession and use the Subject Property for said public uses and purposes.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

# **EXHIBIT A**



**EXHIBIT A**  
**DESCRIPTION OF**  
**RIGHT-OF-WAY**  
**APN: 046-002-001**

A portion of that certain real property of the Lands of Alvin Luchessa et al. as described in Book 2005 Stanislaus County Records, at Page 0231745, in the City of Modesto, State of California and being more particularly described as follows:

Commencing at the southeast corner of said Lands of Luchessa; thence northerly along the east line, North  $01^{\circ}07'02''$  West, 5.65 feet to the northerly right-of-way of Pelandale Avenue and as described in Document #05-158866, Stanislaus County Records and the **TRUE POINT OF BEGINNING**; thence from said true point of beginning along said northerly right-of-way, North  $86^{\circ}11'59''$  West, 274.14 feet; thence North  $88^{\circ}44'19''$  West, 238.36 feet; thence North  $80^{\circ}20'53''$  West, 82.30 feet; thence North  $88^{\circ}44'37''$  West, 234.19'; thence North  $45^{\circ}12'51''$  West, 119.38 feet; thence leaving said northerly right-of-way along the easterly right-of-way of Tully Road described in aforesaid Document #05-158866, North  $01^{\circ}07'02''$  West, 204.02 feet; thence North  $04^{\circ}07'23''$  West, 67.13 feet; thence leaving said easterly right-of-way, North  $88^{\circ}52'56''$  East, 18.00 feet; thence South  $01^{\circ}07'07''$  East, 38.64 feet; thence 7.88 feet along the arc of a 40.00 foot radius curve to the left through a central angle of  $11^{\circ}17'14''$ ; thence South  $12^{\circ}24'19''$  East, 41.22 feet; thence 11.82 feet along the arc of a 60.00 foot radius curve to the right through a central angle of  $11^{\circ}17'15''$ ; thence South  $01^{\circ}07'04''$  East, 50.00 feet; thence 9.60 feet along the arc of a 60.00 foot radius curve to the right through a central angle of  $09^{\circ}10'01''$ ; thence South  $08^{\circ}02'07''$  West, 54.77 feet; thence 6.40 feet along the arc of a 40.00 foot radius curve to the left through a central angle of  $09^{\circ}10'01''$ ;

thence South 01°07'04" East, 40.00 feet; thence 76.47 feet along the arc of a 50.00 foot radius curve to the left through a central angle of 87°37'34"; thence South 88°44'37" East, 336.21 feet; thence South 87°03'14" East, 315.39 feet; thence South 88°44'37" East, 196.44 feet; thence South 01°07'02" East, 62.26 to the true point of beginning.

Containing 1.17 acres of land, more or less.

The Basis of Bearings for this survey being the same as shown on that certain Parcel Map filed for Record in Book 36, at page 21, Stanislaus County Records.

*See Exhibit "A-1", plat to accompany description, attached hereto and made a part hereof.*



Douglas R. Owyang P.L.S. 6046  
Expires June 30, 2007

A handwritten signature in black ink, consisting of stylized, overlapping loops and lines, representing the name Douglas R. Owyang.

Wood-Rodgers, Inc.

**EXHIBIT A-1**

**EXHIBIT A-1**

PLAT TO ACCOMPANY  
DESCRIPTION

Pelandale Ave. Widening  
Right-of-Way  
APN: 046-002-001  
TOTAL AREA: 1.17 acres  
COUNTY OF STANISLAUS, STATE OF CALIFORNIA

LANDS OF LUCHESSA, et al.

046-002-001  
2005 S.C.R. 0231745

046-007-037

EXIST. R/W  
DOC#05-158566

PELANDALE AVENUE

T.P.O.B.  
N01°07'02"W  
5.65'

P.O.C.

046-025-066

TULLY ROAD

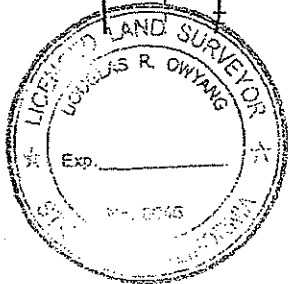
046-003-006  
PARCEL 1 (36 PM 21)

**CURVE TABLE**

C1	R=40'	11°17'14"	L=7.88'
C2	R=60'	11°17'15"	L=11.82'
C3	R=60'	09°10'01"	L=9.60'
C4	R=40'	09°10'01"	L=6.40'
C5	R=50'	87°37'34"	L=76.47'

**LINE TABLE**

T1	N86°11'59"W	274.14'
T2	N88°44'19"W	238.36'
T3	N80°20'53"W	82.30'
T4	N88°44'37"W	234.19'
T5	N45°12'51"W	119.38'
T6	N01°07'02"W	204.02'
T7	N04°07'23"W	67.13'
T8	N88°52'56"E	18.00'
T9	S01°07'04"E	38.64'
T10	S12°24'19"E	41.22'
T11	S01°07'04"E	50.00'
T12	S08°02'57"W	54.77'
T13	S01°07'04"E	40.00'
T14	S88°44'37"E	336.21'
T15	S87°03'14"E	315.39'
T16	S88°44'37"E	196.44'
T17	S01°07'02"E	62.26'



SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1"=200'

**WOOD RODGERS**  
ENGINEERING • MAPPING • PLANNING • SURVEYING

3301 C St., Bldg. 100-B Tel 916.341.7760  
Sacramento, CA 95816 Fax 916.341.7767

J:\Jobs\1806-Pelandale\Plandale-DIA\Geonics\plots to accompany\apn046-002-001-r.w.dwg 1/18/2006 9:45:09 AM PST

# EXHIBIT B

**EXHIBIT A**  
**DESCRIPTION OF**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**APN: 046-002-001**

A portion of that certain real property of the Lands of Alvin Luchessa et al. as described in Book 2005 Stanislaus County Records, at Page 0231745, in the City of Modesto, State of California and being more particularly described as follows:

Beginning at the southeast corner of said Lands of Luchessa; thence northerly along the East line, North 01°07'02" West, 67.91 feet to the Northerly right-of-way of Pelandale Avenue and as described in Document No. \_\_\_\_\_, Stanislaus County Records and the **TRUE POINT OF BEGINNING**; thence from said True Point of Beginning along said Northerly right-of-way, North 88°44'37" West, 196.44 feet; thence North 87°03'14" West, 315.39 feet; thence North 88°44'37" West, 336.21 feet to a point of curvature; thence 76.47 feet along the a 50.00 foot radius curve to the right through a central angle of 87°37'34"; thence North 01°07'04" West, 40.00 feet to a point of curvature; thence 6.40 feet along a 40.00 foot radius curve to the right through a central angle of 09°10'01"; thence North 08°02'57" East, 54.77 feet to a point of curvature; thence 9.60 feet along a 60.00 foot radius curve to the left through a central angle of 09°10'01"; thence North 01°07'04" West, 50.00 feet to a point of curvature; thence 11.82 feet along a 60.00 foot radius curve to the left through a central angle of 11°17'15"; thence North 12°24'19" West, 41.22 feet to a point of curvature; thence 7.88 feet along a 40.00 foot radius curve to the right through a central angle of 11°17'15"; thence North 01°07'04" West, 38.64 feet; thence leaving said right-of-way of Pelandale Avenue, North 88°52'56" East, 10.00 feet; thence South 01°07'04" East, 38.64 feet to a point of curvature; thence 5.91 feet along a 30.00 foot radius curve to the left through a central angle of 11°17'15"; thence South 12°24'19" East, 41.22 feet to a point of curvature; thence 13.79 feet along a 70.00 foot radius curve to the right through a central angle of 11°17'15"; thence South 01°07'04" East, 50.00 feet to a point of curvature; thence 11.20 feet along a 70.00 foot radius curve to the right through a central angle of 09°10'01"; thence South 08°02'57" West, 54.77 feet to a point of curvature; thence 4.80 feet along a 30.00 foot radius curve to the left through a central angle of 09°10'01"; thence South 01°07'04" East, 40.00 feet to a point of curvature; thence

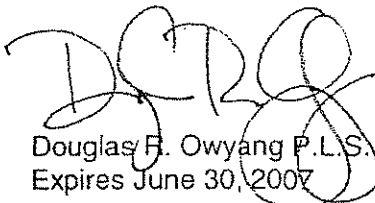
61.17 feet along a 40.00 foot radius curve to the left through a central angle of 87°37'34";  
thence South 88°44'37" East, 336.36 feet; thence South 87°03'14" East, 315.39 feet;  
thence South 88°44'37" East, 195.87 feet to the Easterly line of said Lands of Luchessa;  
thence along said Easterly line, South 01°07'02" East, 10.01 feet to the True Point of  
Beginning.

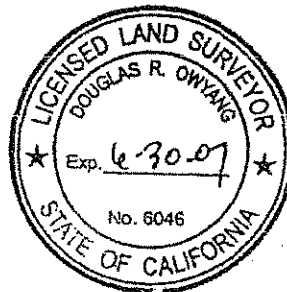
Containing 0.27 acres of land, more or less.

Temporary Construction Easement Expiration Date: \_\_\_\_\_

The Basis of Bearings for this survey being the same as shown on that certain  
Parcel Map filed for Record in Book 36, at page 21, Stanislaus County Records.

*See Exhibit "A-1", plat to accompany description, attached hereto and made a part  
hereof.*

  
Douglas R. Owyang P.L.S. 6046  
Expires June 30, 2007



Wood-Rodgers, Inc.

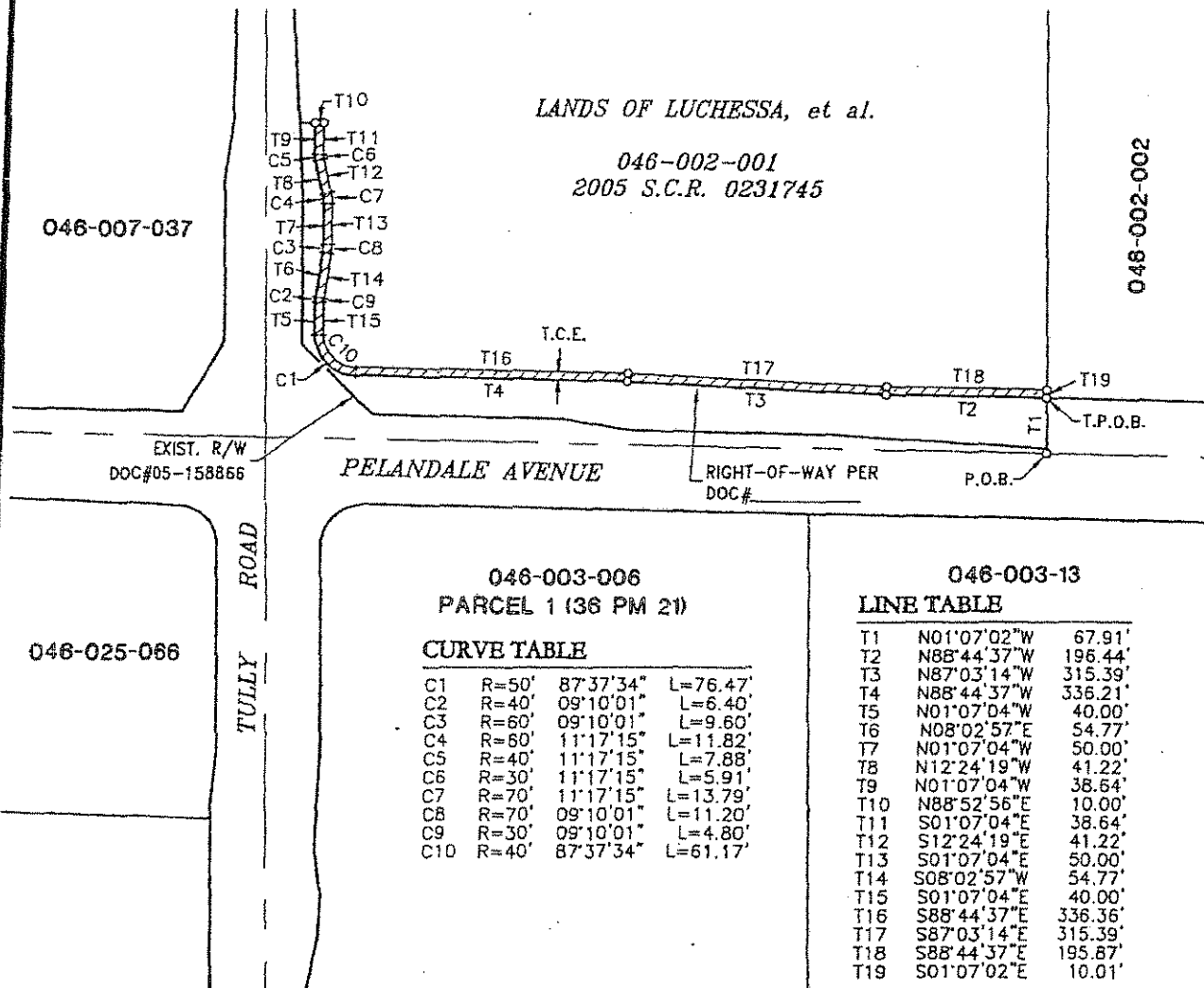
**EXHIBIT B-1**



**EXHIBIT A-1**

PLAT TO ACCOMPANY  
DESCRIPTION

Pelandale Ave. Widening  
Temporary Construction Easement  
APN: 046-002-001  
TOTAL AREA: 0.27 ACRES  
CITY OF MODESTO  
COUNTY OF STANISLAUS, STATE OF CALIFORNIA



046-003-006  
PARCEL 1 (36 PM 21)

**CURVE TABLE**

C1	R=50'	87°37'34"	L=76.47'
C2	R=40'	09°10'01"	L=8.40'
C3	R=60'	09°10'01"	L=9.60'
C4	R=60'	11°17'15"	L=11.82'
C5	R=40'	11°17'15"	L=7.88'
C6	R=30'	11°17'15"	L=5.91'
C7	R=70'	11°17'15"	L=13.79'
C8	R=70'	09°10'01"	L=11.20'
C9	R=30'	09°10'01"	L=4.80'
C10	R=40'	87°37'34"	L=61.17'

046-003-13

**LINE TABLE**

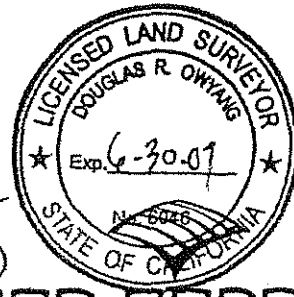
T1	N01°07'02"W	67.91'
T2	N88°44'37"W	196.44'
T3	N87°03'14"W	315.39'
T4	N88°44'37"W	336.21'
T5	N01°07'04"W	40.00'
T6	N08°02'57"E	54.77'
T7	N01°07'04"W	50.00'
T8	N12°24'19"W	41.22'
T9	N01°07'04"W	38.64'
T10	N88°52'56"E	10.00'
T11	S01°07'04"E	38.64'
T12	S12°24'19"E	41.22'
T13	S01°07'04"E	50.00'
T14	S08°02'57"W	54.77'
T15	S01°07'04"E	40.00'
T16	S88°44'37"E	336.36'
T17	S87°03'14"E	315.39'
T18	S88°44'37"E	195.87'
T19	S01°07'02"E	10.01'

**LEGEND:**

- T.C.E. - TEMPORARY CONSTRUCTION EASEMENT
- T.P.O.B. - TRUE POINT OF BEGINNING
- P.O.B. - POINT OF BEGINNING



*Wood Rodgers*



**WOOD RODGERS**  
ENGINEERING - MAPPING - PLANNING - SURVEYING

3301 C St., Bldg. 100-B Tel 916.341.7760  
Sacramento, CA 95816 Fax 916.341.7767

SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1"=200'

J:\Jobs\8106-Pelandale-Pelandale-CA\Geomatics\plats to accompany\ppn046-002-001-r.w.dwg 1/18/2006 9:45:09 AM PST

# **EXHIBIT C**

## EXHIBIT A

### DESCRIPTION OF RIGHT-OF-WAY APN: 046-007-037

All that certain real property being a portion of the Lands of Alvin Luchessa et al. described in Document No. 2004-130052 and also shown as Lot 1 of Nash Tract, filed for record in Book 4 of Maps at Page 10, Stanislaus County Records, in the City of Modesto, State of California and being more particularly described as follows:

Commencing at the southwest corner of said Lot 1; thence northerly along the West line of said Lot 1, North 01°06'37" West, 80.25 feet to the northwesterly corner of the existing right-of-way of Pelandale Avenue, as described in Doc. No. 1999-0074265 Stanislaus County Records, said point also being the **True Point of Beginning**; thence from the True Point of Beginning along the West line of Lot 1, North 01°06'37" West, 68.30 feet; thence leaving said West line of said Lot 1, North 83°57'36" East, 116.62 feet to a point of curvature; thence 889.17 feet along a 6630.23 foot radius curve to the right through a central angle of 07°41'02" to a point of reverse curvature; thence 8.14 feet along a 40.00 foot radius curve to the left through a central angle of 11°39'28"; thence North 79°59'10" East, 29.30 feet to a point of curvature; thence 11.80 feet along a 60.00 foot radius curve to the right through a central angle of 11°16'08"; thence South 88°44'42" East, 50.00 feet to a point of curvature; thence 9.46 feet along a 60.00 foot radius curve to the right through a central angle of 09°02'06"; thence South 79°42'36" East, 55.78 feet to a point of curvature; thence 6.31 feet along a 40.00 foot radius curve to the left through a central angle of 09°02'06"; thence South 88°44'42" East, 39.21 feet to a point of curvature; thence 80.61 feet along a 50.00 foot radius curve to the left through a central angle of 92°22'21"; thence North 01°07'04" West, 191.90 feet; thence North 88°52'56" East, 25.81 feet to the existing westerly right-of-way of Tully Road, as described in Doc. No. 2005-0158868 Stanislaus County Records; thence southerly along said westerly right-of-way of Tully Road, South 07°17'51" West, 9.81 feet; thence South 01°07'02" East, 196.27 feet; thence South 31°18'41" West, 99.78 feet; thence along the existing northerly right-of-way of Pelandale Avenue, as described in said Doc. No. 2005-0158868 Stanislaus County Records, North 88°44'42" West, 312.94 feet; thence South 86°31'50" West, 554.48 feet to a point of curvature; thence along the northerly right-of-way of Pelandale Avenue,

as described in Doc. No. 1999-0074265 Stanislaus County Records, from a radial line which bears South  $03^{\circ}16'41''$  East, 240.66 feet along a non-tangent 5000.00 foot radius curve to the left through a central angle of  $02^{\circ}45'28''$ ; thence South  $83^{\circ}57'51''$  West, 129.36 feet to the True Point of Beginning.

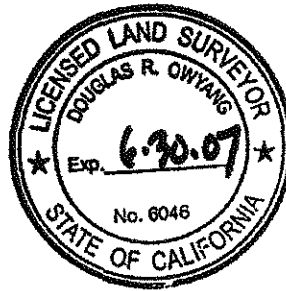
Containing 1.913 acres of land, more or less.

The Basis of Bearings for this description being North  $87^{\circ}34'42''$  West between GPS Monuments 2722 and 2723, as shown in Book 22 of Surveys at Page 51, Stanislaus County Records.

*See Exhibits "A-1" and "A-2", plats to accompany description, attached hereto and made a part hereof.*

Douglas R. Owyang P.L.S. 6046  
Expires June 30, 2007  
Wood-Rodgers, Inc.

*D.R.O.*  
*7.5.06*



**EXHIBIT C-1**

**EXHIBIT A-1**

PLAT TO ACCOMPANY  
DESCRIPTION

Pelandale Ave. Widening  
Right-of-Way

APN: 046-007-037

TOTAL AREA: 1.913 acres

COUNTY OF STANISLAUS, STATE OF CALIFORNIA

**LINE TABLE**

T1	N01°06'37"W	80.25'
T2	N01°06'37"W	68.30'
T3	N83°57'36"E	116.62'
T4	N79°59'10"E	29.30'
T5	N88°44'42"W	50.00'
T6	N79°42'36"W	55.78'
T7	N88°44'42"W	39.21'
T8	N01°07'04"W	191.90'
T9	N88°52'56"E	25.81'
T10	N07°17'51"E	9.81'
T11	N01°07'02"W	196.27'
T12	N31°18'41"E	99.78'
T13	N88°44'42"W	312.94'
T14	N86°31'50"E	554.48'
T15	N83°57'51"E	129.36'

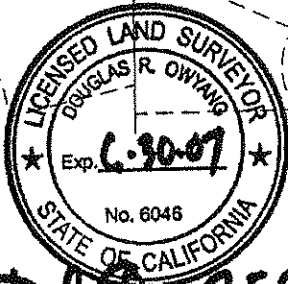
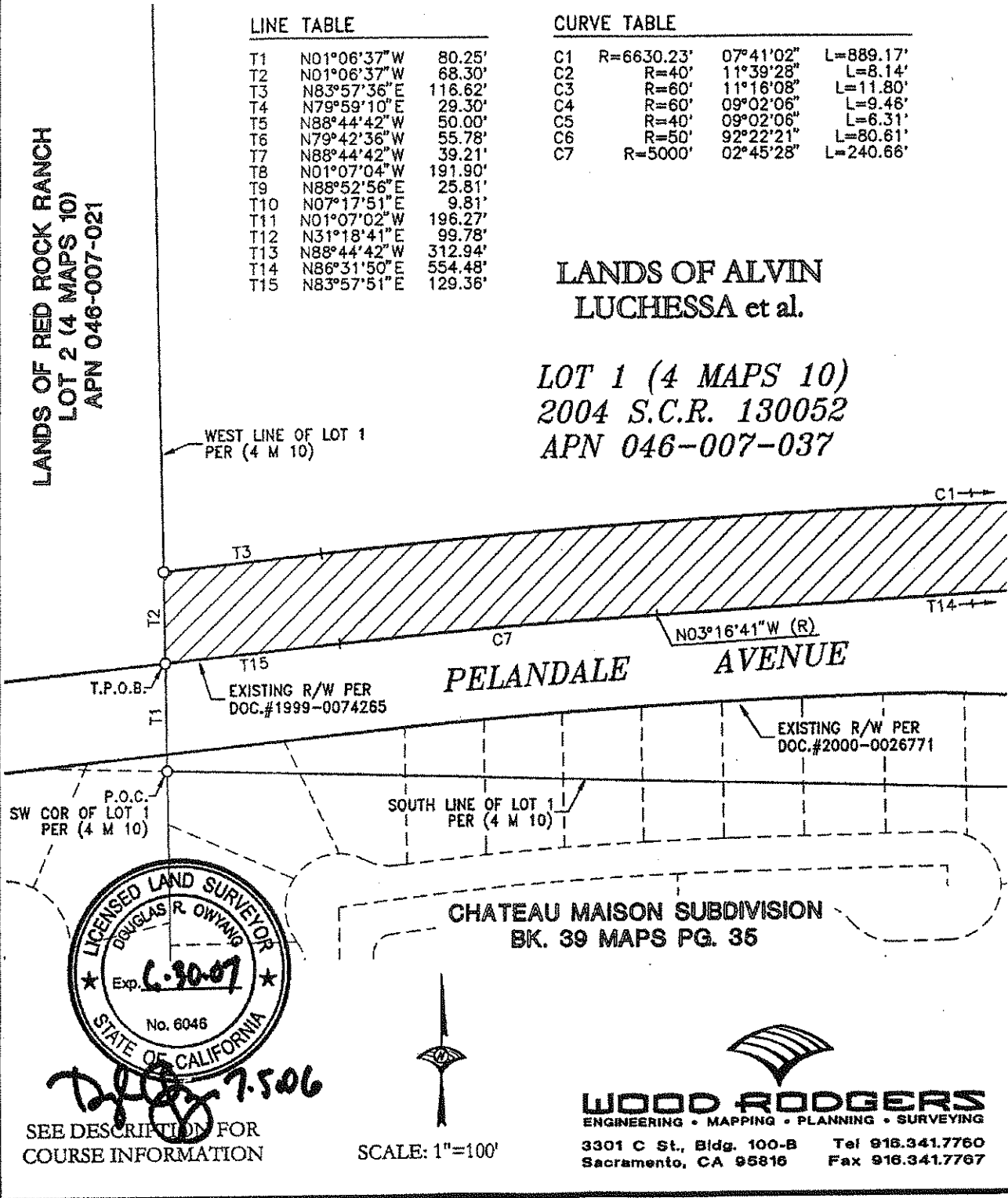
**CURVE TABLE**

C1	R=6630.23'	07°41'02"	L=889.17'
C2	R=40'	11°39'28"	L=8.14'
C3	R=60'	11°16'08"	L=11.80'
C4	R=60'	09°02'06"	L=9.46'
C5	R=40'	09°02'06"	L=6.31'
C6	R=50'	92°22'21"	L=80.61'
C7	R=5000'	02°45'28"	L=240.66'

LANDS OF RED ROCK RANCH  
LOT 2 (4 MAPS 10)  
APN 046-007-021

LANDS OF ALVIN  
LUCHESSA et al.

LOT 1 (4 MAPS 10)  
2004 S.C.R. 130052  
APN 046-007-037



SEE DESCRIPTION FOR  
COURSE INFORMATION



SCALE: 1"=100'



**WOOD RODGERS**  
ENGINEERING • MAPPING • PLANNING • SURVEYING  
3301 C St., Bldg. 100-B Tel 916.341.7760  
Sacramento, CA 95816 Fax 916.341.7767

J:\Jobs\8106--Pelandale\Pelandale-0A\Geomatics\plots to accompany\RW\apn046-007-037-rw-Revise.dwg 7/05/06 2:50pm jwunsche

**EXHIBIT A-2**

PLAT TO ACCOMPANY  
DESCRIPTION

Pelandale Ave. Widening  
Right-of-Way

APN: 046-007-037

TOTAL AREA: 1.913 acres

COUNTY OF STANISLAUS, STATE OF CALIFORNIA

**LINE TABLE**

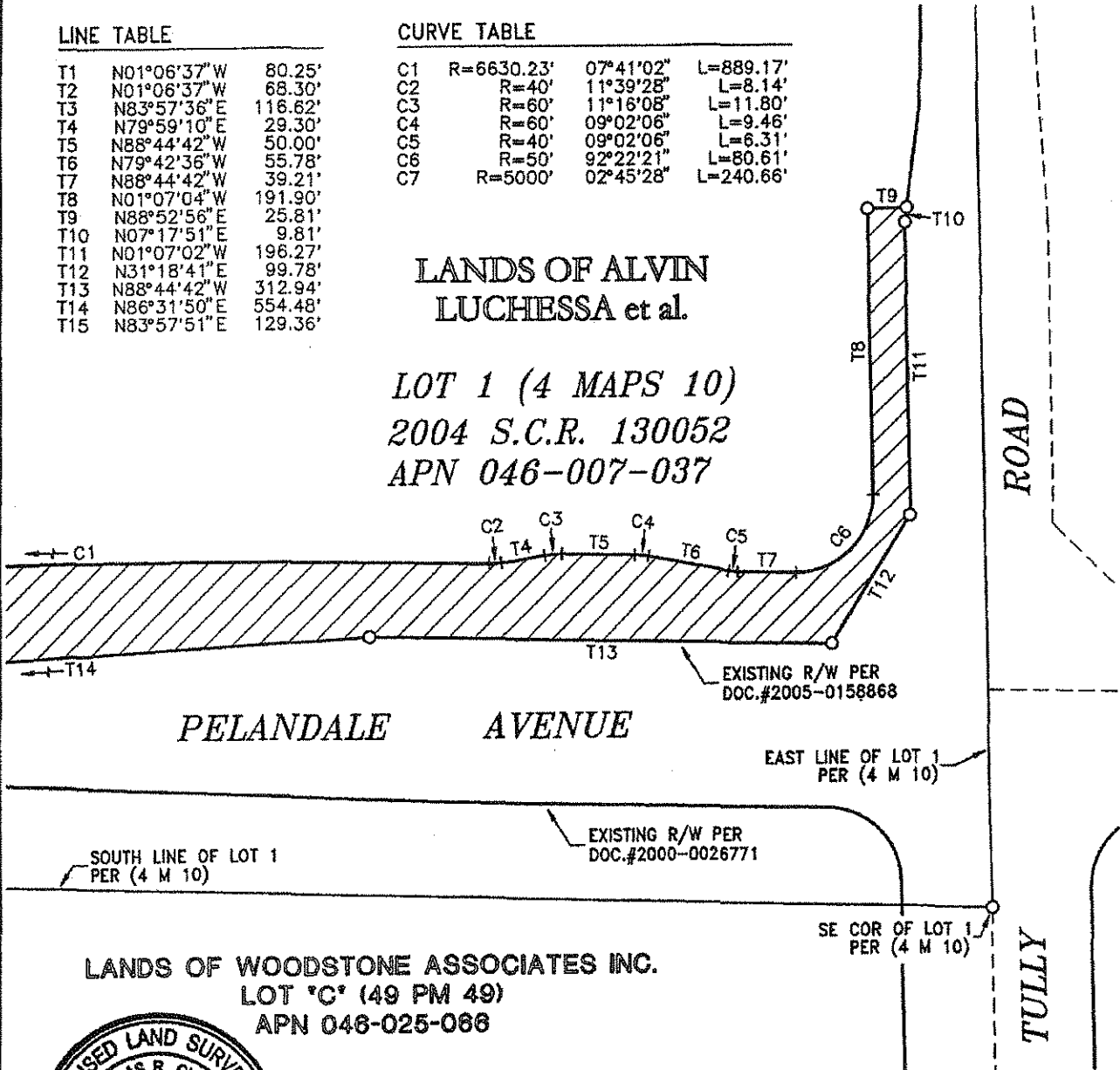
T1	N01°06'37"W	80.25'
T2	N01°06'37"W	68.30'
T3	N83°57'36"E	116.62'
T4	N79°59'10"E	29.30'
T5	N88°44'42"W	50.00'
T6	N79°42'36"W	55.78'
T7	N88°44'42"W	39.21'
T8	N01°07'04"W	191.90'
T9	N88°52'56"E	25.81'
T10	N07°17'51"E	9.81'
T11	N01°07'02"W	196.27'
T12	N31°18'41"E	99.78'
T13	N88°44'42"W	312.94'
T14	N86°31'50"E	554.48'
T15	N83°57'51"E	129.36'

**CURVE TABLE**

C1	R=6630.23'	07°41'02"	L=889.17'
C2	R=40'	11°39'28"	L=8.14'
C3	R=60'	11°16'08"	L=11.80'
C4	R=60'	09°02'06"	L=9.46'
C5	R=40'	09°02'06"	L=6.31'
C6	R=50'	92°22'21"	L=80.61'
C7	R=5000'	02°45'28"	L=240.66'

**LANDS OF ALVIN  
LUCHESSA et al.**

*LOT 1 (4 MAPS 10)  
2004 S.C.R. 130052  
APN 046-007-037*



**PELANDALE AVENUE**

**ROAD**

**TULLY**

**LANDS OF WOODSTONE ASSOCIATES INC.**  
LOT 'C' (49 PM 49)  
APN 046-025-066



SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1"=100'

**WOOD RODGERS**  
ENGINEERING • MAPPING • PLANNING • SURVEYING  
3301 C St., Bldg. 100-B Tel 916.341.7760  
Sacramento, CA 95816 Fax 916.341.7767

# **EXHIBIT D**



**EXHIBIT A**  
**DESCRIPTION OF**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**APN: 046-007-037**

All that certain real property being a portion of the Lands of Alvin Luchessa et al. described in Document No. 2004-130052 and also shown as Lot 1 of Nash Tract, filed for record in Book 4 of Maps at Page 10, Stanislaus County Records, in the City of Modesto, State of California and being more particularly described as follows:

Beginning at the southwest corner of said Lot 1; thence along the Westerly line of said Lot 1, North 01°06'37" West, 148.55 feet to the Northerly right-of-way of Pelandale Avenue, as described in Doc. No. \_\_\_\_\_, Stanislaus County Records, said point also being the **TRUE POINT OF BEGINNING**; thence from said True Point of Beginning continuing along the Westerly line of said Lot 1, North 01°06'37" West, 10.04 feet; thence leaving said Westerly line of Lot 1, North 83°57'36" East, 115.76 feet to a point of curvature; thence 890.51 feet along a 6640.23 foot radius curve to the right through a central angle of 07°42'02" to a point of reverse curvature; thence from a radial bearing which bears South 01°38'38" West, 6.10 feet along the arc of a non-tangent 30.00 foot radius curve to the left through a central angle of 11°39'28"; thence North 79°59'10" East, 29.30 feet to a point of curvature; thence 13.77 feet along a 70.00 foot radius curve to the right through a central angle of 11°16'08"; thence South 88°44'42" East, 50.00 feet to a point of curvature; thence 11.04 feet along a 70.00 foot radius curve to the right through a central angle of 09°02'07"; thence South 79°42'36" East, 56.57 feet to a point of curvature; thence 3.15 feet along a 20.00 foot radius curve to the left through a central angle of 09°02'06"; thence South 88°44'42" East, 40.00 feet to a point of curvature; thence 64.49 feet along a 40.00 foot radius curve to the left through a central angle of 92°22'23"; thence North 01°07'04" West, 10.00 feet; thence North 88°52'56" East, 10.00 feet to the Westerly right-of-way of Tully Road; thence along said right-of-way, South 01°07'04" East, 10.00 feet to a point of curvature; thence 80.61 feet along a 50.00 foot radius curve to the right through a central angle of 92°22'21" to the Northerly right-of-way of Pelandale Avenue as described in Doc. No. \_\_\_\_\_; thence along said right-of-way, North 88°44'42" West, 39.21 feet to a point of curvature; thence 6.31 feet along a 40.00 foot radius curve to the right through a central angle of 09°02'06"; thence North 79°42'36" West, 55.78 feet to a point of curvature; thence 9.46 feet along a 60.00 foot radius curve to the left through a central angle of 09°02'06";

thence North 88°44'42" West, 50.00 feet to a point of curvature; thence 11.80 feet along a 60.00 foot radius curve to the left through a central angle of 11°16'08"; thence South 79°59'10" West, 29.30 feet to a point of curvature; thence 8.14 feet along a 40.00 foot radius curve to the right through a central angle of 11°39'28"; thence from a radial bearing which bears North 01°38'38" East, 889.17 feet along a non-tangent 6630.23 foot radius curve to the left through a central angle of 07°41'02"; thence South 83°57'36" West, 116.62 feet to the True Point of Beginning.

Containing 0.30 acres of land, more or less.

Temporary Construction Easement Expiration Date: \_\_\_\_\_

The Basis of Bearings for this description being North 87°34'42" West between GPS Monuments 2722 and 2723, as shown in Book 22 of Surveys at Page 51, Stanislaus County Records.

*See Exhibits "A-1" and "A-2", plats to accompany description, attached hereto and made a part hereof.*

*DRG 7.5.06*  
Douglas R. Owyang P.L.S. 0046  
Expires June 30, 2007



Wood-Rodgers, Inc.

**EXHIBIT D-1**

**EXHIBIT A-1**

PLAT TO ACCOMPANY  
DESCRIPTION

Pelandale Ave. Widening  
Temporary Construction Easement

APN: 046-007-037

TOTAL AREA: 0.30 acres

CITY OF MODESTO

COUNTY OF STANISLAUS, STATE OF CALIFORNIA

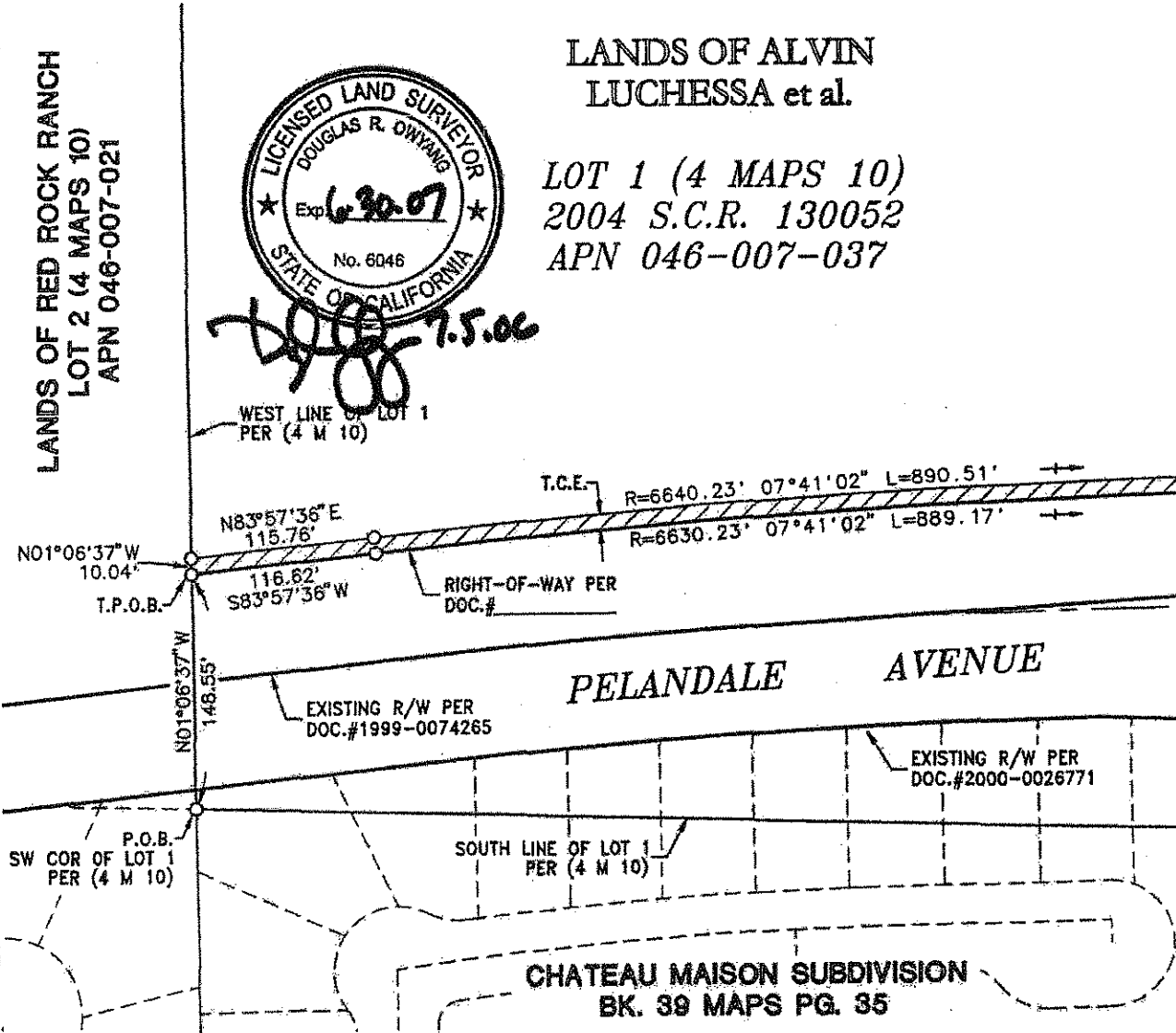
LANDS OF RED ROCK RANCH  
LOT 2 (4 MAPS 10)  
APN 046-007-021

LANDS OF ALVIN  
LUCHESSA et al.

LOT 1 (4 MAPS 10)  
2004 S.C.R. 130052  
APN 046-007-037



*Handwritten signature and date: 7.5.06*



**LEGEND:**

- T.C.E. - TEMPORARY CONSTRUCTION EASEMENT
- T.P.O.B. - TRUE POINT OF BEGINNING
- P.O.B. - POINT OF BEGINNING

SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1"=100'



**WOOD RODGERS**  
ENGINEERING • MAPPING • PLANNING • SURVEYING  
3301 C St., Bldg. 100-B Tel 916.341.7780  
Sacramento, CA 95818 Fax 916.341.7787

J:\Jobs\8106-Pelandale\Pelandale-0A\Geomatics\plats to accompany\TCE\apn046-007-037-TCE.dwg 7/05/06 2:56pm jwunschel

**EXHIBIT A-2**

PLAT TO ACCOMPANY  
DESCRIPTION

Pelandale Ave. Widening  
Temporary Construction Easement

APN: 046-007-037

TOTAL AREA: 0.30 acres

CITY OF MODESTO

COUNTY OF STANISLAUS, STATE OF CALIFORNIA

**LINE TABLE**

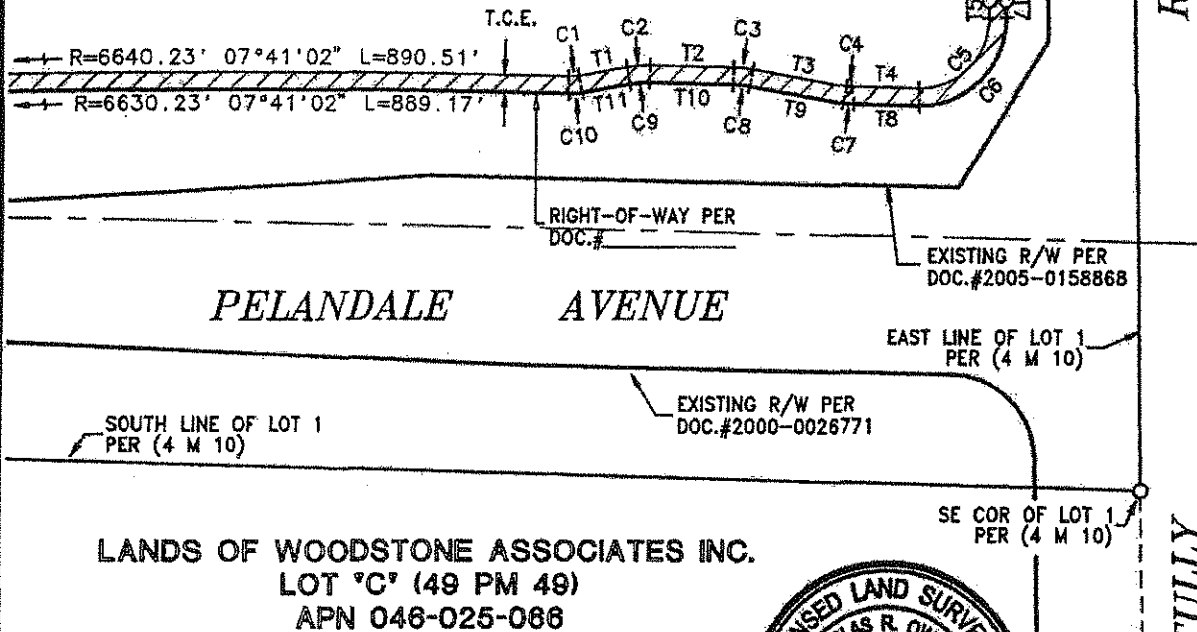
T1	N79°59'10"E	29.30'
T2	S88°44'42"E	50.00'
T3	S79°42'36"E	56.57'
T4	S88°44'42"E	40.00'
T5	N01°07'04"W	10.00'
T6	N88°52'56"E	10.00'
T7	S01°07'04"E	10.00'
T8	N88°44'42"W	39.21'
T9	N79°42'36"W	55.78'
T10	N88°44'42"W	50.00'
T11	S79°59'10"W	29.30'

**CURVE TABLE**

C1	R=30'	11°39'28"	L=6.10'
C2	R=70'	11°16'08"	L=13.77'
C3	R=70'	09°02'06"	L=11.04'
C4	R=20'	09°02'07"	L=3.15'
C5	R=40'	92°22'23"	L=64.49'
C6	R=50'	92°22'21"	L=80.61'
C7	R=40'	09°02'06"	L=6.31'
C8	R=60'	09°02'06"	L=9.46'
C9	R=60'	11°16'08"	L=11.80'
C10	R=40'	11°39'28"	L=8.14'

LANDS OF ALVIN  
LUCHESSA et al.

LOT 1 (4 MAPS 10)  
2004 S.C.R. 130052  
APN 046-007-037



LANDS OF WOODSTONE ASSOCIATES INC.  
LOT 'C' (49 PM 49)  
APN 046-025-066

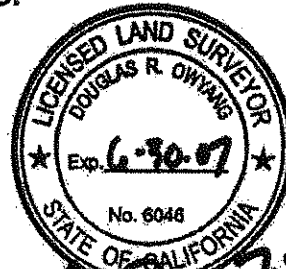
**LEGEND:**

- T.C.E. - TEMPORARY CONSTRUCTION EASEMENT
- T.P.O.B. - TRUE POINT OF BEGINNING
- P.O.B. - POINT OF BEGINNING



SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1"=100'



**WOOD RODGERS**  
ENGINEERING • MAPPING • PLANNING • SURVEYING

3301 C St., Bldg. 100-B Tel 916.341.7780  
Sacramento, CA 95816 Fax 916.341.7757

J:\Jobs\8106-Pelandale\pelandale-04\Geomatics\plats to accompany\TCE\apn046-007-037-TCE.dwg 7/05/06 2:57pm jwmschel

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-454**

**A RESOLUTION DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY  
REQUIRE THE ACQUISITION OF CERTAIN PROPERTY INTERESTS AND  
DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS FOR THE  
PELANDALE AVENUE CAPITAL IMPROVEMENT PROJECT**

**Olga Edna Luchessa, Property Owners**

**Property Address: 1043 Bangs Avenue, Stanislaus County, California**

**Assessor's Parcel No.: 046-002-002**

WHEREAS, the City's Capital Improvement Program (CIP), amended on February 22, 2005, by Council Resolution No. 2005-118, included a project to widen Pelandale Avenue to six lanes, the Pelandale Avenue Widening Project (the "Project"), and

WHEREAS, the City of Modesto and the County of Stanislaus entered into the Pelandale Avenue Joint Powers Agreement on December 6, 2005, to facilitate cooperation between the City and the County for the improvement of Pelandale Avenue between State Route 99 and a point 1,400 feet east of McHenry Avenue for the Project, which Project area is partially located within the City limits and partially within the unincorporated area of the County, and

WHEREAS, pursuant to the Pelandale Avenue Joint Powers Agreement, the County of Stanislaus consents to the acquisition of Project rights-of-way by the City outside its boundaries in the unincorporated area of the County, and

WHEREAS, the Pelandale Avenue Joint Powers Agreement gives the City of Modesto the right and power to acquire, by purchase or eminent domain, all property or rights-of-way necessary for completion of the Project, including property outside its boundaries in the unincorporated area of the County, and

WHEREAS, the Project, when completed, will improve traffic circulation within the City and the County and to areas east of Coffee Road, and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution of the State of California, Government Code Sections 37350.5, 37353, 39792, 40401 and 40404; Sections 1240.010, 1240.020, 1240.030, 1240.040, 1240.050, 1240.110, 1240.120, 1240.140, 1240.150, and 1240.350 of the Code of Civil Procedure of the State of California; and California Government Code section 1810; and, the Pelandale Avenue Joint Powers Agreement by and between the City of Modesto and the County of Stanislaus, and

WHEREAS, it is desirable and necessary for the City of Modesto to acquire certain real property interests on Assessor's Parcel No. 046-002-002, including fee title together with all improvements situated thereon and together with all rights appurtenant thereto, as described in Exhibits A and A-1 hereto, and a temporary construction easement as described in Exhibits B

and B-1 hereto, which exhibits are attached hereto and made a part hereof by this reference and hereinafter referenced as the "Subject Property," in order to construct, widen and/or improve Pelandale Avenue between Dale Road and McHenry Avenue in the City of Modesto and the County of Stanislaus (the "Project"), and

WHEREAS, Assessor's Parcel No. 046-002-002 is currently encumbered by a Williamson Act contract, and

WHEREAS, the location of the Project generally, and specifically on this parcel, is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve, but rather on the current location of Pelandale Avenue, the residential neighborhoods abutting Pelandale Avenue, and the purpose of increasing circulation on a six lane expressway, and

WHEREAS, there is no other land within or outside the preserve on which it is reasonably feasible to locate the Project, and

WHEREAS, the appraisal of the land was without consideration of the involved Williamson Act contract pursuant to Civil Code section 51295, and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to all persons whose property is to be acquired by eminent domain and whose names and addresses appear on the last Stanislaus County equalized assessment roll, all of whom have been given a reasonable opportunity to appear and be heard before 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 sought to be acquired is necessary for the Project;
- (d) Whether the offer required by Government Code Section 7267.2 has been made to the owner(s) of record, and

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of Modesto has made an offer to the owner or owners of record to acquire the Subject Property for just compensation, and

WHEREAS, the City of Modesto has satisfied the provisions and complied with all requirements of the California Environmental Quality Act ("CEQA") for the Project,

**NOW, THEREFORE, IT IS FOUND, DETERMINED, AND ORDERED** as follows:

1. The public interest and necessity require the Project for the acquisition of the fee simple and the temporary construction easement in and through the above-identified parcel of land.
2. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.
3. The Project is planned and located in the manner which was not based primarily, nor in part, on a consideration of the lower cost of acquiring land in an agricultural preserve.
4. There is no other land within or outside the agricultural preserve on which it is reasonably feasible to plan and locate the Project.
5. The taking of the fee simple title in and to the real property or other interests as may be more particularly described in Exhibits A and B and depicted in Exhibits A-1 and B-1 are necessary for the Project.
6. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner or owners of record of the real property and without consideration of the Williamson Act contract pursuant to Civil Code section 51295.
7. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure Section 1240.510 in that the City's use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public utilities as they now exist or may reasonably be expected to exist in the future.
8. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure Section 1240.610 in that the City's use of the Subject Property is a more necessary public use than the use to which the property is appropriated.
9. The Office of the City Attorney of the City of Modesto and Special Counsel, Meyers, Nave, Riback, Silver & Wilson, are hereby authorized, empowered and directed to acquire in the name of the City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation based on an appraisal.
10. An order for prejudgment possession may be obtained in said actions and warrants issued to the State Treasury Condemnation Fund, in the amounts



determined by the Court to be so deposited, as a condition to the right of immediate possession and use the Subject Property for said public uses and purposes.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**EXHIBIT A**

**EXHIBIT A**

**DESCRIPTION OF  
RIGHT-OF-WAY  
APN: 046-002-002**

All that certain real property being a portion of the Lands of Olga Edna Luchessa, as described in Document No. 1988-022352, Stanislaus County Official Records, City of Modesto, State of California and being more particularly described as follows:

BEGINNING at a point on the West line of said lands of Olga Edna Luchessa, said point also being the northwesterly corner of that certain real property conveyed to the City of Modesto for right-of-way purposes, as described in Document No. \_\_\_\_\_, Stanislaus County Official Records, and bears North 01°07'02" West, 5.77 feet from the southwest corner of said lands of Olga Edna Luchessa; thence from said True Point of Beginning, North 01°07'02" West, 62.09 feet along the West line; thence leaving said West line, South 88°44'37" East, 236.59 feet; thence South 89°25'54" East, 473.98 feet; thence South 88°44'27" East, 969.73 feet to the East line of said lands; thence South 01°10'46" East, 5.89 feet to the northerly right-of-way of Pelandale Avenue as described in Document No. 1999-0112066, Stanislaus County Official Records; thence along the northerly right-of-way of Pelandale Avenue, North 88°44'44" West, 800.01 feet; thence South 85°33'48" West, 680.68 feet to the South line of said lands of Olga Edna Luchessa; thence along the South line, North 88°44'44" West, 71.00 feet to the easterly corner of that certain real property conveyed to the City of Modesto for right-of-way purposes, as described in Document No. \_\_\_\_\_, Stanislaus County Official Records; thence along the northerly right-of-way of Pelandale Avenue, North 86°11'59" West, 129.73 feet to the Point of Beginning.

Containing 1.00 acres of land, more or less.

The Basis of Bearings for this survey being the same as shown on that certain Parcel Map filed for Record in Book 36, at page 21, Stanislaus County Records.

*See Exhibit "A-1", plat to accompany description, attached hereto and made a part hereof.*

Douglas R. Owyang P.L.S. 6046  
Expires June 30, 2007

  
Wood-Rodgers, Inc.



**EXHIBIT A-1**

**EXHIBIT A-1**

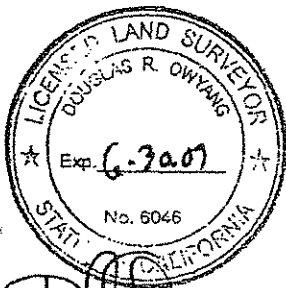
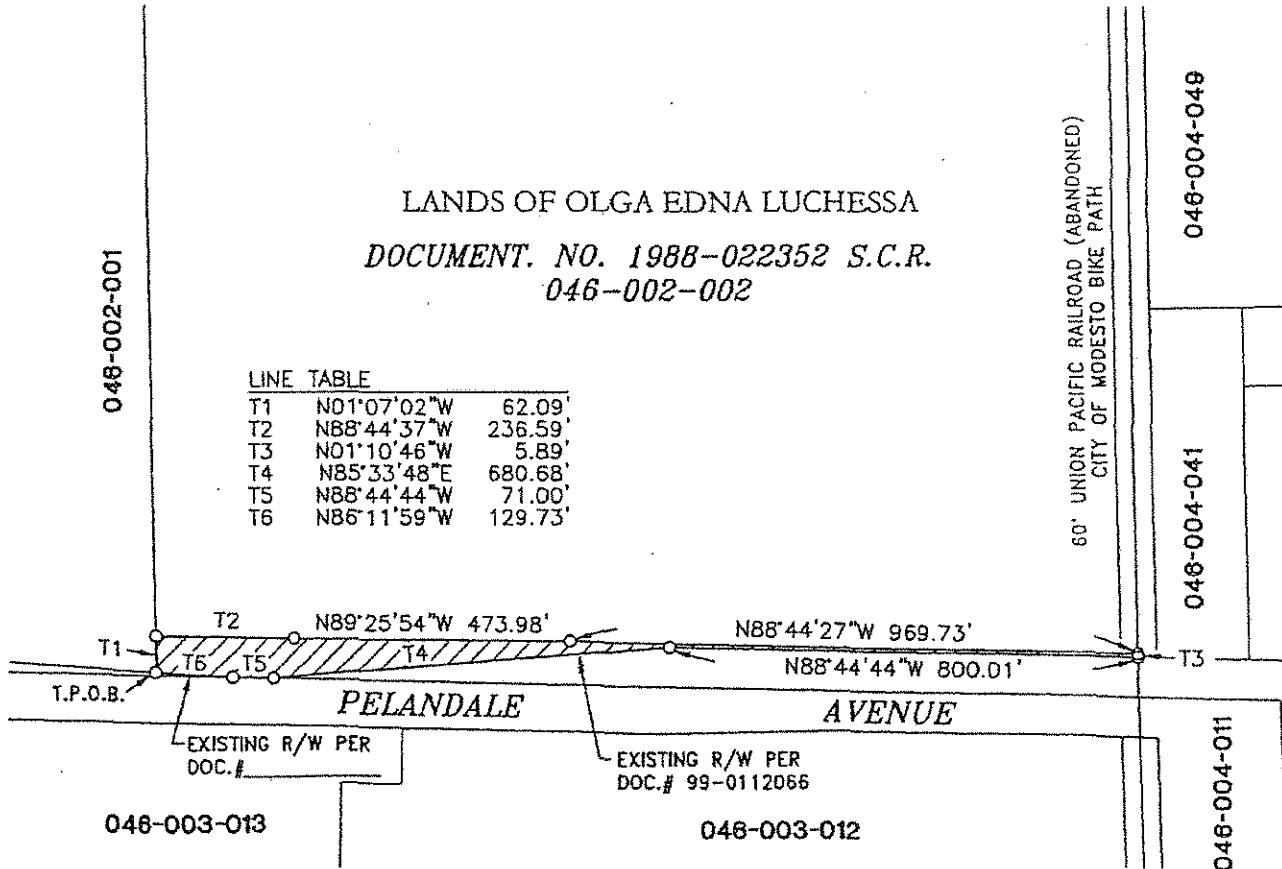
PLAT TO ACCOMPANY  
DESCRIPTION

Pelandale Ave. Widening  
Right-of-Way  
APN: 046-002-002  
TOTAL AREA: 0.997 acres  
COUNTY OF STANISLAUS, STATE OF CALIFORNIA

LANDS OF OLGA EDNA LUCHESSA  
DOCUMENT. NO. 1988-022352 S.C.R.  
046-002-002

LINE TABLE

T1	N01°07'02"W	62.09'
T2	N88°44'37"W	236.59'
T3	N01°10'46"W	5.89'
T4	N85°33'48"E	680.68'
T5	N88°44'44"W	71.00'
T6	N86°11'59"W	129.73'



*[Handwritten Signature]*

SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1"=300'



**WOOD RODGERS**  
ENGINEERING - MAPPING - PLANNING - SURVEYING

3301 C St., Bldg. 100-B Tel 916.341.7760  
Sacramento, CA 95816 Fax 916.341.7767

J:\Jobs\8106--Pelandale\pelondale-0A\Geomatics\plats to accompany\apn046-002-002--rw.dwg 2/09/06 9:28am jwunschel

# **EXHIBIT B**

**EXHIBIT A**  
**DESCRIPTION OF**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**APN: 046-002-002**

All that certain real property being a portion of the Lands of Olga Edna Luchessa, as described in Document No. 1988-022352, Stanislaus County Official Records, City of Modesto, State of California and being more particularly described as follows:

BEGINNING at the southwest corner of said lands of Olga Edna Luchessa; thence along the West line of said lands, North 01°07'02" West, 67.86 feet to a point on the northerly right-of-way of Pelandale Avenue, as described in Document No. \_\_\_\_\_, Stanislaus County Official Records, and the **TRUE POINT OF BEGINNING**, thence from said True Point of Beginning, North 01°07'02" West, 10.01 feet; thence leaving said Westerly line, South 88°44'37" East, 236.95 feet; thence South 89°25'54" East, 473.98 feet; thence South 88°44'27" East, 969.36 feet to the Easterly line of said lands, thence along said Easterly line, South 01°10'46" East, 10.01 feet to a point on the said Northerly right-of-way of Pelandale Avenue; thence along said Northerly right-of-way of Pelandale Avenue, North 88°44'27" West, 969.73 feet; thence North 89°25'54" West, 473.98 feet; thence North 88°44'37" West, 236.59 feet to the True Point of Beginning.

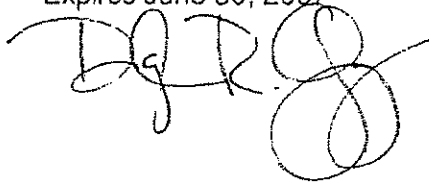
Containing 0.39 acres of land, more or less.

Temporary Construction Easement Expiration Date: \_\_\_\_\_

The Basis of Bearings for this survey being the same as shown on that certain Parcel Map filed for Record in Book 36, at page 21, Stanislaus County Records.

*See Exhibit "A-1", plat to accompany description, attached hereto and made a part hereof.*

Douglas R. Owyang P.L.S. 6046  
Expires June 30, 2007



Wood-Rodgers, Inc.

**EXHIBIT B-1**



**EXHIBIT A-1**

PLAT TO ACCOMPANY  
DESCRIPTION

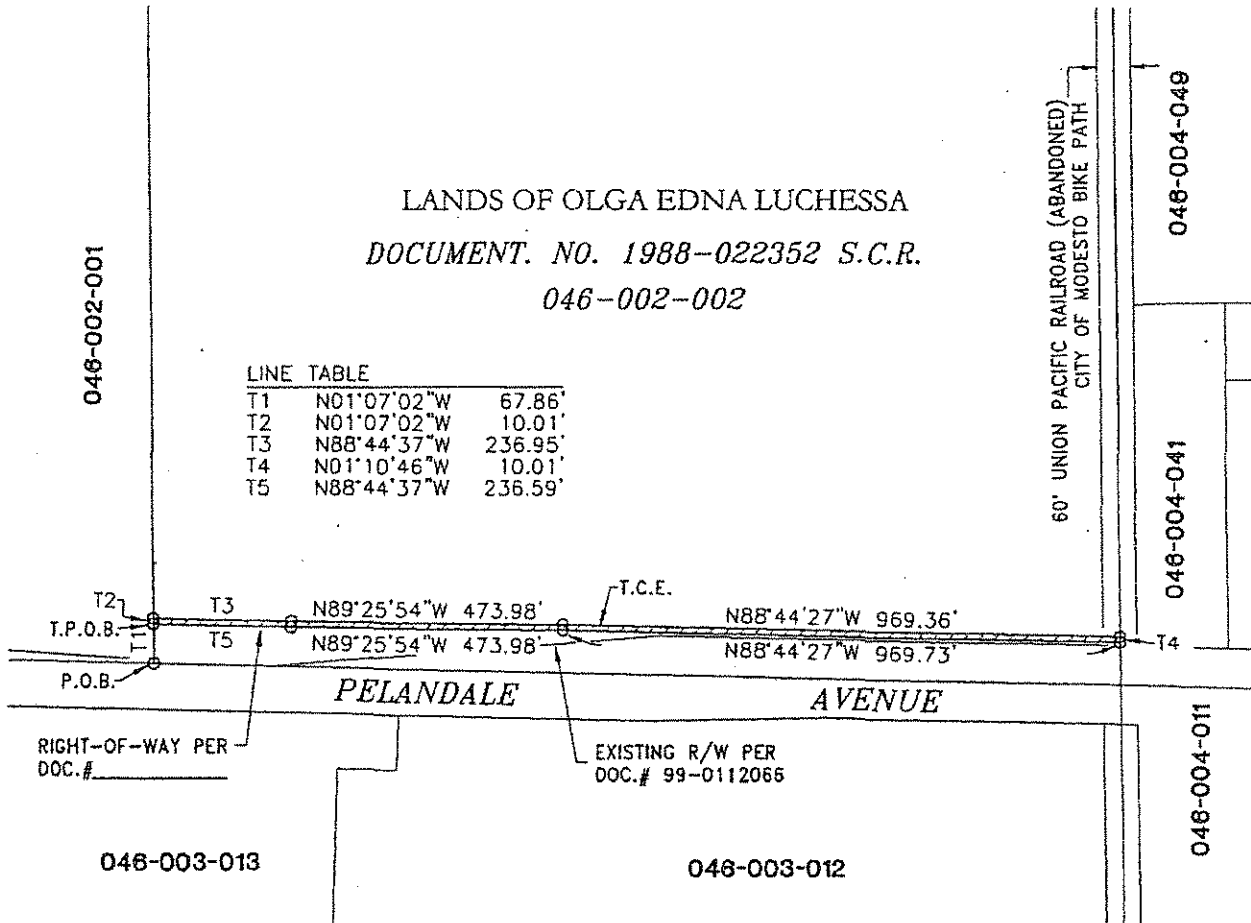
Pelandale Ave. Widening  
Temporary Construction Easement

APN: 046-002-002  
TOTAL AREA: 0.39 acres  
CITY OF MODESTO  
COUNTY OF STANISLAUS, STATE OF CALIFORNIA

LANDS OF OLGA EDNA LUCHESSA  
DOCUMENT. NO. 1988-022352 S.C.R.  
046-002-002

LINE TABLE

T1	N01°07'02"W	67.86'
T2	N01°07'02"W	10.01'
T3	N88°44'37"W	236.95'
T4	N01°10'46"W	10.01'
T5	N88°44'37"W	236.59'



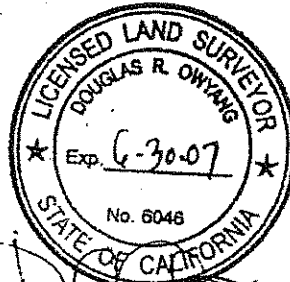
LEGEND:

- T.C.E. - TEMPORARY CONSTRUCTION EASEMENT
- T.P.O.B. - TRUE POINT OF BEGINNING
- P.O.B. - POINT OF BEGINNING



SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1"=300'



**WOOD RODGERS**  
ENGINEERING - MAPPING - PLANNING - SURVEYING

3301 C St., Bldg. 100-B Tel 916.341.7760  
Sacramento, CA 95816 Fax 916.341.7767

j:\Jobs\8106--Pelandale\Pelndale-0A\Geomatics\plats to accompany\TCE\apn046-002-002-fce.dwg 4/11/06 8:30am rmonsour

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-455**

**A RESOLUTION DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY  
REQUIRE THE ACQUISITION OF CERTAIN PROPERTY INTERESTS AND  
DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS FOR THE  
PELANDALE AVENUE CAPITAL IMPROVEMENT PROJECT**

**Red Rock Ranch, Property Owners  
Property Address: Northeast Corner of Pelandale Avenue and Carver Road,  
Stanislaus County, California  
Assessor's Parcel No.: 046-007-021**

WHEREAS, the City's Capital Improvement Program (CIP), amended on February 22, 2005, by Council Resolution No. 2005-118, included a project to widen Pelandale Avenue to six lanes, the Pelandale Avenue Widening Project (the "Project"), and

WHEREAS, the City of Modesto and the County of Stanislaus entered into the Pelandale Avenue Joint Powers Agreement on December 6, 2005, to facilitate cooperation between the City and the County for the improvement of Pelandale Avenue between State Route 99 and a point 1,400 feet east of McHenry Avenue for the Project, which Project area is partially located within the City limits and partially within the unincorporated area of the County, and

WHEREAS, pursuant to the Pelandale Avenue Joint Powers Agreement, the County of Stanislaus consents to the acquisition of Project rights-of-way by the City outside its boundaries in the unincorporated area of the County, and

WHEREAS, the Pelandale Avenue Joint Powers Agreement gives the City of Modesto the right and power to acquire, by purchase or eminent domain, all property or rights-of-way necessary for completion of the Project, including property outside its boundaries in the unincorporated area of the County, and

WHEREAS, the Project, when completed, will improve traffic circulation within the City and the County and to areas east of Coffee Road, and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution of the State of California, Government Code Sections 37350.5, 37353, 39792, 40401 and 40404; Sections 1240.010, 1240.020, 1240.030, 1240.040, 1240.050, 1240.110, 1240.120, 1240.140, 1240.150, and 1240.350 of the Code of Civil Procedure of the State of California; and, California Government Code section 1810; and, the Pelandale Avenue Joint Powers Agreement by and between the City of Modesto and the County of Stanislaus, and

WHEREAS, it is desirable and necessary for the City of Modesto to acquire certain real property interests on Assessor's Parcel No. 046-007-021, including fee title together with all improvements situated thereon and together with all rights appurtenant thereto, as described in

Exhibits A and A-1 hereto, and a temporary construction easement as described in Exhibits B and B-1 hereto, which exhibits are attached hereto and made a part hereof by this reference and hereinafter referenced as the "Subject Property," in order to construct, widen and/or improve Pelandale Avenue between Dale Road and McHenry Avenue in the City of Modesto and the County of Stanislaus (the "Project"), and

WHEREAS, Assessor's Parcel No. 046-007-021 is currently encumbered by a Williamson Act contract, and

WHEREAS, the location of the Project generally, and specifically on this parcel, is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve, but rather on the current location of Pelandale Avenue, the residential neighborhoods abutting Pelandale Avenue, and the purpose of increasing circulation on a six lane expressway, and

WHEREAS, there is no other land within or outside the preserve on which it is reasonably feasible to locate the Project, and

WHEREAS, the appraisal of the land was without consideration of the involved Williamson Act contract pursuant to Civil Code section 51295, and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to all persons whose property is to be acquired by eminent domain and whose names and addresses appear on the last Stanislaus County equalized assessment roll, all of whom have been given a reasonable opportunity to appear and be heard before 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 sought to be acquired is necessary for the Project;
- (d) Whether the offer required by Government Code Section 7267.2 has been made to the owner(s) of record, and

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of Modesto has made an offer to the owner or owners of record to acquire the Subject Property for just compensation, and

WHEREAS, the City of Modesto has satisfied the provisions and complied with all requirements of the California Environmental Quality Act ("CEQA") for the Project,

**NOW, THEREFORE, IT IS FOUND, DETERMINED, AND ORDERED** as follows:

1. The public interest and necessity require the Project for the acquisition of the fee simple and the temporary construction easement in and through the above-identified parcel of land.
2. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.
3. The Project is planned and located in the manner which was not based primarily, nor in part, on a consideration of the lower cost of acquiring land in an agricultural preserve.
4. There is no other land within or outside the agricultural preserve on which it is reasonably feasible to plan and locate the Project.
5. The taking of the fee simple title in and to the real property or other interests as may be more particularly described in Exhibits A and B and depicted in Exhibits A-1 and B-1 are necessary for the Project.
6. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner or owners of record of the real property and without consideration of the Williamson Act contract pursuant to Civil Code section 51295.
7. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure Section 1240.510 in that the City's use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public utilities as they now exist or may reasonably be expected to exist in the future.
8. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure Section 1240.610 in that the City's use of the Subject Property is a more necessary public use than the use to which the property is appropriated.
9. The Office of the City Attorney of the City of Modesto and Special Counsel, Meyers, Nave, Riback, Silver & Wilson, are hereby authorized, empowered and directed to acquire in the name of the City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation based on an appraisal.
10. An order for prejudgment possession may be obtained in said actions and warrants issued to the State Treasury Condemnation Fund, in the amounts

determined by the Court to be so deposited, as a condition to the right of immediate possession and use the Subject Property for said public uses and purposes.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

# **EXHIBIT A**

**EXHIBIT A**  
**DESCRIPTION OF**  
**RIGHT-OF-WAY**  
**APN: 046-007-021**

All that certain real property being a portion of the Lands of Red Rock Ranch as described in Volume 1695 Stanislaus County Records, at Page 50, said lands also being a portion of Lot 2 of Nash Tract, filed for record in Book 4 of Maps at Page 10, Stanislaus County Records, in the City of Modesto, State of California and being more particularly described as follows:

Commencing at the southeast corner of said Lot 2; thence northerly along the East line of said Lot 2, North 01°06'35" West, 80.21 feet to the **True Point of Beginning**; thence from the True Point of Beginning leaving said East line of Lot 2, South 83°57'36" West, 270.44 feet along the existing northerly right-of-way of Pelandale Avenue, as described in Document No. 1998-0025335 Stanislaus County Records, to a point of curvature; thence 276.61 feet along a 5000.00 foot radius curve to the right through a central angle of 03°10'11"; thence continuing along the northerly right-of-way of Pelandale Avenue, as described in Doc. No. 2005-51105822 Stanislaus County Records, North 86°28'08" West, 290.37 feet; thence North 88°39'12" West, 236.54 feet; thence North 80°02'39" West, 82.57 feet; thence North 88°24'49" West, 263.84 feet; thence North 57°04'25" West, 79.87 feet; thence along the easterly right-of-way of Carver Road, as described in said Doc. No. 2005-51105822 Stanislaus County Records, North 00°36'42" West, 220.18 feet; thence North 02°59'57" West, 24.01 feet; thence North 01°45'31" West, 28.11 feet; thence leaving said easterly right-of-way of Carver Road, North 89°23'18" East, 6.34 feet; thence South 00°36'42" East, 10.00 feet to a point of curvature; thence 7.88 feet along a 40.00 foot radius curve to the left through a central angle of 11°16'59"; thence South 11°53'41" East, of 41.23 feet to a point of curvature; thence 11.82 feet along a 60.00 foot radius curve to the right through a central angle of 11°16'59"; thence South 00°36'42" East, 50.00 feet to a point of curvature; thence 9.60 feet along a 60.00 foot radius curve to the right through a central angle of 09°09'52"; thence South 08°33'10" West, 54.77 feet to a point of curvature; thence 6.40 feet along a 40.00 foot radius curve to the left through a central angle of 09°09'52"; thence South 00°36'42" East, 40.00 feet to a point of curvature; thence 76.62 feet along a 50.00 foot radius curve to the left through a central angle of 87°47'44";

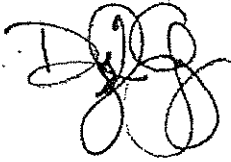
thence South 88°24'26" East, 249.35 feet; thence South 87°20'31" East, 157.02 feet to a point of curvature; thence 748.82 feet along a 4932.54 foot radius curve to the left through a central angle of 08°41'53"; thence North 83°57'36" East, 276.49 feet to a point on the East line of said Lot 2; thence along said East line of Lot 2, South 01°06'35" East, 68.34 feet to the True Point of Beginning.

Containing 1.84 acres of land, more or less.

The Basis of Bearings for this description being North 87°34'42" West between GPS Monuments 2722 and 2723, as shown in Book 22 of Surveys at Page 51, Stanislaus County Records.

*See Exhibits "A-1" and "A-2", plats to accompany description, attached hereto and made a part hereof.*

Douglas R. Owyang P.L.S. 6046  
Expires June 30, 2007  
Wood-Rodgers, Inc.





**EXHIBIT A-1**

**EXHIBIT A-1**

PLAT TO ACCOMPANY  
DESCRIPTION

Pelandale Ave. Widening  
Right-of-Way

APN: 046-007-021

TOTAL AREA: 1.84 acres

COUNTY OF STANISLAUS, STATE OF CALIFORNIA

**CURVE TABLE**

C1	R=5000'	03°10'11"	L=276.61'
C2	R=40'	11°16'59"	L=7.88'
C3	R=60'	11°16'59"	L=11.82'
C4	R=60'	09°09'52"	L=9.60'
C5	R=40'	09°09'52"	L=6.40'
C6	R=50'	87°47'44"	L=76.62'
C7	R=4932.54'	08°41'53"	L=748.82'

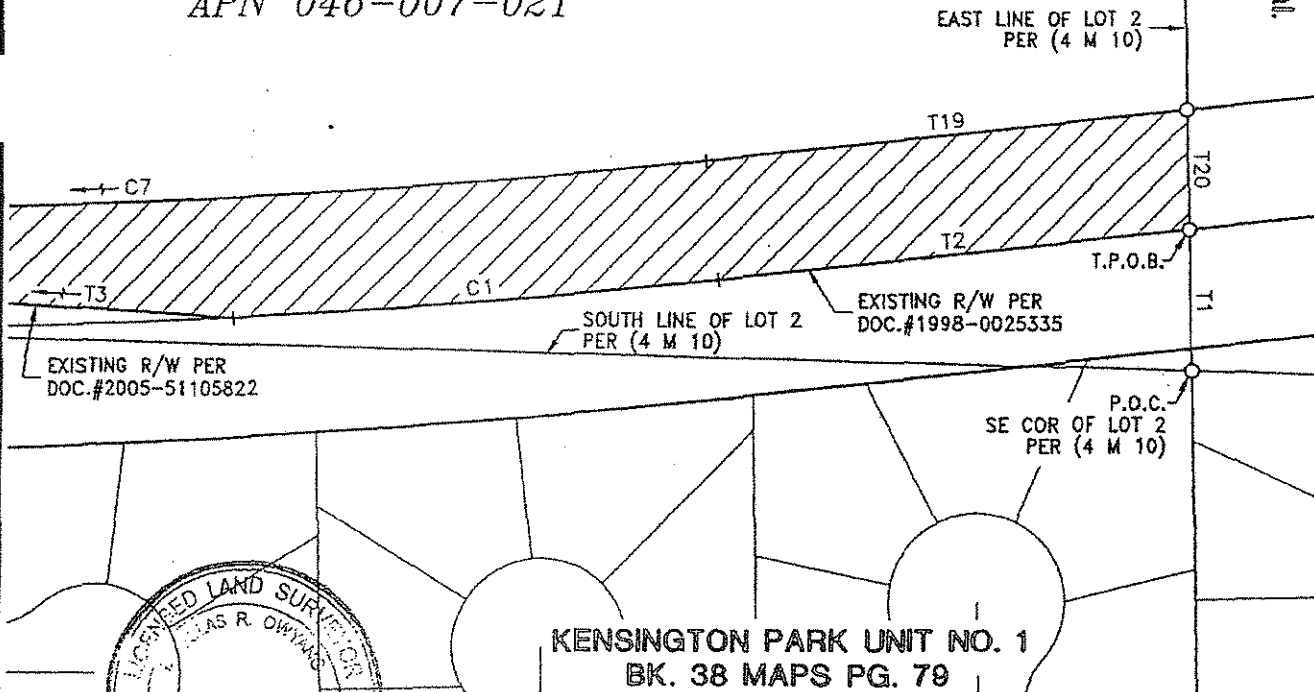
**LINE TABLE**

T1	N01°06'35"W	80.21'
T2	N83°57'36"E	270.44'
T3	N86°28'08"W	290.37'
T4	N88°39'12"W	236.54'
T5	N80°02'39"W	82.57'
T6	N88°24'49"W	263.84'
T7	N57°04'25"W	79.87'
T8	N00°36'42"W	220.18'
T9	N02°59'57"W	24.01'
T10	N01°45'31"W	28.11'
T11	N89°23'18"E	6.34'
T12	N00°36'42"W	10.00'
T13	N11°53'41"W	41.23'
T14	N00°36'42"W	50.00'
T15	N08°33'10"E	54.77'
T16	N00°36'42"W	40.00'
T17	N88°24'26"W	249.35'
T18	N87°20'31"W	157.02'
T19	N83°57'36"E	276.49'
T20	N01°06'35"W	68.34'

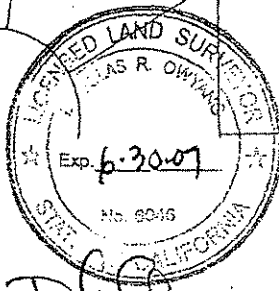
LANDS OF ALVIN LUCHESSA et al.  
 LOT 1 (4 MAPS 10)  
 APN 046-007-037

**LANDS OF RED ROCK RANCH**

Vol. 1695 O.R. PG. 50  
 LOT 2 (4 MAPS 10)  
 APN 046-007-021



**KENSINGTON PARK UNIT NO. 1**  
**BK. 38 MAPS PG. 79**



SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1"=100'

**WOOD RODGERS**  
 ENGINEERING • MAPPING • PLANNING • SURVEYING

3301 C St., Bldg. 100-B Tel 916.341.7760  
 Sacramento, CA 95816 Fax 916.341.7767

J:\Jobs\8106-Pelandale-Pelandale-00\Geomatics\plats to accompany\apn046-007-021-rw-Revise.dwg 2/08/07 1:47:47 pm rmonsour

**EXHIBIT A-2**

PLAT TO ACCOMPANY  
DESCRIPTION

Pelandale Ave. Widening  
Right-of-Way

APN: 046-007-021

TOTAL AREA: 1.843 acres

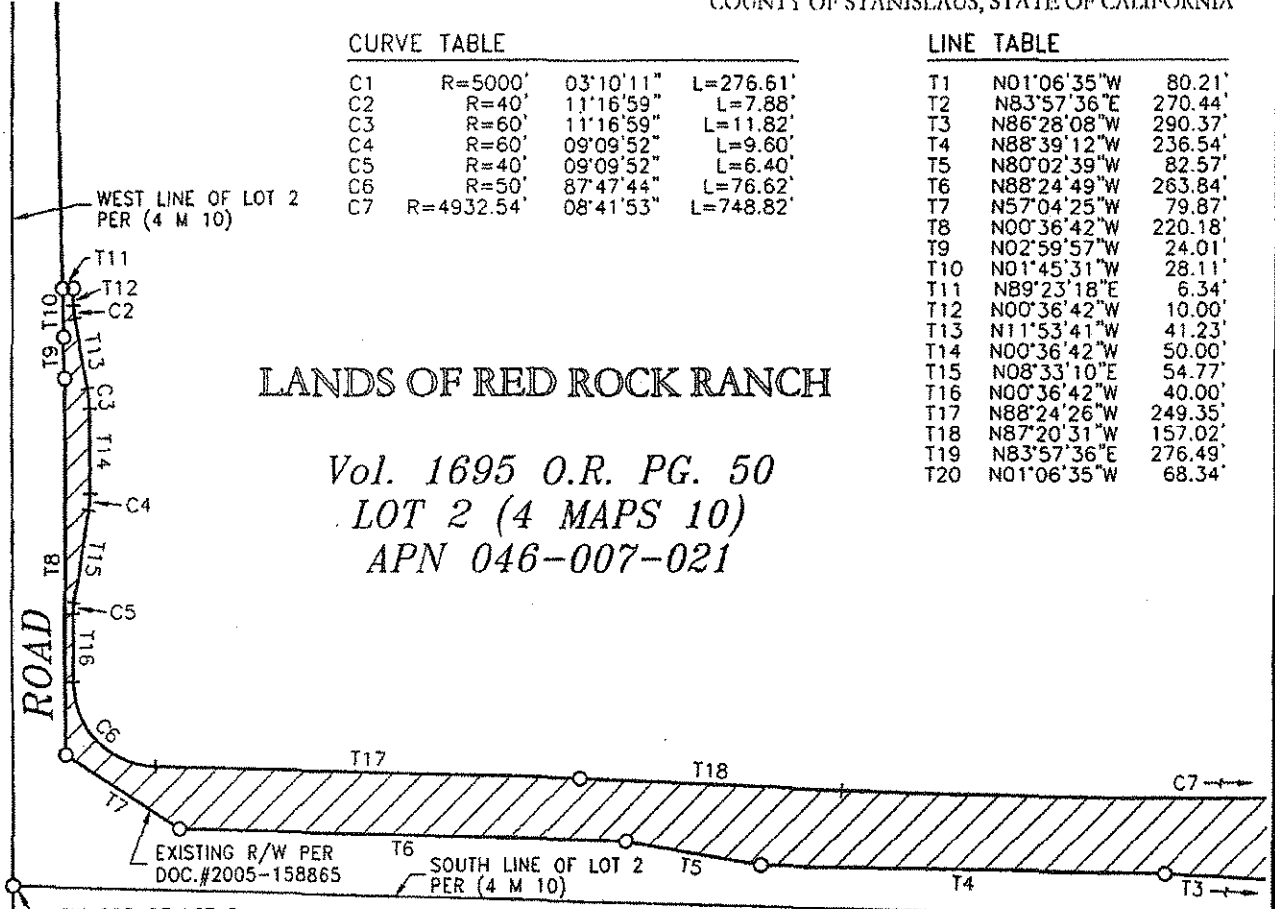
COUNTY OF STANISLAUS, STATE OF CALIFORNIA

CURVE TABLE

C1	R=5000'	03°10'11"	L=276.61'
C2	R=40'	11°16'59"	L=7.88'
C3	R=60'	11°16'59"	L=11.82'
C4	R=60'	09°09'52"	L=9.60'
C5	R=40'	09°09'52"	L=6.40'
C6	R=50'	87°47'44"	L=76.62'
C7	R=4932.54'	08°41'53"	L=748.82'

LINE TABLE

T1	N01°06'35"W	80.21'
T2	N83°57'36"E	270.44'
T3	N86°28'08"W	290.37'
T4	N88°39'12"W	236.54'
T5	N80°02'39"W	82.57'
T6	N88°24'49"W	263.84'
T7	N57°04'25"W	79.87'
T8	N00°36'42"W	220.18'
T9	N02°59'57"W	24.01'
T10	N01°45'31"W	28.11'
T11	N89°23'18"E	6.34'
T12	N00°36'42"W	10.00'
T13	N11°53'41"W	41.23'
T14	N00°36'42"W	50.00'
T15	N08°33'10"E	54.77'
T16	N00°36'42"W	40.00'
T17	N88°24'26"W	249.35'
T18	N87°20'31"W	157.02'
T19	N83°57'36"E	276.49'
T20	N01°06'35"W	68.34'



LANDS OF RED ROCK RANCH

Vol. 1695 O.R. PG. 50

LOT 2 (4 MAPS 10)

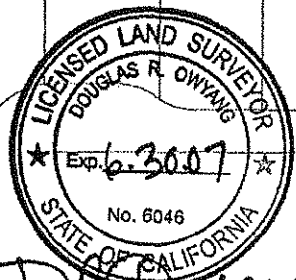
APN 046-007-021

SW COR OF LOT 2  
PER (4 M 10)

PELANDALE AVENUE

CARVER

KENSINGTON PARK UNIT NO. 2  
BK. 39 MAPS PG. 09



*Handwritten signature and date: 6.28.06*



SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1"=100'

**WOOD RODGERS**  
ENGINEERING • MAPPING • PLANNING • SURVEYING  
3301 C St., Bldg. 100-B Tel 916.341.7760  
Sacramento, CA 95816 Fax 916.341.7767

## **EXHIBIT B**

**EXHIBIT A**  
**DESCRIPTION OF**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**APN: 046-007-021**

All that certain real property being a portion of the Lands of Red Rock Ranch as described in Volume 1695 Stanislaus County Records, at Page 50, said lands also being a portion of Lot 2 of Nash Tract, filed for record in Book 4 of Maps at Page 10, Stanislaus County Records, in the City of Modesto, State of California and being more particularly described as follows:

BEGINNING at the southeast corner of said Lot 2; thence northerly along the East line of said Lot 2, North  $01^{\circ}06'35''$  West, 148.55 feet to the **TRUE POINT OF BEGINNING**; thence from the True Point of Beginning leaving said East line of Lot 2, South  $83^{\circ}57'36''$  West, 276.49 feet along the northerly right-of-way of Pelandale Avenue, as described in Document No. \_\_\_\_\_, Stanislaus County Records, to a point of curvature; thence 748.82 feet along the a 4932.54 foot radius curve to the right through a central angle of  $08^{\circ}41'53''$ ; thence North  $87^{\circ}20'31''$  West, 157.02 feet; thence North  $88^{\circ}24'26''$  West, 249.35 feet; thence 76.62 feet along a 50.00 foot radius curve to the right through a central angle of  $87^{\circ}47'44''$ ; thence North  $00^{\circ}36'42''$  West, 40.00 feet to a point of curvature; thence 6.40 feet along a 40.00 foot radius curve to the right through a central angle of  $09^{\circ}09'52''$ ; thence North  $08^{\circ}33'10''$  East, 54.77 feet to a point of curvature; thence 9.60 feet along a 60.00 foot radius curve to the left through a central angle of  $09^{\circ}09'52''$ ; thence North  $00^{\circ}36'42''$  West, 50.00 feet to a point of curvature; thence 11.82 feet along a 60.00 foot radius curve to the left through a central angle of  $11^{\circ}17'00''$ ; thence North  $11^{\circ}53'41''$  West, 41.23 feet to a point of curvature; thence 7.88 feet along a 40.00 foot radius curve to the right through a central angle of  $11^{\circ}17'00''$ ; thence North  $00^{\circ}36'42''$  West, 10.00 feet; thence leaving said Northerly right-of-way of Pelandale Avenue, North  $89^{\circ}23'18''$  East, 7.41 feet; thence South  $11^{\circ}53'41''$  East, 61.36 feet to a point of curvature; thence 5.91 feet along a 30.00 foot radius curve to the right through a central angle of  $11^{\circ}17'00''$ ; thence South  $00^{\circ}36'42''$  East, 57.16 feet to a point of curvature; thence 4.80 feet along a 30.00 foot radius curve to the right through a central angle of  $09^{\circ}09'52''$ ; thence South  $08^{\circ}33'10''$  West, 57.98 feet to a point of curvature;


thence 4.80 feet along a 30.00 foot radius curve to the left through a central angle of 09°09'52"; thence South 00°36'42" East, 40.00 feet to a point of curvature; thence 61.29 feet along a 40.00 foot radius curve to the left through a central angle of 87°47'44"; thence South 88°24'26" East, 249.44 feet; thence South 87°20'31" East, 157.11 feet to a point of curvature; thence 747.30 feet along a 4922.54 foot radius curve to the left through a central angle of 08°41'53"; thence North 83°57'36" East, 277.36 feet to a point on the Easterly line of said Lot 2; thence southerly along said Easterly line, South 01°06'35" East, 10.04 feet to the True Point of Beginning.

Containing 0.40 acres of land, more or less.

Temporary Construction Easement Expiration Date: \_\_\_\_\_

The Basis of Bearings for this description being North 87°34'42" West between GPS Monuments 2722 and 2723, as shown in Book 22 of Surveys at Page 51, Stanislaus County Records.

*See Exhibits "A-1" and "A-2", plats to accompany description, attached hereto and made a part hereof.*

  
Douglas R. Owyang P.L.S. 6046  
Expires June 30, 2007



Wood-Rodgers, Inc.

**EXHIBIT B-1**

**EXHIBIT A-1**

PLAT TO ACCOMPANY  
DESCRIPTION

Pelandale Ave. Widening  
Temporary Construction Easement

APN: 046-007-021

TOTAL AREA: 0.40 acres

CITY OF MODESTO

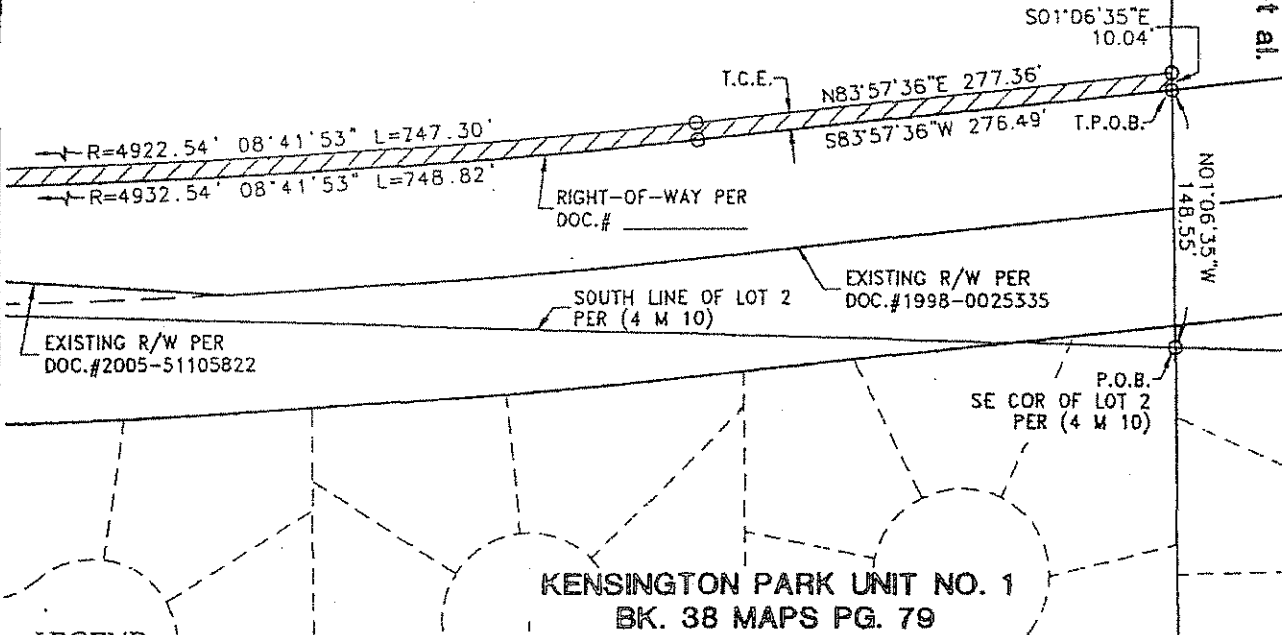
COUNTY OF STANISLAUS, STATE OF CALIFORNIA



LANDS OF RED ROCK RANCH

Vol. 1695 O.R. PG. 50  
LOT 2 (4 MAPS 10)  
APN 046-007-021

LANDS OF ALVIN LUCHESSA et al.  
LOT 1 (4 MAPS 10)  
APN 046-007-037



**LEGEND:**

- T.C.E. - TEMPORARY CONSTRUCTION EASEMENT
- T.P.O.B. - TRUE POINT OF BEGINNING
- P.O.B. - POINT OF BEGINNING



SCALE: 1"=100'

SEE DESCRIPTION FOR  
COURSE INFORMATION

**WOOD RODGERS**  
ENGINEERING - MAPPING - PLANNING - SURVEYING  
3301 C St., Bldg. 100-B Tel 916.341.7760  
Sacramento, CA 95816 Fax 916.341.7767

J:\Jobs\8106-Pelandale\Plats to accompany\TCE\apn046-007-021-TCE.dwg 4/07/06 12:09pm rmonspour



**EXHIBIT A-2**

PLAT TO ACCOMPANY  
DESCRIPTION

Pelandale Ave. Widening  
Temporary Construction Easement

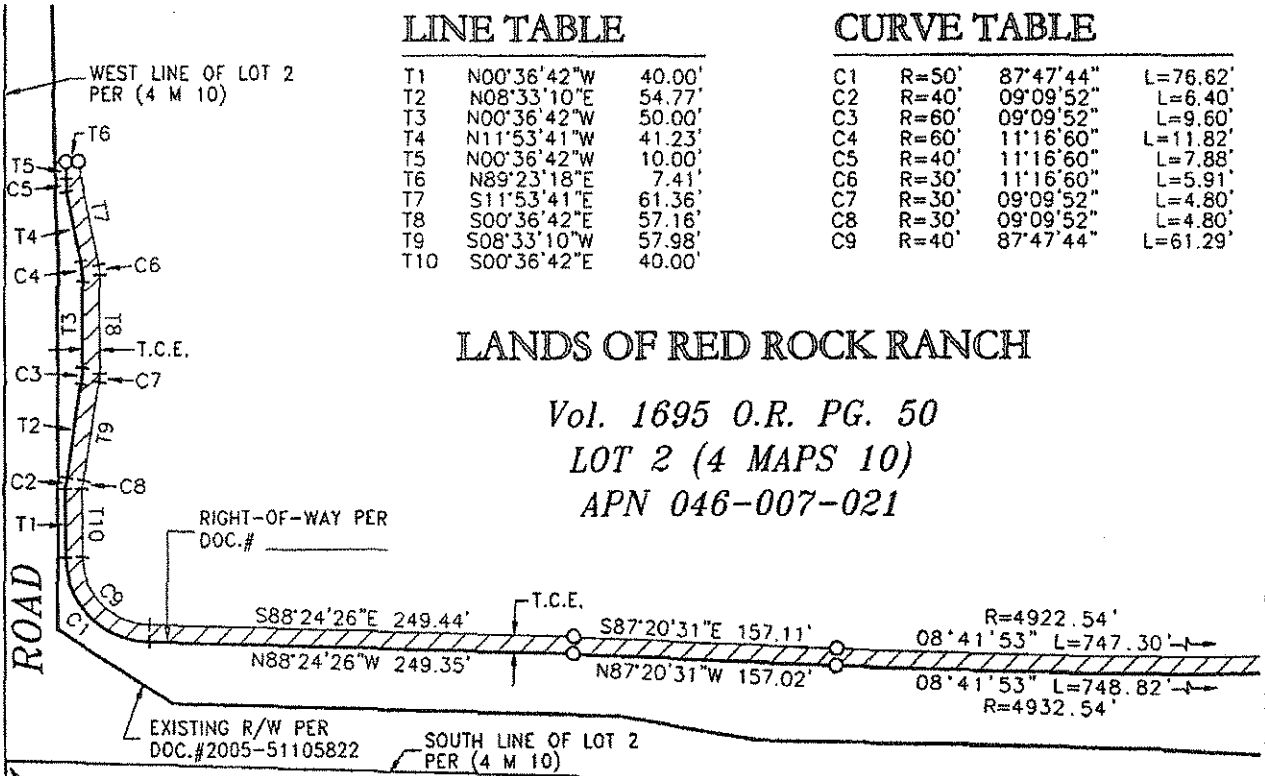
APN: 046-007-021  
TOTAL AREA: 0.40 acres  
CITY OF MODESTO  
COUNTY OF STANISLAUS, STATE OF CALIFORNIA

**LINE TABLE**

T1	N00°36'42"W	40.00'
T2	N08°33'10"E	54.77'
T3	N00°36'42"W	50.00'
T4	N11°53'41"W	41.23'
T5	N00°36'42"W	10.00'
T6	N89°23'18"E	7.41'
T7	S11°53'41"E	61.36'
T8	S00°36'42"E	57.16'
T9	S08°33'10"W	57.98'
T10	S00°36'42"E	40.00'

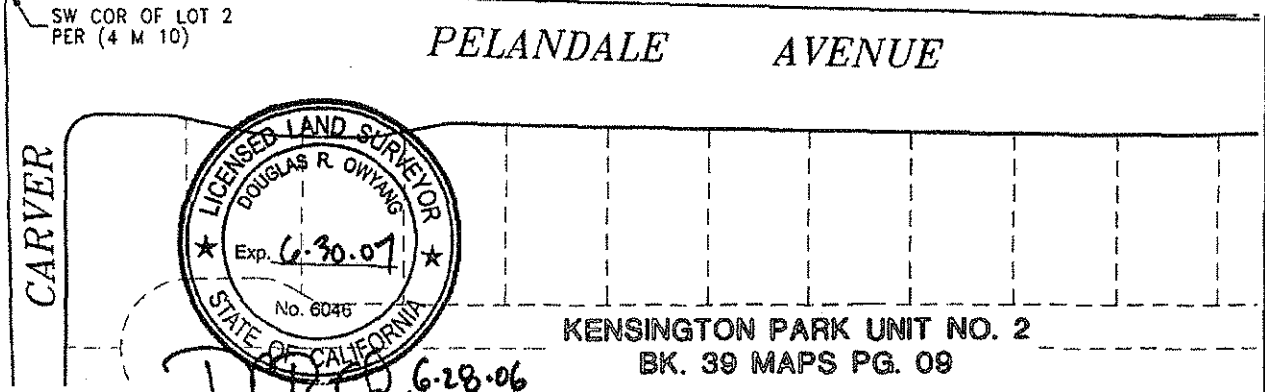
**CURVE TABLE**

C1	R=50'	87°47'44"	L=76.62'
C2	R=40'	09°09'52"	L=6.40'
C3	R=60'	09°09'52"	L=9.60'
C4	R=60'	11°16'60"	L=11.82'
C5	R=40'	11°16'60"	L=7.88'
C6	R=30'	11°16'60"	L=5.91'
C7	R=30'	09°09'52"	L=4.80'
C8	R=30'	09°09'52"	L=4.80'
C9	R=40'	87°47'44"	L=61.29'



**LANDS OF RED ROCK RANCH**

Vol. 1695 O.R. PG. 50  
LOT 2 (4 MAPS 10)  
APN 046-007-021



**LEGEND:**

- T.C.E. - TEMPORARY CONSTRUCTION EASEMENT
- T.P.O.B. - TRUE POINT OF BEGINNING
- P.O.B. - POINT OF BEGINNING



SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1"=100'



**WOOD RODGERS**  
ENGINEERING • MAPPING • PLANNING • SURVEYING

3301 C St., Bldg. 100-B Tel 916.341.7760  
Sacramento, CA 95816 Fax 916.341.7767

J:\Jobs\8106-Pelandale\Plandale-04\Geomatics\plots to accompany\TCE\apn046-007-021-TCE.dwg 6/28/06 12:33pm rmonisour

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-456**

**A RESOLUTION DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY  
REQUIRE THE ACQUISITION OF CERTAIN PROPERTY INTERESTS AND  
DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS FOR THE  
PELANDALE AVENUE CAPITAL IMPROVEMENT PROJECT**

**The Burchell Nursery, Inc., Property Owners  
Property Address: 4201 McHenry Avenue, Stanislaus County, California  
Assessor's Parcel No.: 046-008-016**

**The Burchell Nursery, Inc., Property Owners  
Property Address: Parcel West of 4201 McHenry Avenue, Stanislaus County, California  
Assessor's Parcel No.: 046-008-024**

WHEREAS, the City's Capital Improvement Program (CIP), amended on February 22, 2005, by Council Resolution No. 2005-118, included a project to widen Pelandale Avenue to six lanes, the Pelandale Avenue Widening Project (the "Project"), and

WHEREAS, the City of Modesto and the County of Stanislaus entered into the Pelandale Avenue Joint Powers Agreement on December 6, 2005, to facilitate cooperation between the City and the County for the improvement of Pelandale Avenue between State Route 99 and a point 1,400 feet east of McHenry Avenue for the Project, which Project area is partially located within the City limits and partially within the unincorporated area of the County, and

WHEREAS, pursuant to the Pelandale Avenue Joint Powers Agreement, the County of Stanislaus consents to the acquisition of Project rights-of-way by the City outside its boundaries in the unincorporated area of the County, and

WHEREAS, the Pelandale Avenue Joint Powers Agreement gives the City of Modesto the right and power to acquire, by purchase or eminent domain, all property or rights-of-way necessary for completion of the Project, including property outside its boundaries in the unincorporated area of the County, and

WHEREAS, the Project, when completed, will improve traffic circulation within the City and the County and to areas east of Coffee Road, and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution of the State of California, Government Code Sections 37350.5, 37353, 39792, 40401 and 40404; Sections 1240.010, 1240.020, 1240.030, 1240.040, 1240.050, 1240.110, 1240.120, 1240.140, 1240.150, and 1240.350 of the Code of Civil Procedure of the State of California; and, California Government Code section 1810; and, the Pelandale Avenue Joint Powers Agreement by and between the City of Modesto and the County of Stanislaus, and

WHEREAS, it is desirable and necessary for the City of Modesto to acquire certain real property interests on Assessor's Parcel Nos. 046-008-016 and 046-008-024, including fee title together with all improvements situated thereon and together with all rights appurtenant thereto, as described in Exhibits A and A-1 and C and C-1 respectively, and a temporary construction easement as described in Exhibits B and B-1 and D and D-1 respectively, which exhibits are attached hereto and made a part hereof by this reference and hereinafter referenced as the "Subject Property," in order to construct, widen and/or improve Pelandale Avenue between Dale Road and McHenry Avenue in the City of Modesto and the County of Stanislaus (the "Project"), and

WHEREAS, Assessor's Parcel No. 046-008-016 is currently encumbered by a Williamson Act contract, and

WHEREAS, the location of the Project generally, and specifically on Assessor's Parcel No. 046-008-016, is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve, but rather on the current location of Pelandale Avenue, the residential neighborhoods abutting Pelandale Avenue, and the purpose of increasing circulation on a six lane expressway, and

WHEREAS, there is no other land within or outside the preserve on which it is reasonably feasible to locate the Project, and

WHEREAS, the appraisal of the land of Assessor's Parcel No. 046-008-016 was without consideration of the involved Williamson Act contract pursuant to Civil Code section 51295, and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to all persons whose property is to be acquired by eminent domain and whose names and addresses appear on the last Stanislaus County equalized assessment roll, all of whom have been given a reasonable opportunity to appear and be heard before 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 sought to be acquired is necessary for the Project;
- (d) Whether the offer required by Government Code Section 7267.2 has been made to the owner(s) of record, and

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of Modesto has made an offer to the owner or owners of record to acquire the Subject Property for just compensation, and

WHEREAS, the City of Modesto has satisfied the provisions and complied with all requirements of the California Environmental Quality Act ("CEQA") for the Project,

**NOW, THEREFORE, IT IS FOUND, DETERMINED, AND ORDERED** as follows:

1. The public interest and necessity require the Project for the acquisition of the fee simple and the temporary construction easements in and through the above-identified parcels of land.
2. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.
3. The Project is planned and located in the manner which was not based primarily, nor in part, on a consideration of the lower cost of acquiring land in an agricultural preserve.
4. There is no other land within or outside the agricultural preserve on which it is reasonably feasible to plan and locate the Project.
5. The taking of the fee simple title in and to the real property or other interests as may be more particularly described in Exhibits A, B, C and D and depicted in Exhibits A-1, B-1, C-1 and D-1 are necessary for the Project.
6. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner or owners of record of the real property and without consideration of the Williamson Act contract pursuant to Civil Code section 51295.
7. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure Section 1240.510 in that the City's use of the Subject Property will not interfere with or impair the continued use of the Subject Property for public utilities as they now exist or may reasonably be expected to exist in the future.
8. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure Section 1240.610 in that the City's use of the Subject Property is a more necessary public use than the use to which the property is appropriated.
9. The Office of the City Attorney of the City of Modesto and Special Counsel, Meyers, Nave, Riback, Silver & Wilson, are hereby authorized, empowered and directed to acquire in the name of the City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as are necessary for such acquisition and to take

such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation based on an appraisal.

10. An order for prejudgment possession may be obtained in said actions and warrants issued to the State Treasury Condemnation Fund, in the amounts determined by the Court to be so deposited, as a condition to the right of immediate possession and use the Subject Property for said public uses and purposes.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

# **EXHIBIT A**

## **EXHIBIT A**

### **DESCRIPTION OF RIGHT-OF-WAY APN: 046-008-016**

All that certain real property being a portion of The Lands of The Burchell Nursery Inc., as described in Doc. No. 2001-0049517, Stanislaus County Official Records, County of Stanislaus, State of California and being more particularly described as follows:

#### **PARCEL A**

Commencing at the Southwest corner of said lands; thence North  $01^{\circ}13'55''$  West, 36.64 feet along the Westerly line to the **TRUE POINT OF BEGINNING**; thence continuing along said Westerly line, North  $01^{\circ}13'55''$  West, 35.38 feet; thence leaving said Westerly line along the Northerly line of said Lands of Burchell Nursery and being the Southerly right-of-way of Pelandale Avenue, South  $88^{\circ}48'55''$  East, 182.05 feet to a point of curvature; thence along the right-of-way as described in Document No.2005-0054446 Stanislaus County Records, 66.29 feet along the arc of a 50.00 foot radius curve to the right through a central angle of  $75^{\circ}57'34''$  to the Easterly line of said Lands of Burchell Nursery and being the Westerly right-of-way of McHENRY Avenue; thence South  $01^{\circ}13'55''$  East, 25.16 feet to the Southeast corner of said Lands and a point of curvature; thence leaving said Westerly line, from a radial bearing which bears North  $77^{\circ}53'52''$  East, 67.48 feet along the arc of a non-tangent 50.00 foot radius curve to the left through a central angle of  $77^{\circ}19'43''$ ; thence North  $89^{\circ}25'45''$  West, 172.31 feet to the true point of beginning.

Containing 7533 square feet of land, more or less.

#### **PARCEL B**

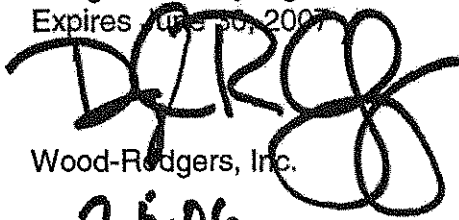
Commencing at the Southwest corner of said lands; thence along the Southerly line, South  $88^{\circ}48'10''$  East, 75.33 feet to a point of curvature; thence leaving said Southerly line, from a radial bearing which bears South  $33^{\circ}26'11''$  East, 22.71 feet along the arc of a non-tangent 80.00 foot radius curve to the left through a central angle of  $16^{\circ}15'55''$  to a point of reverse curvature; thence 82.96 feet along the arc of a 37.00 foot radius curve to the right through a central angle of  $128^{\circ}27'53''$  to the Southerly Lands of Burchell Nursery; thence along said Southerly line, North  $88^{\circ}48'10''$  West, 81.46 feet to the true point of beginning.

Containing 1,613 square feet of land, more or less.

The Basis of Bearings for this description being the same as that certain Map filed for record in Book 33 of Maps, at Page 17, Stanislaus County Records.

*See Exhibit "A-1", plat to accompany description, attached hereto and made a part hereof.*

Douglas R. Owyang P.L.S. 6046  
Expires June 30, 2007

  
Wood-Rodgers, Inc.  
7.5.06





**EXHIBIT A-1**

**EXHIBIT A-1**

PLAT TO ACCOMPANY  
DESCRIPTION



Pelandale Ave. Widening  
Right-of-Way

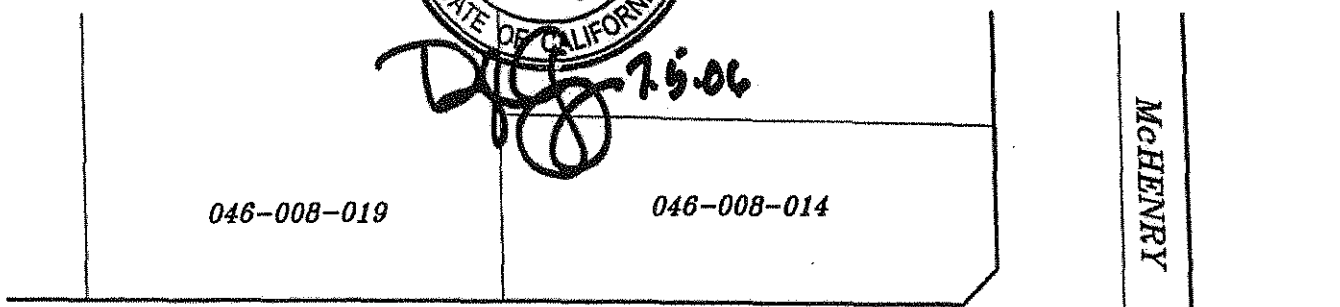
APN: 046-008-016

PARCEL A: 7,533 sq. ft.

PARCEL B: 1,613 sq. ft.

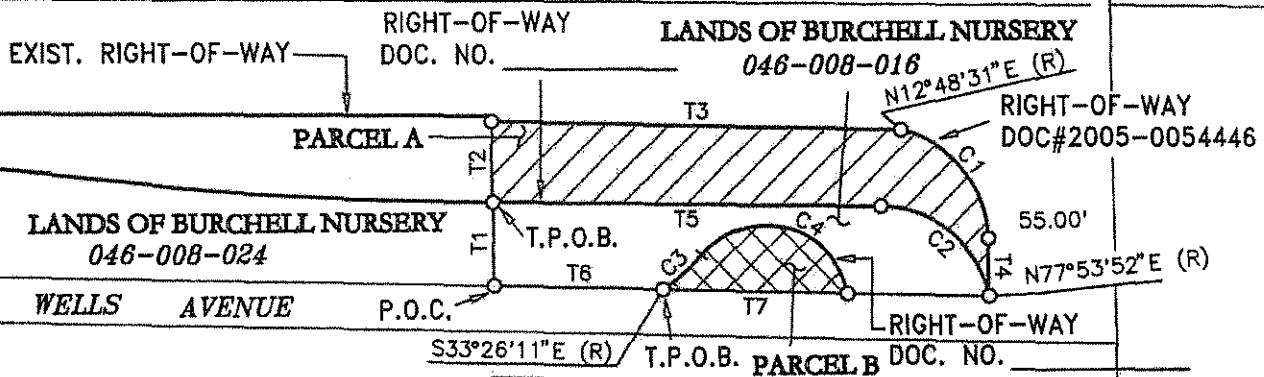
COUNTY OF STANISLAUS, STATE OF CALIFORNIA

*Handwritten:* 75.06



PELANDALE

AVENUE



**LINE TABLE**

T1	N01°13'55\" W	36.64'
T2	N01°13'55\" W	35.38'
T3	S88°48'55\" E	182.05'
T4	S01°13'55\" E	25.16'
T5	N89°25'45\" W	172.31'
T6	S88°48'10\" E	75.33'
T7	N88°48'10\" W	81.46'

**CURVE TABLE**

C1	R=50'	75°57'34\"	L=66.29'
C2	R=50'	77°19'43\"	L=67.48'
C3	R=80'	16°15'55\"	L=22.71'
C4	R=37'	128°27'53\"	L=82.96'

AVENUE

**LEGEND:**

T.P.O.B. - TRUE POINT OF BEGINNING  
P.O.C. - POINT OF COMMENCEMENT



SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1"=80'

**WOOD RODGERS**  
ENGINEERING • MAPPING • PLANNING • SURVEYING

3301 C St., Bldg. 100-B Tel 916.341.7760  
Sacramento, CA 95816 Fax 916.341.7767

J:\Jobs\8106-Pelandale\Pelandale-0A\Geomatics\plots to accompany\RW\apn046-008-016-rw.dwg 7/05/06 1:23pm jruenschel

046-008-016\_RWa

Bearing	Distance	Northing	Easting	Inverse
		0.000	0.000	
N 1°13'55.0"W	35.380	35.372	-0.761	35.380
S88°48'55.0"E	182.050	31.608	181.250	183.986
Entering a non-tangent curve being				
a curve breaking to the right				
S12°48'31.0"W	50.000	-17.148	170.166	171.028
Delta = 75°57'34.0"		Length = 66.287	Tangent =	39.036
Chord Bearing = S39°12'42.0"E		Chord Length =	61.538	
N88°46' 5.0"E	50.000	-16.073	220.154	220.740
S 1°13'55.0"E	25.160	-41.227	220.695	224.513
Entering a non-tangent curve being				
a curve breaking to the left				
S77°53'52.0"W	50.000	-51.710	171.806	179.419
Delta = 77°19'43.0"		Length = 67.482	Tangent =	40.006
Chord Bearing = N50°45'59.5"W		Chord Length =	62.476	
N 0°34' 9.0"E	50.000	-1.712	172.303	172.311
Exiting non-tangent curve				
N89°25'45.0"W	172.310	0.004	0.002	0.004
Area = 7531.916 Square Feet or 0.173 Acres.				
Precision = 1 In 123225.879.				
Direction = N20° 1'49.6"E 0.004				

**EXHIBIT B**

## EXHIBIT A

### DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT APN: 046-008-016

All that certain real property being a portion of The Lands of The Burchell Nursery Inc., as described in Doc. No. 2001-0049517, Stanislaus County Official Records, County of Stanislaus, State of California and being more particularly described as follows:

#### PARCEL A

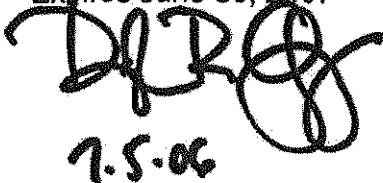
Beginning at the Southwest corner of said lands; thence from said **TRUE POINT OF BEGINNING** along the Westerly line, North  $01^{\circ}13'55''$  West, 36.64 feet; thence leaving said Westerly line, South  $89^{\circ}25'45''$  East, 172.31 feet to a point of curvature; thence 67.48 feet along the arc of a 50.00 foot radius curve to the right through a central angle of  $77^{\circ}19'43''$  to the Southerly line of said Lands of Burchell Nursery; thence along the Southerly line of said Lands, North  $88^{\circ}48'10''$  West, 63.16 feet to a point of curvature; thence leaving said Southerly line from a radial bearing which bears North  $78^{\circ}45'47''$  East, 82.96 feet along the arc of a 37.00 foot radius curve to the left through a central angle of  $128^{\circ}27'53''$  to a point of reverse curvature; thence 22.71 feet along the arc of a 80.00 foot radius curve to the right through a central angle of  $16^{\circ}15'55''$  to the Southerly line of aforesaid Lands; thence North  $88^{\circ}48'10''$  West, 75.33 feet to the true point of beginning.

Containing 6,244 square feet of land, more or less.

The Basis of Bearings for this description being the same as that certain Map filed for record in Book 33 of Maps, at Page 17, Stanislaus County Records.

*See Exhibit "A-1", plat to accompany description, attached hereto and made a part hereof.*

Douglas R. Owyang P.L.S. 6046  
Expires June 30, 2007

  
7.5.06



Wood-Rodgers, Inc.

**EXHIBIT B-1**

**EXHIBIT A-1**

PLAT TO ACCOMPANY  
DESCRIPTION

Pelandale Ave. Widening  
Temporary Construction Easement  
APN: 046-008-016  
Area: 6,244 sq.ft.  
COUNTY OF STANISLAUS, STATE OF CALIFORNIA



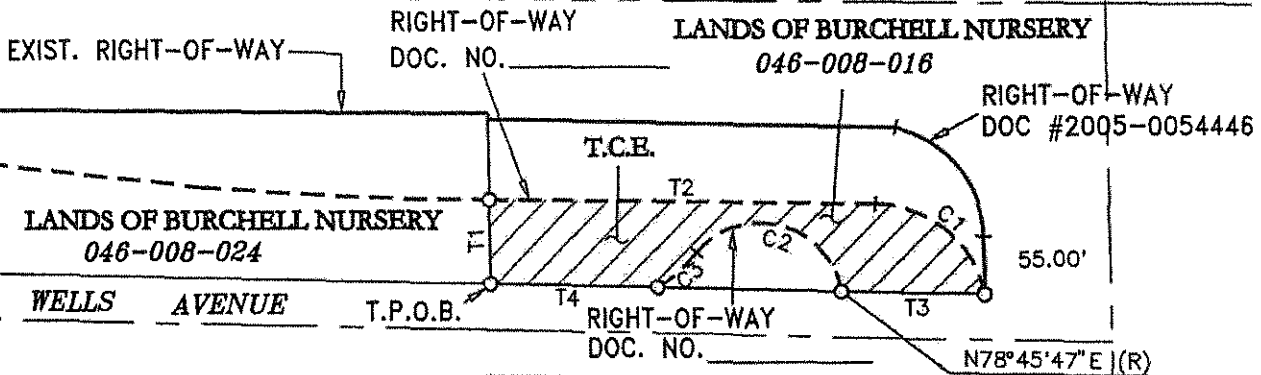
*DLR 7.5.06*

046-008-019

046-008-014

MCHENNERY  
AVENUE

PELANDALE AVENUE



**LINE TABLE**

T1	N01°13'55"W	36.64'
T2	S89°25'45"E	172.31'
T3	N88°48'10"W	63.16'
T4	N88°48'10"W	75.33'

**CURVE TABLE**

C1	R=50'	77°19'43"	L=67.48'
C2	R=37'	128°27'53"	L=82.96'
C3	R=80'	16°15'55"	L=22.71'

046-005-010

046-005-014

**LEGEND:**

T.C.E. - TEMPORARY CONSTRUCTION EASEMENT  
T.P.O.B. - TRUE POINT OF BEGINNING



SCALE: 1"=80'



**WOOD RODGERS**  
ENGINEERING • MAPPING • PLANNING • SURVEYING

3301 C St., Bldg. 100-B Tel 916.341.7760  
Sacramento, CA 95816 Fax 916.341.7767

SEE DESCRIPTION FOR  
COURSE INFORMATION

J:\Jobs\B106-Pelandale-Pelandale-0A\Geomatics\plats to accompany\TCE\apn046-008-016-TCE.dwg 7/05/06 2:07pm jwunschel

# **EXHIBIT C**



## EXHIBIT A

### DESCRIPTION OF RIGHT-OF-WAY APN: 046-008-024

All that certain real property being a portion of The Lands of The Burchell Nursery Inc., as described in Doc. No. 1996-0051105, Stanislaus County Official Records, County of Stanislaus, State of California and being more particularly described as follows:

Commencing at the southeast corner of said lands; thence North  $01^{\circ}13'55''$  West, 36.65 feet along the East line to a point of curvature and the **TRUE POINT OF BEGINNING**; thence from said true point of beginning and leaving said East line, from a radial bearing which bears South  $00^{\circ}28'37''$  West, 125.28 feet along a non-tangent 1782.00 foot radius curve to the right through a central angle of  $04^{\circ}01'42''$ ; thence North  $83^{\circ}48'05''$  West, 411.01 feet to a point of curvature; thence 31.30 feet along a 18.00 foot radius curve to the left through a central angle of  $99^{\circ}38'37''$ ; thence South  $86^{\circ}33'16''$  West, 13.00 feet; thence North  $89^{\circ}54'43''$  West, 43.37 feet to the West line of said lands; thence North  $01^{\circ}13'55''$  West, 27.52 feet along said West line to the southerly right-of-way of Pelandale Avenue, as described in Doc. No. 1989-097322, Stanislaus County Official Records, said point also being a point of curvature; thence along said right-of-way from a radial which bears South  $04^{\circ}50'32''$  West, 383.68 feet along a non-tangent 5050.00 foot radius curve to the left through a central angle of  $04^{\circ}21'11''$ ; thence South  $89^{\circ}30'39''$  East, 226.63 feet to the northeast corner of said Lands of The Burchell Nursery Inc.; thence South  $01^{\circ}13'55''$  East, 37.88 feet along the East line of said lands to the true point of beginning.

Containing 0.284 acres of land, more or less.

The Basis of Bearings for this description being the same as that certain Map filed for record in Book 33 of Maps, at Page 17, Stanislaus County Records.

*See Exhibit "A-1", plat to accompany description, attached hereto and made a part hereof.*

Douglas R. Owyang P.L.S. 6046  
Expires June 30, 2007

*D.R.O. 7.5.06*  
Wood-Rodgers, Inc.

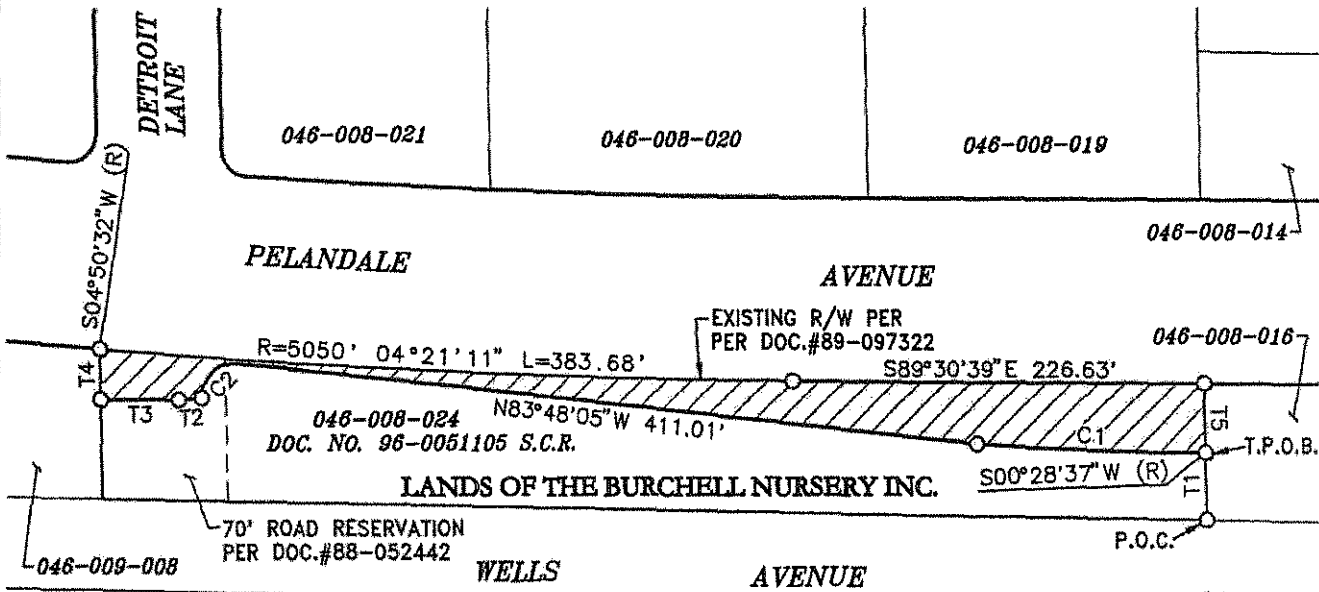


**EXHIBIT C-1**

# EXHIBIT A-1

PLAT TO ACCOMPANY  
DESCRIPTION

Pelandale Ave. Widening  
Right-of-Way  
APN: 046-008-024  
TOTAL AREA: 0.284 ACRES  
COUNTY OF STANISLAUS, STATE OF CALIFORNIA



LINE TABLE

T1	N01°13'55"W	36.65'
T2	S86°33'16"W	13.00'
T3	N89°54'43"W	43.37'
T4	N01°13'55"W	27.52'
T5	S01°13'55"E	37.88'

CURVE TABLE

C1	R=1782'	04°01'42"	L=125.28'
C2	R=18'	99°38'37"	L=31.30'

046-005-014

046-900-990



*D.R.O. 7.5.06*



SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1"=100'

**WOOD RODGERS**  
ENGINEERING • MAPPING • PLANNING • SURVEYING  
3301 C St., Bldg. 100-B Tel 916.341.7760  
Sacramento, CA 95816 Fax 916.341.7767

J:\Jobs\8106-Pelandale-Pelandale-0A\Geomatics\plats to accompany\RW\apn046-008-024-rw-new.dwg 7/05/06 1:38pm jwunschel

046-008-024-new

Bearing	Distance	Northing	Easting	Inverse
		0.000	0.000	
A curve breaking to the right				
N 0°28'37.0"E	1782.000	1781.938	14.834	1782.000
Delta = 4° 1'42.0"		Length = 125.288	Tangent =	62.670
Chord Bearing = N87°30'32.0"W		Chord Length =	125.262	
S 4°30'19.0"W	1782.000	5.444	-125.144	125.262
Exiting non-tangent curve				
N83°48' 5.0"W	411.010	49.823	-533.751	536.072
A curve breaking to the left				
S 6°11'55.0"W	18.000	31.929	-535.695	536.645
Delta = 99°38'37.0"		Length = 31.304	Tangent =	21.317
Chord Bearing = S46°22'36.5"W		Chord Length =	27.505	
S86°33'18.0"W	18.000	30.847	-553.662	554.521
Exiting non-tangent curve				
S86°33'16.0"W	13.000	30.066	-566.639	567.436
N89°54'43.0"W	43.370	30.132	-610.009	610.752
N 1°13'55.0"W	27.520	57.646	-610.600	613.315
Entering a non-tangent curve being				
A curve breaking to the left				
N 4°50'32.0"E	5050.000	5089.622	-184.319	5092.959
Delta = 4°21'11.0"		Length = 383.675	Tangent =	191.930
Chord Bearing = S87°20' 3.5"E		Chord Length =	383.582	
S 0°29'21.0"W	5050.000	39.806	-227.433	230.890
S89°30'39.0"E	226.630	37.871	-0.811	37.880
S 1°13'55.0"E	37.880	0.000	0.003	0.003

Area = 12363.780 Square Feet or 0.284 Acres.

Precision = 1 In 432358.633.

Direction = N88° 9'10.4"E 0.003

# **EXHIBIT D**

**EXHIBIT A**  
**DESCRIPTION OF**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**APN: 046-008-024**

All that certain real property being a portion of The Lands of The Burchell Nursery Inc., as described in Doc. No. 1996-0051105, Stanislaus County Official Records, County of Stanislaus, State of California and being more particularly described as follows:

BEGINNING at the southeast corner of said lands; thence North 01°13'55" West, 26.64 feet along the East line to a point of curvature and the **TRUE POINT OF BEGINNING**; thence from said true point of beginning and leaving said East line, from a radial bearing which bears South 00°28'02" West, 126.43 feet along a non-tangent 1792.00 foot curve to the right through a central angle of 04°02'33"; thence North 83°48'05" West, 411.16 feet to a point of curvature; thence 13.91 feet along a 8.00 foot radius curve to the left through a central angle of 99°38'41; thence South 86°33'16" West, 10.00 feet to the Northerly right-of-way of Pelandale Avenue as described in Doc. No. \_\_\_\_\_,

Stanislaus County Records and a point of curvature; thence from a radial bearing which bears North 86°33'16" East, 31.30 feet along a non-tangent 18.00 foot radius curve to the right through a central angle of 99°38'37"; thence South 83°48'05" East, 411.01 feet to a point of curvature; thence 125.28 feet along a 1782.00 foot radius curve to the left through a central angle of 04°01'42" to the Easterly line of said Lands of Burchell Nursery; thence along said Easterly line, South 01°13'55" East, 10.00 feet to the true point of beginning.

Containing 0.13 acres of land, more or less.

The Basis of Bearings for this description being the same as that certain Map filed for record in Book 33 of Maps, at Page 17, Stanislaus County Records.

*See Exhibit "A-1", plat to accompany description, attached hereto and made a part hereof.*

Douglas R. Owyang P.L.S. 6046  
Expires June 30, 2007

*DR. Owyang 7.5.06*

Wood-Rodgers, Inc.

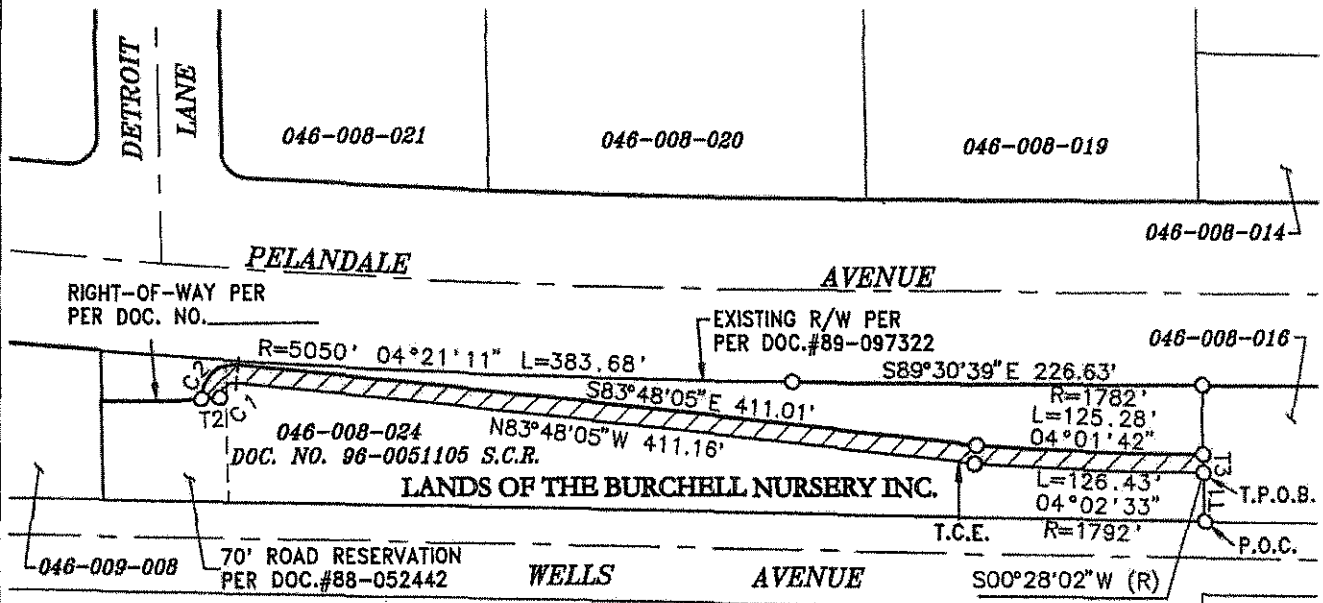


**EXHIBIT D-1**

# EXHIBIT A-1

PLAT TO ACCOMPANY  
DESCRIPTION

Pelandale Ave. Widening  
Temporary Construction Easement  
APN: 046-008-024  
TOTAL AREA: 0.13 ACRES  
COUNTY OF STANISLAUS, STATE OF CALIFORNIA



LINE TABLE

T1	N01°13'55"W	26.64'
T2	S86°33'16"W	10.00'
T3	S01°13'55"E	10.00'

CURVE TABLE

C1	R=8'	99°38'41"	L=13.91'
C2	R=18'	99°38'37"	L=31.30'

**LEGEND:**  
T.C.E. - TEMPORARY CONSTRUCTION EASEMENT  
T.P.O.B. - TRUE POINT OF BEGINNING  
P.O.B. - POINT OF BEGINNING



*DR O'Yang*  
7.5.06



SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1"=100'

**WOOD RODGERS**  
ENGINEERING • MAPPING • PLANNING • SURVEYING  
3301 C St., Bldg. 100-B Tel 916.341.7760  
Sacramento, CA 95816 Fax 916.341.7767

j:\jobs\8106-Pelandale-Pelandale-0A\Geomatics\plats to accompany\TCE\apn046-008-024-tce.dwg 7/05/06 2:07pm jwrschel



Parcel name: 46-008-024-tce

Curve North: 2077412.3013 East : 6418524.7725  
 Length: 126.434 Radius: 1792.000  
 Delta: 4-02-33 Tangent: 63.243  
 Chord: 126.407 Course: N 87-30-41 W  
 Course In: N 00-28-02 E Course Out: S 04-30-35 W  
 RP North: 2079204.2417 East : 6418539.3853  
 End North: 2077417.7898 East : 6418398.4835  
 Line Course: N 83-48-05 W Length: 411.162  
 North: 2077462.1851 East : 6417989.7253  
 Curve Length: 13.913 Radius: 8.000  
 Delta: 99-38-41 Tangent: 9.474  
 Chord: 12.225 Course: S 46-22-37 W  
 Course In: S 06-11-57 W Course Out: S 86-33-16 W  
 RP North: 2077454.2319 East : 6417988.8615  
 End North: 2077453.7511 East : 6417980.8759  
 Line Course: S 86-33-16 W Length: 10.000  
 North: 2077453.1501 East : 6417970.8940  
 Curve Length: 31.304 Radius: 18.000  
 Delta: 99-38-38 Tangent: 21.317  
 Chord: 27.506 Course: N 46-22-35 E  
 Course In: N 86-33-16 E Course Out: N 06-11-54 E  
 RP North: 2077454.2319 East : 6417988.8615  
 End North: 2077472.1266 East : 6417990.8049  
 Line Course: S 83-48-05 E Length: 411.014  
 North: 2077427.7473 East : 6418399.4160  
 Curve Length: 125.280 Radius: 1782.000  
 Delta: 4-01-41 Tangent: 62.668  
 Chord: 125.258 Course: S 87-30-33 E  
 Course In: N 04-30-18 E Course Out: S 00-28-37 W  
 RP North: 2079204.2418 East : 6418539.3851  
 End North: 2077422.3035 East : 6418524.5515  
 Line Course: S 01-13-55 E Length: 10.004  
 North: 2077412.3018 East : 6418524.7665  
 Line Course: S 90-00-00 E Length: 0.000  
 North: 2077412.3018 East : 6418524.7665

Perimeter: 1139.115 Area: 5,595.55 sq. ft. 0.13 acres

Mapcheck Closure - (Uses listed courses, radii, and deltas)

Error Closure: 0.0060 Course: N 85-09-13 W

Error North: 0.00051 East : -0.00598

Precision 1: 189,851.833

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-457**

**A RESOLUTION DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY  
REQUIRE THE ACQUISITION OF CERTAIN PROPERTY INTERESTS AND  
DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS FOR THE  
PELANDALE AVENUE CAPITAL IMPROVEMENT PROJECT**

**Vintage Faire Christian Center Church, Property Owner  
Property Address: 4204 Dale Road, Modesto, California  
Assessor's Parcel No.: 078-018-035**

WHEREAS, the City's Capital Improvement Program (CIP), amended on February 22, 2005, by Council Resolution No. 2005-118, included a project to widen Pelandale Avenue to six lanes, the Pelandale Avenue Widening Project (the "Project"), and

WHEREAS, the City of Modesto and the County of Stanislaus entered into the Pelandale Avenue Joint Powers Agreement on December 6, 2005, to facilitate cooperation between the City and the County for the improvement of Pelandale Avenue between State Route 99 and a point 1,400 feet east of McHenry Avenue for the Project, which Project area is partially located within the City limits and partially within the unincorporated area of the County, and

WHEREAS, pursuant to the Pelandale Avenue Joint Powers Agreement, the County of Stanislaus consents to the acquisition of Project rights-of-way by the City outside its boundaries in the unincorporated area of the County, and

WHEREAS, the Pelandale Avenue Joint Powers Agreement gives the City of Modesto the right and power to acquire, by purchase or eminent domain, all property or rights-of-way necessary for completion of the Project, including property outside its boundaries in the unincorporated area of the County, and

WHEREAS, the Project, when completed, will improve traffic circulation within the City and the County and to areas east of Coffee Road, and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution of the State of California, Government Code Sections 37350.5, 37353, 39792, 40401 and 40404, and Sections 1240.010, 1240.020, 1240.030, 1240.040, 1240.050, 1240.110, 1240.120, 1240.140, 1240.150, and 1240.350 of the Code of Civil Procedure of the State of California and the Pelandale Avenue Joint Powers Agreement by and between the City of Modesto and the County of Stanislaus, and

WHEREAS, it is desirable and necessary for the City of Modesto to acquire certain real property interests on Assessor's Parcel No. 078-018-035, including fee title together with all improvements situated thereon and together with all rights appurtenant thereto, as described in Exhibits A and A-1 hereto, and a temporary construction easement as described in Exhibits B and B-1 hereto, which exhibits are attached hereto and made a part hereof by this reference and

hereinafter referenced as the "Subject Property," in order to construct, widen and/or improve Pelandale Avenue between Dale Road and McHenry Avenue in the City of Modesto and the County of Stanislaus (the "Project"), and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to all persons whose property is to be acquired by eminent domain and whose names and addresses appear on the last Stanislaus County equalized assessment roll, all of whom have been given a reasonable opportunity to appear and be heard before 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 sought to be acquired is necessary for the Project;
- (d) Whether the offer required by Government Code Section 7267.2 has been made to the owner(s) of record, and

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of Modesto has made an offer to the owner or owners of record to acquire the Subject Property for just compensation, and

WHEREAS, the City of Modesto has satisfied the provisions and complied with all requirements of the California Environmental Quality Act ("CEQA") for the Project,

**NOW, THEREFORE, IT IS FOUND, DETERMINED, AND ORDERED** as follows:

1. The public interest and necessity require the Project for the acquisition of the fee simple and the temporary construction easement in and through the above-identified parcel of land.
2. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.
3. The taking of the fee simple title in and to the real property or other interests as may be more particularly described in Exhibits A and B and depicted in Exhibits A-1 and B-1 are necessary for the Project.
4. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner or owners of record of the real property.
5. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure Section 1240.510 in that the City's use of the Subject Property will not interfere with or impair the continued use of the Subject

Property for public utilities as they now exist or may reasonably be expected to exist in the future.

6. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure Section 1240.610 in that the City's use of the Subject Property is a more necessary public use than the use to which the property is appropriated.
7. The Office of the City Attorney of the City of Modesto and Special Counsel, Meyers, Nave, Riback, Silver & Wilson, are hereby authorized, empowered and directed to acquire in the name of the City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation based on an appraisal.
8. An order for prejudgment possession may be obtained in said actions and warrants issued to the State Treasury Condemnation Fund, in the amounts determined by the Court to be so deposited, as a condition to the right of immediate possession and use the Subject Property for said public uses and purposes.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**EXHIBIT A**

**EXHIBIT A**

**DESCRIPTION OF  
RIGHT-OF-WAY  
APN: 078-018-035**

A portion of that certain real property of the Lands of Vintage Faire Christian Center Church, a Non-Profit Corporation as described in Book 3120 Stanislaus County Records, at page 407 and also being a portion of Parcel "B" on that certain Parcel Map filed for record in Book 47 of Parcel Maps, at Page 46, Stanislaus County Records, in the City of Modesto, State of California and being more particularly described as follows:

BEGINNING at the most southwest corner of said Parcel "B", thence from the **TRUE POINT OF BEGINNING**, northerly along the westerly line, North 00°19'30" West, 6.24 feet; thence leaving said west line of Parcel "B", North 89°27'51" East, 485.66 feet; thence North 89°17'58" East, 474.52 feet to the easterly line of said Parcel "B"; thence southerly along said east line South 00°52'45" East, 8.38 feet to the southeast corner of aforesaid Parcel "B"; thence leaving the aforementioned easterly line along the south line of Parcel "B" and being a portion of the northerly right-of-way of Pelandale Avenue, South 89°07'03" West, 507.27 feet; thence South 89°57'03" West, 453.02 feet to the point of beginning.

Containing 0.19 acres of land, more or less.

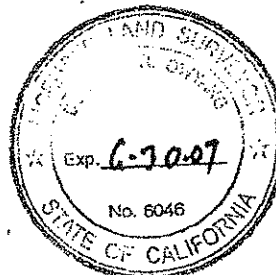
The Basis of Bearings for this description is the west line of Section 1, T.3S, R.8E, M.D.M. as shown on that certain Parcel Map in Book 47, at page 46, Stanislaus County Records, State of California and being North 0°19'30 West.

*See Exhibit "A-1", plat to accompany description, attached hereto and made a part hereof.*

Douglas R. Owyang P.L.S. 6046  
Expires June 30, 2007



Wood-Rodgers, Inc.

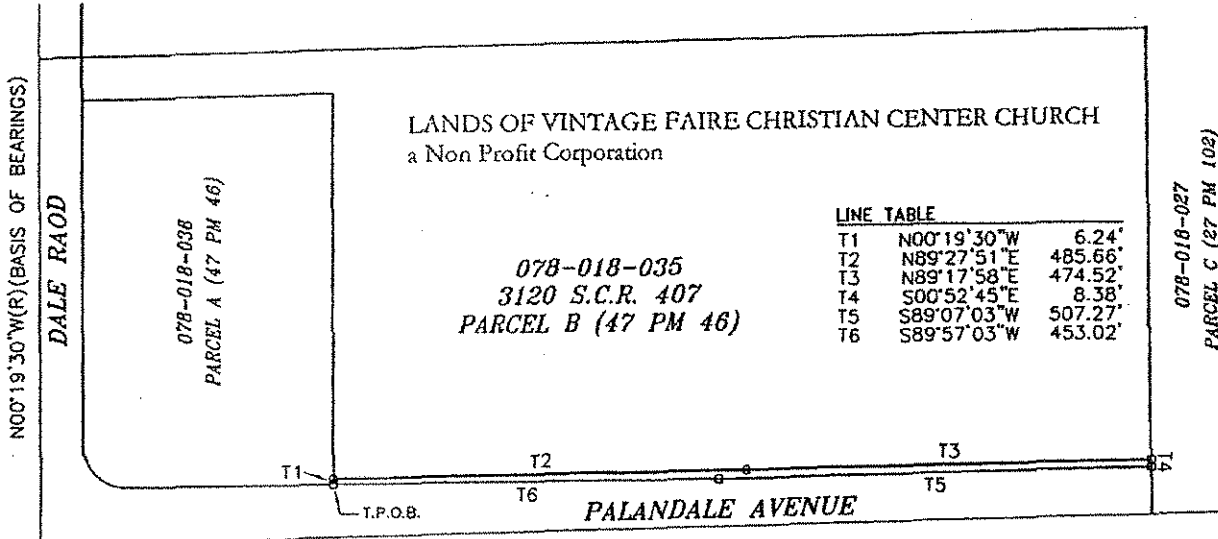


**EXHIBIT A-1**

**EXHIBIT A-1**

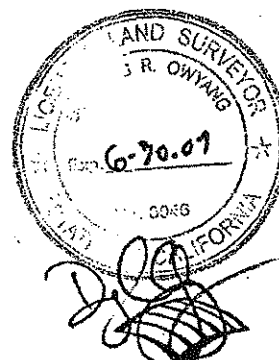
PLAT TO ACCOMPANY  
DESCRIPTION

Pelandale Ave. Widening  
Right-of-Way  
APN: 078-018-035  
TOTAL AREA: 0.192 acre  
COUNTY OF STANISLAUS, STATE OF CALIFORNIA



SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1"=200'



**WOOD RODGERS**  
ENGINEERING • MAPPING • PLANNING • SURVEYING  
3301 C St., Bldg. 100-B Tel 916.341.7760  
Sacramento, CA 95816 Fax 916.341.7767

J:\008\018-035\Plat\078-018-035-11.dwg 1/10/2006 8:05:31 AM P31



## **EXHIBIT B**

**EXHIBIT A**  
**DESCRIPTION OF**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**APN: 078-018-035**

A portion of that certain real property of the Lands of Vintage Faire Christian Center Church, a Non-Profit Corporation as described in Book 3120 at page 407, Stanislaus County Records, and also being a portion of Parcel "B" on that certain Parcel Map filed for record in Book 47 of Parcel Maps, at Page 46, Stanislaus County Records, in the City of Modesto, State of California and being more particularly described as follows:

BEGINNING at the most southwest corner of said Parcel "B", thence northerly along the westerly line, North 00°19'30" West, 6.24 feet to the **TRUE POINT OF BEGINNING**; thence from said True Point of Beginning along said west line of Parcel "B", North 00°19'30" West, 10.00 feet; thence leaving said west line of Parcel "B", North 89°27'51" East, 485.61 feet; thence North 89°17'58" East, 474.48 to the easterly line of said Parcel "B"; thence southerly along said east line, South 00°52'45" East, 10.00 feet; thence leaving the aforementioned easterly line along the Northerly line of Pelandale Avenue as described in Doc No. \_\_\_\_\_, South 89°17'58" West, 474.52 feet; thence South 89°27'51" West, 485.66 feet to the True Point of Beginning.

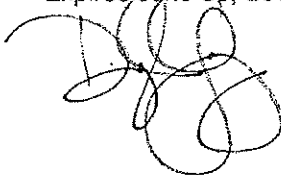
Containing 9601 square feet of land, more or less.

Temporary Construction Easement Expiration Date: \_\_\_\_\_

The Basis of Bearings for this description is the west line of Section 1, T.3S, R.8E, M.D.M. as shown on that certain Parcel Map in Book 47, at page 46, Stanislaus County Recorders, State of California and being North 0°19'30 West.

*See Exhibit "A-1", plat to accompany description, attached hereto and made a part hereof.*

Douglas R. Owyang P.L.S. 6046  
Expires June 30, 2007



Wood-Rodgers, Inc.

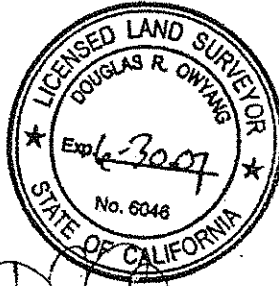
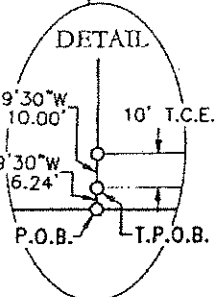
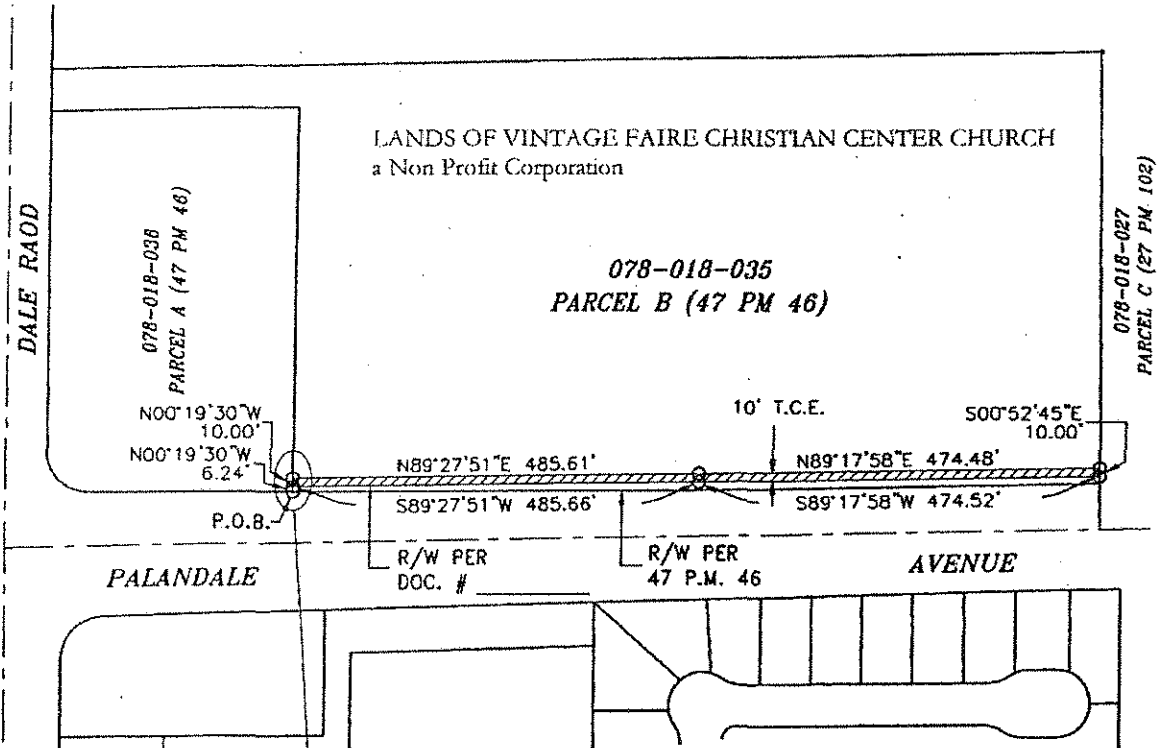


**EXHIBIT B-1**

**EXHIBIT A-1**

PLAT TO ACCOMPANY  
DESCRIPTION

Pelandale Ave. Widening  
Temporary Construction Easement  
APN: 078-018-035  
TOTAL AREA: 9601 sq. ft.  
CITY OF MODESTO  
COUNTY OF STANISLAUS, STATE OF CALIFORNIA



SCALE: 1"=200'

**LEGEND:**

- T.C.E. - TEMPORARY CONSTRUCTION EASEMENT
- T.P.O.B. - TRUE POINT OF BEGINNING
- P.O.B. - POINT OF BEGINNING

SEE DESCRIPTION FOR  
COURSE INFORMATION

**WOOD RODGERS**  
ENGINEERING • MAPPING • PLANNING • SURVEYING  
3301 C St., Bldg. 100-B Tel 916.341.7780  
Sacramento, CA 95816 Fax 916.341.7787

J:\Jobs\8106-Pelandale\Plat\018-018-035-plat to accompany.apr078-018-035-rwd.dwg 1/18/2006 8:05:31 AM PST

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-458**

**A RESOLUTION DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY  
REQUIRE THE ACQUISITION OF CERTAIN PROPERTY INTERESTS AND  
DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS FOR THE  
PELANDALE AVENUE CAPITAL IMPROVEMENT PROJECT**

**Hans J. Wagner, Donald E. Wagner, Trustee of The Donald E. Wagner Trust,  
Property Owners  
Property Address: Northwest Corner of Pelendale Avenue and American Avenue,  
Modesto, California  
Assessor's Parcel No.: 078-018-021**

WHEREAS, the City's Capital Improvement Program (CIP), amended on February 22, 2005, by Council Resolution No. 2005-118, included a project to widen Pelendale Avenue to six lanes, the Pelendale Avenue Widening Project (the "Project"), and

WHEREAS, the City of Modesto and the County of Stanislaus entered into the Pelendale Avenue Joint Powers Agreement on December 6, 2005, to facilitate cooperation between the City and the County for the improvement of Pelendale Avenue between State Route 99 and a point 1,400 feet east of McHenry Avenue for the Project, which Project area is partially located within the City limits and partially within the unincorporated area of the County, and

WHEREAS, pursuant to the Pelendale Avenue Joint Powers Agreement, the County of Stanislaus consents to the acquisition of Project rights-of-way by the City outside its boundaries in the unincorporated area of the County, and

WHEREAS, the Pelendale Avenue Joint Powers Agreement gives the City of Modesto the right and power to acquire, by purchase or eminent domain, all property or rights-of-way necessary for completion of the Project, including property outside its boundaries in the unincorporated area of the County, and

WHEREAS, the Project, when completed, will improve traffic circulation within the City and the County and to areas east of Coffee Road, and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution of the State of California, Government Code Sections 37350.5, 37353, 39792, 40401 and 40404, and Sections 1240.010, 1240.020, 1240.030, 1240.040, 1240.050, 1240.110, 1240.120, 1240.140, 1240.150, and 1240.350 of the Code of Civil Procedure of the State of California and the Pelendale Avenue Joint Powers Agreement by and between the City of Modesto and the County of Stanislaus, and

WHEREAS, it is desirable and necessary for the City of Modesto to acquire certain real property interests on Assessor's Parcel No. 078-018-021, including fee title together with all improvements situated thereon and together with all rights appurtenant thereto, as described in Exhibits A and A-1 hereto, and a temporary construction easement as described in Exhibits B

and B-1 hereto, which exhibits are attached hereto and made a part hereof by this reference and hereinafter referenced as the "Subject Property," in order to construct, widen and/or improve Pelandale Avenue between Dale Road and McHenry Avenue in the City of Modesto and the County of Stanislaus (the "Project"), and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to all persons whose property is to be acquired by eminent domain and whose names and addresses appear on the last Stanislaus County equalized assessment roll, all of whom have been given a reasonable opportunity to appear and be heard before 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 sought to be acquired is necessary for the Project;
- (d) Whether the offer required by Government Code Section 7267.2 has been made to the owner(s) of record, and

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of Modesto has made an offer to the owner or owners of record to acquire the Subject Property for just compensation, and

WHEREAS, the City of Modesto has satisfied the provisions and complied with all requirements of the California Environmental Quality Act ("CEQA") for the Project,

**NOW, THEREFORE, IT IS FOUND, DETERMINED, AND ORDERED** as follows:

1. The public interest and necessity require the Project for the acquisition of the fee simple and the temporary construction easement in and through the above-identified parcel of land.
2. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.
3. The taking of the fee simple title in and to the real property or other interests as may be more particularly described in Exhibits A and B and depicted in Exhibits A-1 and B-1 are necessary for the Project.
4. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner or owners of record of the real property.
5. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure Section 1240.510 in that the City's use of the Subject Property will not interfere with or impair the continued use of the Subject

Property for public utilities as they now exist or may reasonably be expected to exist in the future.

6. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure Section 1240.610 in that the City's use of the Subject Property is a more necessary public use than the use to which the property is appropriated.
7. The Office of the City Attorney of the City of Modesto and Special Counsel, Meyers, Nave, Riback, Silver & Wilson, are hereby authorized, empowered and directed to acquire in the name of the City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation based on an appraisal.
8. An order for prejudgment possession may be obtained in said actions and warrants issued to the State Treasury Condemnation Fund, in the amounts determined by the Court to be so deposited, as a condition to the right of immediate possession and use the Subject Property for said public uses and purposes.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

# **EXHIBIT A**



**EXHIBIT A**  
**DESCRIPTION OF**  
**RIGHT-OF-WAY**  
**APN: 078-018-021**

A portion of that certain real property of the Lands of Hans J. Wagner and Donald E. Wagner, trustee of Donald E. Wagner Trust, as described in Doc. No. 1990-075780 Stanislaus County Records, in the City of Modesto, State of California and being more particularly described as follows:

BEGINNING at the southwest corner of said Lands of Hans J. Wagner and Donald E. Wagner; thence from the TRUE POINT OF BEGINNING, northerly along the west line of said Lands of Wagner; North 00°36'02" West, 63.57 feet; thence leaving said westerly line, North 88°20'06" East, 365.40 feet; thence North 89°17'58" East, 70.51 feet to a point of curvature; thence 7.86 feet along a 40.00 foot radius curve to the left through a central angle of 11°15'30"; thence North 78°02'28" East, 21.29 feet to a point of curvature; thence 11.79 feet along a 60.00 foot radius curve to the right through a central angle of 11°15'30"; thence North 89°17'58" East, 50.00 feet to a point of curvature; thence 9.61 feet along a 60.00 foot radius curve to the right through a central angle of 09°10'44"; thence South 81°31'18" East, 54.66 feet to a point of curvature; thence 6.41 feet along a 40.00 foot radius curve to the left through a central angle of 09°10'44"; thence North 89°17'58" East, 39.98 feet to a point of curvature; thence 28.18 feet along the a 18.00 foot radius curve to the left through a central angle of 89°42'18"; thence North 00°24'20" West, 70.28 feet; thence North 89°35'40" East, 27.33 feet to the westerly right-of-way of American Avenue, as described in Doc. No. 2001-0025109 Stanislaus County Records; thence southerly along said right-of-way, South 00°24'20" East, 94.07 feet; thence leaving said westerly right-of-way of American Avenue and continuing along the northerly right-of-way of Pelandale Avenue, as described in Doc. No. 2001-0025108 Stanislaus County Records, South 79°59'02" West, 86.47 feet; thence South 87°45'20" West, 305.17 feet to the centerline of Pelandale Avenue; thence along said centerline, South 89°48'47" West, 270.76 feet to the true point of beginning.

Containing 1.078 acres of land, more or less.

The Basis of Bearings for this description being the same as shown on that certain Parcel Map filed for Record in Book 50, at page 13, Stanislaus County Records.

*See Exhibit "A-1", plat to accompany description, attached hereto and made a part hereof.*

Douglas R. Owyang P.L.S. 6046  
Expires June 30, 2007

Wood-Rodgers, Inc.



**EXHIBIT A-1**

# EXHIBIT A-1

PLAT TO ACCOMPANY  
DESCRIPTION

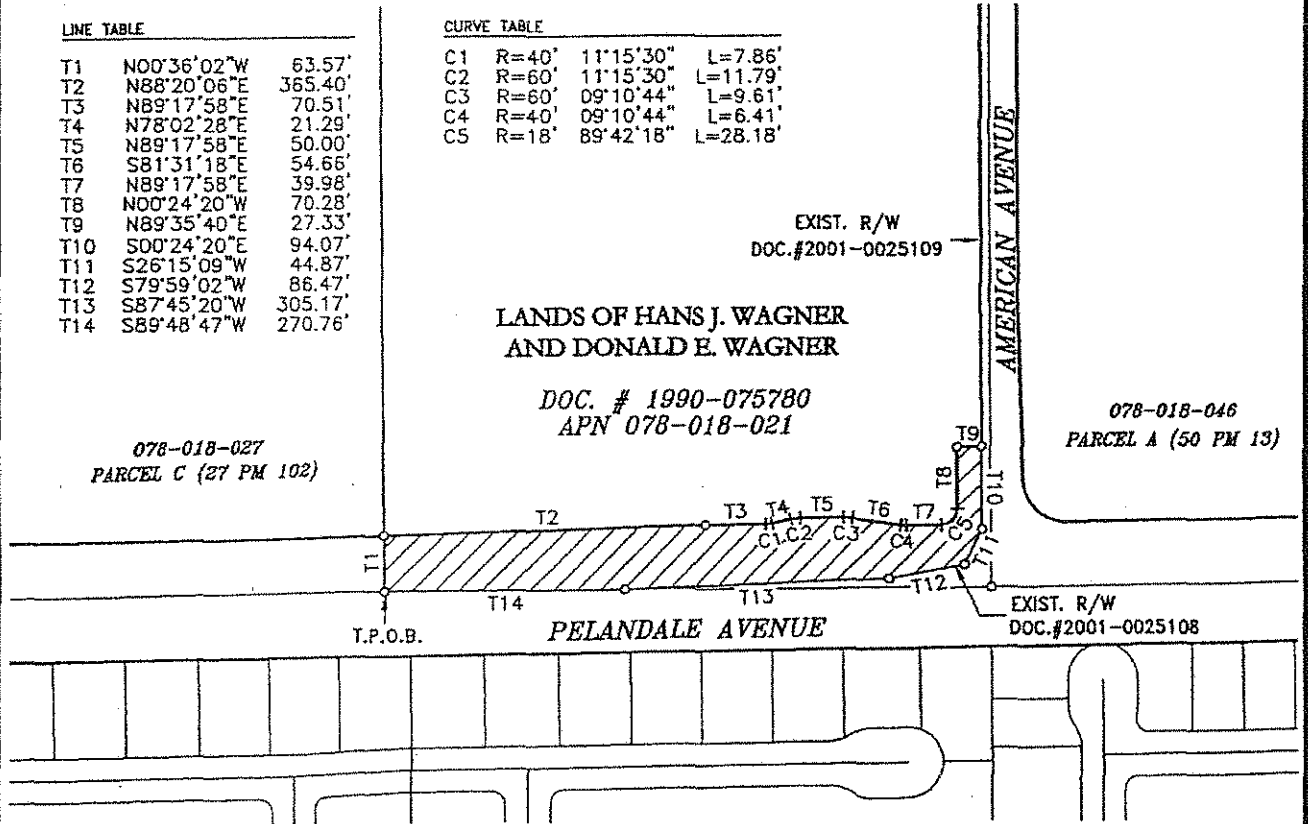
Pelandale Ave. Widening  
Right-of-Way  
APN: 078-018-021  
TOTAL AREA: 1.078 acres  
COUNTY OF STANISLAUS, STATE OF CALIFORNIA

**LINE TABLE**

T1	N00°36'02"W	63.57'
T2	N88°20'06"E	365.40'
T3	N89°17'58"E	70.51'
T4	N78°02'28"E	21.29'
T5	N89°17'58"E	50.00'
T6	S81°31'18"E	54.66'
T7	N89°17'58"E	39.98'
T8	N00°24'20"W	70.28'
T9	N89°35'40"E	27.33'
T10	S00°24'20"E	94.07'
T11	S26°15'09"W	44.87'
T12	S79°59'02"W	86.47'
T13	S87°45'20"W	305.17'
T14	S89°48'47"W	270.76'

**CURVE TABLE**

C1	R=40'	11°15'30"	L=7.86'
C2	R=60'	11°15'30"	L=11.79'
C3	R=60'	09°10'44"	L=9.61'
C4	R=40'	09°10'44"	L=6.41'
C5	R=18'	89°42'18"	L=28.18'



078-018-027  
PARCEL C (27 PM 102)

LANDS OF HANS J. WAGNER  
AND DONALD E. WAGNER

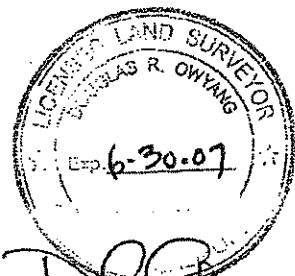
DOC. # 1990-075780  
APN 078-018-021

078-018-046  
PARCEL A (50 PM 13)

T.P.O.B.

PELANDALE AVENUE

EXIST. R/W  
DOC.#2001-0025108



*[Handwritten signature]*



SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1"=200'

**WOOD RODGERS**  
ENGINEERING - MAPPING - PLANNING - SURVEYING  
3301 C St., Bldg. 100-B Tel 916.341.7760  
Sacramento, CA 95816 Fax 916.341.7767

## **EXHIBIT B**

**EXHIBIT A**  
**DESCRIPTION OF**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**APN: 078-018-021**

All that certain real property being a portion of the Lands of Hans J. Wagner and Donald E. Wagner, trustee of Donald E. Wagner Trust, as described in Doc. No. 1990-075780, Stanislaus County Records, City of Modesto, State of California, for use as a temporary easement for construction purposes and being more particularly described as follows:

BEGINNING at the southwest corner of said Lands of Hans J. Wagner and Donald E. Wagner; thence along the West line of said Lands of Wagner, North 00°36'02" West, 63.57 feet to the **TRUE POINT OF BEGINNING**; thence from said True Point of Beginning, North 00°36'02" West, 10.00 feet; thence leaving said westerly line, North 88°20'06" East, 365.30 feet; thence North 89°17'58" East, 76.41 feet; thence South 00°11'13" East, 4.32 feet; thence North 89°48'47" East, 202.00 feet; thence North 00°11'13" West, 17.82 feet; thence North 89°35'40" East, 10.37 feet to the Northerly right-of-way of Pelandale Avenue as described in Doc. No. \_\_\_\_\_, Stanislaus County Records; thence along said right-of-way South 00°24'20" East, 16.28 feet to a point of curvature; thence 28.18 feet along a 18.00 foot radius curve to the right through a central angle of 89°42'18"; thence South 89°17'58" West, 39.98 feet; thence 6.41 feet along a 40.00 foot radius curve to the right through a central angle of 09°10'44"; thence North 81°31'18" West, 54.66 feet; thence 9.61 feet along a 60.00 foot radius curve to the left through a central angle of 09°10'44"; thence South 89°17'58" West, 50.00 feet; thence 11.79 feet along a 60.00 foot radius curve to the left through a central angle of 11°15'30"; thence

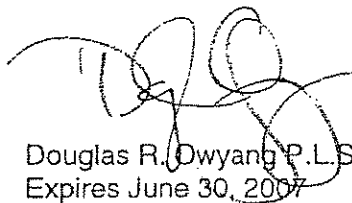
South 78°02'28" West, 21.29 feet; thence 7.86 feet along the arc of a 40.00 foot radius curve to the right through a central angle of 11°15'30'; thence South 89°17'58" West, 70.51 feet; thence South 88°20'06" West, 365.40 feet to the True Point of Beginning.

Containing 7085 square feet of land, more or less.

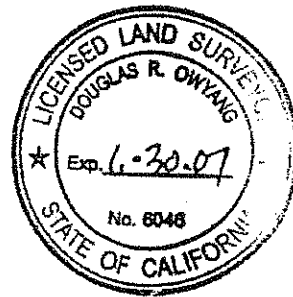
Temporary Construction Easement Expiration Date: \_\_\_\_\_

The Basis of Bearings for this description being the same as shown on that certain Parcel Map filed for Record in Book 50, at page 13, Stanislaus County Records.

*See Exhibit "A-1", plat to accompany description, attached hereto and made a part hereof.*



Douglas R. Dwyang P.L.S. 6046  
Expires June 30, 2007



Wood-Rodgers, Inc.

# **EXHIBIT B-1**

# EXHIBIT A-1

PLAT TO ACCOMPANY  
DESCRIPTION

## Pelandale Ave. Widening Temporary Construction Easement

APN: 078-018-021

TOTAL AREA: 7085 SQ. FT.

CITY OF MODESTO

COUNTY OF STANISLAUS, STATE OF CALIFORNIA

### LINE TABLE

T1	N00°36'02"W	63.57'
T2	N00°36'02"W	10.00'
T3	N88°20'06"E	365.30'
T4	N89°17'58"E	76.41'
T5	N00°11'13"W	4.32'
T6	N89°48'47"E	202.00'
T7	N00°11'13"W	17.82'
T8	N89°35'40"E	10.37'
T9	S00°24'20"E	16.28'
T10	S89°17'58"W	39.98'
T11	N81°31'18"W	54.66'
T12	S89°17'58"W	50.00'
T13	S78°02'28"W	21.29'
T14	S89°17'58"W	70.51'
T15	S88°20'06"W	365.40'

LANDS OF HANS J. WAGNER  
AND DONALD E. WAGNER

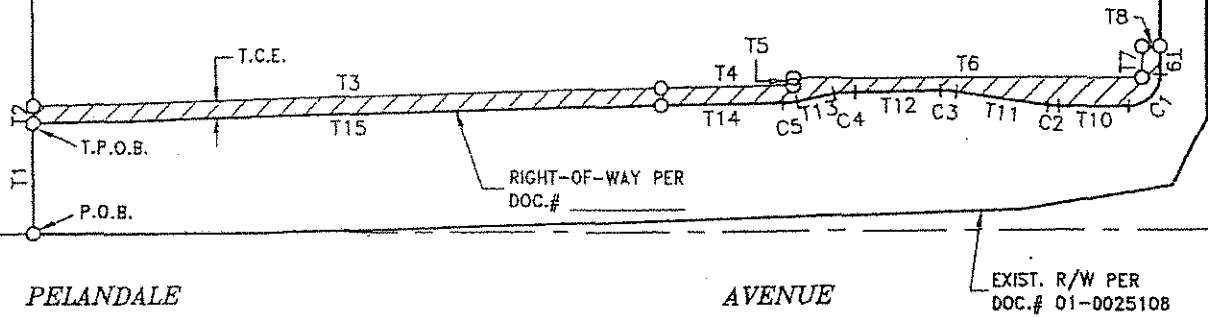
DOC. # 1990-075780  
APN 078-018-021

EXIST. R/W PER  
DOC.#2001-0025109

### CURVE TABLE

C1	R=18'	89°42'18"	L=28.18'
C2	R=40'	09°10'44"	L=6.41'
C3	R=60'	09°10'44"	L=9.61'
C4	R=60'	11°15'30"	L=11.79'
C5	R=40'	11°15'30"	L=7.86'

AMERICAN AVENUE

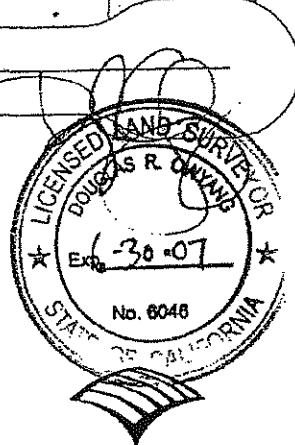


### LEGEND:

- T.C.E. - TEMPORARY CONSTRUCTION EASEMENT
- T.P.O.B. - TRUE POINT OF BEGINNING
- P.O.B. - POINT OF BEGINNING



SCALE: 1"=100'



**WOOD RODGERS**  
ENGINEERING - MAPPING - PLANNING - SURVEYING  
3301 C St., Bldg. 100-B Tel 916.341.7760  
Sacramento, CA 95816 Fax 916.341.7767

J:\Jobs\8106--Pelandale-Pelandale-0A\Geomatics\plats to accompany\TCE\opn078-018-021-Tce.dwg 4/07/06 12:14pm rmonsour



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-459**

**A RESOLUTION DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY  
REQUIRE THE ACQUISITION OF CERTAIN PROPERTY INTERESTS AND  
DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS FOR THE  
PELANDALE AVENUE CAPITAL IMPROVEMENT PROJECT**

**Reza Vossoughi and Sharon Ann Vossoughi; Mehdi Vossoughi; Ataollah Ahsani;  
Shahram Sharafi and Fatemeh Falahat-Pisheh (Sharafi); Zahra Sharafi (Mohebbi);  
Mana Developments, Property Owners  
Property Address: North side of Pelandale Avenue, One Parcel West of American Avenue,  
Stanislaus County, California  
Assessor's Parcel No.: 078-018-027**

WHEREAS, the City's Capital Improvement Program (CIP), amended on February 22, 2005, by Council Resolution No. 2005-118, included a project to widen Pelandale Avenue to six lanes, the Pelandale Avenue Widening Project (the "Project"), and

WHEREAS, the City of Modesto and the County of Stanislaus entered into the Pelandale Avenue Joint Powers Agreement on December 6, 2005, to facilitate cooperation between the City and the County for the improvement of Pelandale Avenue between State Route 99 and a point 1,400 feet east of McHenry Avenue for the Project, which Project area is partially located within the City limits and partially within the unincorporated area of the County, and

WHEREAS, pursuant to the Pelandale Avenue Joint Powers Agreement, the County of Stanislaus consents to the acquisition of Project rights-of-way by the City outside its boundaries in the unincorporated area of the County, and

WHEREAS, the Pelandale Avenue Joint Powers Agreement gives the City of Modesto the right and power to acquire, by purchase or eminent domain, all property or rights-of-way necessary for completion of the Project, including property outside its boundaries in the unincorporated area of the County, and

WHEREAS, the Project, when completed, will improve traffic circulation within the City and the County and to areas east of Coffee Road, and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution of the State of California, Government Code Sections 37350.5, 37353, 39792, 40401 and 40404, and Sections 1240.010, 1240.020, 1240.030, 1240.040, 1240.050, 1240.110, 1240.120, 1240.140, 1240.150, and 1240.350 of the Code of Civil Procedure of the State of California and the Pelandale Avenue Joint Powers Agreement by and between the City of Modesto and the County of Stanislaus, and

WHEREAS, it is desirable and necessary for the City of Modesto to acquire certain real property interests on Assessor's Parcel No. 078-018-027, including fee title together with all improvements situated thereon and together with all rights appurtenant thereto, as described in Exhibits A and A-1 hereto, and a temporary construction easement as described in Exhibits B

and B-1 hereto, which exhibits are attached hereto and made a part hereof by this reference and hereinafter referenced as the "Subject Property," in order to construct, widen and/or improve Pelandale Avenue between Dale Road and McHenry Avenue in the City of Modesto and the County of Stanislaus (the "Project"), and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to all persons whose property is to be acquired by eminent domain and whose names and addresses appear on the last Stanislaus County equalized assessment roll, all of whom have been given a reasonable opportunity to appear and be heard before 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 sought to be acquired is necessary for the Project;
- (d) Whether the offer required by Government Code Section 7267.2 has been made to the owner(s) of record, and

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of Modesto has made an offer to the owner or owners of record to acquire the Subject Property for just compensation, and

WHEREAS, the City of Modesto has satisfied the provisions and complied with all requirements of the California Environmental Quality Act ("CEQA") for the Project,

**NOW, THEREFORE, IT IS FOUND, DETERMINED, AND ORDERED** as follows:

1. The public interest and necessity require the Project for the acquisition of the fee simple and the temporary construction easement in and through the above-identified parcel of land.
2. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.
3. The taking of the fee simple title in and to the real property or other interests as may be more particularly described in Exhibits A and B and depicted in Exhibits A-1 and B-1 are necessary for the Project.
4. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner or owners of record of the real property.
5. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure Section 1240.510 in that the City's use of the Subject Property will not interfere with or impair the continued use of the Subject

Property for public utilities as they now exist or may reasonably be expected to exist in the future.

6. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure Section 1240.610 in that the City's use of the Subject Property is a more necessary public use than the use to which the property is appropriated.
7. The Office of the City Attorney of the City of Modesto and Special Counsel, Meyers, Nave, Riback, Silver & Wilson, are hereby authorized, empowered and directed to acquire in the name of the City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation based on an appraisal.
8. An order for prejudgment possession may be obtained in said actions and warrants issued to the State Treasury Condemnation Fund, in the amounts determined by the Court to be so deposited, as a condition to the right of immediate possession and use the Subject Property for said public uses and purposes.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

# **EXHIBIT A**

**EXHIBIT A**

**DESCRIPTION OF  
RIGHT-OF-WAY  
APN: 078-018-027**

A portion of that certain real property of the Lands of Reza Vossoughi and Sharron Ann Vossoughi, husband and wife, as Joint Tenants, et al, as described in Document No. 2000-47693, Stanislaus County Records and also being a portion of Parcel "C" of that certain Parcel Map filed for Record in Book 27 of Parcel Maps, at Page 102, Stanislaus County Records, in the City of Modesto, State of California and being more particularly described as follows:

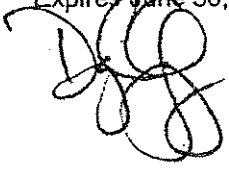
Commencing at the southwest corner of said Parcel "C"; thence North 00°52'54" West, 50.00 feet to the **TRUE POINT OF BEGINNING**; thence from said true point of beginning along the west line, North 00°52'54" West, 13.39 feet to a point on said west line; thence leaving said west line, North 89°17'58" East a distance of 524.54 feet; thence North 88°20'06" East, 134.74 feet to a point on the east line of said Parcel "C"; thence along said east line, South 00°36'02" East, 13.57 feet; thence leaving said east line, South 89°07'05" West, 658.95 feet to the true point of beginning.

Containing 8291 square feet of land, more or less.

The Basis of Bearings for this description is the west line of Section 1, T.3S, R.8E, M.D.B&M. as shown on that certain Parcel Map in Book 27, at page 102, Stanislaus County Recorders, State of California and being North 0°19'30 West.

*See Exhibit "A-1", plat to accompany description, attached hereto and made a part hereof.*

Douglas R. Owyang P.L.S. 6046  
Expires June 30, 2007



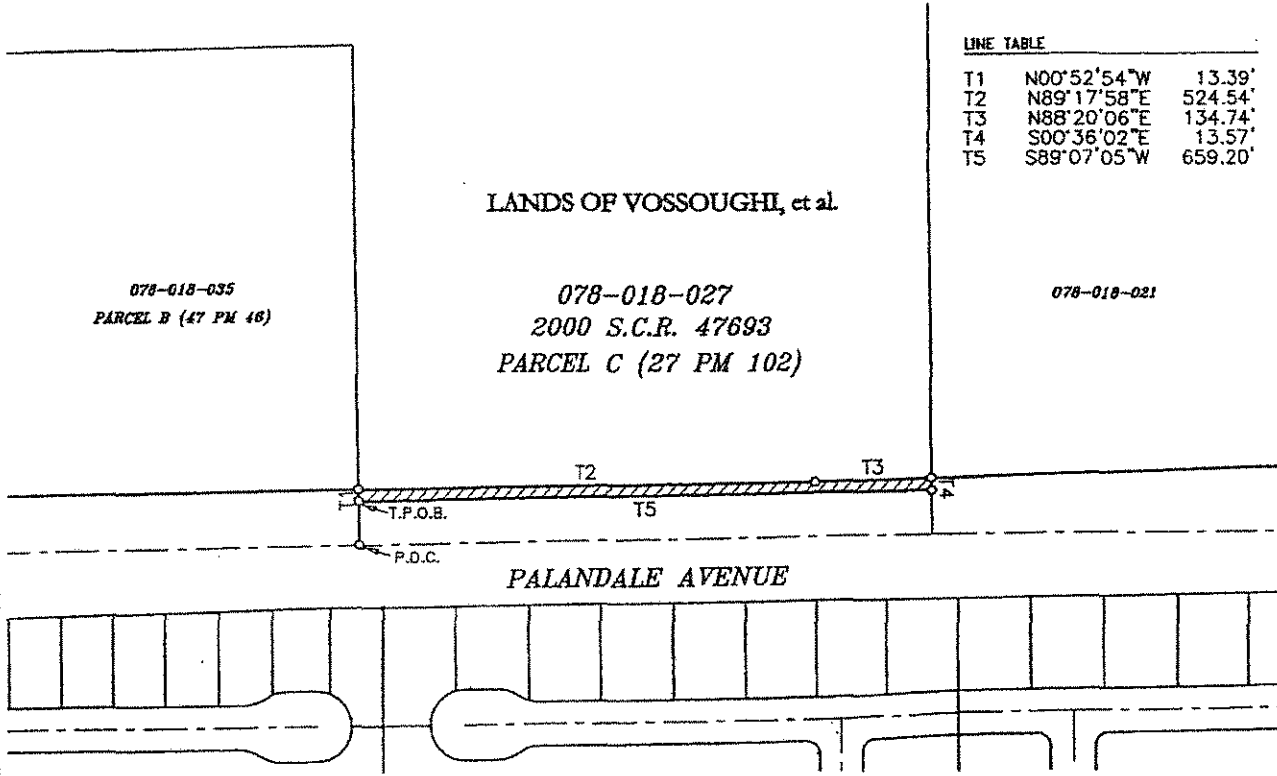
Wood-Rodgers, Inc.

**EXHIBIT A-1**

**EXHIBIT A-1**

PLAT TO ACCOMPANY  
DESCRIPTION

Pelandale Ave. Widening  
Right-of-Way  
APN: 078-018-027  
TOTAL AREA: 8291 square feet  
COUNTY OF STANISLAUS, STATE OF CALIFORNIA



LINE TABLE		
T1	N00°52'54"W	13.39'
T2	N89°17'58"E	524.54'
T3	N88°20'06"E	134.74'
T4	S00°36'02"E	13.57'
T5	S89°07'05"W	659.20'

LANDS OF VOSSOUGH, et al.

078-018-035  
PARCEL B (47 PM 46)

078-018-027  
2000 S.C.R. 47693  
PARCEL C (27 PM 102)

078-018-021

PALANDALE AVENUE



SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1"=200'

**WOOD RODGERS**  
ENGINEERING • MAPPING • PLANNING • SURVEYING  
3301 C St., Bldg. 100-B Tel 916.341.7760  
Sacramento, CA 95816 Fax 916.341.7767

# **EXHIBIT B**



**EXHIBIT A**  
**DESCRIPTION OF**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**APN: 078-018-027**

A portion of that certain real property of the Lands of Reza Vossoughi and Sharron Ann Vossoughi, husband and wife, as Joint Tenants, et al, as described in Document No. 2000-47693, Stanislaus County Records and also being a portion of Parcel "C" of that certain Parcel Map filed for Record in Book 27 of Parcel Maps, at Page 102, Stanislaus County Records, in the City of Modesto, State of California and being more particularly described as follows:

Beginning at the southwest corner of said Parcel "C"; thence North 00°52'54" West, 63.39 feet to the **TRUE POINT OF BEGINNING**; thence from said True Point of Beginning along the west line, North 00°52'54" West, 10.00 feet to a point on said west line; thence leaving said west line, North 89°17'58" East, 524.48 feet; thence North 88°20'06" East, 134.84 feet to a point on the east line of said Parcel "C"; thence along said east line, South 00°36'02" East, 10.00 feet; thence leaving said east line along the Northerly right-of-way of Pelandale Avenue as described in Doc. No. \_\_\_\_\_, South 88°20'06" West, 134.74 feet; thence South 89°17'58" West, 524.54 feet to the True Point of Beginning.

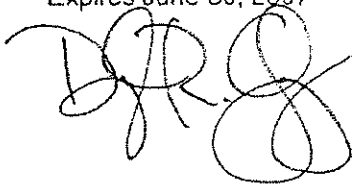
Containing 6593 square feet of land, more or less.

Temporary Construction Easement Expiration Date: \_\_\_\_\_

The Basis of Bearings for this description is the west line of Section 1, T.3S, R.8E, M.D.B&M. as shown on that certain Parcel Map in Book 27, at page 102, Stanislaus County Recorders, State of California and being North 0°19'30 West.

*See Exhibit "A-1", plat to accompany description, attached hereto and made a part hereof.*

Douglas R. Owyang P.L.S. 6046  
Expires June 30, 2007



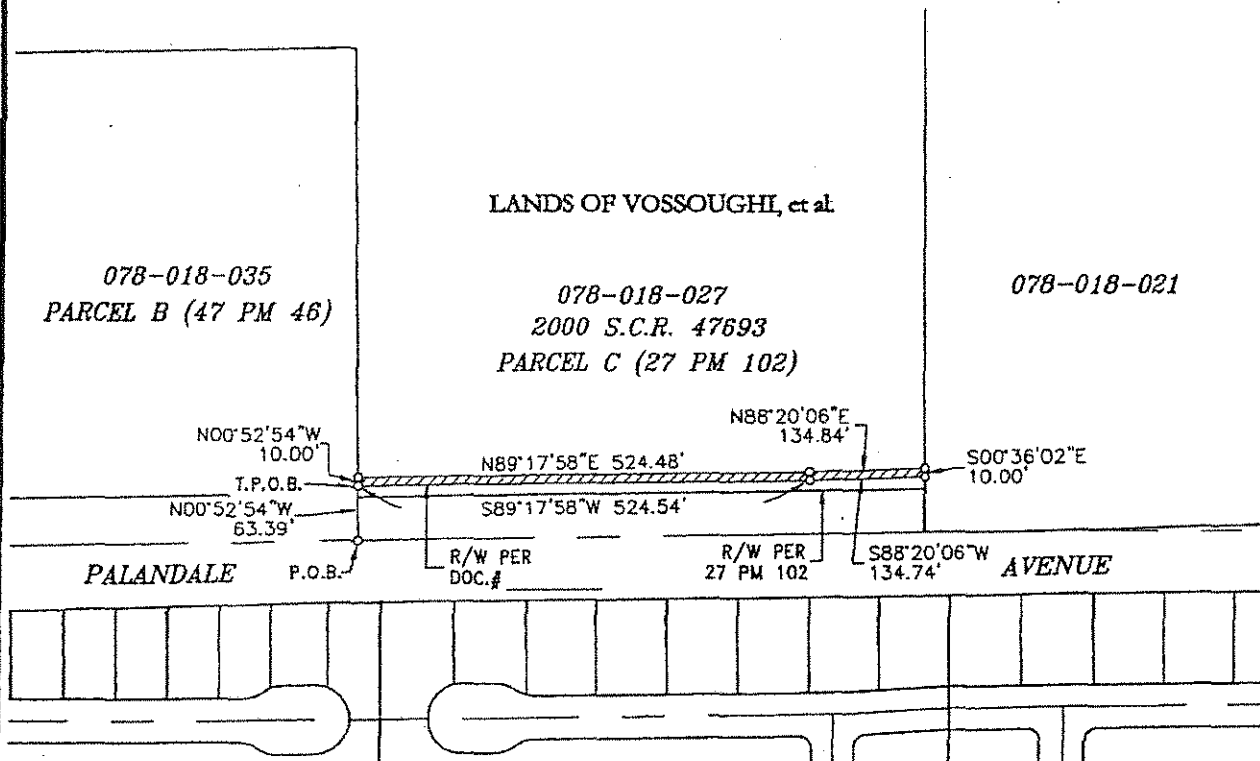
Wood-Rodgers, Inc.

**EXHIBIT B-1**

**EXHIBIT A-1**

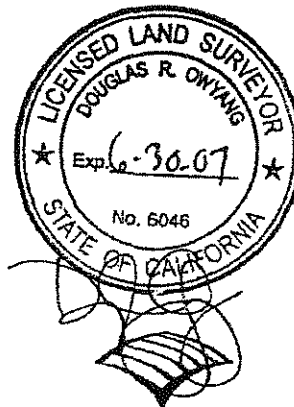
PLAT TO ACCOMPANY  
DESCRIPTION

Pelandale Ave. Widening  
Temporary Construction Easement  
APN: 078-018-027  
TOTAL AREA: 6593 square feet  
CITY OF MODESTO  
COUNTY OF STANISLAUS, STATE OF CALIFORNIA



**LEGEND:**

- T.C.E. - TEMPORARY CONSTRUCTION EASEMENT
- T.P.O.B. - TRUE POINT OF BEGINNING
- P.O.B. - POINT OF BEGINNING



SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1"=200'

**WOOD RODGERS**  
ENGINEERING - MAPPING - PLANNING - SURVEYING

3301 C St., Bldg. 100-B Tel 916.341.7760  
Sacramento, CA 95816 Fax 916.341.7767

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-460**

**A RESOLUTION DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY  
REQUIRE THE ACQUISITION OF CERTAIN PROPERTY INTERESTS AND  
DIRECTING THE FILING OF EMINENT DOMAIN PROCEEDINGS FOR THE  
PELANDALE AVENUE CAPITAL IMPROVEMENT PROJECT**

**JWG McHenry, LLC, Property Owner**

**Property Address: Southeast Corner of Claratina Avenue and McHenry Avenue,  
Modesto, California**

**Assessor's Parcel No.: 082-010-008**

WHEREAS, the City's Capital Improvement Program (CIP), amended on February 22, 2005, by Council Resolution No. 2005-118, included a project to widen Pelandale Avenue to six lanes, the Pelandale Avenue Widening Project (the "Project"), and

WHEREAS, the City of Modesto and the County of Stanislaus entered into the Pelandale Avenue Joint Powers Agreement on December 6, 2005, to facilitate cooperation between the City and the County for the improvement of Pelandale Avenue between State Route 99 and a point 1,400 feet east of McHenry Avenue for the Project, which Project area is partially located within the City limits and partially within the unincorporated area of the County, and

WHEREAS, pursuant to the Pelandale Avenue Joint Powers Agreement, the County of Stanislaus consents to the acquisition of Project rights-of-way by the City outside its boundaries in the unincorporated area of the County, and

WHEREAS, the Pelandale Avenue Joint Powers Agreement gives the City of Modesto the right and power to acquire, by purchase or eminent domain, all property or rights-of-way necessary for completion of the Project, including property outside its boundaries in the unincorporated area of the County, and

WHEREAS, the Project, when completed, will improve traffic circulation within the City and the County and to areas east of Coffee Road, and

WHEREAS, the City of Modesto is vested with the power of eminent domain to acquire real property for the Project by virtue of Article 1, Section 19, of the Constitution of the State of California, Government Code Sections 37350.5, 37353, 39792, 40401 and 40404, and Sections 1240.010, 1240.020, 1240.030, 1240.040, 1240.050, 1240.110, 1240.120, 1240.140, 1240.150, and 1240.350 of the Code of Civil Procedure of the State of California and the Pelandale Avenue Joint Powers Agreement by and between the City of Modesto and the County of Stanislaus, and

WHEREAS, it is desirable and necessary for the City of Modesto to acquire certain real property interests on Assessor's Parcel No. 082-010-008, including fee title together with all improvements situated thereon and together with all rights appurtenant thereto, as described in Exhibits A and A-1 hereto, and a temporary construction easement as described in Exhibits B and B-1 hereto, which exhibits are attached hereto and made a part hereof by this reference and

hereinafter referenced as the "Subject Property," in order to construct, widen and/or improve Pelandale Avenue between Dale Road and McHenry Avenue in the City of Modesto and the County of Stanislaus (the "Project"), and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to all persons whose property is to be acquired by eminent domain and whose names and addresses appear on the last Stanislaus County equalized assessment roll, all of whom have been given a reasonable opportunity to appear and be heard before 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 sought to be acquired is necessary for the Project;
- (d) Whether the offer required by Government Code Section 7267.2 has been made to the owner(s) of record, and

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of Modesto has made an offer to the owner or owners of record to acquire the Subject Property for just compensation, and

WHEREAS, the City of Modesto has satisfied the provisions and complied with all requirements of the California Environmental Quality Act ("CEQA") for the Project,

**NOW, THEREFORE, IT IS FOUND, DETERMINED, AND ORDERED** as follows:

1. The public interest and necessity require the Project for the acquisition of the fee simple and the temporary construction easement in and through the above-identified parcel of land.
2. The Project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury.
3. The taking of the fee simple title in and to the real property or other interests as may be more particularly described in Exhibits A and B and depicted in Exhibits A-1 and B-1 are necessary for the Project.
4. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner or owners of record of the real property.
5. The Subject Property is being acquired for a compatible use under California Code of Civil Procedure Section 1240.510 in that the City's use of the Subject Property will not interfere with or impair the continued use of the Subject

Property for public utilities as they now exist or may reasonably be expected to exist in the future.

6. The Subject Property is being acquired for a more necessary public use under California Code of Civil Procedure Section 1240.610 in that the City's use of the Subject Property is a more necessary public use than the use to which the property is appropriated.
7. The Office of the City Attorney of the City of Modesto and Special Counsel, Meyers, Nave, Riback, Silver & Wilson, are hereby authorized, empowered and directed to acquire in the name of the City of Modesto, by condemnation, the Subject Property in accordance with the provisions of the Eminent Domain Law, the Code of Civil Procedure and the Constitution of California; to prepare, prosecute and conduct to conclusion in the name of the City of Modesto such proceedings in the proper court as are necessary for such acquisition and to take such action as may be deemed advisable or necessary in connection therewith; and, to deposit the probable amount of just compensation based on an appraisal.
8. An order for prejudgment possession may be obtained in said actions and warrants issued to the State Treasury Condemnation Fund, in the amounts determined by the Court to be so deposited, as a condition to the right of immediate possession and use the Subject Property for said public uses and purposes.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 11th day of July 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember marsh, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By S. Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

# **EXHIBIT A**

**EXHIBIT A**  
**DESCRIPTION OF**  
**RIGHT-OF-WAY**  
**APN: 082-010-008**

A portion of that certain real property of the Lands of BFC Properties, a California Corporation and Berberian Properties, LLC, a California Corporation as described in Book 2004 Stanislaus County Records, at Page 62999, in the City of Modesto, State of California and also being a portion of Parcel 1 of that certain Parcel Map filed for Record in Book 53 of Parcel Maps, at Page 67, Stanislaus County Records and being more particularly described as follows:

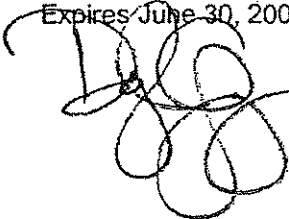
Commencing at point on the north line of Parcel 1 at the westerly terminus of a course shown as "N 89°30'48" W, 248.48'", of said Parcel Map; thence easterly along said north line, South 89°30'48" East a distance of 27.39 feet to the **TRUE POINT OF BEGINNING**; thence from said true point of beginning, South 89°30'48" East a distance of 145.71; thence leaving said north line of Parcel 1, South 79°17'10" West a distance of 33.41 feet to a point of curvature; thence 11.82 feet along the arc of a 60.00 foot radius curve to the right through a central angle of 11°17'00"; thence North 89°25'51" West a distance of 50.00 feet to a point of curvature; thence 9.60 feet along the arc of a 60.00 foot radius curve to the right through a central angle of 09°09'52"; thence North 80°16'00" West a distance of 42.19 feet to the true point of beginning.

Containing 782 square feet of land, more or less.

The Basis of Bearings for this survey being the same as that certain Parcel Map filed for record in Book 53 of Parcel Maps, at Page 67, Stanislaus County Records.

*See Exhibit "A-1", plat to accompany description, attached hereto and made a part hereof.*

Douglas R. Owyang P.L.S. 6046  
Expires June 30, 2007



Wood-Rodgers, Inc.





**EXHIBIT A-1**

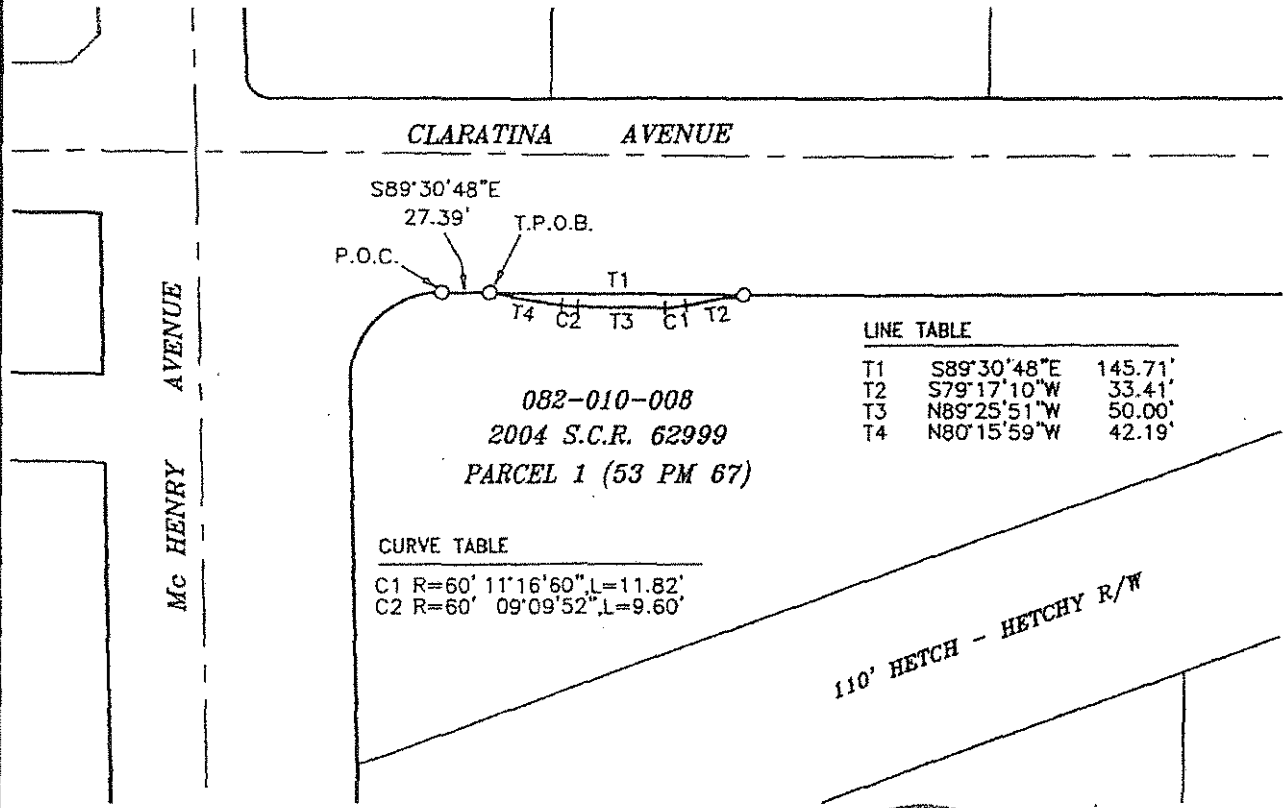
PLAT TO ACCOMPANY  
DESCRIPTION

Pelandale Ave. Widening  
Right-of-Way

APN: 082-010-008

TOTAL AREA: 782 sq. ft.

COUNTY OF STANISLAUS, STATE OF CALIFORNIA



**LINE TABLE**

T1	S89°30'48"E	145.71'
T2	S79°17'10"W	33.41'
T3	N89°25'51"W	50.00'
T4	N80°15'59"W	42.19'

**CURVE TABLE**

C1	R=60', 11°16'60", L=11.82'
C2	R=60', 09°09'52", L=9.60'

082-010-008  
2004 S.C.R. 62999  
PARCEL 1 (53 PM 67)

110' HETCH - HETCHY R/W




SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1"=100'

**WOOD RODGERS**  
ENGINEERING • MAPPING • PLANNING • SURVEYING  
3301 C St., Bldg. 100-B Tel 916.341.7760  
Sacramento, CA 95816 Fax 916.341.7767

J:\Jobs\8106-Pelandale\Plat\Plat\Plat to accompany\apn082-010-008-rw.dwg 1/18/2006 8:15:26 AM PST

## **EXHIBIT B**

**EXHIBIT A**  
**DESCRIPTION OF**  
**TEMPORARY CONSTRUCTION EASEMENT**  
**APN: 082-010-008**

A portion of that certain real property of the Lands of BFC Properties, a California Corporation and Berberian Properties, LLC, a California Corporation as described in Book 2004 Stanislaus County Records, at Page 62999, in the City of Modesto, State of California and also being a portion of Parcel 1 of that certain Parcel Map filed for Record in Book 53 of Parcel Maps, at Page 67, Stanislaus County Records and being more particularly described as follows:

**BEGINNING** at point on the north line of Parcel 1 at the westerly terminus of a course shown as "N 89°30'48" W, 248.48'", on said Parcel Map; thence from said **True Point of Beginning**, Easterly along said Northerly line and Southerly right-of-way of Pelandale Avenue, South 89°30'48" East, 27.39 feet; thence leaving said Northerly line of said Parcel 1 along the Southerly right-of-way of Pelandale Avenue as described in Document No. \_\_\_\_\_, Stanislaus County Records, South 80°15'59" East, 42.19 feet to a point of curvature; thence 9.60 feet along a 60.00 foot radius curve to the left through a central angle of 09°09'52"; thence South 89°25'51" East, 50.00 feet to a point of curvature; thence 11.82 feet along a 60.00 foot radius curve to the left through a central angle of 11°17'00"; thence North 79°17'10" East, 33.41 feet to the North line of said Parcel 1; thence along said North line, South 89°30'48" East, 51.48 feet; thence South 79°17'10" West, 83.91 feet to a point of curvature; thence 13.79 feet along a 70.00 foot radius curve to the right through a central angle of 11°17'00"; thence North 89°25'51" West, 50.00 feet to a point of curvature; thence 11.20 feet along the arc of a tangent 70.00 foot radius curve to the right through a central angle of 09°09'52"; thence North 80°15'59" West, 85.40 feet to the North line of said Parcel 1 and a point of curvature; thence from a radial line which bears South 19°13'01" East, 17.19 feet along the arc of a non-tangent 50.00 foot radius curve to the right through a central angle of 19°42'13" to the Point of Beginning.

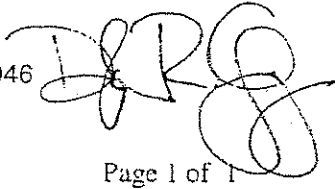
Containing 2005 square feet of land, more or less.

Temporary Construction Easement Expiration Date: \_\_\_\_\_

The Basis of Bearings for this survey being the same as that certain Parcel Map filed for record in Book 53 of Parcel Maps, at Page 67, Stanislaus County Records.

*See Exhibit "A-I", plat to accompany description, attached hereto and made a part hereof.*

Douglas R. Owyang P.L.S. 6046  
Expires June 30, 2007  
Wood-Rodgers, Inc.



Page 1 of 1

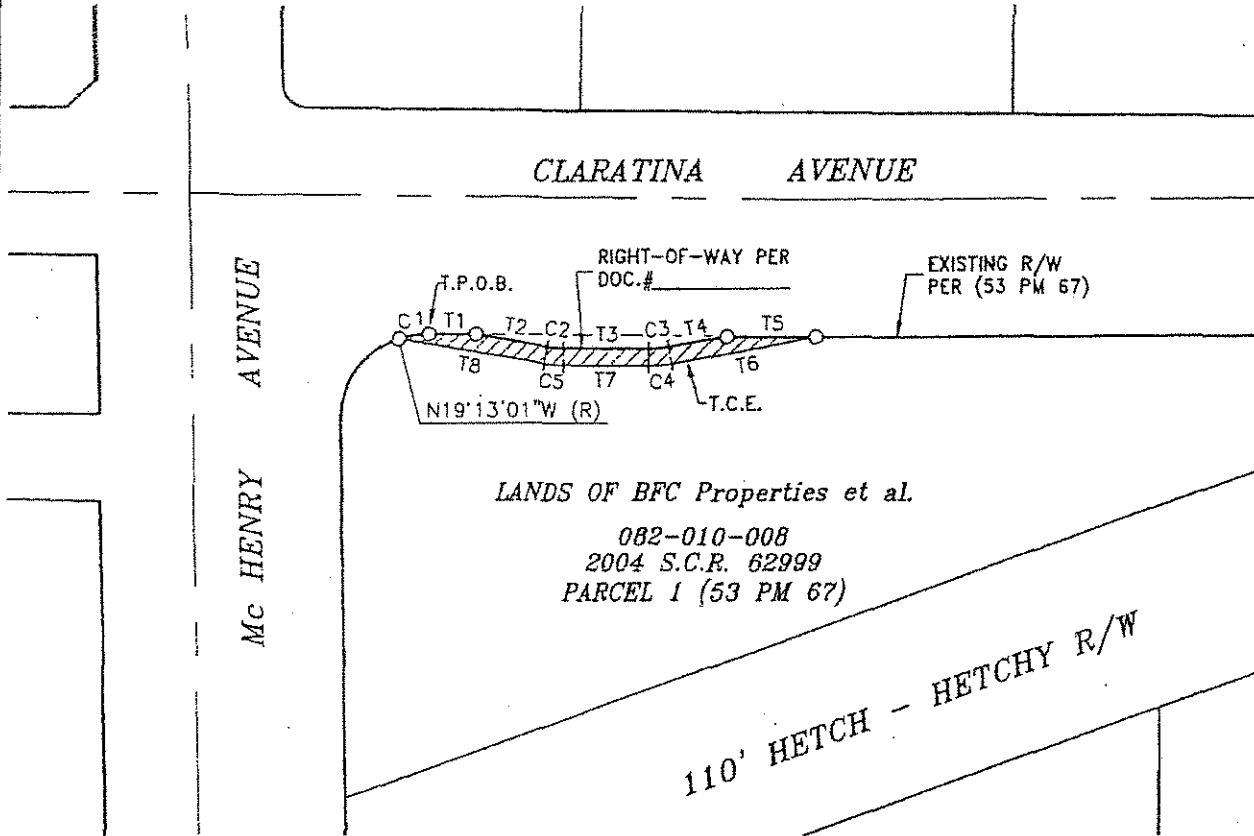


**EXHIBIT B-1**

**EXHIBIT A-1**

PLAT TO ACCOMPANY  
DESCRIPTION

Pelandale Ave. Widening  
Temporary Construction Easement  
APN: 082-010-008  
TOTAL AREA: 2005 sq. ft.  
CITY OF MODESTO  
COUNTY OF STANISLAUS, STATE OF CALIFORNIA



**LINE TABLE**

T1	S89°30'48"E	27.39'
T2	S80°15'59"E	42.19'
T3	S89°25'51"E	50.00'
T4	N79°17'10"E	33.41'
T5	S89°30'48"E	51.48'
T6	S79°17'10"W	83.91'
T7	N89°25'51"W	50.00'
T8	N80°15'59"W	85.40'

**CURVE TABLE**

C1	R=50'	19°42'13"	L=17.19'
C2	R=60'	09°09'52"	L=9.60'
C3	R=60'	11°16'60"	L=11.82'
C4	R=70'	11°16'60"	L=13.79'
C5	R=70'	09°09'52"	L=11.20'

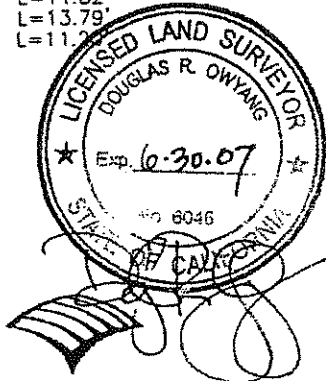
**LEGEND:**

T.P.O.B. - TRUE POINT OF BEGINNING  
T.C.E. - TEMPORARY CONSTRUCTION EASEMENT



SEE DESCRIPTION FOR  
COURSE INFORMATION

SCALE: 1"=100'



**WOOD RODGERS**  
ENGINEERING - MAPPING - PLANNING - SURVEYING  
3301 C St., Bldg. 100-B Tel 916.341.7760  
Sacramento, CA 95816 Fax 916.341.7767

J:\Jobs\8106-Pelandale\petandale-DA\geomatics\plats to accompany\apn082-010-008-rw.dwg 1/18/2006 8:15:26 AM FST

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-461**

**A RESOLUTION AFFIRMING THE EXISTENCE OF A LOCAL EMERGENCY**

**WHEREAS**, Chapter 4 of Title III of the Modesto City Charter empowers the Modesto City Council to proclaim the existence of a local emergency when the City of Modesto is affected or likely to be affected by a public calamity, and

**WHEREAS**, the Modesto City Council was not in session and could not be immediately called into session, and

**WHEREAS**, the Director of Emergency Services/City Manager found that conditions of extreme peril caused by the persistent record breaking heat wave, with sustained high temperatures over a period of several days had threatened the safety of persons and property within the City of Modesto, in particular, those most vulnerable to extreme heat conditions such as the elderly and medically fragile residents. This public calamity had already caused heat related illness and deaths in the City of Modesto and Stanislaus County, and

**WHEREAS**, the Office of Emergency Services was advised by the County Public Health Officer that the excessive heat had resulted in a public health emergency, particularly related to the elderly and medically fragile residents throughout the City of Modesto, and

**WHEREAS**, these conditions warranted and necessitated the proclamation of the existence of a local emergency, and

**WHEREAS**, during the local emergency, the Director of Emergency Services/City Manager or designees took emergency actions including but not limited to:

opening and assisting in the operation of cooling centers in City facilities, providing free transportation for heat victims and at-risk citizens to recovery facilities; restoring suspended water service without customary payment; providing electrical and air conditioning services and equipment to care facilities experiencing cooling failure; directing the use of overtime and call-out to respond to heat emergencies; authorizing the use of temporary cooling equipment where existing cooling equipment failed or was failing, and expending public funds on unbudgeted emergency response, and

**WHEREAS**, the Director of Emergency Services/City Manager terminated the Proclamation of Local Emergency on July 31, 2006.

**NOW, THEREFORE, BE IT RESOLVED** that a state of local emergency existed throughout the City of Modesto based upon the effect of extraordinarily high temperatures on the health of residents of the City of Modesto, especially the elderly and medically fragile, and

**BE IT FURTHER RESOLVED** that during the local emergency the powers, functions, and duties of the emergency organization of the City of Modesto prescribed by State law, by Modesto City Charter, ordinances and resolutions of the City of Modesto, and by the City of Modesto's approved Emergency Plan were implemented as part of the local emergency response, and

**BE IT FURTHER RESOLVED** that a local emergency did exist, that the City Council affirms the Director of Emergency Services/City Manager's Proclamation of a Local Emergency, and that the actions taken to address the local emergency were appropriate and consistent with the Modesto City Charter, ordinances and resolutions of the City of Modesto, and the City of Modesto's approved Emergency Plan.

The foregoing resolution was introduced at a Special meeting of the Council of the City of Modesto held on the 1<sup>st</sup> day of August 2006 by Councilmember Dunbar, 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: Dunbar, Hawn, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating, Marsh, O'Bryant

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susan Alcala Wood  
SUSAN ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-462**

**A RESOLUTION AMENDING THE  
FISCAL YEAR 2005-2006 ANNUAL BUDGET**

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain Year-End adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2005-2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2005-2006 budget have been adjusted as shown in Schedule A.

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 2<sup>nd</sup> day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following votes:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susan Alcala Wood  
SUSAN ALCALA WOOD, City Attorney

## Schedule A

### *Finance Department*

Improvement District #28 – Capital Projects. In 1998, the City Council authorized the disbursement of surplus funds in Improvement District #28. This project is complete and the bonds are paid in full. This adjustment will set up an expense budget for the final disbursement of surplus funds remaining for this project. There is no General Fund impact.

From:	Reserve Acct #1210-800-8000-8003	\$(27,597)
To:	Operating Acct #1210-120-1200-0540	\$ 27,597

Village One #2. In January 2006, the City Council approved the bond financing for Village One #2 projects. This budget adjustment sets up the budgets to properly record the bond proceeds and costs of issuance. There is no General Fund impact.

To:	Bond Financing Revenue Acct #2692-020-0251-8301	\$4,465,357
To:	Operating Acct #2692-020-0251-0454 (Cost of Issuance)	\$825,563
	Operating Acct #2692-020-0251-0455 (Discount-Original Issue)	\$5,218
	Operating Acct #2692-020-0251-0452 (Interest Expense)	\$695,562
	Operating Acct #2692-800-8000-8251 (Debt Service Reserve)	\$2,739,014
	Operating Acct #2692-020-0251-0454 (Contingency Reserve)	\$200,000

### *Parks, Recreation & Neighborhoods Department*

Fund 7800 – Building Services. The Building Services Fund is currently in a deficit. The Finance Committee agreed that this deficit would be cleared through allocation of costs to various funds that are serviced by the Building Services Division. This will be completed as part of the Fiscal Year 2005-06 closing process. This budget adjustment will transfer \$15,571 from the Building Services Reserve to their operating accounts to clear the negative appropriations as shown below:

From:	Contingency Reserve Acct #7800-800-8000-8003	\$(15,571)
To:	Operating Acct #7800-350-3512-0140	\$ 6,700
	Operating Acct #7800-350-3513-0110	\$ 2,800
	Operating Acct #7800-350-3514-0110	\$ 6,071

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-463**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE FURNISHING OF BIO-SOLIDS REMOVAL, TRANSPORT AND LAND APPLICATION SERVICES FOR THE PUBLIC WORKS DEPARTMENT, WATER QUALITY CONTROL DIVISION, TO JIM BRISCO ENTERPRISES, INC., MERCED, CA, 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 \$257,818**

WHEREAS, the Public Works Department, Wastewater Treatment Plant (WWTP) located at 1221 Sutter Avenue, Modesto, removes de-watered bio-solids from drying beds located at the site, and

WHEREAS, bio-solids are byproducts of the wastewater treatment process, and

WHEREAS, the accumulated bio-solids are the result of the designed solids removal process from the WWTP, and

WHEREAS, removal of the dried bio-solids provides renewed drying bed space for this revolving process, and

WHEREAS, when dried, the bio-solids are removed from the drying beds and transported to the Secondary Treatment Plant where they are screened, rototilled, hydrated and applied to the City's Ranch fields as a soil amendment. Some bio-solids may also be composted at the City's Compost Facility, and

WHEREAS, on August 9, 2005, Council approved Resolution No. 2005-400 authorizing the Purchasing Supervisor to issue formal Request for Bids (RFB) for the removal and transportation of wastewater bio-solids 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, and

WHEREAS, on March 24, 2006, the Purchasing Division issued Request for Bid No. 0506-21 for the furnishing of bio-solids removal, transport and land application services to twenty-seven (27) 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 April 25, 2006, RFB's were formally opened in the City Clerk's office. Of the twenty-seven (27) prospective bidders, one (1) company chose to respond, and

WHEREAS, City staff contacted a few of the prospective bidders to find out why they chose not to respond; a common answer was that they were too busy to take on more business, and

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the furnishing of Bio-Solids Removal, Transport and Land Application Services for the Public Works Department, Water Quality Control Division, to Jim Brisco Enterprises, Inc., Merced, CA, 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 \$257,818, and

WHEREAS, the Modesto Municipal Code, MMC 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 bio-solids removal, transport and land application services for the Public Works Department, Water Quality Control Division, conforms to code, 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 furnishing of Bio-Solids Removal, Transport and Land Application Services for the Public Works Department, Water Quality Control Division, to Jim Brisco Enterprises, Inc., Merced, CA, 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 \$257,818.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase agreement for the furnishing of Bio-Solids Removal, Transport and Land Application Services for the Public Works Department, Water Quality Control Division, to Jim Brisco Enterprises, Inc., Merced, CA, 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 \$257,818.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2<sup>nd</sup> day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-464**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACTS FOR THE FURNISHING OF PUMP STATION REJUVENATION SERVICES FOR THE PUBLIC WORKS DEPARTMENT, WATER DIVISION, TO AMERINE SYSTEMS, INC., OAKDALE, CA AS THE "PRIMARY" CONTRACTOR, HOWK SYSTEMS, MODESTO, CA AS THE "SECONDARY" CONTRACTOR AND DON PEDRO PUMP, HUGHSON, CA AS THE "THIRD" CONTRACTOR, FOR A TWO (2) YEAR AGREEMENT, WITH THREE (3) ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF \$328,737**

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

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

WHEREAS, when a pump station begins to deteriorate it starts to lose its pumping efficiency. Lower pumping efficiency usually equates to a drop in water pressure prompting low-pressure alarms and a reduction in fire suppression capabilities, and

WHEREAS, ineffective fire suppression capabilities can pose a potential threat to life and property, thus any drop in water pressure due to pump deterioration could potentially have catastrophic consequences, and

WHEREAS, the Public Works Department, Water Division, maintains these water well sites keeping the integrity of the pump stations at a high level in order to better service the City's customers, and

WHEREAS, by obtaining annual pricing for pump station rejuvenation services the City eliminates the need to bid this type of service every time there is a required pump repair, and

WHEREAS, needed repairs can be made in a few days instead of two (2) or more weeks. This is extremely important in the summer months, and

WHEREAS, funding for pump station rejuvenation services comes from the Water Enterprise Fund, which derives its funding from user fees, and

WHEREAS, in order to ensure continued services to the City, contracts have been awarded to more than one (1) contractor to provide for backup in case the primary contractor is unable to meet the City's needs, and

WHEREAS, 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, on May 3, 2005, Council approved Resolution No. 2005-230 authorizing the Purchasing Supervisor to issue formal Request for Bids (RFB) for the furnishing of pump station rejuvenation services for the Public Works Department, Water Division, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, and

WHEREAS, on March 6, 2006, the Purchasing Division issued Request for Bid No. 0506-02 for the furnishing of pump station rejuvenation services to seventeen (17)

prospective bidders, six (6) of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on April 4, 2006, RFB's were formally opened in the City Clerk's office. Of the seventeen (17) prospective bidders, three (3) companies chose to respond, and

WHEREAS, based on providing responsive and responsible bids, City staff recommends the award of bid and contracts for the furnishing of Pump Station Rejuvenation Services for the Public Works Department, Water Division, to Amerine Systems, Inc., Oakdale, CA as the "primary" contractor, Howk Systems, Modesto, CA as the "secondary" contractor and Don Pedro Pump, Hughson, CA as the "third" contractor, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of \$328,737, and

WHEREAS, the Modesto Municipal Code, MMC 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 pump station rejuvenation services for the Public Works Department, Water Division, conforms to code.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contracts for the furnishing of Pump Station Rejuvenation Services for the Public Works Department, Water Division, to Amerine Systems, Inc., Oakdale, CA as the "primary" contractor, Howk Systems, Modesto, CA as the "secondary" contractor and Don Pedro Pump, Hughson, CA as the "third" contractor,



for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of \$328,737.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase agreement for the furnishing of Pump Station Rejuvenation Services for the Public Works Department, Water Division, to Amerine Systems, Inc., Oakdale, CA as the "primary" contractor, Howk Systems, Modesto, CA as the "secondary" contractor and Don Pedro Pump, Hughson, CA as the "third" contractor, for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for a total estimated annual cost of \$328,737.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2<sup>nd</sup> day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-465**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO SOLICIT BIDS FOR NEW VEHICLES AND HEAVY EQUIPMENT THROUGHOUT FY 06/07 THROUGH VARIOUS COMPETITIVE PROCESSES AND IN A CUMULATIVE AMOUNT NOT TO EXCEED THE BUDGETED AMOUNT OF \$2,098,500 AND AUTHORIZING THE PURCHASING MANAGER TO PURCHASE SEVENTEEN (17) USED VEHICLES AT WHOLESALE AUCTION OR THROUGH OTHER COMPETITIVE PROCESSES FOR AN ESTIMATED BUDGETED AMOUNT OF \$306,000**

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 accessing the terms in State and other public 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 for the entire fiscal year without having to go before Council for authorization to issue bids, and

WHEREAS, each vehicle and/or heavy equipment staff report that first goes to Council for bid authorization and then after the bid process goes back to Council for authorization to award takes approximately 120-180 days to complete and on average accounts for approximately fifteen (15) hours of staff time to process, and

WHEREAS, by authorizing the Purchasing Manager to purchase budgeted vehicles and heavy equipment for the entire fiscal year without returning to Council for subsequent approval for the solicitation of bids, the following benefits are realized:

- Reduces staff time when preparing for and conducting the bidding process,
- Avoids the possibility of missing manufacturer cut-off ordering dates,
- Improves delivery time of new vehicles allowing them to be put into service sooner,
- Improves reaction time as “good deals “ become available, and

WHEREAS, by authorizing the Purchasing Manager or his designee to solicit bids and attend auctions to purchase vehicles and 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 bid and contract for new vehicles and equipment will still come before Council and conform to Modesto Municipal Code (MMC) 8-3.203(a), and

WHEREAS, the Purchasing Division will continue to work at increasing local vendor inclusion in the bidding process, and

WHEREAS, upon Council approval the Purchasing Manager will solicit bids for new vehicles and heavy equipment throughout FY 06/07 through various competitive processes and in a cumulative amount not to exceed the budgeted amount of \$2,098,500, and

WHEREAS, upon Council approval the Purchasing Manager, or his designee, will purchase seventeen (17) used vehicles at auction or through various competitive processes for an estimated total budgeted amount of \$306,000,

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 equipment throughout FY 06/07 through various competitive processes and in a cumulative amount not to exceed the budgeted amount of \$2,098,500, returning to Council for authorization to award said new vehicles and equipment.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to purchase seventeen (17) used vehicles for an estimated budgeted amount of \$306,000 at auction or through various competitive processes without returning to Council for authorization to award said used vehicles.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-466

A RESOLUTION ALLOCATING A NEW MANGER OF BUDGET AND  
FINANCIAL ANALYSIS TO THE FINANCE DEPARTMENT BEGINNING  
WITH THE 2006-2007 FISCAL YEAR

WHEREAS, during the 2004-2005 fiscal year, the Manager of Budget and Financial Analysis position was cut from the Finance Department's position allocation as a cost saving measure; and

WHEREAS, the responsibility for the development of the annual city budget has been placed in the City Manager's Office for the last two years; and

WHEREAS, the City Council now wishes to restore the Manager of Budget and Financial Analysis to the Finance Department in order to return responsibility for budget preparation and oversight to that department;

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Personnel Department to include the Manager of Budget and Financial Analysis to the Finance Department's position allocation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2<sup>nd</sup> day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-467**

**A RESOLUTION AUTHORIZING AN EXTENSION TO A MUNICIPAL  
MASTER LEASE (“AS AMENDED”) WITH DELL MARKETING L.P., FOR  
INFORMATION TECHNOLOGY HARDWARE PRODUCTS AND SERVICES  
FOR A PERIOD OF 48-MONTHS, AND AUTHORIZING THE CITY  
MANAGER, OR HIS DESIGNEE TO EXECUTE EQUIPMENT SCHEDULE NO.  
2228457 DATED JULY 7, 2006 TO MUNICIPAL MASTER LEASE  
AGREEMENT**

WHEREAS, in 1998 the City established a Technology and Equipment Replacement Fund (TERF) for the purpose of replacing obsolete technology equipment, and

WHEREAS, in 1999 the City went through a formal bid process to establish a computer standard throughout the city, and

WHEREAS, Dell Marketing was the lowest responsive and responsible bidder to the formal bid process, and

WHEREAS, in 2003 the City entered into a Municipal Master Lease with Dell Marketing for Information Technology (IT) Hardware Products and Services, and

WHEREAS, the City leased Dell computers as part of the Municipal Master Lease for a period of 36 months, and

WHEREAS, the terms of the lease agreement expire in September 2006, requiring an extension of the agreement, and

WHEREAS, IT views this program as a cost effective measure for the City, emphasizing reduction of the Total Cost of Ownership (TCO) for the City’s technology equipment and helping streamline the City’s technology refresh program that affects all departments, and

WHEREAS, Dell Marketing has been providing personal computers to the City for the past seven years, and

WHEREAS, during that time the City has received Dell contractual pricing by taking advantage of the Western States Contracting Alliance (WSCA) pricing, and

WHEREAS, WSCA is a coalition of fifteen western states which was formed as a means by which participating states could join together to receive cost effective pricing on personal computers based on economies of scale, and

WHEREAS, the City is desirous of extending the lease agreement for a period of 48 months in the amount of \$154,665.88 per year, using the existing Municipal Master Lease (“as Amended”) with Dell Marketing for Information Technology Hardware Products and Services, and

WHEREAS, this item was presented to the Finance Committee meeting on July 24, 2006 and

WHEREAS the Finance Committee recommended this item be forwarded to Council for consideration,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves extending the lease agreement utilizing the Municipal Master Lease (“as amended”) with Dell Marketing L.P. for Information Technology hardware products and services for a period of 48 months (4 years) at a cost of \$154,665.88 per year.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute Equipment Schedule No. 2228457 dated July 7, 2006.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2<sup>nd</sup> day of August 2006, by Councilmember O'Bryant, 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: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-468**

**A RESOLUTION AUTHORIZING THE DIRECTOR OF THE PARKS,  
RECREATION AND NEIGHBORHOODS DEPARTMENT TO NEGOTIATE  
AND APPROVE ANY INCREASES OR DECREASES IN THE GROVER  
LANDSCAPE SERVICES, INC. CONTRACT UP TO AN ADDITIONAL \$50,000  
FOR CONTRACT YEAR 1, ENDING MARCH 20, 2007**

WHEREAS, on March 7, 2006, by Resolution No. 2006-134, the City Council authorized a landscape maintenance agreement, effective March 21, 2006, between Grover Landscape Services, Inc. and the City, and

WHEREAS, Resolution No. 2006-134 also provided the Director of the Parks, Recreation and Neighborhoods Department the authority to approve increases or decreases up to \$50,000 annually in the Grover Landscape Services, Inc. contract, and

WHEREAS, recent, unanticipated, one-time park additions have caused the director to reach the maximum allowable approval limit of \$50,000, and

WHEREAS, it is anticipated that there will be a need for additional increases or decreases in the Grover Landscape Services, Inc. contract during the contract year, and

WHEREAS, there is a need to increase the department director's ability to negotiate contract increases and decreases by an additional \$50,000 for the current contract year ending March 20, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes the Director of the Parks, Recreation and Neighborhoods Department to negotiate and approve any increases or decreases in the Grover Landscape Services, Inc. contract up to an additional \$50,000 for Contract Year 1, ending March 20, 2007.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2<sup>nd</sup> day of August 2006, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-469**

**A RESOLUTION APPROVING THE SUBMISSION OF A NOTICE OF  
INTEREST FOR \$1.5 MILLION FROM THE STATE OF CALIFORNIA OFFICE  
OF EMERGENCY SERVICES (OES) HAZARD MITIGATION GRANT FOR  
THE TUOLUMNE RIVER REGIONAL PARK GATEWAY PROJECT,  
SPECIFICALLY FOR THE FLOOD MITIGATION PORTION OF THE  
PROJECT**

WHEREAS, the State of California Office of Emergency Services has made funding available through its Hazard Mitigation Grant Program, and

WHEREAS, the procedures established by the Office of Emergency Services Hazard Mitigation Grant Program require an applicant's governing body to certify by resolution the approval of the application before submission of said Notice of Interest to the State, and

WHEREAS, the applicant will enter into a contract with the State of California for the Project, and

WHEREAS, the Tuolumne River Regional Park Joint Powers Authority agreement assigns management rights and responsibilities to the City of Modesto, and

WHEREAS, staff feels that development of the Gateway portion of the Tuolumne River Regional Park, as it relates to flood mitigation on Dry Creek, to be an excellent "fit" for this specific funding program and desires to submit a Notice of Interest for said Hazard Mitigation Grant Program,

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

1. Approves the submission of a Notice of Interest for \$1.5 million in funds from the State of California Office of Emergency Service through the

Hazard Mitigation Grant Program for development of the Gateway portion of the Tuolumne River Regional Park as it relates to flood mitigation;

2. Certifies that the applicant has or will have sufficient funds to operate and maintain the Project; and
3. Certifies that the City of Modesto staff has reviewed, understands, and agrees to the General Provisions contained in the contract shown in the Procedural Guide; and
4. Authorizes the City Manager, or his designee, to act as agent to conduct all negotiations, execute and submit all documents including, but not limited to, applications, agreements, payment requests and so on, which may be necessary for the completion of the Project following acceptance and approval by the City Council.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2<sup>nd</sup> day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-470**

**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 Operations Supervisor. The job specification for this classification is being amended to update the essential functions to more accurately reflect the current job duties. The job specification for the classification of Operations Supervisor, 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 August 2, 2006.

The foregoing resolution was introduced in a special meeting of the Council of the City of Modesto held on the 2<sup>nd</sup> day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

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

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

## OPERATIONS SUPERVISOR

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 supervise, coordinate, schedule and participate in the physical operations, maintenance and repair of the Modesto Centre Plaza (MCP) and John Thurman Field (JTF) facilities; to administer service contracts including janitorial, landscaping, heating and air conditioning; to supervise full-time and temporary employees on building maintenance and set-up crews; to accept responsibility for events set-up, production, and teardown.

### SUPERVISION RECEIVED AND EXERCISED

Receives general direction from the ~~Assistant Parks and Recreation Director~~ Events Supervisor.

Exercises direct supervision over subordinate technical, maintenance, temporary and contracted staff.

### ESSENTIAL AND MARGINAL FUNCTION STATEMENTS -

Essential and other important responsibilities may include, but are not limited to, the following:

#### Essential Functions:

Administer service contracts and supervise personnel in the efficient maintenance of the Modesto Centre Plaza and John Thurman Field buildings, grounds and related structures.

Assign work to employees; oversee work procedures and inspect work in progress and upon completion; communicate with clients to clarify needs and to make recommendations for event setup.

Supervise, Direct, schedule and participate with full-time and temporary employees in the set-up, function, and teardown of equipment for events; plan details for the set up of tables, chairs, stages, and other similar equipment for activities such as meetings, conventions, and exhibitions based upon specified general arrangements.

Exhibit "A"

Essential Functions: (Continued)

Work cooperatively with clients to provide seamless customer service.

Communicate with vendors and evaluate new products; coordinate with purchasing on bidding process and other division purchases.

Assist in developing and administering work unit and or division budget.

Responsible for event production needs, including in-house equipment and outside rentals.

Evaluate operations and activities of assigned responsibilities; recommend improvements and modifications; prepare various reports on operations and activities.

~~Instructs and trains assigned personnel in the performance of their tasks and duties.~~

Participate in the selection of staff; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures.

Inspect total facility to locate and determine the extent of repair or maintenance work to be performed.

Supervise and estimate labor and material costs for work to be performed; write specifications; arrange for estimates and bid proposals; inspect work performed by contractors; inspect and maintain sound and lighting equipment.

Supervise and coordinate contract services for landscape and custodial work.

Insure the proper use and care of tools, materials, and safety equipment; insure that work performed by assigned staff is in conformance with work standards; conduct safety information meetings; assure adherence to safety, cleanliness, fire prevention rules and standards including evacuation plans.

Serves as chairperson on the safety committee.

Monitors security camera systems and addresses other safety and security issues.

Acts as systems administrator for the facility management system.



Essential Functions: (Continued)

Keeps Maintain a variety of records, operational manual, evacuation manual and account for materials, keys, equipment, and supplies used.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Event set-up, production, and teardown requirements.

Standard event set-up patterns.

Principles of maintaining plazas, buildings, conference facilities and related structures.

Principles of supervision, training, work coordination and planning scheduling and performance evaluation.

Safe principles and work practices and related State and Federal laws and regulations.

Word processing, spreadsheet applications, internet usage, and specialized scheduling and facility management software necessary for job performance.

English composition and report writing.

Ability to:

Work with Modesto Centre Plaza users as principal production contact; project service and hospitality while applying and enforcing complex rules, regulations and practices.

Assign, supervise and plan the work of personnel assigned to MCP.

Provide training to assigned MCP personnel.

Supervise, train and evaluate assigned staff.

Ability to: (Continued)

Evaluate maintenance policies and objectives.

~~Make~~ Prepare estimates of cost and time for all aspects of maintenance, repair, and construction work.

Ability to: (Continued)

Prepare rough sketches of maintenance and repair jobs.

~~Diagnose malfunctions and determine effective courses of action for correcting them:~~

~~Identify and implement effective courses of action to completed assigned work; use lead by example methodology.~~

Operate a forklift skillfully.

~~Perform heavy manual labor, meaning lifting, carrying fifty (50) to one hundred (100) pounds of weight. Perform medium lifting up to fifty lbs. of weight.~~

Adapt to changing safety requirements; think and act quickly in emergency situations.

Adapt available tools, supplies, and equipment to particular community convention center maintenance problems.

Develop, implement, and enforce fire and safety regulations and procedures.

Communicate effectively orally and in writing.

Keep records and prepare routine and special reports.

Understand and carry out oral and written instructions.

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

Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

A combination of three years experience involving the management of facility maintenance, with experience in event production, and/or theatrical sound and lighting, and/or banquet, and meeting convention services. A portion of the experience must include lead or supervisory responsibility.

Training:

Equivalent to a Bachelors degree in facility management, recreation, business administration, or a related field.

License or Certificate

Possession of an appropriate California Drivers License is required within one month of appointment.

WORKING CONDITIONS

Environmental Conditions:

Office and field environment; travel from site to site. Hot and cold temperatures; inclement weather.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for walking or standing for prolonged periods of time; lifting up to 50 lbs. and operating motorized equipment and vehicles.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-471**

**A RESOLUTION APPROVING THE AGREEMENTS BETWEEN THE CITY OF  
MODESTO AND PACIFICARE, KAISER PERMANENTE, AMERICAN  
SPECIALTY HEALTH PLANS (chiropractic coverage) AND PACIFICARE  
BEHAVIORAL HEALTH; CONTINUING DENTAL AND VISION COVERAGE  
THROUGH THE CITY'S SELF-INSURED PROGRAM AND AUTHORIZING  
THE RISK MANAGER TO SERVE AS THE COORDINATOR FOR THE  
VARIOUS PLANS AND AUTHORIZING THE CITY MANAGER TO EXECUTE  
ALL NECESSARY AGREEMENTS**

WHEREAS, the City of Modesto provides its employees with employee and dependent health insurance coverage, and

WHEREAS, the Employee Benefits Committee (EBC) has met and reviewed and evaluated coverage for Fiscal Year 2006/2007, and

WHEREAS, the rates charged by health insurance carriers will increase by 16.8% for Kaiser and 17.5% for PacifiCare, and

WHEREAS, mental health rates will increase by 13%, and

WHEREAS, the City's self-insured vision rates, the City's self-insured dental rates and the chiropractic rates will remain the same, and

WHEREAS, the EBC voted to continue to offer both PacifiCare and Kaiser, and

WHEREAS, PacifiCare continues to offer Preferred Provider Option (PPO) to all employees, and a new HMO Low Option along with the standard HMO option and,

WHEREAS, the EBC recommended maintaining the health plan design, and the drug co-pays at current rates,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves execution of agreements with PacifiCare, Kaiser Permanente, American Specialty Health Plans, and PacifiCare Behavioral Health.

BE IT FURTHER RESOLVED that the Council hereby approves the continuation of dental and vision coverage through the City's self-insured program as recommended by the Employee Benefits Committee.

BE IT FURTHER RESOLVED that the Risk Manager is hereby authorized to serve as the coordinator for the various plans.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute all necessary agreements relating to employee and dependent health care as set forth herein.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2<sup>nd</sup> day of August 2006 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-472**

**A RESOLUTION AUTHORIZING THE RISK MANAGER TO BIND EXCESS  
WORKERS' COMPENSATION INSURANCE**

WHEREAS, the City of Modesto has participated in the workers' compensation excess insurance pool, California Public Employers Insurance Authority (CPEIA), since July 1, 2002, and

WHEREAS, the City's excess workers' compensation insurance renews on July 1, 2006, and

WHEREAS, staff has received the invoice that reflects a rate reduction due to the workers' compensation reforms, and

WHEREAS, the insurance pool anticipates savings which has reduced program rates, and

WHEREAS, upon authorization from Council, staff will bind Insurance coverage through the City's broker at \$750,000 self-insured retention, and

WHEREAS, the anticipated cost of said insurance coverage is \$179,624,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Risk Manager is hereby authorized to bind excess workers' compensation insurance coverage in the amount of \$179,624 as presented by the City's Broker of Record.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2<sup>nd</sup> day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-473**

**A RESOLUTION AUTHORIZING THE RISK MANAGER TO BIND  
PROPERTY INSURANCE FOR THE CITY OF MODESTO OWNED AND/OR  
OPERATED PROPERTIES**

WHEREAS, Driver Alliant Insurance Services has developed a joint-purchasing group of clients called PEPPI (Public Entity Property Insurance Program) which includes over 5000 public entities in 7 different states, and

WHEREAS, PEPPI's loss experience, coverage form and pricing have been among the most competitive in the industry, and

WHEREAS, renewal of said insurance is due on July 1, 2006, and

WHEREAS, staff has received the invoice that provides for a rate increase of approximately 9 % for property and boiler & machinery coverage due to a decrease in the market, and

WHEREAS, based upon authorization from Council, staff will bind the insurance coverage through PEPPI, at the cost of \$277,942,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Risk Manager is hereby authorized to bind property and boiler & machinery insurance coverage in the amount of \$277,942 as presented by the City's Broker of Record pursuant to Council direction.



The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2<sup>nd</sup> day of August 2006 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-474**

**A RESOLUTION ACCEPTING THE PEN-LINK ANALYSIS SOFTWARE FOR THE TECHNOLOGY TRANSFER PROGRAM FROM THE UNITED STATES ARMY, ELECTRONIC PROVING GROUND SPONSORED BY THE OFFICE OF NATIONAL DRUG CONTROL POLICY/COUNTERDRUG TECHNOLOGY ASSESSMENT CENTER (ONDCP/CTAC) FOR 10 PEN-LINK SOFTWARE LICENSES AND MANDATORY TRAINING, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS**

WHEREAS, the City of Modesto Police Department desires to acquire Pen-Link Analysis Software, and

WHEREAS, the United States Army, Electronic Proving Ground sponsored by the Office of National Drug Control Policy/Counterdrug Technology Assessment Center (ONDCP/CTAC) has a Technology Transfer Program that offers Pen-Link Software licenses and training, and

WHEREAS, said program accepted our application and will provide the Police Department with 10 Pen-Link Software licenses, and

WHEREAS, attendance at a mandatory training session is required prior to receipt of the equipment, and

WHEREAS, the program provides travel and lodging for two people per agency, and

WHEREAS, the Pen-Link Analysis Software will provide the Police Department with the latest drug and methamphetamine analysis software available,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Pen-Link Analysis Software for the Technology Transfer Program from the United States Army, Electronic Proving Ground sponsored by the

Office of National Drug Control Policy/Counterdrug Technology Assessment Center  
(ONDCP/CTAC) for 10 Pen-Link Software Licenses and mandatory training.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary documents.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto, held on the 2<sup>nd</sup> day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST:

  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-475**

**A RESOLUTION APPROVING AN AGREEMENT WITH RONNING ARMS,  
INC. FOR THE USE OF ITS INDOOR SHOOTING RANGE, AND  
AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE  
THE AGREEMENT**

WHEREAS, Ronning Arms, Inc. has an indoor shooting range, and

WHEREAS, the Modesto Police Officer has the need for such a facility for range practice so sworn police personnel can practice on duty as time allows and remain within the City limits to be available for emergency calls, and

WHEREAS, it also provides a location for firearms qualifications and basic training when the Modesto Range Training facility is unavailable for use by Police personnel, and

WHEREAS, the City of Modesto Police Department will compensate Ronning Arms, Inc. \$8.50 for fifty (50) rounds of 9 millimeter ammunition, \$11.50 for fifty rounds of .45 caliber ammunition and \$1.00 per practice target, and

WHEREAS, Ronning Arms, Inc. will allow all sworn police personnel to expend 50 rounds per month with the exception of SWAT Team Officers, who are authorized to expend 100 rounds, and

WHEREAS, the terms of this Agreement shall commence on April 1, 2006 and shall expire on April 1, 2009, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby approves the agreement with Ronning Arms, Inc. for the use of its indoor shooting range.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2<sup>nd</sup> day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-476**

**A RESOLUTION APPROVING THE EXPANSION OF THE MODESTO AREA DIAL-A-RIDE (MADAR) SERVICE AREA TO INCLUDE: (1) AREAS NORTH OF PELANDALE AND SYLVAN AVENUES IN THE NORTHWEST AND NORTHEAST PARTS OF MODESTO THAT ARE GENERALLY WITHIN ¾ MILE OF MODESTO AREA EXPRESS FIXED-ROUTE BUS SERVICE; (2) AREAS WITHIN ¾ MILE OF MAX ROUTES THAT SERVE THE CITY OF MODESTO AMTRAK STATION ON HELD AVENUE AS WELL AS THE COMMUNITY OF EMPIRE; AND, (3) A NEW SUBDIVISION IN NORTH SALIDA OFF OF PIRRONE AND HAMMETT ROADS THAT CAN BEST BE SERVED BY MODESTO AREA DIAL-A-RIDE**

WHEREAS, Modesto Area Dial-A-Ride (MADAR) provides federally mandated paratransit service within the Modesto urbanized area, and

WHEREAS, on July 22, 2006, Modesto Area Express (MAX) initiated changes to several routes that extended service to the new Kaiser Hospital complex on Dale Road, and Enochs High School on Sylvan Avenue, and

WHEREAS, the Americans with Disabilities Act (ADA) requires paratransit service provided by MADAR to complement local fixed-route transit service, and

WHEREAS, in order to serve areas not previously served, a change to the Modesto Area Dial-A-Ride service area is needed, and

WHEREAS, the Economic Development Committee approved the proposed MADAR service-hour expansion at the July 10, 2006, meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the following neighborhoods be added to the Modesto Area Dial-A-Ride service area as indicated by the service area map attached hereto as Exhibit "A":

1. Areas north of Pelandale and Sylvan Avenues in the northwest and northeast parts of Modesto that are generally within ¾ mile of Modesto Area Express fixed-route bus service.

2. Areas within ¾ mile of MAX routes that serve the City of Modesto Amtrak Station on Held Avenue as well as the community of Empire.

3. A new subdivision in north Salida off of Pirrone and Hammett roads that can best be served by Modesto Area Dial-A-Ride.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto on the 2nd day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

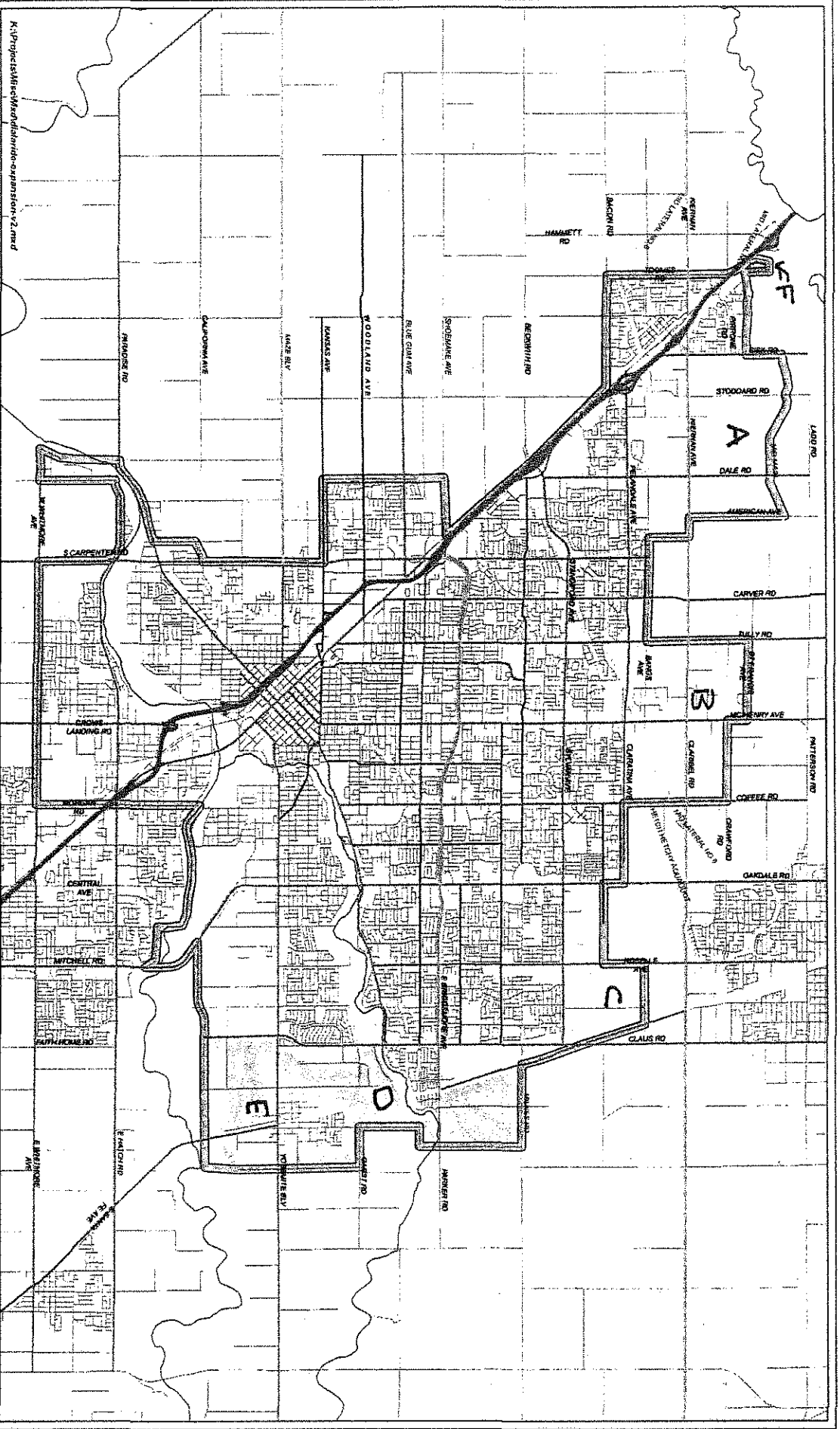
NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



1 0.5 0 1 2  
Miles

June 19, 2006

**City of Modesto**  
Proposed Dial-A-Ride Area

**2**



K:\projects\kch\mod\mod-transport-v2.mxd



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-477**

**A RESOLUTION APPROVING ONE (1) AGREEMENT FOR THE ACQUISITION OF A PORTION OF A PARCEL ALONG MID LATERAL NO. 4, SOUTH OF ELM AVENUE AND WEST OF ROSEMORE AVENUE OWNED BY ALAN MANGINI (APN: 007-038-015), INCLUDING AN ACCESS UTILITY EASEMENT TO THE CITY OF MODESTO FOR THE WATER DOWNSTREAM IMPROVEMENTS: TIER TWO WEST TANK PROJECT AND MAKING CERTAIN FINDINGS PURSUANT TO GOVERNMENT CODE SECTION 51292 RELATING TO THE WILLIAMSON ACT CONTRACT AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT**

WHEREAS, the City Council of the City of Modesto previously resolved to proceed with the expansion of City's water distribution system. As part of the expansion, aboveground water storage tanks must be constructed in each quadrant of the City to support increased water flow. A minimum of five (5) acres of land is necessary to accommodate each tank and appurtenances for operation, along with an access utility easement, and

WHEREAS, staff identified a parcel owned by Alan Mangini (APM 007-038-015) of sufficient size and optimum location for the water tank project and said property was appraised to determine fair market value, and

WHEREAS, the City Council of the City of Modesto directed staff to enter into negotiations with Alan Mangini to purchase a portion of his real property (hereafter the "subject property") for the Water Downstream Improvements: Tier Two West Tank Project, including an access utility easement, and

WHEREAS, the subject property is under the Williamson Act Contract but was appraised without consideration for the Williamson Act Contract and City offered the landowner the appraised value, and

WHEREAS, in December 1982 and January 1983, respectively, the City and LAFCO protested the execution of the Williamson Act Contract (Council Res: No. 82-928; LAFCO Res: No. 83-04) for said property and made the following finding: “The Williamson Act Contracts are inconsistent with the publicly desirable future use and control of the land.” which action designates that, when annexed in future, the Williamson Act would automatically terminate, and

WHEREAS, staff has reviewed the subject property as it relates to the Williamson Act (Government Code Section 51200 et seq.) and recommends making certain findings pursuant to Government Code Section 51292 relating to the Williamson Act Contract (“preserve”) and to other relevant codes as follows:

- a. The water tank site location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve
- b. There is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvements,
- c. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury, and

WHEREAS, four (4) other properties were identified as potential sites for the project. Staff evaluated each alternate site and concluded that none of the alternate sites is reasonably feasible to locate, construct and operate the water tank. Eminent domain would be required to acquire any of the alternate sites as none of the owners is willing to sell. The acquisition of any of the alternate sites would likely result in significant private disruption and injury. Acquisition of the subject property for the water tank project is most compatible with the greatest public good and least private injury, and

WHEREAS, the subject property needs to be acquired for this Water Tank project, and

WHEREAS, an agreement is needed for the acquisition of the subject property, and

WHEREAS, a Phase I environmental review has been completed on this proposed property acquisition which indicates no known contamination and no Phase II review is required, and

WHEREAS, on July 12, 2005, the Council adopted Resolution No. 2005-378 certifying the Subsequent Environmental Impact Report (“SEIR”) (SCH No. 2004022013), and

WHEREAS, it has been determined that, pursuant to Sections 15168 (c) and 15182 of the California Environmental Quality Act Guidelines (“CEQA”), this project is within the scope of the SEIR for the Modesto Regional Water Treatment Plant Phase Two Expansion and the City of Modesto Downstream Improvements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the following findings are hereby made:

- a. The water tank site location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve.
- b. There is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvements.
- c. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

BE IT FURTHER RESOLVED that the Council hereby approves one (1) Agreement between City of Modesto and Alan Mangini (APN: 007-038-015) to purchase the necessary real property for the Water Downstream Improvements: Tier Two West Tank Project in the amount of \$230,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-478**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN  
ACCEPTANCE FORM FOR THE GRANT DEEDS FOR THE ACQUISITION OF  
A PORTION OF A PARCEL ALONG MID LATERAL NO. 4, SOUTH OF ELM  
AVENUE AND WEST OF ROSEMORE AVENUE OWNED BY ALAN MANGINI  
(APN: 007-038-015) TO THE CITY OF MODESTO FOR THE WATER  
DOWNSTREAM IMPROVEMENTS: TIER TWO WEST TANK PROJECT,  
INCLUDING AN ACCESS UTILITY EASEMENT**

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 Water Downstream Improvements: Tier Two West Tank Project owned by Alan Mangini (APN: 007-038-015),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager 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 Alan Mangini (APN: 007-038-015) for the Water Downstream Improvements: Tier Two West Tank Project.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-479**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE WELL #63 DEVELOPMENT AT MILDRED PERKINS PARK PROJECT, ACCEPTING THE BID AND APPROVING A \$256,845 CONTRACT WITH CALWATER DRILLING COMPANY, INC., FOR THE PROJECT TITLED, "WELL #63 DEVELOPMENT AT MILDRED PERKINS PARK," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, plans and specifications have been prepared for the "Well #63 Development at Mildred Perkins Park" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "Well #63 Development at Mildred Perkins Park" were opened at 11:00 a.m. on June 20, 2006, 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 \$256,845 received from Calwater Drilling Company, Inc., Turlock, California be accepted as the lowest responsible bid and the contract be awarded to Calwater Drilling Company, 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 Calwater Drilling Company, Inc., in the amount \$256,845, and hereby awards Calwater Drilling Company, Inc., the contract titled "Well #63 Development at Mildred Perkins Park."

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 2nd day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-480**

**A RESOLUTION ACCEPTING THE WORK BY MCM CONSTRUCTION, INC.,  
FOR THE PROJECT TITLED "9<sup>TH</sup> STREET BRIDGE REPLACEMENT  
PROJECT" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A  
NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS  
DUE TOTALING \$20,297,749.77**

WHEREAS, a report has been filed by the Public Works Director that the project titled "9<sup>th</sup> Street Bridge Replacement Project" has been completed by MCM Construction, Inc., in accordance with the contract agreement dated October 14, 2003,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "9<sup>th</sup> Street Bridge Replacement Project" is hereby accepted as complete from said contractor, MCM Construction, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$20,297,749.77, as provided in the contract, be authorized.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of August, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST:

  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-481**

**A RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS IN THE  
BRIDGEWOOD TOWNHOUSE SUBDIVISION, AND AUTHORIZING THE CITY  
CLERK TO RECORD A NOTICE OF COMPLETION AND AUTHORIZING  
RELEASE OF BONDS**

WHEREAS, GRANITE BAY HOLDINGS, a Limited Liability Corporation, is the subdivider of Bridgewood Townhouse (“SUBDIVISION”), and

WHEREAS, GRANITE BAY HOLDINGS, a Limited Liability Corporation, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of \$202,300.56 and \$101,150.28, respectively, and

WHEREAS, GRANITE BAY HOLDINGS, a Limited Liability Corporation, has filed a warranty bond in the amount of \$20,230.06 to guarantee public improvements in the BRIDGEWOOD TOWNHOUSE Subdivision, and

WHEREAS, the City Engineer, 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 City Engineer 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 record a Notice of Completion and release the bonds 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 BRIDGEWOOD TOWNHOUSE Subdivision are hereby accepted and the City Clerk is hereby authorized to record 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 \$202,300.56 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 \$101,150.28 sixty (60) days after the 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 public improvements in the amount of \$20,230.06 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 2<sup>nd</sup> day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-482**

**A RESOLUTION ORDERING THE LEVY AND COLLECTION OF CHARGES  
WITHIN LANDSCAPE ASSESSMENT DISTRICT NO. 1 FOR DRY CREEK  
MEADOWS SUBDIVISIONS NOS. 1-6**

WHEREAS, the City of Modesto has by Resolution No. 2006-349 adopted on June 6, 2006, 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 2006-07 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 2006-07 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 2006-07 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 2nd day of August 2006, 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: Dunbar, Hawn, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-483**

**A RESOLUTION 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. 2006-350, adopted on June 6, 2006, 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 2006-07 is \$114.90 per acre for commercial property and \$22.62 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 \$114.90 per acre for commercial property and \$22.62 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 2006-07 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 2006-07 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 2nd day of August 2006, 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: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-484**

**A RESOLUTION APPROVING AN AGREEMENT TO PROVIDE CERTAIN  
LESS THAN COUNTY-WIDE FIRE SERVICES BETWEEN THE STANISLAUS  
COUNTY REGIONAL FIRE AUTHORITY AND THE CITY OF MODESTO,  
FOR COUNTYWIDE FIRE INVESTIGATION SERVICES IN THE AMOUNT OF  
\$469,546, AUTHORIZING THE CITY MANAGER TO EXECUTE SAID  
AGREEMENT**

WHEREAS, the Modesto Fire Department presented a proposal to the Stanislaus County Regional Fire Authority for consolidation of fire investigation services to include the portion of Stanislaus County currently served through the less than county-wide fire investigation contract and the City of Modesto, and

WHEREAS, the Stanislaus County Regional Fire Authority voted to accept the proposal on June 22, 2006, and

WHEREAS, the proposal in the amount of \$469,546, covers staffing (salary, benefits, incentives, overtime and training), equipment (phone, radio, tools), a vehicle, vehicle maintenance and fuel, and

WHEREAS, the contract amount of \$469,546 will be paid from Less than County-wide Fire Service Fees, and

WHEREAS, the Safety and Communities Committee approved this request on July 31, 2006 for recommendation to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a 5-Year Agreement To Provide Certain Less Than County-Wide Fire Services between the Stanislaus County Regional Fire Authority and the City of Modesto for fire investigation services in the amount of \$469,546.



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 2<sup>nd</sup> day of August 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-485**

**A RESOLUTION AUTHORIZING THE PERSONNEL DIRECTOR TO  
ESTABLISH AN ELIGIBILITY LIST FOR FIRE CAPTAIN FROM  
INTERESTED AND QUALIFIED CANDIDATES CURRENTLY SERVING AS  
FIRE INVESTIGATORS WITH THE STANISLAUS CONSOLIDATED FIRE  
PROTECTION DISTRICT**

WHEREAS, the Modesto Fire Department presented a proposal to the Stanislaus County Regional Fire Authority for consolidation of fire investigation services to include the portion of Stanislaus County currently served through the less than county-wide fire investigation contract and the City of Modesto, and

WHEREAS, the Stanislaus County Regional Fire Authority voted to accept the proposal on June 22, 2006, and

WHEREAS, the proposal included the consideration of current Fire Investigators from Stanislaus Consolidated Fire Protection District to fill the three (3) additional Fire Investigator positions created by the contract based on the proposal, and

WHEREAS, the Personnel Director is responsible for the preparation of eligibility lists consisting of the names of persons qualifying for appointment to designated classifications, and

WHEREAS, the City desires to establish an eligibility list for Fire Captain comprised solely of qualified applicants currently employed by Stanislaus Consolidated Fire Protection District,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Personnel Director to establish an eligibility list for Fire Captain from interested and qualified candidates currently serving as Fire Investigators with Stanislaus Consolidated Fire Protection District.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 2nd day of August 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-486**

**A RESOLUTION AUTHORIZING THE PURCHASE OF A FULL SIZE, HALF  
TON, EXTENDED CAB PICKUP TO BE UTILIZED BY FIRE INVESTIGATORS  
PURSUANT TO AGREEMENT BETWEEN THE STANISLAUS COUNTY  
REGIONAL FIRE AUTHORITY AND THE CITY OF MODESTO TO PROVIDE  
CERTAIN LESS THAN COUNTY-WIDE FIRE SERVICES**

WHEREAS, BY Resolution No. 2006-484, adopted on August 2, 2006, the Council of the City of Modesto approved an Agreement To Provide Certain Less Than County-wide Fire Services, and

WHEREAS, pursuant to the terms of the said agreement, thirty thousand dollars (\$30,000), amortized over three (3) years, is budgeted for a vehicle, and City staff wishes to purchase a half ton, extended cab pickup, for the use of Fire Investigators, and

WHEREAS, the Safety and Communities Committee approved this request on July 31, 2006 for recommendation to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the purchase of a half ton extended cab pickup to be utilized by the Fire Investigators.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2nd day of August 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-487**

**A RESOLUTION ADOPTING THE DEBT MANAGEMENT POLICY AND THE  
INTEREST RATE SWAP POLICY**

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, staff has identified the need to restructure water debt, issue water revenue bonds and prepare for the Modesto Irrigation District to issue bonds which will be considered as parity debt for the City of Modesto, and

WHEREAS, the City desires adopting the Debt Management Policy and the Interest Rate Swap Policy,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby adopts the Debt Management Policy and the Interest Rate Swap Policy, for future consideration by this City Council,

BE IT FURTHER RESOLVED that City staff is hereby authorized and directed to proceed with any and all actions deemed necessary or advisable, following the adopted policy guidelines pursuant to this Resolution, in connection with the future issuances of the City Debt, for future consideration by this City Council

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2<sup>nd</sup> day of August 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the Resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-488**

**A RESOLUTION APPOINTING A WASTEWATER BOND FINANCING TEAM  
CONSISTING OF SIDLEY AUSTIN, LLP, BOND COUNSEL; STRADLING  
YOCCA CARLSON & RAUTH, DISCLOSURE COUNSEL; PUBLIC  
FINANCIAL MANAGEMENT INC., FINANCIAL ADVISOR; CITIGROUP  
GLOBAL MARKETS INC, UNDERWRITER, AND CITY STAFF WITH  
RESPECT TO THE PROPOSED ISSUANCE OF CERTAIN WASTEWATER  
REVENUE BONDS FOR FUTURE CONSIDERATION OF COUNCIL, AND  
AUTHORIZING SAID WASTEWATER 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, staff has identified the need to restructure wastewater debt, issue wastewater revenue bonds, and

WHEREAS, the City desires to appoint certain professionals to assist the City in connection with such proposed issuance, and to authorize such professionals and City staff to take all actions necessary, including the preparation of documents to effect such issuance, 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, LLP, 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



issuance of water revenue bonds of the City; Public Financial Management Inc., San Francisco, California, as Financial Advisor (“Financial Advisor”), and CitiGroup Global Markets Inc as the Underwriter.

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 issuance of the City’s wastewater revenue 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 2<sup>nd</sup> day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the Resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Marsh, O’Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-489**

**A RESOLUTION (1) DIRECTING STAFF TO RETURN TO CITY COUNCIL  
WITH A VARIABLE RATE FINANCING FOR THE 2006 WATER REVENUE  
BONDS WITH SWAP DOCUMENTATION AND (2) APPROVE STAFF'S  
RECOMMENDATION OF THE TIME LINE FOR THE FINANCING**

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, staff has identified the need to restructure water debt, issue water revenue bonds and prepare for the Modesto Irrigation District to issue bonds which will be considered as parity debt for the City of Modesto, and

WHEREAS, the City desires to (1) Direct staff to return to City Council with a variable rate financing for the 2006 Water Revenue Bonds with Swap documentation and (2) Approve staff's recommendation of the time line for the financing to effect such issuance, for future consideration by this City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that it hereby Directs staff to return to City Council with a variable rate financing for the 2006 Water Revenue Bonds with Swap documentation and Approves staff's recommendation of the time line for the financing to effect such issuance, for future consideration by this City Council,

BE IT FURTHER RESOLVED that City staff is hereby authorized and directed to proceed with any and all actions deemed necessary or advisable, including preparing documentation and pricing swaps pursuant to this Resolution, in connection with the proposed issuance of the City's water revenue bonds, for future consideration by this City Council

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 2<sup>nd</sup> day of August 2006, 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: Dunbar, Hawn, Marsh, O'Bryant, Olsen, Mayor Ridenour  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Keating

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-490**

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF KEN  
WILLIAMS FROM THE BOARD OF BUILDING APPEALS**

WHEREAS, was appointed a member of the Board of Building Appeals on  
March 5, 1996, and

WHEREAS, KEN WILLIAMS has tendered his resignation from the  
aforementioned committee, and

WHEREAS, KEN WILLIAMS 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 KEN  
WILLIAMS from the Board of Building Appeals 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 KEN WILLIAMS 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 8<sup>th</sup> day of August 2006, by Councilmember Hawn, who  
moved its adoption, which motion being duly seconded by Councilmember Dunbar, was  
upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-491**

**A RESOLUTION APPROVING AN AMENDMENT TO THE STANDARD AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND CITYGATE ASSOCIATES, LLC, FOR PLANNING MANAGER SERVICES, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE AMENDMENT FOR AN ADDITIONAL SUM NOT EXCEED \$80,000.00 (EIGHTY THOUSAND AND NO/100 DOLLARS), FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$100,000.00 (ONE HUNDRED THOUSAND AND NO/100 DOLLARS)**

WHEREAS, the City's Community & Economic Development Department Planning Manager position plays an essential role in guiding the ongoing and future growth and development of the community, and

WHEREAS, the Planning Division Manager position is currently vacant and the CITY is actively recruiting to fill the vacant position, and

WHEREAS, the CITY has determined that it needs to appoint an Interim Planning Manager to provide leadership services for the Planning Division during the recruitment period, and

WHEREAS, Citygate Associates, LLC, has entered into a Standard Agreement for Consultant Services with the City to provide such services in an amount not to exceed \$20,000.00, and

WHEREAS, the City desires to amend Consultant's contract for an additional amount not to exceed \$80,000.00 for services as set forth in Exhibit "A" attached hereto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Amendment to Agreement for Planning Manager services with Citygate Associates, LLC, for an additional sum not to exceed \$80,000.00 and for a total contract amount not to exceed \$100,000.00.

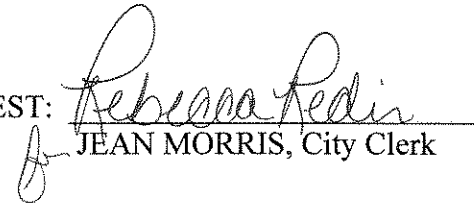
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Amendment to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8<sup>th</sup> day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

## **EXHIBIT "A"**

### **SCOPE OF WORK**

The consultant shall fulfill the obligations and duties of the Planning Manager for the City of Modesto on an interim part-time basis during the City's recruitment to fill the position on a permanent basis. Such duties will include:

- Leading, managing, supervising and administering the Planning Division;
- Directing and organizing the Planning Division activities in the areas of urban growth management, specific plans, land use entitlements, annexation, environmental review, and the City's General Plan;
- Coordinating staff reports and facilitate Planning Division teams relating to current planning, annexations, environmental reviews and analysis;
- Advising the Planning Commission and City Council on matters relating to the Planning Division;
- Administering the Planning Division's budget;
- Directing, overseeing and participating in the development and implementation of the Planning Division work plan, assigning work activities, projects and programs;
- Monitoring workflow;
- Implementing policies and procedures;
- Coordinating Planning Division activities with those of other City departments and outside agencies and organizations.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-492**

**A RESOLUTION APPROVING THE PURCHASE OF ONE (1) PIERCE  
QUANTUM FIRE ENGINE FROM GOLDEN STATE FIRE APPARATUS,  
MODESTO, CA FOR A TOTAL COST OF \$418,540.39**

WHEREAS, the Modesto Fire Department uses sixteen engine companies and three truck companies in its current fire/life safety delivery system, and

WHEREAS, front line apparatus consists of twelve 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, in 1989 the Modesto Fire Department established an apparatus committee consisting of our Senior Fire Mechanic and representation from all suppression ranks, and

WHEREAS, their charge was to develop apparatus specifications and to review the capabilities of fire apparatus manufacturing facilities, and

WHEREAS, Pierce Manufacturing was the successful manufacturer during this process, and

WHEREAS, the City has since purchased twelve engines and three trucks from Pierce Manufacturing, and

WHEREAS, product quality, reliability, and technical support realized from Pierce Manufacturing over the past twelve years have contributed to the maintaining our operational costs and system reliability, and



WHEREAS, Pierce Manufacturing apparatus is sold in Northern California exclusively through Golden State Fire Apparatus a business located and operated in the City of Modesto, 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,

WHEREAS, the Pierce purchase agreement ensures that the City will be paying the lowest cost commensurate with the desired quality by only allowing for price increases based on the Consumer Price Increase (CPI) OR 4%, which ever is lower, and by also allowing the City to access the terms (piggyback) of any recent Piece bid awards throughout California. Therefore while acting within his discretion, the Purchasing Manager has invoked the exception.

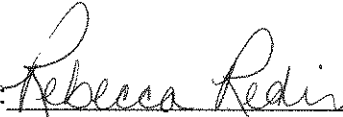
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the purchase of one (1) Pierce Quantum Fire Engine from Golden State Fire Apparatus for a total cost of \$418,540.39.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-493**

**A RESOLUTION APPROVING A REQUEST FROM BIG VALLEY GRACE  
COMMUNITY CHURCH FOR USE OF AMPLIFIED MUSIC AT MANCINI  
BOWL FOR A CELEBRATE RECOVERY EVENT TO BE HELD ON  
SEPTEMBER 2, 2006 FROM 10:00 AM TO 5:00 PM**

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department has received a request from Big Valley Grace Community Church, requesting use of amplified music at Mancini Bowl on Saturday, September 2, 2006, from 10:00 a.m. to 5:00 p.m. for a Celebrate Recovery event, and

WHEREAS, City Council Policy No. 6-007 prohibits the use of amplified music in public without City Council approval,


NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a request from Big Valley Grace Community Church for the use of amplified music at Mancini Bowl for a Celebrate Recovery event on September 2, 2006, from 10:00 a.m. to 5:00 p.m.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8<sup>th</sup> day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-494**

**A RESOLUTION APPROVING A LICENSE AGREEMENT WITH LOS ENCINOS MORAGA ASSOCIATES, LP, ALLOWING THE CITY ACCESS TO ROSEBURG LANE FOR THE PURPOSE OF ROAD RESURFACING, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the Virginia Avenue Corridor Trail Project (“Project”) consists of conversion of the abandoned, 4.2 mile Union Pacific Railroad corridor from City’s central business district at Needham Avenue to the northern City boundary at Bangs Avenue into a premier linear park with Class I bikeway and pedestrian trail, and

WHEREAS, the project will provide a key north-south component to the City’s non-motorized transportation system, and it will provide links to three of the City’s existing east-west Class I bike trails (the Dry Creek and Tuolumne River corridors and the Hetch-Hetchy Right-of-Way corridor) as well as numerous Class II bike lanes and Class III bike routes along roadways, and

WHEREAS, Modesto’s five Rotary Clubs have committed to combining resources with the City in providing funding, in-kind labor and materials for this project phase, to be known as the “Five Rotary Clubs of Modesto Centennial Junction” section of the Project, and

WHEREAS, on January 6, 2004, the City Council adopted the environmental document in the form of a Mitigated Negative Declaration /Finding of No Significant Impact, EA/PR&N 2003-07 (SCH# 20023102131) and approved the Specific Plan, and

WHEREAS, Roseburg Lane is an access roadway that leads to the Roseburg Square shopping center from Orangeburg Avenue, and

WHEREAS, Los Encinos Moraga Associates, LP owns an easement over a parcel of property that includes Roseburg Lane, and

WHEREAS, currently, the City of Modesto is in negotiations with Los Encinos Moraga Associates, LP to obtain their easement interest in this parcel, and

WHEREAS, the Roseburg Lane road surface is in very poor condition and in need of resurfacing and the resurfacing of Roseburg Lane is an improvement deemed necessary to provide a finished look and function to the Rotary project, with the expense of this resurfacing to be borne by the City, and

WHEREAS, in order to resurface Roseburg Lane, a License Agreement is required from Los Encinos Moraga Associates, LP, allowing access by the City to use the licensed area for the purpose of road resurfacing, and

WHEREAS, at its meeting on January 3, 2005, the Safety and Communities Committee supported the agreement between the City of Modesto and the five Rotary Clubs to combine resources and provide funding and in-kind labor and materials for constructing the "Rotary Clubs of Modesto Centennial Junction" section of the Virginia Corridor Trail,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a License Agreement between the City of Modesto and Los Encinos Moraga Associates, LP, allowing the City access to Roseburg Lane for the purpose of road resurfacing.

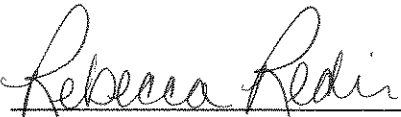
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the License Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8<sup>th</sup> day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-495**

**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. CLASSIFICATIONS AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the job specifications for the following classifications:

1. Fire Equipment Mechanic
2. Operations and Maintenance Crewleader
3. Equipment Mechanic Crewleader

Said classifications are being amended to revise the job specifications to update the essential functions and certification requirements to more accurately reflect the job requirements of the various classifications. The job specifications for the classifications of Fire Equipment Mechanic, as shown on the attached Exhibit "A", Operations &

Maintenance Crewleader, as shown on the attached Exhibit "B", and Equipment Mechanic Crewleader, as shown on the attached Exhibit "C", which are hereby made a part of this resolution by reference, are hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after August 8, 2006.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 8<sup>th</sup> day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney



FIRE EQUIPMENT MECHANIC

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 make minor and major mechanical repairs to fire suppression equipment including fire engines, water pumps and related equipment.

SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from the Operations Commander.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS – Essential and other important responsibilities and duties may include, but are not limited to, the following:

Essential Functions:

Inspect, diagnose, and locate mechanical difficulties on city fire suppression equipment.

Weld, fabricate and assemble parts and equipment for city fire suppression equipment; weld, braze, cut shape and fasten metal parts; ~~fabricate and weld hydraulic lines~~; vehicle frames, chassis, and exhaust systems.

Use welding equipment, drill presses, ~~metal brakes, metal shears, lathes, grinders~~ and a large assortment of other power and hand tools and measurement instruments required for journey level fabrication work.

Overhaul, repair, and adjust engines, transmissions, ~~differentials, clutches~~, fire engine pumps and valves and hydraulic systems.

Tune up engines, replacing electrical and electronic parts and cleaning and adjusting carburetors; chain saws, portable power units and generators.

Replace or repair faulty parts including wheel bearings, ~~clutches~~, or oil seals, shock absorbers, exhaust systems, steering mechanisms, and related parts and equipment.

Install, repair and replace ~~two-way communication~~ emergency lighting and siren equipment.

Essential Functions:(Continued)

Prepare and replace such components as generators, distributors, relays, lights and switches.

Diagnose and repair computerized control systems, ignition systems, power steering and cooling systems.

Repair, adjust and replace brake systems including disc, hydraulic and air brakes.

Assist in the purchasing of equipment maintenance parts and materials.

Maintain computer based work, time, and material records.

Perform smog certification on City owned vehicles.

Participate in the development of bid specifications.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Operating and repair characteristics of a wide variety of City fire suppression equipment.

Operation and care of internal combustion engines and hydraulic equipment.

Methods, materials, equipment and tools used in routine welding and fabrication work.

Tools, equipment, and procedures used in the overhaul, repair, and adjustment of gas and diesel powered equipment.

Safe work practices.

Computers and electronics in vehicle applications.

Ability to:

Perform journey level equipment mechanical work including the trouble shooting of equipment for both major and minor repairs work.

Work independently in the absence of supervision.

Accurately determine mechanical repair needs and estimate the cost and time of repairs.

Use a variety of tools and equipment with skill.

Maintain a variety of shop and repair records.

Troubleshoot and repair electronic and computer controlled systems.

Follow and understand wiring diagrams.

Understand and follow oral and written directions.

Establish and maintain cooperative-working relationships with those contacted in the course of work.

Perform heavy manual labor, including, but not limited to, lifting and carrying up to 100 lbs. of weight.

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:

Three years of responsible equipment maintenance and repair experience including practical experience in the maintenance of both diesel and gas powered equipment. Experience in the repair and maintenance of fire apparatus is desirable.

Training:

Formal or informal education or training which ensures the ability to read and write at a level necessary for successful job performance including specialized training in maintenance and repair of gas and diesel powered equipment.

Exhibit "A"

License or Certificate

Possession of a valid Class B California Driver's License with appropriate endorsements is required within 45 days of appointment. Failure to obtain the license within this period shall be grounds for release from probation.

~~Possession of, or ability to obtain, an appropriate, valid Vehicle Inspection Pollution Controls license:~~

Possession of a valid certificate in air conditioning repair under Section 609 of the Federal Clean Air Act is required by time of appointment.

Special Requirement

Possession of a complete set of mechanic hand tools through 1-1/2 inch and tool box.

WORKING CONDITIONS

Environmental Conditions:

Field environment, travel from site to site, exposure to hot and cold temperatures, inclement weather, hazards of confined spaces and other hazardous materials.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for heavy lifting up to 100 pounds, walking, standing, bending, stooping and crawling for prolonged periods of time; operating motorized equipment and vehicles.

## OPERATIONS AND MAINTENANCE CREWLEADER

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

Crewleaders assign work, train, and provide field supervision of crews engaged in a variety of water, storm/wastewater, streets, and urban forestry operations, maintenance, repair and/or construction work; and to provide lead worker assistance to supervisory and/or management staff.

### SUPERVISION RECEIVED AND EXERCISED

Receives supervision from supervisory and management staff.

Exercises direct field supervision over crews engaged in maintenance and repair activities.

### ESSENTIAL AND MARGINAL FUNCTION STATEMENTS

Essential and other important responsibilities may include, but are not limited to, the following:

#### Essential Functions:

Provide field supervision to crews involved in a variety of water, storm/wastewater, streets, sidewalks, and urban forestry operations, maintenance, repair and/or construction work.

Assist in the design, planning, prioritizing, assignment, and inspection of various maintenance, repair, and construction projects.

Provide feedback to supervisory staff regarding field performance of crews for the purpose of evaluating employee performance.

Assist in developing and monitoring of the Division budget.

Participate in the selection of staff; provide or coordinate staff training; work with employees to correct deficiencies through coaching.

## Exhibit "B"

Essential Functions: (Continued)

Answer questions and provide information to the public; investigate complaints and recommend corrective action as necessary to resolve complaints.

Participate and encourage work unit participation in team building activities including self-directed work teams.

Operate and oversee the operation of a full range of heavy and light equipment as needed such as backhoes, loaders, dump trucks, rollers, tractors, vactor trucks, aerial towers and various trucks.

May operate a mobile crane.

Maintain time, material and equipment use records; prepare various reports related to work activities including technical reports in response to regulatory activities.

Prepare project cost estimates; requisition supplies and materials.

When assigned to utility divisions, may assist in activities that ensure adherence to environmental quality standards.

Perform standby duty as assigned.

Marginal Functions:

Perform related duties as assigned.

**Additional duties when assigned to Water Operations:**

Operate portable sample pump.

Pack, lubricate, clean and paint pumping equipment and motors.

Flush distribution system to maintain water quality.

Maintain and operate chemical feed systems and perform dosage computations.

Install, maintain, and calibrate water meters, hypo chlorinators and on-line analyzers.

**Additional duties when assigned to Water Operations: (Continued)**

Monitor and maintain Granular Activated Carbon (GAC) filters; assist in removal and replacement of carbon, backwashes as required.

Monitor and maintain wellhead water treatment units and storage reservoirs. Perform minor adjustments as required.

Perform the function of shift operator as defined by the California Department of Health Services regulations.

Perform concrete repair including sawing, pouring, finishing and jack hammering.

**QUALIFICATIONS**

**Knowledge of:**

Materials, methods, practices, equipment and elements of construction technology as they relate to the assigned operations, construction, maintenance and repair activities.

Types and level of maintenance and repair activities generally performed in streets, water, storm/wastewater collection, fleet, park or urban forestry program.

Principles of personnel supervision and training.

Safe work practices; regulatory safety programs and procedures.

Pertinent sections of health, safety and labor codes.

Word processing and spreadsheet applications and Internet usage necessary for job performance.

English composition and technical report writing.

Cost accounting.

**Ability to:**

Plan, estimate, direct, coordinate, schedule and review the work of others.

Operate and maintain equipment and tools used in the field.

Ability to: (Continued)

Identify and implement effective courses of action to complete assigned work; use lead by example methodology.

Keep records and make reports.

Lead by example and train assigned staff.

Communicate clearly and concisely, both orally and in writing.

Establish and maintain cooperative-working relationships with those contacted in the course of work.

Coordinate work assignments with other divisions, departments, and agencies and volunteer groups.

Perform medium-heavy manual labor, including but not limited to lifting and carrying up to seventy-five (75) pounds of weight, climbing, bending, stooping, etc.

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:

Three years of increasingly responsible experience performing utility operations, construction and maintenance work in the assigned area of responsibility (such as utility infrastructure, sidewalks, parks, or urban forestry).

Training:

Formal or informal education that ensures the ability to read, write, and communicate at a level necessary for successful job performance.

License or Certificate:

Possession of an appropriate, valid Class A or Class B Commercial California Driver's license with appropriate endorsements, as assigned, within 45 days of appointment. Failure to obtain the required license may result in release from probation or termination.



License or Certificate: (Continued)

When assigned, possession of a valid crane operator certificate, issued by the National Commission of Crane Operators, is required within six months of assignment.

**When Assigned to Streets and Traffic Operations:**

Any employees hired, transferred, or promoted into this position shall possess a work zone safety certificate from International Municipal Signal Association (IMSA), Traffic Control Supervisor Association (TCSA), International Transportation Engineers (ITE), American Public Works Association (APWA), or the American Traffic Safety Services Association (ATSSA) at time of final filing.

**When Assigned to Water Distribution:**

Possession of a Grade III water distribution operator certificate issued by the State of California at time of final filing.

Possession of a certificate issued by the American Water Works Association (AWWA) for backflow device testing and/or Grade I Water Conservation Practitioner is highly desirable.

**When Assigned to Water Division – Pumps:**

Possession of a Grade III water distribution operator certificate issued by the State of California at time of final filing.

Possession of a Grade II water treatment certificate issued by the State of California at time of final filing.

**When Assigned to Urban Forestry:**

Possession of a Pesticide Applicator's Certificate within one year of appointment.

**When Assigned to Wastewater Collections:**

Any employees hired, transferred, or promoted into this position shall possess a Grade II Certificate Wastewater Collection System Maintenance Technologist issued by the California Water Environment Association (CWEA) at time of final filing.

WORKING CONDITIONS

Environmental Conditions:

Field environment; travel from site to site; hot and cold temperatures; inclement weather.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for walking or standing for prolonged periods of time; operating motorized equipment and vehicles.

Work Assignments:

Depending on assignment may be subject to overtime and standby work assignments.

## EQUIPMENT MECHANIC CREWLEADER

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 lead skilled and semi-skilled mechanics in the most difficult and complex vehicle and equipment maintenance and repair work; and to personally make the most complex mechanical repairs to automotive, diesel, public safety and other power driven equipment.

### SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from higher-level equipment maintenance staff.

Exercises functional and technical supervision over lower level equipment maintenance staff.

### ESSENTIAL AND MARGINAL FUNCTION STATEMENTS-

Essential and other important responsibilities may include, but are not limited to, the following:

#### Essential Functions:

Lead, train and assist journey level and semi-skilled mechanics; assign work to mechanics; assist the Fleet Maintenance Supervisor in the day-to-day supervision activities.

Inspect, diagnose, and locate mechanical difficulties on City automobiles, trucks, and a variety of diesel and gasoline powered maintenance and heavy construction equipment.

Weld, fabricate and assemble parts and equipment for City automotive and heavy equipment; weld, braze, cut shape and fasten metal parts; fabricate and weld, vehicle frames, chassis and exhaust systems.

Use welding equipment, drill presses, lathes, grinders and large assortment of other power and hand tools and measurement instruments required for journey level fabrications work.

Exhibit "C"

Essential Functions: (Continued)

Overhaul, repair, and adjust engines, transmissions, differentials, clutches, fire engine pumps and valves and heavy construction equipment hydraulic systems.

Tune up engines, replacing electrical and electronic parts and cleaning and adjusting carburetors and fuel injection systems.

Replace or repair faulty parts including wheel bearings, clutches or oil seals, shock absorbers, exhaust systems, steering mechanisms, and related parts and equipment.

Repair or replace such components as generators, alternators, distributors, relays, lights and switches, computerized control systems, ignition systems, air conditioning systems, power steering and cooling systems.

Assist in the purchasing of equipment maintenance parts and materials.

Maintain work, time and material records.

Perform smog certification on City-owned vehicles.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Tools, equipment, and procedures used in the overhaul, repair, and adjustment of gas and diesel powered equipment.

Operation and care of internal combustion engines, fire suppression pumping systems, hydraulic equipment.

Methods, materials equipment and tools used in welding and fabrications work.

Operating and repair characteristics of a wide variety of City owned equipment.

Safe work practices.

Principles of personnel supervision and training.

Basic computer skills.

Ability to:

Lead and train skilled and semi-skilled mechanics.

Perform skilled welding and fabrication work.

Perform minor and major mechanical work on mechanical equipment.

Use a variety of tools and equipment with skill.

Maintain a variety of shop and repair records.

Understand and carry out oral and written directions.

Understand and operate a computerized Fleet Management System.

Perform journey level equipment mechanical work including the trouble-shooting of equipment for both major and minor repair work.

Work independently in the absence of supervision.

Accurately determine mechanical repair needs and estimate the cost and time of repairs.

Establish and maintain cooperative working relationships with those contacted in the course of work.

Experience and Training Guidelines

Any combination of experience and training what would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Four years of increasingly responsible experience performing automotive and equipment maintenance and repair duties comparable to those of an Equipment Mechanic.

Training:

Equivalent to completion of the twelfth grade and specialized training in the maintenance and repair of gas and diesel powered equipment.

License or Certificate

Possession of, or ability to obtain, an appropriate, valid class California driver's license.

Possession of a valid Class A or B Commercial California Driver's License with appropriate endorsements, as assigned, is required within 45 days of appointment. Failure to obtain the required license within this period may result in release from probation.

Possession of, or ability to obtain, an appropriate, valid Vehicle Inspections Pollution Controls license.

In compliance with Environmental Protection Agency (EPA) regulations, possession of an appropriate Motor Vehicle Air Conditioning Certification is required within one year of appointment. Failure to obtain this certification within this period shall be grounds for release from probation.

Possession of Certification from the National Institute for Automotive Service Excellence in at least five (5) areas heavy-duty class is required within one year of appointment. Failure to obtain this certification within this period shall be grounds for release from probation.

Special Requirements

Possession of a complete set of mechanic hand tools through 1-1/2" and toolbox.

WORKING CONDITIONS

Environmental Conditions:

Office and field environment; travel from site to site. Hot and cold temperatures; inclement weather.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for walking or standing for prolonged periods of time; lifting up to 100 lbs. and operating motorized equipment and vehicles.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-496**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN CITY OF  
MODESTO AND SAVE MART SUPERMARKETS, A CORPORATION, TO  
OPERATE AS A BUS PASS OUTLET FOR MODESTO AREA EXPRESS AT  
THE SAVE MART LOCATED AT 801 OAKDALE ROAD, MODESTO, CA 95355,  
AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO  
EXECUTE THE AGREEMENT**

WHEREAS, in October 1989, Council approved the plan to establish outlets to sell monthly bus passes, and

WHEREAS, there are currently nine (9) outlets strategically located around Modesto, and

WHEREAS, Save Mart Supermarkets has a store located at 801 Oakdale Road, and

WHEREAS, approving an agreement between the City of Modesto and Save Mart Supermarkets to operate a bus pass outlet will maintain the program's geographic coverage of Modesto,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves an agreement between the City of Modesto and Save Mart Supermarkets, to operate a bus pass outlet for Modesto Area Express at the Save Mart located at 801 Oakdale Road.

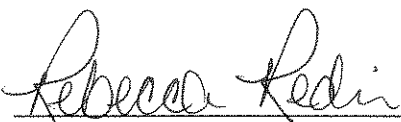
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-497**

**A RESOLUTION ACCEPTING THE RANCHO ENCANTADO BIKE TRAIL IN  
THE FAIRVIEW VILLAGE SPECIFIC PLAN AREA AND AUTHORIZING THE  
CITY CLERK TO FILE A NOTICE OF COMPLETION**

WHEREAS, Del Valle Homes, a California Corporation (“DEVELOPER”), is the developer of the Galas Subdivision, also known as the Rancho Encantado Subdivision (“DEVELOPMENT”), and

WHEREAS, a condition of DEVELOPMENT was to construct a Class 1 bike trail (“IMPROVEMENTS”) along an existing City of Modesto sewer easement located within the DEVELOPMENT, and

WHEREAS, the City Engineer, in a memorandum to staff, indicates that the IMPROVEMENTS, which is only one of several facilities included in the Acquisition and Shortfall Agreement (“AGREEMENT”) between the City of Modesto Community Facilities District No. 2003-1 (Fairview Village), a District created pursuant to the provision of the California Government Code Section 53311.5 et. seq. (“DISTRICT”) and the Developer, has been completed to the satisfaction of the Public Works Department, and,

WHEREAS, DEVELOPER filed with the City and/or DISTRICT adequate improvement securities to secure faithful performance of this Agreement and to secure payment for labor and materials, and

WHEREAS, DEVELOPER has filed several warranty bonds to guarantee the IMPROVEMENTS in the DEVELOPMENT, and

WHEREAS, the City Engineer has indicated that it would be in order for the City Council to accept the 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 the IMPROVEMENTS, which include a meandering walkway, landscaping & irrigation, lighting and signage per the AGREEMENT, are hereby accepted and the City Clerk is hereby authorized to record a Notice of Completion for the improvements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8<sup>th</sup> day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-498**

**A RESOLUTION APPROVING AN AGREEMENT FOR THE ACQUISITION OF  
A PORTION OF A PARCEL OF LAND ALONG PELANDALE AVENUE AT  
TULLY ROAD OWNED BY BIG VALLEY GRACE COMMUNITY CHURCH,  
INC. (APN: 046-003-006), INCLUDING A TEMPORARY CONSTRUCTION  
EASEMENT TO THE CITY OF MODESTO FOR THE PELANDALE  
EXPRESSWAY 6-LANE WIDENING PROJECT, AND AUTHORIZING THE  
CITY MANAGER TO EXECUTE SAID AGREEMENT**

WHEREAS, Council Resolution No. 2004-451 adopted the 2004/2005 Capital Improvement Program, and

WHEREAS, the 2004/2005 Capital Improvement Program included a project to widen Pelandale Avenue to full 6-Lane Expressway status from Dale Road to McHenry Avenue, project titled, "CIP H461: Pelandale Expressway 6-Lane Widening - Dale Road to McHenry Avenue", and

WHEREAS, the 6-Lane widening of Pelandale Avenue from Dale Road to McHenry is scheduled to commence in fiscal year 2006, and

WHEREAS, the project scope of work requires (1) acquisition of additional permanent right-of-way along the south and north roadsides, and (2) temporary construction easements outside the permanent right-of-way limits on both sides of the roadway, and

WHEREAS, the City has evaluated the cost and time benefit of acquiring the additional right-of-way, and

WHEREAS, by Resolution No. 2005-118, adopted on February 22, 2005, the City Council previously resolved to proceed with the widening of Pelandale Avenue to full 6-lane status, and as part of this widening, to acquire necessary right-of-way to construct the additional lanes, and

WHEREAS, a 265 sq ft partial right-of-way take was identified for permanent acquisition and a 6,273 sq ft Temporary Construction Easement was identified for a limited duration on a parcel at Pelandale Avenue at Tully Road owned by Big Valley Grace Community Church, Inc., (APN: 046-003-006), and

WHEREAS, the City Council of the City of Modesto directed staff to enter into negotiations with Big Valley Grace Community Church, Inc., to purchase the portion of its real property as described herein above (hereafter the “subject property”) for the Pelandale Expressway 6-Lane Widening Project, and

WHEREAS, a purchase agreement has been completed between the City and Big Valley Grace Community Church,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement for Purchase of Real Property between the City of Modesto and Big Valley Grace Community Church to purchase the necessary real property for the Pelandale Expressway 6-Lane Widening Project in the amount of \$9,200.00.

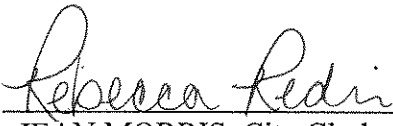
BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-499**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN  
ACCEPTANCE FORMS FOR THE GRANT DEED FOR THE ACQUISITION OF  
A PORTION OF THE PARCEL ALONG PELANDALE AVENUE AT TULLY  
ROAD OWNED BY BIG VALLEY GRACE COMMUNITY CHURCH, INC.,  
(APN: 046-003-006), AND A TEMPORARY CONSTRUCTION EASEMENT TO  
THE CITY OF MODESTO FOR THE PELANDALE EXPRESSWAY 6-LANE  
WIDENING PROJECT**

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a portion of a parcel (APN: 046-003-006) for the 6-lane widening of Pelandale Avenue from Dale Road to McHenry Avenue,

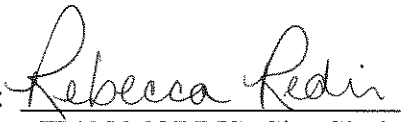

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign an acceptance form on behalf of the City of Modesto for one (1) Grant Deed for the acquisition of a portion of a property owned by Big Valley Grace Community Church, Inc., (APN: 046-003-006) and one (1) Temporary Construction Easement (APN: 046-003-006) for the 6-lane widening of Pelandale Avenue from 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 August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
 JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-500**

**A RESOLUTION APPROVING AN AGREEMENT FOR THE ACQUISITION OF  
A PORTION OF A PARCEL OF LAND ALONG PELANDALE AVENUE AT  
AMERICAN AVENUE OWNED BY HANS J. AND DONALD E. WAGNER (APN:  
078-018-021) INCLUDING A TEMPORARY CONSTRUCTION EASEMENT TO  
THE CITY OF MODESTO FOR THE PELANDALE EXPRESSWAY 6-LANE  
WIDENING PROJECT, AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE SAID AGREEMENT**

WHEREAS, Council Resolution No. 2004-451 adopted the 2004/2005 Capital Improvement Program, and

WHEREAS, the 2004/2005 Capital Improvement Program included a project to widen Pelandale Avenue to full 6-Lane Expressway status from Dale Road to McHenry Avenue, project titled, "CIP H461: Pelandale Expressway 6-Lane Widening - Dale Road to McHenry Avenue", and

WHEREAS, the 6-lane widening of Pelandale Avenue from Dale Road to McHenry is scheduled to commence in fiscal year 2006, and

WHEREAS, the project scope of work requires (1) acquisition of additional permanent right-of-way along the south and north roadsides, and (2) temporary construction easements outside the permanent right-of-way limits on both sides of the roadway, and

WHEREAS, the City has evaluated the cost and time benefit of acquiring the additional right-of-way, and

WHEREAS, by Resolution No. 2005-118, adopted on February 22, 2005, the City Council previously resolved to proceed with the widening of Pelandale Avenue to full 6-



lane status, and as part of this widening, to acquire necessary right-of-way to construct the additional lanes, and

WHEREAS, a 1.078 acre partial right-of-way take was identified for permanent acquisition and a 7,085 sq ft Temporary Construction Easements was identified for a limited duration on a parcel at Pelandale Avenue at American Avenue owned by Hans J. Wagner and Donald E. Wagner (APN: 078-018-021), and

WHEREAS, the City Council of the City of Modesto directed staff to enter into negotiations with Hans J. Wagner and Donald E. Wagner to purchase the portion of their real property as described herein above (hereafter the “subject property”) for the Pelandale Expressway 6-Lane Widening Project, and

WHEREAS, a purchase agreement has been completed between the City and Hans J. Wagner and Donald E. Wagner,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement for Purchase of Real Property between the City of Modesto and Hans J. Wagner and Donald E. Wagner to purchase the necessary real property for the Pelandale Expressway 6-Lane Widening Project in the amount of \$385,000.00.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Rebecca Redin  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-501**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN  
ACCEPTANCE FORMS FOR THE GRANT DEED FOR THE ACQUISITION OF  
A PORTION OF THE PARCEL ALONG PELANDALE AVENUE AT  
AMERICAN AVENUE OWNED BY HANS J. AND DONALD E. WAGNER (APN:  
078-018-021) AND A TEMPORARY CONSTRUCTION EASEMENT TO THE  
CITY OF MODESTO FOR THE PELANDALE EXPRESSWAY 6-LANE  
WIDENING PROJECT**

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a portion of a parcel (APN: 078-018-021) for the 6-lane widening of Pelandale Avenue from Dale Road to McHenry Avenue,


NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign an acceptance form on behalf of the City of Modesto for one (1) Grant Deed for the acquisition of a portion of a property owned by Hans J. Wagner and Donald E. Wagner (APN: 078-018-021) and one (1) Temporary Construction Easement for the 6-lane widening of Pelandale Avenue from 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 August, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-502**

**A RESOLUTION APPROVING THE ACCEPTANCE OF AN AIRPORT  
IMPROVEMENT PROGRAM GRANT IN THE AMOUNT OF \$550,000  
FROM THE FEDERAL AVIATION ADMINISTRATION TO FUND A  
PROJECT TO REHABILITATE HANGAR TAXILANES AND INSTALL  
AIRFIELD GUIDANCE SIGNS AND MARKINGS AT THE MODESTO  
CITY-COUNTY AIRPORT 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's hangar taxilanes and guidance signs and markings have deteriorated over the years, and

WHEREAS, on March 28, 2006, the City Council authorized staff to submit a grant application to the Federal Aviation Administration (FAA), in the amount of \$1 million for funding of Airport Capital Improvement Plan projects approved by the FAA, and

WHEREAS, the FAA notified the City that an Airport Improvement Plan (AIP) Grant Offer of \$550,000 has been made for funding of a project consisting of the following: "rehabilitate hangar taxilanes; install airfield guidance signs and markings", and

WHEREAS, this Grant Offer must be accepted on or before August 15, 2006, and

WHEREAS, acceptance of the grant will provide the City with funding to install new signage to replace old and sun bleached signs on and around the airfield, as well as install slot drains to resolve drainage problems around existing T-hangars, and to slurry seal the pavement adjacent to the aircraft storage hangars, and

WHEREAS, the Economic Development Committee approved submittal of the application for AIP Grant on March 13, 2006, and the Airport Advisory Committee also approved the application for the grant and endorses acceptance of the Grant,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the acceptance of an Airport Improvement Program grant in the amount of \$550,000 from the Federal Aviation Administration to “rehabilitate hangar taxilanes; install airfield guidance signs and markings” at the Modesto City-County Airport.

BE IT FURTHER RESOLVED that the Council hereby authorizes the City Manager, or his designee, to execute the acceptance of the grant 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 8<sup>th</sup> day of August 2006 by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen, Mayor Ridenour

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Rebecca Ledin  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-503**

**A RESOLUTION AMENDING THE ADOPTED CAPITAL IMPROVEMENT  
PROGRAM BUDGET FOR FISCAL YEAR 2005-06 AND APPROPRIATING  
\$550,000 IN FEDERAL AVIATION ADMINISTRATION GRANT FUNDING  
TO ESTABLISH A CAPITAL IMPROVEMENT PROJECT TITLED  
“SIGNAGE/TAXILANES” (6320-430-A804)**

WHEREAS, Modesto City-County Airport’s hangar taxilanes and guidance signs and markings have deteriorated over the years, and

WHEREAS, on March 28, 2006, the City Council authorized staff to submit a grant application to the Federal Aviation Administration (FAA), in the amount of \$1 million for funding of Airport Capital Improvement Plan projects approved by the FAA, and

WHEREAS, the FAA notified the City that an Airport Improvement Plan (AIP) Grant Offer of \$550,000 has been made for funding of a project consisting of the following: “rehabilitate hangar taxilanes; install airfield guidance signs and markings”,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto, that an amendment to the Capital Improvement Program Budget for fiscal year 2005-06 is hereby approved to establish a capital improvement project dedicated titled “Signage/Taxilanes”.

BE IT FURTHER RESOLVED that City staff is hereby authorized to make the necessary amendments to the budget in coordination with the Finance Department to appropriate funding in the amount of \$550,000 from Federal Aviation Administration grant funds to Account No. 6320-440-A804.

**AMENDED FOR CLERICAL ERROR**

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-504**

**A RESOLUTION APPROVING THE PLANS & SPECIFICATIONS,  
ACCEPTING THE BID AND APPROVING A \$548,631.25 CONTRACT WITH  
PERMA GREEN HYDROSEEDING, INC., FOR THE PROJECT TITLED,  
“TUOLUMNE RIVER REGIONAL PARK GATEWAY PARCEL PHASE 1.1,”  
AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, City staff has recommended approval of the plans and specifications for the “Tuolumne River Regional Park Gateway Parcel Phase 1.1” project, and

WHEREAS, the bid received for “Tuolumne River Regional Park Gateway Parcel Phase 1.1” project was opened at 11:00 a.m. on July 25, 2006, 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 \$548,631.25 received from Perma Green Hydroseeding, Inc., be accepted as the lowest responsible bid and the contract be awarded to Perma Green Hydroseeding, 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 Perma Green Hydroseeding, Inc., in the amount of \$548,631.25, and hereby awards Perma Green Hydroseeding, Inc., the contract titled “Tuolumne River Regional Park Gateway Parcel Phase 1.1”.

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 8<sup>th</sup> day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Rebecca Redin  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-505**

**A RESOLUTION APPROVING A REIMBURSEMENT AGREEMENT  
BETWEEN THE CITY OF MODESTO AND NATIONAL RAILROAD  
PASSENGER CORPORATION IN AN AMOUNT NOT-TO-EXCEED \$59,886.02  
FOR PLATFORM CONSTRUCTION REPAIR COSTS AT THE MODESTO  
CALIFORNIA AMTRAK STATION, AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the lease agreement between the City and National Railroad Passenger Corporation (Amtrak) states: “LESSOR (the City), at its sole cost and expense, will maintain in good repair and safe condition the platform in accordance with all laws and regulations”, and

WHEREAS, the truncated dome tiles on the platform of the Modesto Amtrak Station are in need of serious repair, and

WHEREAS, National Railroad Passenger Corporation has significant experience in repairing platforms,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Reimbursement Agreement between the City of Modesto and National Railroad Passenger Corporation in an amount not-to-exceed \$59,886.02 for the platform construction repair costs at the Modesto California Amtrak Station.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-506**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR SANDERS NEIGHBORHOOD PARK PROJECT, ACCEPTING THE BID AND APPROVING A \$2,449,356.60 CONTRACT WITH GOODLAND LANDSCAPE CONSTRUCTION, INC., FOR THE PROJECT TITLED "SANDERS NEIGHBORHOOD PARK", AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, plans and specifications have been prepared for the "Sanders Neighborhood Park" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "Sanders Neighborhood Park" were opened at 11:00 a.m. on July 11, 2006, 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 \$2,449,356.60 received from Goodland Landscape Construction, Inc., be accepted as the lowest responsible bid and the contract be awarded to Goodland Landscape Construction, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for said project, and accepts the bid of Goodland Landscape Construction, Inc., in the amount of \$2,449,356.60, and hereby awards Goodland Landscape Construction, Inc., the contract titled "Sanders Neighborhood Park."

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the contract.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Rebecca Redin  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-507**

**A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM TO  
A) TAKE THE NECESSARY STEPS TO MOVE \$705,800 FROM THE VILLAGE  
ONE #2 FUND CLAUS PARK STREET IMPROVEMENTS PROJECT  
(ACCOUNT #2691-020-X531) AND SANDERS PARK (CLAUS PARK)  
CONSTRUCTION PHASE 1 & 2 (ACCOUNT #2691-020-X537) TO THE  
SANDERS NEIGHBORHOOD PARK PROJECT (ACCOUNT #1350-310-P402) IN  
THE PARKS CFF FUND; AND B) APPROPRIATE \$799,200 FROM ACCOUNT  
#1350-800-8000-8003, THE PARKS CFF FUND RESERVE, TO THE SANDERS  
NEIGHBORHOOD PARK ACCOUNT #1350-310-P402, FOR A TOTAL OF  
\$1,505,000 IN ADDITIONAL FUNDING**

WHEREAS, in October 2004, the Parks, Recreation and Neighborhoods  
Department began a project to build a 7-acre neighborhood park located on the corner of  
Kodiak Drive and Litt Road, and

WHEREAS, construction bids were opened on July 11, 2006, and Goodland  
Landscape Construction, Inc., was the low bidder, and

WHEREAS, the Engineer's estimate and the bids are considered reasonable  
whenever any of the bids are within 10% of the Engineer's estimate, and

WHEREAS, the low bidder was within 24.51% of the Engineer's estimate but  
still considered competitive, and

WHEREAS, staff does not feel that another bid would result in any lower cost for  
the work, and

WHEREAS, in order to fully fund construction of the project, the Capital  
Improvement Program needs to be amended, and

WHEREAS, \$330,000 is available from the Claus Park Street Improvements  
Project Account # 2691-020-X531, and

WHEREAS, \$375,800 is available from the Sanders Park (Claus Park) Construction Phase 1 & 2 Project Account # 2691-020-X537, and

WHEREAS, \$799,200 is available from the Parks CFF Fund Reserve, account #1350-800-8000-8003, and

WHEREAS, expenditures for Sanders Neighborhood Park will be increased to reflect the full costs of the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Capital Improvement Program to reduce Claus Park Street Improvements project account #2691-020-X531 by \$330,000 and increase Village One #2 Reserve account #2691-800-8000-8208 by \$330,000.

BE IT FURTHER RESOLVED that the Council hereby approves amending the Capital Improvement Program to reduce Sanders Park (Claus Park) Construction Phase 1& 2 project account #2691-020-X537 by \$375,800 and increase Village One #2 Reserve account #2691-800-8000-8208 by \$375,800.

BE IT FURTHER RESOLVED that the Council hereby approves amending the Capital Improvement Program to reduce the Village One #2 Reserve account #2691-800-8000-8208 by \$705,800 and increase the Parks CFF Fund Reserve account #1350-800-8000-8003 by \$705,800.

BE IT FURTHER RESOLVED that the Council hereby approves amending the Capital Improvement Program to appropriate \$1,505,000 from account #1350-800-8000-8003, the Parks CFF Fund Reserve, to the Sanders Neighborhood Park account #1350-310-P402.




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 August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-508**

**A RESOLUTION APPROVING THE POLICY TITLED “WATER AND SEWER SERVICE POLICY REGARDING AFFORDABLE HOUSING DEVELOPMENT PURSUANT TO SECTION 65589.7 OF THE GOVERNMENT CODE” FOR IMPLEMENTATION OF SENATE BILL 1087 (SB 1087) REQUIREMENTS FOR WATER AND SEWER SERVICE**

WHEREAS, California Government Code Section 65589.7 was amended in October 2005 by Senate Bill 1087 (SB 1087) to require each public agency or private entity providing water and sewer services to grant a priority for the provision of these services to proposed developments that include housing units affordable to lower income households, and

WHEREAS, public agencies or private entities providing water and sewer services must adopt written policies and procedures no later than July 1, 2006, and at least every five years thereafter, to implement the provisions of Section 65589.7, and

WHEREAS, Public Works staff prepared a draft policy for compliance with the requirements of Section 65589.7, and

WHEREAS, at its June 12, 2006, meeting, the Council Economic Development Committee reviewed the draft policy and directed staff to follow up on four areas of the draft policy, and

WHEREAS, staff followed up on the four areas addressed at the Committee meeting and revised the policy, and

WHEREAS, the revised policy attached hereto as Exhibit “A” outlines the steps necessary for implementation of SB 1087 Code requirements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Policy titled "Water And Sewer Service Policy Regarding Affordable Housing Development Pursuant To Section 65589.7 Of The Government Code" attached hereto as Exhibit "A" and incorporated herein by reference, for the Implementation of Senate Bill 1087 Requirements for Water and Sewer Service.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**WATER AND SEWER SERVICE POLICY REGARDING  
AFFORDABLE HOUSING DEVELOPMENT PURSUANT  
TO SECTION 65589.7 OF THE GOVERNMENT CODE**

**PURPOSE:** In order to clarify its position regarding the provision of water and sewer service to proposed developments within all of the City of Modesto's water and sewer service areas that include housing units affordable to lower income households within the City's water and sewer service areas, Council has adopted a policy statement in accordance with Section 65589.7 of the Government Code.

**BACKGROUND:** Section 65589.7 of the Government Code was amended in October 2005 to require that each public agency or private entity providing water and sewer services grant a priority for the provision of these services to proposed developments that include housing units affordable to lower income households. Furthermore, public agencies or private entities providing water and sewer services must adopt written policies and procedures no later than July 1, 2006, and at least every five years thereafter, to implement the provisions of Section 65589.7.

Within the City of Modesto's water and sewer service areas a proposed development can be defined as including affordable housing by providing any of the following information:

- 1) Projects with housing that will be sold or rented to households with less than 80 percent of median income.
- 2) Affordability covenants that are recorded with the property.
- 3) Market rate apartments built at a minimum density of 15 units per net acre.
- 4) Other specific types of housing that, by their nature, are considered to satisfy affordable housing, such as emergency shelters, homes used for transitional housing, second units, mobile homes, boarding houses, farm labor housing, single-room occupancy units, or density bonus units.
- 5) Housing units that qualify for the City of Modesto's Capital Facility Fee waivers.

For proposed developments within the City of Modesto's water and sewer service areas (but outside the City limits), the City may review and consider the requirements set forth in the adopted housing elements of those jurisdictions to determine whether the project may be entitled to a priority consistent with this policy.

**POLICY:** It is the policy of the City of Modesto that proposed development within all of the City's water and sewer service areas shall be granted a priority for water and sewer service provided that at least ten percent of the total housing units in the proposed development are affordable to lower income households, that their affordability will be determined by HUD standards of affordability, that covenants be recorded over the property to ensure affordability, and that the findings are made per the implementation procedures outlined in the "Implementation" section. The proposed developments shall be within the current limits of a city or county areas that are served by the City of Modesto (defined service areas).

**IMPLEMENTATION FINDINGS:** Proposed development within the City's water and sewer service areas that include housing units affordable to lower income households shall be granted a priority for water and sewer service provided that the following specific written findings are made:

**Water Service:**

- 1) That the City of Modesto's water supply system is not experiencing a water shortage emergency, or under the water shortage restrictions pursuant to Chapter 3 (commencing with Section 350) of Division 1 of the Water Code relating to water emergencies.
- 2) That the City of Modesto's water supply system is not subject to a compliance order issued by the State Department of Health Services that prohibits new water service connections.
- 3) That sufficient water supplies are available to serve the proposed development as identified in the City of Modesto's most recently adopted Urban Water Management Plan.
- 4) That the City of Modesto's water supply system has sufficient water treatment, transmission, and distribution capacity to serve the needs of the proposed development as demonstrated by a written engineering analysis and report.

**Sewer Service:**

- 5) That the City of Modesto has sufficient wastewater collection and treatment system capacity to serve the needs of the proposed development as demonstrated by a written engineering analysis and report.
- 6) That the City of Modesto is not under an order by the Central Valley Regional Water Quality Control Board that prohibits new sewer service connections.

In addition to the above requirements, the following items are specific conditions on the proposed developments:

- 7) That, based on the size and location of the project, the applicant agrees to finance any additional water and sewer capacity studies determined necessary by the City of Modesto.
- 8) That the project applicant has agreed to comply with all reasonable terms, conditions, and standards of the City of Modesto relating to the provision of water and sewer services applicable to development projects, as identified in the written analysis reports.
- 9) That the project applicant has agreed to comply with all local, state, and federal laws and regulations relating to the provision of water and sewer services applicable to development projects.
- 10) That the project applicant has agreed to pay all fees and charges relating to the provision of water and sewer services for development projects.

Findings for sewer service do not apply to areas outside the City of Modesto where the City of Modesto only provides water service. Similarly, findings for water service do not apply to areas outside the City of Modesto where only sewer service is provided.

**IMPLEMENTATION:** The City Public Works and Community and Economic Development Departments shall institute an implementation program wherein projects with housing affordable to lower income households per HUD standards are given processing priority over projects not containing such affordable housing.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-509**

**A RESOLUTION ACCEPTING THE WORK BY GROVER LANDSCAPE SERVICES, INC., FOR THE PROJECT TITLED "COMMUNITY GATEWAY" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$388,609.85**

WHEREAS, a report has been filed by the Public Works Director that the project titled "Community Gateway" has been completed by Grover Landscape Services, Inc., in accordance with the contract agreement dated May 24, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "Community Gateway" project is hereby accepted as complete from said contractor, Grover Landscape Services, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$388,609.85, as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8<sup>th</sup> day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-510**

**A RESOLUTION ACCEPTING THE WORK BY RICHARD TOWNSEND CONSTRUCTION, INC., FOR THE PROJECT TITLED "CONSTRUCT FLUSH LINE FOR WELL 63 AT MILDRED PERKINS PARK" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$118,032.65**

WHEREAS, a report has been filed by the Public Works Director that the project titled "Construct Flush Line for Well 63 at Mildred Perkins Park" has been completed by Richard Townsend Construction, Inc., in accordance with the contract agreement dated March 28, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council that the project titled "Construct Flush Line for Well 63 at Mildred Perkins Park" is hereby accepted as complete from said contractor, Richard Townsend Construction, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$118,032.65, as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Rebecca Redin  
for JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-511**

**A RESOLUTION ACCEPTING THE WORK BY ALLEN A. WAGGONER  
CONSTRUCTION, INC., FOR THE PROJECT TITLED "EMERALD AVENUE  
SEWER EMERGENCY REPAIRS" AS COMPLETE, AUTHORIZING THE  
CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING  
PAYMENT OF AMOUNTS DUE TOTALING \$418,835**

WHEREAS, a report has been filed by the Public Works Director that the project titled "Emerald Avenue Sewer Emergency Repairs" has been completed by Allen A. Waggoner Construction, Inc., in accordance with the contract agreement dated May 23, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "Emerald Avenue Sewer Emergency Repairs" is hereby accepted as complete from said contractor, Allen A. Waggoner Construction, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$418,835, as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-512

A RESOLUTION RETURNING FUNDS IN THE AMOUNT OF \$81,027 TO  
WASTEWATER RESERVES ACCOUNT 6210-800-8000-8003 FROM  
EMERGENCY REPAIR EMERALD ACCOUNT 6210-480-B628

WHEREAS, the work by Allen A. Waggoner Construction, Inc., for the project titled "Emerald Avenue Sewer Emergency Repairs" is complete, and

WHEREAS, the cost to complete the project remained within the \$500,000 budget, and

WHEREAS, the remaining contingency funds are no longer required,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the transfer of funds in the amount of \$81,027 to Wastewater Reserves account 6210-800-8000-8003 from Emergency Repair Emerald account 6210-480-B628.

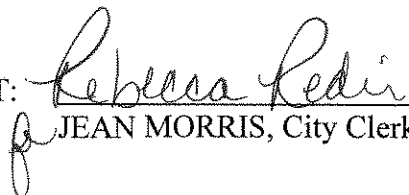
BE IT FURTHER RESOLVED that City staff is hereby authorized to make the necessary budget adjustments in coordination with the Finance Department.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8<sup>th</sup> day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-513**

**A RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS IN THE LAGOS  
SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AND  
AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF COMPLETION  
AND AUTHORIZING RELEASE OF BONDS**

WHEREAS, JOHN LAGOS and MARIE T. LAGOS, husband and wife, as community property, are the subdividers of LAGOS SUDIVISION (“SUBDIVISION”), and

WHEREAS, JOHN LAGOS and MARIE T. LAGOS, husband and wife, as community property, have filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of \$1,142,316.00 and \$571,158.00, respectively, and

WHEREAS, JOHN LAGOS and MARIE T. LAGOS, husband and wife, as community property, have filed a warranty bond in the amount of \$114,231.60 to guarantee improvements in the SUBDIVISION, and

WHEREAS, the City Engineer, 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 City Engineer has indicated that it would be in order for the City Council to accept the improvements in said SUBDIVISION as complete, and authorize the City Clerk to record a Notice of Completion and release the bonds 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 record a Notice of Completion for the SUBDIVISION improvements.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of \$1,142,316.00 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 \$571,158.00 sixty (60) days after the 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 the SUBDIVISION improvements in the amount of 114,231.60 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 regular meeting of the Council of the City of Modesto held on the 8<sup>th</sup> day of August 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Rebecca Redin  
for JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-514**

**A RESOLUTION AUTHORIZING CITY STAFF CITY STAFF TO ISSUE A  
REQUEST FOR PROPOSALS FOR PROJECT APPROVAL AND  
ENVIRONMENTAL DOCUMENT (PA&ED) FOR PELANDALE/SR99 AVENUE  
INTERCHANGE UPGRADE, AND AUTHORIZE THE MAYOR TO APPOINT  
ONE COUNCIL MEMBER TO THE PROJECT DEVELOPMENT TEAM AND  
SELECTION COMMITTEE**

WHEREAS, the SR99/Pelandale Avenue interchange is located in the northwest quadrant of the City of Modesto and provides access to commercial and residential properties in this region, and

WHEREAS, the northwest portion of the City is undergoing rapid commercial and residential development, which has generated considerable traffic at this interchange. During peak traffic flow periods, exiting traffic is frequently backed up down the off ramps and blocks the rightmost travel lanes of SR99, and

WHEREAS, the City Council approved \$1.3M for Project Approval and Environmental Document (PA&ED) and issue a Request for Proposals for said work, and approved staff's request to explore City taking the lead on the State Route 99/Pelandale Avenue Interchange Improvements and

WHEREAS, Following Council's approval, staff made a formal request to StanCOG to apply for lead agency status on the Pelandale Interchange Improvement Project, and

WHEREAS, on May 4, 2006, staff received a letter from Caltrans to StanCOG concurring with the City's request to take lead agency status.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves City staff to issue a Request for Proposals Project Approval and Environmental Document (PA&ED) for Pelandale/SR99 Avenue Interchange Upgrade, and

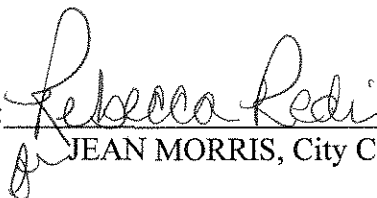
BE IT FURTHER RESOLVED that the City Council hereby authorizes City staff to issue a Request for Proposals for said work.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8<sup>th</sup> day of August, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006- 514A**

**A RESOLUTION AMENDING RESOLUTION NO. 96-625 TITLED “A  
RESOLUTION ESTABLISHING A VEHICLE IMPOUND FEE FOR  
SUSPENDED, REVOKED OR UNLICENSED DRIVERS” TO INCREASE THE  
FEE FOR VEHICLE IMPOUNDS AND DESIGNATING THE EXISTING  
TRAFFIC OFFENDER FUND ESTABLISHED BY MODESTO MUNICIPAL  
CODE SECTION 8-1.1001, ET SEQ. AS THE TRAFFIC OFFENDER FUND FOR  
THE PURPOSES OF ACCEPTING A GRANT FROM THE STATE OF  
CALIFORNIA OFFICE OF TRAFFIC AND SAFETY FOR VEHICLE  
IMPOUND/DUI/SELECTIVE TRAFFIC ENFORCEMENT**

WHEREAS, the State of California Office of Traffic and Safety has tentatively approved funding the City of Modesto a \$1,000,000 grant for Vehicle Impound/DUI/Selective Traffic Enforcement Program (the “Grant”), and

WHEREAS, a Traffic Offender Fund (the “Fund”) must be established for the Vehicle Impound Program, and

WHEREAS, the City of Modesto currently has a Traffic Offender Fund which states the “fund shall be made exclusively for the purposes of traffic safety programs within the City of Modesto”, as set forth in Section 8-1.1001 et seq. of the Modesto Municipal Code (MMC).

WHEREAS, City staff requests the existing Traffic Offender Fund established by Modesto Municipal Code Section 8-1.001, et seq. also be designated as the Traffic Offender Fund as required by the Grant, and

WHEREAS the existing Traffic Offender Fund is funded by vehicle impound fee which was adopted by the City Council on November 19, 1996 by Resolution No. 96-625, which established the fee at \$80.00 per vehicle; and,

WHEREAS, one of the requirements of the Grant is that the City of Modesto must be able to sustain the enforcement program by creating a self-sustaining Vehicle

Impound Program which will continue after the Grant monies are expended, to satisfy the National Highway Traffic Safety program income requirements, and

WHEREAS, pursuant to the terms of the Grant, as well as the National Highway Traffic Safety program, the City's Vehicle Impound Program must be established by December 31, 2006, and self-sustaining by the end of the Grant period, and

WHEREAS, the Police Department currently charges an \$80.00 vehicle impound fee, and

WHEREAS, based on a 2004 study, the calculated rate of our cost, per tow, is \$187.62, and with inflation, MOU changes of rates for personnel, based on 2006 study costs today are calculated at \$251.31 per towed vehicle, and

WHEREAS, Command staff feels that increasing the vehicle impound fee from \$80.00 to \$160.00 would be too substantial and that a gradual increase over two years would be to the best interest of the community, and should be increased from \$80.00 to \$160.00 in FY 06-07, and

WHEREAS, in order to meet Grant requirements, a public hearing is recommended to increase the vehicle impound fee, and it is recommended said fees be increased from \$80.00 to \$160.00 in FY 06-07, and

WHEREAS, City Staff will return to Council when the requested fee study is completed, and

WHEREAS, all collected fees will be placed in the Traffic Offender Fund, and pursuant to the agreement with the State of California Office of Traffic Safety, each fiscal year \$210,000 of the Vehicle Impound Fees collected will be transferred to the General Fund, and



WHEREAS, any and all additional fees collected above and beyond the \$210,000 will remain in the Traffic Offender Fund to be used solely for traffic safety programs within the City of Modesto, as administered by the Modesto Police Department, and

WHEREAS, the monies in the Traffic Offender Fund will cover the administrative costs incurred by the City relating to the removal, impoundment, storage, and release of vehicles allowed by the authority of Section 22850.5 of the California Vehicle Code, and

WHEREAS, the Traffic Offender Fund will be subject to a financial audit by the State of California Office of Traffic Safety, and

WHEREAS, the Vehicle Impound Fee will receive a “Sunset” review by the City Council in FY 2013-2014, to determine if the program should be terminated, modified, or remain in place, and

WHEREAS, at its meeting of July 24, 2006, the Finance Committee recommended (1) increasing the vehicle impound fee to \$187.62 based on the 2004 study or (2) increasing the vehicle impound fee to \$250.00 based on a current study, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on August 8, 2006, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, and

WHEREAS, 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 as follows:

1. The City Council hereby designates the current Traffic Offender Fund established by MMC Section 8-1.1001 et seq. as the Traffic Offender Fund required to be established pursuant to the terms of the Grant.

2. The City Council hereby authorizes an increase in the Vehicle Impound Fee from \$80.00 to \$250.00 for reimbursement of costs incurred in the enforcement of, education for, and prosecution of drivers with a suspended or revoked license and unlicensed drivers to meet the California Office of Traffic Safety requirements to accept the Vehicle Impound/DUI/Selective Traffic Enforcement Program (STEP) Grant for \$1,000,000.

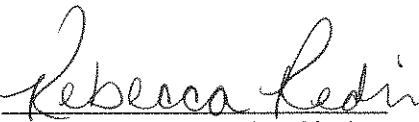
3. Resolution No. 96-625 is hereby amended effective August 8, 2006, and all other provision of Resolution No. 96-625 not in conflict with this resolution shall remain in full force and effect.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8<sup>th</sup> day of August 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-515**

**A RESOLUTION AMENDING THE FY 06-07 OPERATING BUDGET TO  
RECOGNIZE REVENUE AND APPROPRIATE FUNDS OF \$315,000 INTO THE  
“TRAFFIC OFFENDER FUND”**

WHEREAS, the State of California Office of Traffic and Safety has tentatively approved grant funding to the City of Modesto in the amount of \$1,000,000 for Vehicle Impound/DUI/Selective Traffic Enforcement Program (the “Grant”), and

WHEREAS, one of the requirements of the Grant is that the City shall be able to sustain the enforcement program by creating a self-sustaining Vehicle Impound Program which will continue after the Grant monies are expended, and

WHEREAS, the Police Department currently charges an \$80.00 vehicle impound fee, and

WHEREAS, in order to meet Grant requirements, a public hearing was held on August 8, 2006 and Resolution No. 2006-514A was adopted by the City Council to increase the vehicle impound fee from \$80.00 to \$160.00 in FY 06-07, and

WHEREAS, City Staff will return to Council when the requested fee study is completed, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2006/07 Operating Budget is hereby amended to recognize revenue and appropriate funds of \$315,000 into Account No. 0100-190-1961-4028.

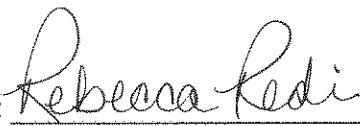

BE IT FURTHER RESOLVED that Resolution No. 2006-514A is hereby adopted upon the effective date of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8<sup>th</sup> day of August, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
 JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-516**

**A RESOLUTION APPROVING STAFF'S PROPOSED RESPONSE TO THE  
FINDINGS AND RECOMMENDATION OF THE STANISLAUS COUNTY 2005-  
2006 CIVIL GRAND JURY REPORT RELATING TO CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 1997-1 (NORTH BEYER PARK)  
AND AUTHORIZING THE CITY MANAGER TO SUBMIT SAID RESPONSE**

WHEREAS, the City received a report from the Stanislaus County 2005-2006 Civil Grand Jury ("Grand Jury Report") dated June 26, 2006, relating to the City of Modesto Community Facilities District No. 1997-1 (North Beyer Park) ("CFD 1997-1"), and

WHEREAS, City staff has prepared a response ("City's Response") to the Grand Jury Report, and

WHEREAS, the City Council has considered the City's Response,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that City staff's proposed response to the Findings and Recommendation of the Stanislaus County 2005-2006 Civil Grand Jury Report related to City of Modesto Community Facilities District No. 1997-1 (North Beyer Park) is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to submit the City of Modesto's response to the Findings and Recommendation of the Stanislaus County 2005-2006 Civil Grand Jury Report related to City of Modesto Community Facilities District No. 1997-1 (North Beyer Park) to the attention Presiding Judge Marie Sovey Silveira, Stanislaus County Superior Court.

BE IT FURTHER RESOLVED that a copy of the City of Modesto's response to the Findings and Recommendation of the Stanislaus County 2005-2006 Civil Grand Jury

Report related to City of Modesto Community Facilities District No. 1997-1 (North Beyer Park) shall be placed on file with the City Clerk's Office.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8<sup>th</sup> day of August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
\_\_\_\_\_  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
\_\_\_\_\_  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-517**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO  
AUTHORIZING ENTRY INTO AN INTEREST RATE SWAP TRANSACTION  
AND CERTAIN ACTIONS RELATING THERETO**

WHEREAS, the City of Modesto (the “City”) is a municipal corporation and a chartered city of the State of California (the “State”), organized and existing under its Charter, the Constitution and the laws of the State; and

WHEREAS, pursuant to its Charter, the City has the power to exercise any rights, powers and privileges granted or prescribed by the general laws of the State; and

WHEREAS, the City has previously entered into a Master Installment Purchase Contract, dated as of November 1, 1997 (the “Master Installment Purchase Contract”), with the Modesto Public Financing Authority (the “Authority”) 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 municipal water system; and

WHEREAS, the City has previously executed and delivered certificates of participation evidencing and representing interests in certain installment payments to be made by the City to the Authority pursuant to the Master Installment Purchase Contract, as heretofore supplemented; and

WHEREAS, the Master Installment Purchase Agreement provides that the City may incur additional obligations payable on a parity thereunder, including by execution of a supplemental installment purchase contract; and

WHEREAS, the City anticipates entering into a supplemental installment purchase contract (the “2006 Supplemental Installment Purchase Contract”) to the Master Installment Purchase Contract and executing and delivering additional certificates of participation (the “2006 Certificates”) evidencing and representing interests in the installment payments to be made under the 2006 Supplemental Installment Purchase Contract (the “2006 Payments”) for the purpose, *inter alia*, of financing the costs of various additional improvements to the water system; and

WHEREAS, the 2006 Certificates are expected to be executed and delivered as auction rate certificates, the interest on which will be adjusted periodically as provided in the trust agreement pursuant to which such 2006 Certificates will be delivered; and

WHEREAS, Section 5922 of the California Government Code provides that in connection with, or incidental to, the issuance or carrying of bonds (defined to include installment purchase agreements and certificates of participation therein) any public entity may enter into any contracts which the public entity determines to be necessary or appropriate to place the obligations represented by the bonds, in whole or in part, on the interest rate, currency, cash flow or other basis desired by the public entity, including without limitation contracts commonly known as interest rate swap agreements or contracts providing for payments based on levels of, or changes in, interest rates or stock or other indices, or contracts to exchange cash flows or a series of payments, in each case to hedge payment, rate, spread or similar exposure; and

WHEREAS, the City desires to authorize certain officers of the City to enter into an interest rate swap transaction with Bank of America, N.A. as authorized by Section



5922 of the California Government Code in connection with its obligation to pay the 2006 Payments relating to the auction rate 2006 Certificates with a view to economically provide for fixed payments in connection with the related portion of the interest component of the 2006 Payments and to achieve savings by paying a lower fixed swap amount compared to using a fixed rate interest component for such 2006 Payments; and

WHEREAS, the terms and conditions of such interest rate swap transaction shall be as set forth in the ISDA Master Agreement, as amended and supplemented by the U.S. Municipal Counterparty Schedule to the Master Agreement and the Credit Support Annex to such Schedule, each in the form submitted to this meeting (such ISDA Master Agreement, as so amended and supplemented, as the same may be modified and completed in accordance with this Resolution being referred to as the “Swap Agreement”); and

WHEREAS, the interest rate swap transaction authorized hereby shall constitute a Transaction under the Swap Agreement (a “Transaction”), the specific terms of which shall be contained in a Confirmation (a “Confirmation”) to be delivered on or about the date such Transaction is agreed upon by the parties;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto, as follows:

Section 1. The form of Swap Agreement presented to this meeting, and on file with the City Clerk, is hereby approved. Each of the City Manager and the Finance Director, acting singly, is hereby authorized and directed for, on behalf of, and in the name of the City, to execute and deliver the Swap Agreement in substantially said form,

with such changes, insertions and deletions to the Swap Agreement (including such changes, insertions and deletions as may be undertaken in connection with arranging for the regularly scheduled swap payments to be made by the City thereunder to be insured through a municipal bond insurance company, if, upon the advice of the City's financial advisors, such insurance shall be beneficial to the City) as may be consistent with this Resolution and the determinations made pursuant hereto and as may be approved by the officer executing the Swap Agreement, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 2. Each of the City Manager and the Finance Director, acting singly, is hereby authorized to enter into a Transaction in connection with the 2006 Certificates and the 2006 Payments evidenced and represented thereby to accept and execute the Confirmation describing the Transaction; provided, however, that the following limitations shall be applicable to the Confirmation and Transaction: (i) the term of the Transaction shall not extend beyond the final maturity of the 2006 Certificates; (ii) the initial notional amount of the Transaction shall not exceed the par amount of the 2006 Certificates, and after the 2006 Certificates are executed and delivered shall not at any time exceed the unpaid amount of the principal component of the 2006 Payments; (iii) the variable rate to be received under the Transaction shall not be less than 60% of the one-month London Interbank Offering Rate (LIBOR); (iv) the expected net debt service on the 2006 Certificates calculated using the fixed swap rate to be paid by the City to the Bank of America, N.A., as counterparty, will be at least 5.0% less on a net present value basis than the net debt service on the 2006 Certificates if such 2006 Certificates were issued on a traditional fixed interest rate basis; and (v) the City shall have procured an

insurance policy securing its obligations to make regularly scheduled payments due in respect of such Transaction as provided in Section 3 of this Resolution.

Section 3. The securing of the City's obligations under the Transaction through the use of an insurance policy and the execution and delivery of the Credit Support Annex, concurrent with the execution of the other agreements authorized by this Resolution at any time hereafter prior to or concurrent with the delivery of the 2006 Certificates, is hereby authorized and approved. Each of the City Manager and the Finance Director, acting singly, is hereby authorized to take such actions as may be necessary to procure such insurance policy and to execute the Credit Support Annex to secure the City's obligations under the Transaction.

Section 4. The City Council of the City hereby finds and determines that the Transaction authorized hereby is designed to reduce the amount of rate risk and result in a lower cost of borrowing when used in combination with the execution and delivery of the 2006 Certificates.

Section 5. The City Manager, the Finance Director, the City Clerk and the other appropriate officers of the City are hereby authorized and directed, acting singly, 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 the transactions contemplated by this Resolution and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution, the Swap Agreement and the Confirmation. Any actions heretofore taken by such officers in connection therewith are hereby ratified, confirmed and approved.

Section 6. The City Clerk is hereby authorized and directed to attest the signature of the City Manager, the Finance Director or such other City officers as may be required or appropriate in connection with the execution and delivery of the Swap Agreement, the Confirmation or any related document or instrument .



Section 7. 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 August 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the Resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

AYES: Councilmembers: None

ATTEST:   
 JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-518**

**A RESOLUTION APPOINTING BEN PARROTT 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 7, 2006, and recommended appointment of BEN PARROTT to the Disabled Access Appeals Board.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. BEN PARROTT is hereby appointed to the Disabled Access Appeals Board with a term expiration of January 1, 2010.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed member of the 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 5th day of September, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

  
\_\_\_\_\_  
SUSANA ALCALA WOOD, City Attorney

ATTEST:   
\_\_\_\_\_  
JEAN MORRIS, City Clerk

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-519**

**A RESOLUTION APPOINTING DAVID LOPEZ 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 September 5, 2006, and recommended appointment of DAVID LOPEZ to the Golf Courses Advisory Committee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. DAVID LOPEZ is hereby appointed to the Golf Courses Advisory Committee with a term expiration of January 1, 2008.

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 5<sup>th</sup> day of September, 2006, 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, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	Dunbar
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-520**

**A RESOLUTION APPOINTING DAVID C. TANNER 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 September 5, 2006, and recommended appointment of DAVID C. TANNER, to the Golf Courses Advisory Committee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. DAVID C. TANNER is hereby appointed to the Golf Courses Advisory Committee with a term expiration of January 1, 2010.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the 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 5<sup>th</sup> day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST:

  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-521**

**A RESOLUTION APPOINTING PATRICIA GILLUM 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 August 7, 2006, and recommended appointment of PATRICIA GILLUM to the Planning Commission.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. PATRICIA GILLUM, is hereby appointed to the Planning Commission with a term expiration of January 1, 2007.

SECTION 2. The City Clerk is hereby directed to transmit a copy of this resolution to the appointed members 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 5<sup>th</sup> day of September, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

  
\_\_\_\_\_  
SUSAN ALCALA WOOD, City Attorney

ATTEST:   
\_\_\_\_\_  
JEAN MORRIS, City Clerk



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-522**

**A RESOLUTION APPOINTING JEAN-PIERRE BATMALE AND JIM  
PATTON TO THE SOLID WASTE ADVISORY COMMITTEE**

WHEREAS, Section 1102 of the Charter of the City of Modesto authorizes the City Council to appoint members to various Boards and Commissions, and

WHEREAS, the Economic Development Committee met on August 7, 2006, and recommended appointment of JEAN-PIERRE BATMALE and JIM PATTON to the Solid Waste Advisory Committee.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. JEAN-PIERRE BATMALE, with a term expiration of January 1, 2008, and JIM PATTON, with a term expiration of January 1, 2009, are 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 appointed members 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 5<sup>th</sup> day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

  
\_\_\_\_\_  
SUSAN ALCALA WOOD, City Attorney

ATTEST:   
JEAN MORRIS, City Clerk

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-523**

**A RESOLUTION APPROVING A SIXTH AMENDMENT TO AGREEMENT FOR AUDITOR SERVICES WITH MAZE & ASSOCIATES, AN ACCOUNTANCY CORPORATION, TO PROVIDE FOR AUDITS OF THE STANISLAUS DRUG ENFORCEMENT AGENCY (SDEA), TO BE PAID BY SDEA, AT A COST NOT TO EXCEED \$6,145 FOR THE FISCAL YEAR 2006 AUDITS AND \$6,300 FOR FISCAL YEAR 2007 AUDITS, AND, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AMENDMENT TO AGREEMENT.**

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, several Stanislaus County cities and agencies previously formed a Joint Powers Agency named the Stanislaus Drug Enforcement Agency (SDEA), and

WHEREAS, City of Modesto is providing accounting services for SDEA, and

WHEREAS, the SDEA governing Board desires that its financial operations be audited in conjunction with the City of Modesto financial audits, and

WHEREAS, the SDEA governing Board, at its August 16, 2006, meeting agreed to pay to costs for such audits, and

WHEREAS, Auditor has made a proposal to City to conduct these audits for Fiscal Year 2006 at a cost not to exceed \$6,145, and for Fiscal Year 2007 at a cost not to exceed \$6,300, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Sixth Amendment to Agreement for Auditor Services with Maze & Associates to provide audits of the SDEA financial operations for Fiscal Year 2006 at a cost not to exceed \$6,145, and for Fiscal Year 2007 at a cost not to exceed \$6,300.

BE IT FURTHER RESOLVED that the 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 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk & Auditor

APPROVED AS TO FORM:

BY:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-524**

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATIONS OF  
NORALYNN GOOLD AND GEORGE SHOEMAKER FROM THE COMMUNITY  
QUALITIES FORUM**

WHEREAS, NORALYNN GOOLD was appointed a member of the Community Qualities Forum on April 6, 2004, and

WHEREAS, GEORGE SHOEMAKER was appointed a member of the Community Qualities Forum on May 15, 2001, and

WHEREAS, NORALYNN GOOLD and GEORGE SHOEMAKER have tendered their resignation from the Community Qualities Forum, and

WHEREAS, NORALYNN GOOLD and GEORGE SHOEMAKER have been devoted and sincere public servants and have contributed greatly to our civic progress.

NOW, THEREFORE, BE IT RESOLVED that the resignations of NORALYNN GOOLD and GEORGE SHOEMAKER from the Community Qualities Forum be, and hereby are 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 NORALYNN GOOLD and GEORGE SHOEMAKER for their 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 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Wood  
Susana Wood, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-525**

**A RESOLUTION APPROVING A TWO (2) YEAR AGREEMENT FOR STATE LOBBYING SERVICES WITH AARON READ & ASSOCIATES (ARA) IN AN AMOUNT NOT TO EXCEED \$74,340 THE FIRST YEAR AND \$79,344 THE SECOND YEAR AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.**

WHEREAS, the City of Modesto has determined it is desirable to retain a consultant to represent the City's interests at the state level, and

WHEREAS, in 2002, the City entered into a two-year agreement with ARA in the annual amount of \$69,300, and

WHEREAS, in 2004, the City entered into another two-year agreement in the annual amount of \$69,300, and

WHEREAS, during the last two years ARA has been able to assist the City in the acquisition of over \$2.7 million in funding/reimbursements and has been a tremendous advocate for the City of Modesto on several assembly and senate bills,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a two (2) year Agreement for Consultant Services with Aaron Read & Associates for lobbying efforts at the State level in an amount not to exceed \$74,340 the first year and \$79,344 the second year, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**STANDARD  
AGREEMENT FOR CONSULTANT SERVICES**

THIS AGREEMENT, made and entered into in the City of Modesto, State of California, this 15<sup>th</sup> day of July, 2006, by and between the CITY OF MODESTO, a municipal corporation of the State of California, hereinafter referred to as "City", and AARON READ & ASSOCIATES a California corporation, 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 Sacramento, California.
- B. Consultant represents that it is qualified, willing and able 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 monitor actions of the Governor, state agencies and the state legislature as they affect transportation and other issues of interest to the City of Modesto. Consultant will provide legislative advocacy services when directed to so do by City. The Consultant shall perform said services as described in a manner compatible with the standards of its profession.

**2. TERM OF AGREEMENT.**

This Agreement is effective as of July 1, 2006, and will continue in effect until June 30, 2008, unless terminated earlier in accordance with the provisions of the termination clause in this Agreement.

**3. COMPENSATION.**

Consultant agrees to perform the services set forth in Paragraph 1 for a flat fee of six thousand one hundred ninety-five dollars (\$6,195.00) per month for the first year from July 1, 2006 to June 30, 2007 and for a flat fee of six thousand six hundred eleven dollars (\$6,612.00) per month for the second year from July 1, 2007 to June 30, 2008. City shall reimburse ARA for travel expenses, but only if such expenses are pre-approved by City in writing. City shall have no obligation to reimburse ARA for telephone and electronic communication, utilities, postage, express mail, photocopying, printing and materials, and other miscellaneous expenses.

The compensation shall be paid pursuant in the manner and at the times set forth below:

On or before the fifteenth (15<sup>th</sup>) 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 the services contemplated by this Agreement. Consultant further warrants that it will follow the best current, generally accepted and professional practices to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding this project.



**5. PERFORMANCE BY KEY EMPLOYEE.**

Consultant has represented to City that Terry McHale and Robyn Black, will be the persons 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 a part of the Agreement, Consultant is required to produce data such as, but not limited to, drawings, plans, specifications, calculations, models, flow diagrams, visual aids and other related materials, the originals of all such data generated under this Agreement will be delivered to City upon the completion or termination of services under the contract.

All materials, documents, data or information obtained from the City data files or any City medium furnished to Consultant in the performance of this Agreement will at all times remain the property of the City. Such data or information may not be used or copied for direct or indirect use by Consultant after termination of this Agreement without written consent of the City.

**7. NEWS AND INFORMATION RELEASE.**

Consultant agrees that it will not issue any news releases in connection with either the award of this Agreement, or any subsequent amendment of or efforts under this Agreement, without first obtaining review and approval of said news releases from City through the City Manager.

**8. AVOIDANCE OF POTENTIAL CONFLICTS.**

Whenever the state legislative objectives of existing or potential clients could conflict with those of the City, the Consultant and City shall take necessary steps to resolve such possible conflict. The Consultant shall not advocate or promote any state legislative objectives on behalf of existing or potential clients that are determined by the City to be in conflict with the City's state transportation objectives.

**9. AMENDMENTS.**

Both parties to this Agreement understand that it may become desirable or necessary during the execution of this Agreement, for City or Consultant to modify the scope of services provided for under this Agreement. Any material extension or change in the scope of work shall be discussed with City and the change and cost shall be memorialized in a written amendment to the original contract prior to the performance of the additional work.

Until a change order is so executed, City will not be responsible to pay any charges Consultant may incur in performing such additional services, and Consultant shall not be required to perform any such additional services.

**10. INDEPENDENT CONTRACTOR.**

All acts of Consultant, its agents, officers, and employees and all others acting on behalf of Consultant relating to the performance of this Agreement, shall be performed

as independent contractors and not as agents, officers, or employees of City. Consultant, by virtue of this Agreement, has no authority to bind or incur any obligation on behalf of City. Consultant has no authority or responsibility to exercise any rights or power vested in the City. No agent, officer, or employee of the City is to be considered an employee of Consultant. It is understood by both Consultant and City that this Agreement shall not under any circumstances be construed or considered to create an employer-employee relationship or a joint venture.

Consultant, its agents, officers and employees are and, at all times during the terms of this Agreement, shall represent and conduct themselves as independent contractors and not as employees of City.

Consultant shall determine the method, details and means of performing the work and services to be provided by Consultant under this Agreement. Consultant shall be responsible to City only for the requirements and results specified in this Agreement, and, except as expressly provided in this Agreement, shall not be subjected to City's control with respect to the physical action or activities of the Consultant in fulfillment of this Agreement. Consultant has control over the manner and means of performing the services under this Agreement. Consultant is permitted to provide services to others during the same period service is provided to City under this Agreement. If necessary, Consultant has the responsibility for employing other persons or firms to assist Consultant in fulfilling the terms and obligations under this Agreement.

If in the performance of this Agreement any third persons are employed by Consultant, such persons shall be entirely and exclusively under the direction, supervision, and control of Consultant. All terms of employment including hours, wages, working

conditions, discipline, hiring, and discharging or any other term of employment or requirement of law shall be determined by the Consultant.

It is understood and agreed that as an independent contractor and not an employee of City neither the Consultant or Consultant's assigned personnel shall have any entitlement as a City employee, right to act on behalf of the City in any capacity whatsoever as an agent, or to bind the City to any obligation whatsoever.

It is further understood and agreed that Consultant must issue W-2 forms or other forms as required by law for income and employment tax purposes for all of Consultant's personnel.

As an independent contractor, Consultant hereby indemnifies and holds City harmless from any and all claims that may be made against City based upon any contention by any third party that an employer-employee relationship exists by reason of this Agreement.

**11. ASSIGNMENT.**

Neither this Agreement nor any portion thereof shall be subcontracted or assigned without the express prior written consent of the City in each and every instance.

**12. PATENT/COPYRIGHT MATERIALS.**

Unless otherwise expressly provided in the contract, Consultant shall be solely responsible for obtaining the right to use any patented or copyrighted materials in the performance of this Agreement. Consultant shall furnish a warranty of such right to use to City at the request of City.

**13. NOTICES.**

Any and all notices permitted or required to be given hereunder shall be deemed duly given and effective (1) upon actual delivery, if delivery is by hand; or (2) five (5)

days after delivery into the United States mail if delivery is by postage paid registered or certified (return receipt requested) mail. Each such notice shall be sent to the parties at the address respectively indicated below or to any other address as the respective parties may designate from time to time.

FOR Consultant:

Name: Aaron Read & Associates  
Address: 1415 L Street, Suite 1100  
Sacramento, CA ~~95353-9003~~ 95814  
Attention: Terry McHale  
Phone: (916) 448-3444

FOR CITY:

Name: City of Modesto  
Address: PO Box 642  
Modesto, CA 95353  
Attention: George W. Britton  
Phone: (209) 577-5224

#### 14. INSURANCE REQUIREMENTS.

The Consultant shall provide at its own expense and maintain at all times the following insurance with insurance companies licensed in the State of California and shall provide evidence of such insurance to the City as may be required by the Risk Manager of the City. The policies or certificates thereof shall provide that, thirty (30) days prior to cancellation or material change in the policy, notices of same shall be given to the Risk Manager of the City by certified mail, return receipt requested, for all of the following stated insurance policies.

(a) Worker's Compensation - in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of liability of \$500,000.

(b) General Liability insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and \$100,000 for property damage or \$1,000,000

combined single limit. This insurance shall indicate on the certificate of insurance the following coverages and indicate the policy aggregate limit applying to: premises and operations; broad form contractual; independent consultants and subcontractors; products and completed operations; and professional liability.

(c) Automobile Liability insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and \$100,000 for property damage or \$1,000,000 combined single limit. This insurance shall cover any automobile for bodily injury and property damage.

(d) Professional Liability insurance with a minimum limit of \$1,000,000 per claim and policy aggregate.

If at any time any of said policies shall be unsatisfactory to the City, as to form or substance, or if a company issuing such policy shall be unsatisfactory to the City, the Consultant shall promptly obtain a new policy, submit the same to the Risk Manager for approval and submit a certificate thereof as hereinabove provided. Upon failure of the Consultant to furnish, deliver or maintain such insurance and certificates as above provided, this Agreement, at the election of the City, may be forthwith declared suspended, or terminated. Failure of the Consultant to obtain and/or maintain any required insurance shall not relieve the Consultant from any liability under this Agreement, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the Consultant concerning indemnification. The City, its agents, officers, employees, and volunteers shall be named as an additional insured on all insurance policies required herein, except Workers' Compensation and Professional Liability. The Workers' Compensation insurer shall agree to waive all rights of subrogation against the City, its agents, officers, employees, and volunteers for losses arising from work performed by

Consultant for the City. The Consultant's insurance policy(ies) shall include a provision that the coverage is primary as respects the City; shall include no special limitations to coverage provided to additional insured; and, shall be placed with insurer(s) with acceptable Best's rating of A:VII or with approval of the Risk Manager. The Consultant must deliver certificates evidencing existence of the insurance listed above to the City Clerk at the time the contract is signed.

**CONSULTANT shall provide CITY with separate endorsements evidencing proof of the CITY's additional insured status as to both the general liability and automobile liability insurance policies. In addition, CONSULTANT shall provide CITY with a Workers Compensation subrogation waiver by way of a separate endorsement. All endorsements referenced above must include the applicable policy number.**

For any claims related to this project, the CONSULTANT'S insurance coverage shall be primary insurance as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the CONSULTANT'S insurance and shall not contribute with it.

**15. TERMINATION OF AGREEMENT.**

**Termination on Occurrence of Stated Events**

This Agreement shall terminate automatically on the date on which any of the following events occur: (1) bankruptcy or insolvency of Consultant, (2) legal dissolution of Consultant, or (3) death of key principal(s) of Consultant.

### **Termination by City for Default of Consultant**

Should Consultant default in the performance of this Agreement or materially breach any of its provisions, at its option City may terminate this Agreement by giving written notification to Consultant. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to perform required services or duties, willful destruction of City's property by Consultant, dishonesty or theft.

### **Termination by Consultant for Default of City**

Should City default in the performance of this Agreement or materially breach any of its provisions, at its option Consultant may terminate this Agreement by giving written notice to City. The termination date shall be the effective date of the notice. For the purposes of this section, material breach of this Agreement shall include but not be limited to any of the following: failure to cooperate reasonably with Consultant, willful destruction of Consultant's property by City, dishonesty or theft.

### **Termination by City for Lack of Budgeted Funds**

The City may terminate this Agreement effective July 1 of any given year upon the City's determination to not appropriate sufficient funds for this Agreement for the ensuing fiscal year. In such event City shall give Consultant not less than 30 days written notice.

### **Termination for Failure to Make Agreed-Upon Payments**

Should City fail to pay Consultant all or any part of the payments set forth in this Agreement on the date due, at its option Consultant may terminate this Agreement if the failure is not remedied within thirty (30) days after Consultant notifies City in writing of such failure to pay. The termination date shall be the effective date of the notice.



### **Termination by City for Change of Consultant's Tax Status**

If City determines that Consultant does not meet the requirements of federal and state tax laws for independent contractor status, City may terminate this Agreement by giving written notice to Consultant. The termination date shall be the effective date of the notice.

### **Voluntary Termination**

The parties may terminate this contract upon mutual written Agreement.

### **In the Event of Termination**

If this Agreement is terminated pursuant to this Paragraph, Consultant shall cease all its work on the project as of the termination date and shall see to it that its employees, subcontractors and agents are notified of such termination and cease their work. If City so requests, and at City's cost, Consultant shall provide sufficient oral or written status reports to make City reasonably aware of the status of Consultant's work on the project. Further, if City so requests, and at City's cost, Consultant shall deliver to City any work products whether in draft or final form which have been produced to date.

If the Agreement is terminated pursuant to any of the subsections contained in this paragraph, City will pay Consultant an amount based on the percentage of work completed on the termination date, this percentage shall be determined by City in its sole discretion. If the Agreement is terminated pursuant to the subparagraph entitled Termination by City for Default of Consultant, Consultant understands and agrees that City may, in City's sole discretion, refuse to pay Consultant for that portion of Consultant's services which were performed by Consultant on the project prior to the termination date and which remain unacceptable and/or not useful to City as of the termination date.

**16. CITY PROJECT MANAGER**

The City Project Manager shall be the City Manager or such other person as shall be designated in writing by the City Manager.

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.**

The Consultant shall hold the City, its agents, officers, employees, and volunteers, harmless from and save, defend and indemnify them against any and all claims, losses, liabilities, judgments or damages from every cause, including but not limited to injury to person or property or wrongful death, including reasonable costs and expenses of defense of any judicial or administrative action, arising directly or indirectly out of any negligent or intentional act or omission of Consultant, or its agents, officers, employees, or volunteers relating to or during the performance of its obligations under this Agreement.

Consultant's obligation to defend, indemnify, and hold the City, its agents, officers, and employees harmless under the provisions of this paragraph is not limited to or restricted by any requirement in this Agreement for Consultant to procure and maintain a policy of insurance.

**18. ENTIRE AGREEMENT.**

This Agreement and its exhibits contain the entire understanding between Consultant and City. Additional or new terms contained in this Agreement which vary from Consultant's proposal are controlling and are deemed accepted by Consultant by shipment of any article or other commencement of performance hereunder. All previous proposals, offers and

communications relative to this Agreement, whether oral or written, are hereby superseded except to the extent that they have been incorporated into this Agreement. No future waiver of or exception to any of the terms, conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to in writing by all the parties.

**19. PARTIAL INVALIDITY.**

If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

**20. WAIVER.**

The waiver by any party to this Agreement of a breach of any provision hereof shall be in writing and shall not operate or be construed as a waiver of any other or subsequent breach hereof unless specifically stated in writing.

**21. AUDIT.**

The City's duly authorized representative shall have access at all reasonable times to all reports, contract records, contract documents, contract files, and personnel necessary to audit and verify Consultant's charges to City under this Agreement.

Consultant agrees to retain reports, records, documents, and files related to charges under this Agreement for a period of four (4) years following the date of final payment for Consultant services. City's representative shall have the right to reproduce any of the aforesaid documents.

**22. GOVERNING LAW.**

This Agreement shall be governed according to the laws of the State of California.

**23. HEADINGS NOT CONTROLLING.**

Headings used in the Agreement are for reference purposes only and shall not be considered in construing this Agreement.

**24. COMPLIANCE WITH LAWS.**

Consultant shall insure compliance with all safety and hourly requirements for employees, in accordance with federal, state, and county safety and health regulations and laws. Consultant shall fully comply with all applicable federal, state, and local laws, ordinances, regulations and permits.

**25. CITY BUSINESS LICENSE.**

Consultant will have a City of Modesto business license.

IN WITNESS WHEREOF, the City of Modesto, a municipal corporation, has authorized the execution of this Agreement in duplicate by its City Manager and attestation by its City Clerk under authority of Resolution No. \_\_\_\_\_, adopted by the Council of the City of Modesto on the eighth day of August, 2006\_\_\_\_, and CONSULTANT has caused this Agreement to be duly executed.

CITY OF MODESTO, a municipal corporation

CONSULTANT, a California corporation

By \_\_\_\_\_  
GEORGE BRITTON, City Manager

By   
AARON L. READ

ATTEST:

By \_\_\_\_\_

By \_\_\_\_\_  
JEAN MORRIS, City Clerk

(Seal)

APPROVED AS TO FORM:

Consultant's Federal ID # 27-0035856

By \_\_\_\_\_  
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO RISK MANAGEMENT:

By \_\_\_\_\_  
DAVID RAWE, Assistant 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*

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-526**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007 ANNUAL OPERATING BUDGET TO TRANSFER \$5,000 FROM GENERAL FUND RESERVE ACCOUNT 0100-800-8000-8003 TO CITY MANAGERS OPERATING ACCOUNT 0100-020-0201-0235 TO FULLY FUND AN AGREEMENT FOR CONSULTANT SERVICES WITH AARON READ AND ASSOCIATES, (ARA).**

WHEREAS, the City of Modesto has determined it is desirable to retain a consultant to represent the City's interests at the state level, and

WHEREAS, in 2002, the City entered into a two-year agreement with ARA in the annual amount of \$69,300, and

WHEREAS, in 2004, the City entered into another two-year agreement in the annual amount of \$69,300, and

WHEREAS, during the last two years ARA has been able to assist the City in the acquisition of over \$2.7 million in funding/reimbursements and has been a tremendous advocate for the City of Modesto on several assembly and senate bills,

WHEREAS, the terms of said agreement exceed the amount budgeted for state legislative lobbying services for Fiscal Year 2006 by \$5,000.00,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2006-2007 Annual Operating Budget to fund the Agreement for Consulting Services with Aaron Read and Associates to perform State Legislative Lobbying Services as indicated below:

Account	Adjustment	Description
0100-800-8000-8003	(\$5,000.00)	General Fund Reserve
0100-020-0201-0235	\$5,000.00	City Manager's Office Professional Services

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 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO SUFFICIENCY:

By Greg Baird  
Greg Baird, Deputy Director of Finance

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-527**

**A RESOLUTION APPROVING AN ADVANCED FUNDING AGREEMENT FOR THE KIERNAN BUSINESS PARK SOUTH SPECIFIC PLAN AREA BETWEEN THE CITY OF MODESTO AND MANA DEVELOPMENTS AND HANS J. WAGNER FOR THE PREPARATION OF A FACILITIES MASTER PLAN, AND INFRASTRUCTURE FINANCE PLAN AND FOR FORMATION OF A CFD FOR A PORTION OF THE KIERNAN BUSINESS PARK SPECIFIC PLAN AREA COMMONLY KNOWN AS KIERNAN BUSINESS PARK SOUTH, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, Mana Developments and Hans J. Wagner (collectively the “Applicant”) have agreed to advance all funds necessary to prepare a Facilities Master Plan and Infrastructure Finance Plan (“FMP/IFP”) and for formation of a CFD for a portion of the Kiernan Business Park Specific Plan Area commonly known as Kiernan Business Park South (“KBP South”), and

WHEREAS, the parties agreed to enter into an Advanced Funding Agreement For The Kiernan Business Park Specific South Specific Plan Area by and between the City and the Applicant relating to advances made and to be made by the Applicant to the City, and providing for potential reimbursement to the Applicant if and when certain funds from the KBP South community facilities district become available, a copy of which is attached as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Advanced Funding Agreement For The Kiernan Business Park Specific South Specific Plan Area between the City of Modesto and Mana Developments and Hans J. Wagner is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or designee, is hereby authorized to execute the Advanced Funding Agreement.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**ADVANCED FUNDING AGREEMENT  
FOR THE KIERNAN BUSINESS PARK SOUTH SPECIFIC PLAN AREA**

THIS ADVANCED FUNDING AGREEMENT FOR THE KIERNAN BUSINESS PARK SOUTH AREA (this "Agreement"), dated as of \_\_\_\_\_, 2006, is entered into by and between the CITY OF MODESTO, CITY OF MODESTO, a municipal corporation of the State of California (the "City") and MANA DEVELOPMENTS and HANS J. WAGNER (collectively the "Applicant").

**RECITALS:**

A. Applicant has a legal interest in real property located within a portion of the Kiernan Business Park South Specific Plan Area ("Specific Plan"), shown in Exhibit A attached hereto and incorporated herein by this reference, and is interested in pursuing development of properties in the Specific Plan.

B. Applicant has requested that the City prepare a Facilities Master Plan and Infrastructure Finance Plan ("FMP/IFP"), and create an appropriate financing mechanism, such as a community facilities district ("CFD") for the principal purpose of master planning and financing the various public facilities and services which are necessary to serve or desirable for the development of the Specific Plan (collectively the "Project").

C. City has either retained, or will retain outside consultants, to assist it with the Project and, if the City determines to proceed with the formation of a CFD, to assist it in connection therewith and with the possible issuance of bonds.

D. The scope of work for the Project ("Scope"), including the estimated costs for completing the Project ("Estimated Costs"), is attached as Exhibit B.

E. Applicant is prepared to deposit with the City the amount needed to fund the Scope plus 30% for staff time and expenses in order to provide the City with an initial source of funds with which to pay expenses expected to be incurred in connection with the Project. Additional deposits will be provided by Applicant, as required by the City.

F. The City and Applicant are desirous of entering into this Agreement in order to provide monies for the City's costs for the preparing the Project on a time and materials basis, to provide mechanisms by which the funds deposited under this Agreement shall be applied and by which Applicant may make additional deposits, and to reimburse Applicant for monies advanced for the benefit of other landowners in the Project.

G. Pursuant to California Government Code Section 53314.9 and the City's CFD Policies and Procedures, the City Council of the City is authorized to accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or work-in-kind for any authorized purpose, including, but not limited to, paying any costs incurred in connection with the planning and formation of a community facilities district. The City Council of the City is also authorized to enter into an agreement, by resolution, with the person or entity advancing the funds or work-in-kind to repay all or a portion of the funds advanced or to reimburse the person or entity for the cost or value of the work-in-kind provided that certain conditions are met. The conditions to be satisfied with

respect to funds advanced require that (1) the proposal to repay the funds or to pay the cost or value of the work-in-kind must be included in the resolution of intention for the proposed community facilities district and in the resolution of formation for the proposed community facilities district, (2) any proposed special tax is approved by the qualified electors of the community facilities district and, if a proposed special tax is not approved, any funds advanced which have not been committed for any authorized purpose by the time of the election must be returned to the person or entity advancing funds and (3) any work-in-kind accepted shall have been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority, of the local agency.

H. The City and the Applicant are desirous of entering into this Agreement in accordance with Government Code Section 53314.9 and the City's CFD Policies and Procedures in order to provide a mechanism by which the Applicant may make additional deposits if determined necessary pursuant to the City's CFD Policies and Procedures and, when and if bonds are issued and proceeds are available, the CFD can reimburse the Applicant for the amounts advanced by the Applicant.

### AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

1. Recitals. Each of the above recitals is incorporated herein and is true and correct.
2. Proposed Preparation of the Facilities Master Plan and Infrastructure Financing Plan.
  - a. Applicant agrees to pay all costs of preparing, processing and approving the FMP/IFP.
  - b. Within ten (10) calendar days after the City Council approves this Agreement, Applicant shall deposit with the City the sum of TWO HUNDRED FIFTY THOUSAND AND 0/100 (\$250,000.00) DOLLARS ("Initial Deposit") to fund the Scope of work for the Project. The Initial Deposit will be held in trust by the City and used solely for the purposes set forth in this Agreement. Upon receipt by the City of the Initial Deposit and all documents deemed necessary by the City to proceed with the Project, the City will commence work on the Project on a time and materials basis and will provide a Notice to Proceed to its Consultant to proceed with the Project. In connection therewith, the City has either retained, or will retain, the consultants that the City determines necessary or convenient to assist it with the Project and, if the City determines to proceed with the formation of the CFD, to assist it in connection therewith and with the possible issuance of bonds.
  - c. After the Initial Deposit has been expended on the Project, Applicant shall make additional advances to the City as provided by subparagraph (d), below, until the Project has been completed or terminated, and all costs associated with the Project have been fully paid. City will commence work on subsequent Tasks as identified in the Scope on a time and materials basis and will provide a Notice to Proceed to Consultant for each such Task within ten (10) calendar days after it

has received an additional deposit sufficient to cover the estimated costs for said Task plus 30% for staff time and expenses associated with said Task. The consultants shall submit invoices to the City for payments based on work completed; such invoices will be promptly sent by the City to the Applicant, which will have five (5) business days to challenge the work performed, and the City will in good faith consider the position of the Applicant prior to approving payment. Applicant understands and agrees that City shall have the right, in its sole discretion, to approve and pay all such consultant invoices, and may do so without obtaining Applicant's approval.

- d. Applicant shall make additional advances to the City within ten (10) business days following receipt from the City of a request for an additional advance to cover the costs referred to herein. In the event that Applicant does not deliver the requested amount to the City within such ten (10) business day period, the City will have no obligation to proceed with any activity relating to the Project. The Applicant may notify the City at any time, in writing, of its intention to abandon the Project. Immediately upon City's receipt of such notice, but in no case later than two (2) business days, the City shall instruct in writing its consultants to cease work immediately. The Applicant shall be responsible for all costs and expenses incurred by the City or any City consultant or advisors relating to the Project until City issues this cease work notice. Within 60 calendar days after issuance of a cease work notice, City agrees to return to Applicant all unexpended amounts of the Initial Deposit (and any subsequent deposits) which exceed all costs and expenses incurred by City relating to the Project.
- e. Applicant agrees that, notwithstanding the Applicant's funding and reimbursement obligation under this Agreement, the consultants selected by the City shall be the contractors exclusively of the City and not of the Applicant. Except for those disclosures required by law including, without limitation the Public Records Act, all conversations, notes, memoranda, correspondence, and other forms of communication by and between the City and its consultants shall be, to the extent permissible by law, privileged and confidential and not subject to disclosure to the Applicant. Applicant agrees that it shall have no claim to, nor shall it assert any right in any reports, correspondence, plans, maps, drawings, news releases or any and all other documents or work project produced by City's consultants. Applicant understands that it will not be a third party beneficiary to City's contracts with the consultant. City will consult with Applicant prior to replacing its current consultants; however, Applicant agrees that City may select other consultants to replace its current consultants and may do so without obtaining Applicant's approval.
- f. City and Applicant shall work cooperatively and in good faith to facilitate completion of Project as quickly as possible and in the most cost effective way. City and Applicant shall meet and consult on dates and times as may be mutually agreed upon to discuss the progress and any key issues involved in the Project; provided, however, that Applicant's role is advisory only and that City shall control all aspects of the Project. The final work product to be produced by City's consultants shall be subject to the City's sole approval and control.

3. Proposed Formation of the CFD and Issuance of Bonds.

- a. Applicant agrees to pay all costs of preparing, processing and forming a CFD for the Specific Plan area.
- b. Upon receipt by the City of a completed application for the formation of the CFD, the formation deposit for the CFD, and all documents related thereto as described in the City's CFD Policies and Procedures, the City will undertake to analyze the appropriateness of forming the CFD and the issuance of bonds by it. In connection therewith, the City has either retained or will retain, at the Applicant's expense, the consultants that the City determines necessary or convenient to assist it in studying the proposed formation of the CFD and, if the City determines to proceed with the formation of the CFD, to assist it in connection therewith and with the possible issuance of bonds.
- c. Pursuant to the City's CFD Policies and Procedures, the Applicant shall make additional advances to the City within ten (10) days following receipt from the City of a request for an additional advance to cover the costs referred to herein. In the event the Applicant does not deliver the requested amount to the City within such ten (10) day period, the City will have no obligation to proceed with any activity relating to the formation of the CFD and/or the issuance of bonds. The Applicant may notify the City at any time, in writing, of its intention to abandon the formation of the CFD or the issuance of bonds. Upon receipt of such notice, the City shall instruct its consultants to cease work as soon as practicable. The Applicant shall be responsible for all costs and expenses incurred by the City or any City consultant or advisor relating to the proposed formation of the CFD and/or bond issuance until work with respect to the proposed formation or bond issuance ceases following the receipt of the Applicant's notice of abandonment. Within 60 calendar days after receipt of the Applicant's notice of abandonment, City agrees to return to Applicant all unexpended amounts of the Initial Deposit (and any subsequent deposits) which exceed all costs and expenses incurred by City relating to the Project.

4. Reimbursement Procedure. If the CFD is formed and bonds are issued, bond proceeds in excess of the amount determined by the City's District Administrator to be required in order to satisfy the requirements of the City's CFD Policies and Procedures with respect to capitalized interest and reserves and to pay for the Facilities and other Incidental Expenses may be used to reimburse the Applicant for the amounts that the Applicant has advanced to the City in connection with this Agreement, all as provided for in the City's CFD Policies and Procedures. In the event that the CFD is not formed for any reason, or in the event that the CFD is formed and bonds are not issued for any reason, the City shall return any funds which have been advanced by the Applicant pursuant to this Agreement and which have not been expended, obligated or otherwise committed for any authorized purpose, subject to the complete reimbursement to the City of all of its direct and indirect costs. If the amounts previously advanced by the Applicant are insufficient to fully reimburse the City for all of its direct and indirect costs, the Applicant shall promptly pay to the City the amount of the deficiency. The City shall be entitled to pay any refund required pursuant to the provisions hereof to the entity that is the signatory to this Agreement irrespective of any changes in the ownership of the property or the organization of the Applicant, and the City shall not be required to pay interest on any amount required to be refunded pursuant to this Agreement.

5. Abandonment of the Project. The Applicant understands that, subject to the satisfaction of all applicable legal requirements, the decision to review, process, prepare or approved the proposed Project, shall be each in the sole discretion of the City. No provision of this Agreement shall be construed as a promise, warranty or agreement by the City to review, process, prepare or approve the proposed Project. The City shall have no liability to Applicant for a decision not to review, process, prepare or approve the proposed Project.

6. Abandonment of Proposed CFD. The Applicant understands that, subject to the satisfaction of all applicable legal requirements, the decision to form the CFD and the decision to issue bonds shall be each in the sole discretion of the City. No provision of this Agreement shall be construed as a promise, warranty or agreement by the City to form the CFD or to issue bonds. Should the proceedings to form the CFD be abandoned for any reason, the City shall provide written notification of such abandonment to the Applicant and shall return to the Applicant all unexpended amounts of the Initial Deposit (and any subsequent deposits) which exceed all costs and expenses incurred by the City relating to formation of the CFD. Said monies shall be returned within 60 days of the issuance of the written notice of abandonment. Except for such reimbursement, the City shall have no liability to Applicant for a decision not to form the CFD or issue bonds.

7. Indemnification and Hold Harmless. The Applicant hereby assumes the defense of, and indemnifies and saves harmless, the City and each of its officers, directors and employees, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of or arising out of any acts or omissions of the Applicant or any of the Applicant's officers, employees, contractors and agents in connection with the proposed formation of the CFD or any work-in-kind provided by or on behalf of the Applicant or its consultants, except for any action, damages, claims, losses or expenses arising out of the sole negligence or willful misconduct of the City, its officers, directors, employees or agents.

8. 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.

**Applicant:**                   **Mana Developments**  
Attn: Reza Vossoughi, Manager  
305 Northwood Drive  
Modesto, California 95350-3139

Phone:                   209-521-3037  
Facsimile:               209-521-3037

**Applicant:**                   **Hans J. Wagner**  
3311 Maze Boulevard  
Modesto, California 95358

Phone:                   (209) 523-5709  
Facsimile:               N/A

**City:** **City of Modesto**  
1010 Tenth Street, Suite 6100  
Modesto, California 95353  
Attention: IFP Administrative Officer

Phone: 209-522-5211

Facsimile: 209-571-5128

Each party may change its address for delivery of notice by delivering written notice of such change of address to the other party.

9. Assignment. The Applicant may not assign its interest in this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld. Any assignment or attempt to assign this Agreement without the prior written consent of City shall be deemed null and void as of the date of the purported assignment. All covenants, stipulations, and agreements in this Agreement shall bind any such representatives, successors and assigns.

10. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent permitted by law.

11. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the matters provided for herein. All previous proposals, offers and communications relative to this Agreement, whether oral or written, are hereby superseded except to the extent that they have been incorporated into this Agreement. No future waiver of or exception to any of the terms, conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to in writing by all the parties.

12. Amendments. This Agreement may be amended or modified only by written instrument signed by all parties. Any amendment or addendum to this Agreement shall expressly refer to this Agreement.

13. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

14. No Third Party Beneficiaries. No person or entity shall be deemed to be a third party beneficiary hereof; and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than the City (and its officers, directors, employees and agents providing services under this Agreement) and the Applicant, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

15. Singular and Plural; Gender. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

16. Termination. This Agreement shall terminate and be of no further force and effect on the third (3<sup>rd</sup>) anniversary of the date of this Agreement unless expressly amended by the parties; provided, however, that the Applicant's obligations under Section 7 shall survive the termination and the City's obligation to provide reimbursement in accordance with Section 4 for expenses incurred prior to the termination date shall also survive termination.

17. Time is of the Essence. Except as otherwise expressly stated, time is of the essence in the performance of each and every action required pursuant to this Agreement.

18. Language Construction. The language of each and all paragraphs, terms and/or provisions of this Agreement, shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.

19. Representations of Authority. Each party signing this Agreement on behalf of a party which is not a natural person hereby represents and warrants to the other party that all necessary legal prerequisites to that party's execution of this Agreement have been satisfied and that he or she has been authorized to sign this Agreement and bind the party on whose behalf he or she signs.

20. Relationship of Parties. Nothing contained in this Agreement shall be interpreted or understood by any of the parties, or by any third person, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between City and Applicant or its agents, employees or contractors. Except as City may specify in writing, Applicant shall have no authority to act as an agent of City or to bind City to any obligation.

21. Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of this Agreement's provisions.

22. Waiver. The waiver by any party to this Agreement of any action, obligation, or commitment required by this Agreement or 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 or of any action, obligation, or commitment required by this Agreement unless specifically stated in writing.

23. Discretion of the City. City's execution of this Agreement in no way limits the discretion of City in the permit and approval process in connection with any entitlements within City's jurisdiction, including those related to the Project, or with the design, construction or funding of any onsite or offsite infrastructure improvements within the City's jurisdiction.



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-\_\_\_\_, adopted by the Council of the City of Modesto on the \_\_\_\_\_ day of \_\_\_\_\_, 2006, and \_\_\_\_\_, has caused this Agreement to be executed in duplicate, effective as of the date first written above.

CITY OF MODESTO, a municipal corporation

By: \_\_\_\_\_  
GEORGE W. BRITTON, City Manager

MANA DEVELOPMENTS

By: [Signature] 8/25/2006  
Name: Reza Vossoughi  
Title: Manager

ATTEST:

By: \_\_\_\_\_  
JEAN MORRIS, City Clerk

HANS J. WAGNER

By: [Signature]  
Name: Hans J. Wagner

APPROVED AS TO FORM:  
SUSANA ALCALA WOOD, City Attorney

By: \_\_\_\_\_  
ALISON A. BARRATT-GREEN  
Senior Deputy City Attorney

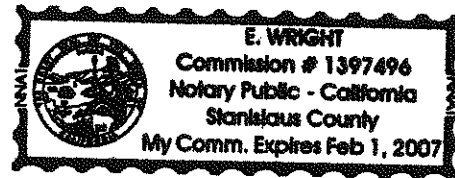
**Signature Requirements**

*Corporation:*

- 1. Signature of two (2) officers  
or
- 2. Signature of one (1) officer plus the corporate seal

*Partnership:* Signature of one partner

*Sole Proprietorship:* Signature of proprietor



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-528**

**A RESOLUTION 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. 13)**

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 and 12, 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, and 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.

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. 13 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, October 10, 2006, 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 5th day of September 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A  
ANNEXATION NO. 13 TO  
COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2)  
Proposed Boundary Map

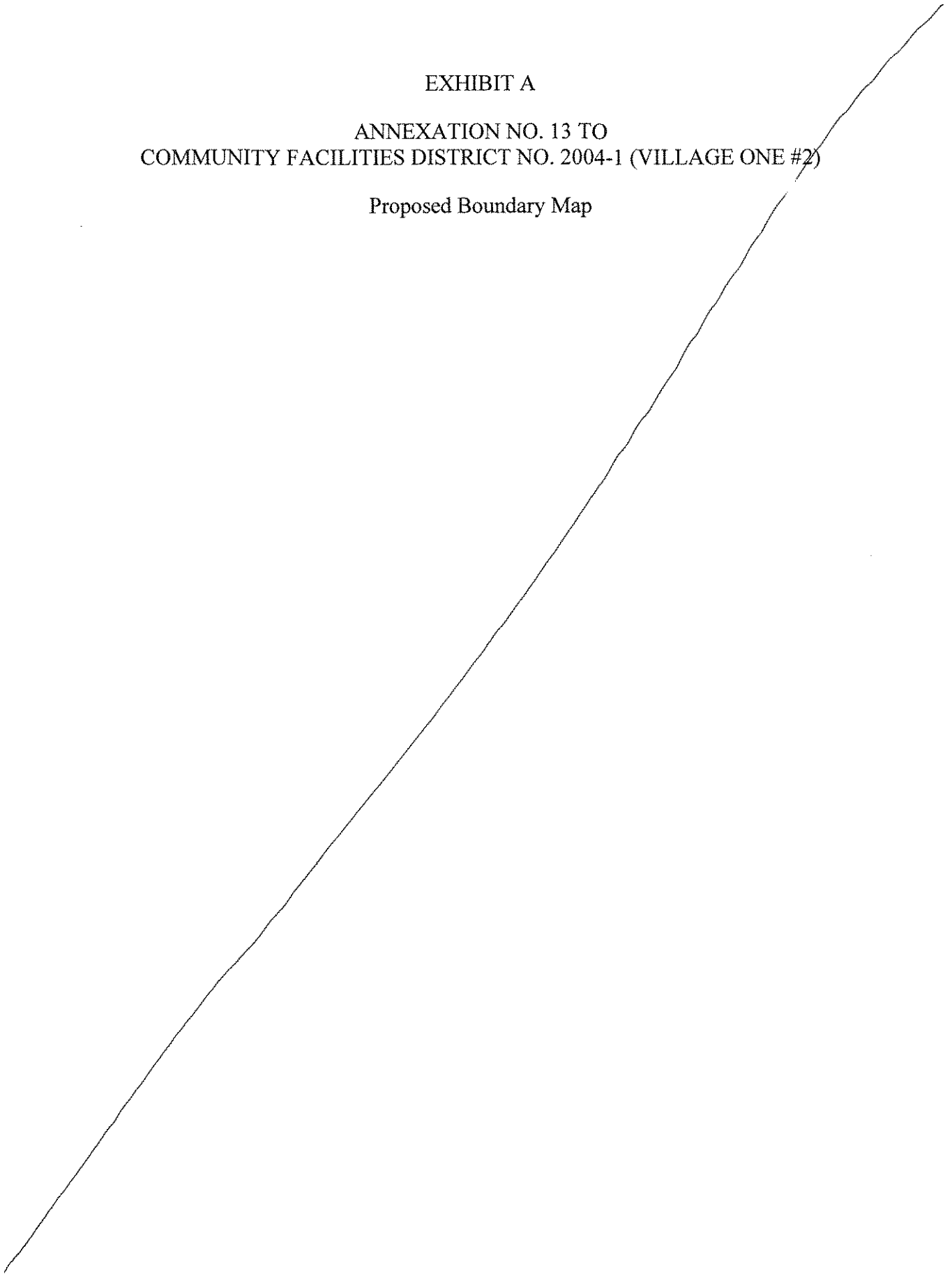
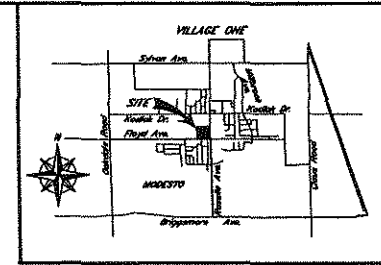
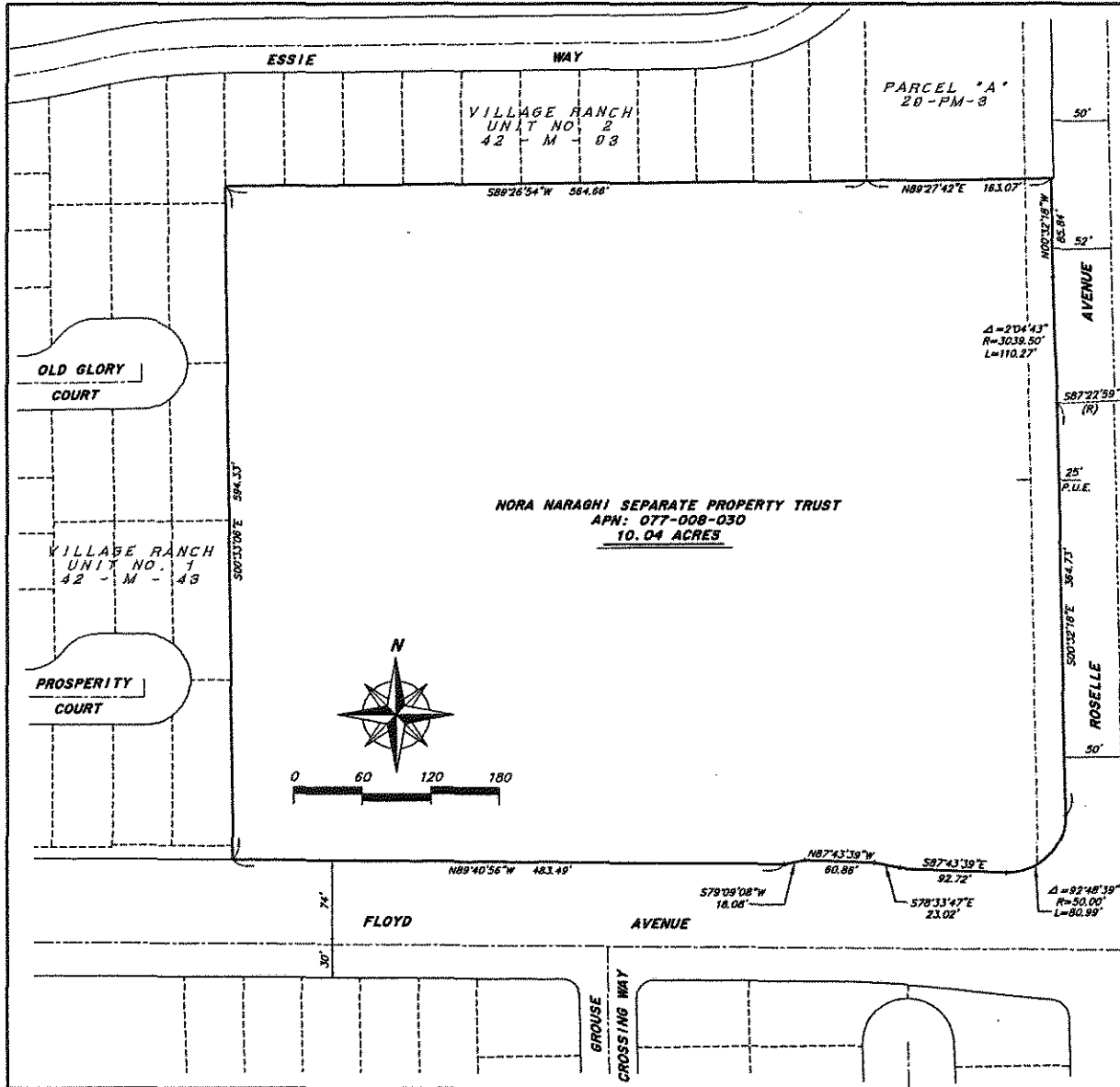


EXHIBIT A

ANNEXATION NO. 13 TO  
COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2)

Proposed Boundary Map





**VICINITY MAP**

**ANNEXATION NO. 13**  
OF COMMUNITY FACILITIES DISTRICT NO. 2004-1  
(VILLAGE ONE #2)  
CITY OF MODESTO, COUNTY OF STANISLAUS,  
STATE OF CALIFORNIA

Filed in the Office of the City Clerk of the City of Modesto this \_\_\_ day of \_\_\_\_\_, 2006.

JEAN MORRIS, City Clerk  
By: \_\_\_\_\_  
Print Name

I hereby certify that this map showing the proposed boundaries of Annexation No. 13 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 \_\_\_\_\_, 2006, by its Resolution No. 2006-\_\_\_\_\_.

JEAN MORRIS, 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 Consolidated 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.

JEAN MORRIS, City Clerk  
By: \_\_\_\_\_  
Print Name

Filed this \_\_\_ day of \_\_\_\_\_, 2006, 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 LUNDRIGAN, County Recorder of the County of Stanislaus, State of California

By: \_\_\_\_\_  
Print Name

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-529**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO SOLICIT FORMAL REQUEST FOR BIDS (RFB) FOR HOT PATCH WORK FOR AN INITIAL TWO (2) YEAR PERIOD, WITH THREE (3) ADDITIONAL ONE-YEAR CONTRACT EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF \$200,000, WITH FUNDING BUDGETED IN FY 2006/2007.**

WHEREAS, the Public Works Department-Water Division is requesting contractual assistance to perform hot patch work throughout Modesto and the outlying areas included in the City of Modesto's ten (10) water systems for an initial two (2) year period, with three (3) additional one-year contract extension options, at the sole discretion of the City, and

WHEREAS, the outlying areas system include Waterford, Hickman, Salida, Del Rio, parts of Ceres, parts of Turlock, Grayson, Empire and other County areas just outside the City limits, and

WHEREAS, hot patch work consists of asphalt repairs to street cuts made in order to make repairs and improvements to the water system, and

WHEREAS, the City crews perform some of this work, but often in-house resources are not available to perform the hot patch work as needed, and

WHEREAS, by soliciting competitive bids, the City will achieve the best value for hot patch work and meet Modesto Municipal Code (MMC) requirements for formal bids, and

WHEREAS, the Modesto Municipal Code 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, this Request for Bid (RFB) conforms to City Code, and

WHEREAS, the Purchasing Division has coordinated the drafting of bid specifications for hot patch work with the Public Works Department-Water Division staff, and

WHEREAS, the City Council has appropriated funds and made funds available for hot patch work in the following accounts for FY 2006/2007: 6100-480-5012-0360-04 (Water Fund Operating Budget), 6180-430-W430-6052 (Water Fund-CIP-Wellhead Treatment Primary CIP), 6180-480-W426-6052 (Water Fund-CIP-Extend Water Mains Primary CIP), and 6180-480-W428-6052 (Water Fund-CIP-Strength/Replace H2O System Primary CIP),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Manager is hereby authorized to solicit formal Request for Bids for hot patch work as follows:

SECTION 1. The City Clerk is hereby authorized to call for public formal bids for hot patch work, for an initial two (2) year period, with three (3) additional one-year contract extension options, at the sole discretion of the City, to be opened in the office of the City Clerk, 1010 10<sup>th</sup> 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 bids are opened, they shall be tabulated and analyzed and a report submitted to the Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar,

who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
Jean Morris, City Clerk

APPROVED AS TO FORM:

BY: Susana Alcala Wood  
Susana Alcala Wood, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-530**

**A RESOLUTION APPROVING AN AGREEMENT WITH COMMUNITY HOUSING AND SHELTER SERVICES (CHSS) TO PROVIDE \$12,200 IN COMMUNITY DEVELOPMENT BLOCK GRANT – HOMELESS SERVICES (CDBG-HS) FUNDING FOR THEIR WINTER EMERGENCY SHELTER FOR FISCAL YEAR 2005-2006 AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND RELATED DOCUMENTS.**

WHEREAS, each year staff prepares the Annual Action Plan (AAP) before the beginning of the fiscal year that starts on July 1, indicating how the City will be expending the funds received from the Department of Housing and Urban Development (HUD) for the following three grants: Community Development Block Grant (CDBG); HOME Investment Partnership Program (HOME); and, Emergency Shelter Grant (ESG), and

WHEREAS, there are two other funding sources that must be estimated at the time the AAP is prepared, the amount of program income that has been generated at the end of the fiscal year (June 30) through the repayment of program loans and the carryover or unused funds that will be available for reprogramming at the end of the fiscal year (June 30), and

WHEREAS, on January 10, 2006, the City Council, by Resolution No. 2006-025, approved an amendment to the AAP which included reallocation of additional Community Development Block Grant – Homeless Services (CDBG-HS) funding in the amount of \$61,000 for public service grant funding for fiscal year 2005-2006, and

WHEREAS, the agencies that provided Winter Shelter Programs to the homeless, were under contract with the City of Modesto, and could spend the funds in a short period of time received the additional funds, and

WHEREAS, of the \$61,000 reprogrammed CDBG-HS funds, Community Housing and Shelter Services (CHSS) received an allocation of \$12,200 to purchase motel vouchers to shelter up to 43 homeless families, providing up to 305 shelter nights allowing families to stay together, and

WHEREAS, the Citizens Housing and Community Development Committee met on December 9, 2005, and supported the recommendation to provide \$12,200 in Community Development Block Grant – Homeless Services (CDBG-HS) funds to Community Housing and Shelter Services (CHSS) to purchase motel vouchers,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an agreement with Community Housing and Shelter Services (CHSS) to provide \$12,200 in Community Development Block Grant – Homeless Services (CDBG-HS) funding for Fiscal Year 2005-2006 to purchase motel vouchers to shelter up to 43 homeless families.

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 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O’Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-531**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007  
OPERATING BUDGET TO ALLOCATE \$12,200 FROM 1152-800-8000-  
8003, REVOLVING LOAN FUND RESERVE, TO 1152-320-3270-0496,  
DIRECT GRANTS.**

WHEREAS, each year staff prepares the Annual Action Plan (AAP) before the beginning of the fiscal year that starts on July 1, indicating how the City will be expending the funds received from the Department of Housing and Urban Development (HUD) for the following three grants: Community Development Block Grant (CDBG); HOME Investment Partnership Program (HOME); and, Emergency Shelter Grant (ESG), and

WHEREAS, there are two other funding sources that must be estimated at the time the AAP is prepared, the amount of program income that has been generated at the end of the fiscal year (June 30) through the repayment of program loans and the carryover or unused funds that will be available for reprogramming at the end of the fiscal year (June 30), and

WHEREAS, on January 10, 2006, the City Council, by Resolution No. 2006-025, approved an amendment to the AAP which included reallocation of additional Community Development Block Grant – Homeless Services (CDBG-HS) funding in the amount of \$61,000 for public service grant funding for fiscal year 2005-2006, and

WHEREAS, the agencies that provided Winter Shelter Programs to the homeless, were under contract with the City of Modesto, and could spend the funds in a short period of time received the additional funds, and

WHEREAS, of the \$61,000 reprogrammed CDBG-HS funds, Community Housing and Shelter Services received an allocation of \$12,200 to purchase motel vouchers to shelter up to 43 homeless families, providing up to 305 shelter nights allowing families to stay together, and

WHEREAS, the Citizens Housing and Community Development Committee met on December 9, 2005, and supported the recommendation to provide \$12,200 in Community Development Block Grant – Homeless Services (CDBG-HS) funds to Community Housing and Shelter Services to purchase motel vouchers, and

WHEREAS, this Fiscal Year 2005-2006 funding needs to be reallocated from the Revolving Loan Fund Reserve to fund this project in Fiscal Year 2006-2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 2006-2007 operating budget to allocate \$12,200 from 1152-800-8000-8003, Revolving Loan Fund Reserve, to 1152-320-3270-0496, Direct 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 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-532**

**A RESOLUTION APPROVING AN AGREEMENT WITH THE SALVATION ARMY TO PROVIDE \$36,600 IN FISCAL YEAR 2005-2006 COMMUNITY DEVELOPMENT BLOCK GRANT – HOMELESS SERVICES (CDBG-HS) FUNDING FOR THEIR WINTER EMERGENCY SHELTER AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND RELATED DOCUMENTS.**

WHEREAS, each year staff prepares the Annual Action Plan (AAP) before the beginning of the fiscal year that starts on July 1, indicating how the City will be expending the funds received from the Department of Housing and Urban Development (HUD) for the following three grants: Community Development Block Grant (CDBG); HOME Investment Partnership Program (HOME); and, Emergency Shelter Grant (ESG), and

WHEREAS, there are two other funding sources that must be estimated at the time the AAP is prepared, the amount of program income that has been generated at the end of the fiscal year (June 30) through the repayment of program loans and the carryover or unused funds that will be available for reprogramming at the end of the fiscal year (June 30), and

WHEREAS, on January 10, 2006, the City Council, by Resolution No. 2006-025, approved an amendment to the AAP which included reallocation of additional Community Development Block Grant – Homeless Services (CDBG-HS) funding in the amount of \$61,000 for public service grant funding for fiscal year 2005-2006, and

WHEREAS, the agencies that provided Winter Shelter Programs to the homeless, were under contract with the City of Modesto and could spend the funds in a short period of time, received the additional funds, and

WHEREAS, of the \$61,000 reprogrammed CDBG-HS funds, the Salvation Army received an allocation of \$36,600 for operational cost of their Emergency Winter Shelter to cover the Winter Shelter program staff salaries, and

WHEREAS, the Citizens Housing and Community Development Committee met on December 9, 2005, and supported the recommendation to provide \$36,600 in Community Development Block Grant – Homeless Services (CDBG-HS) funds to the Salvation Army for Winter Shelter program staff salaries,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an agreement with the Salvation Army to provide \$36,600 in Community Development Block Grant – Homeless Services (CDBG-HS) funding for their Winter Emergency Shelter for Fiscal Year 2005-2006.

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 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridneour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-533**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007  
OPERATING BUDGET TO ALLOCATE \$36,600 FROM 1152-800-  
8000-8003, REVOLVING LOAN FUND RESERVE, TO 1152-320-  
3270-0496, DIRECT GRANTS.**

WHEREAS, each year staff prepares the Annual Action Plan (AAP) before the beginning of the fiscal year that starts on July 1, indicating how the City will be expending the funds received from the Department of Housing and Urban Development (HUD) for the following three grants: Community Development Block Grant (CDBG); HOME Investment Partnership Program (HOME); and, Emergency Shelter Grant (ESG), and

WHEREAS, there are two other funding sources that must be estimated at the time the AAP is prepared, the amount of program income that has been generated at the end of the fiscal year (June 30) through the repayment of program loans and the carryover or unused funds that will be available for reprogramming at the end of the fiscal year (June 30), and

WHEREAS, on January 10, 2006, the City Council, by Resolution No. 2006-025, approved an amendment to the AAP which included reallocation of additional Community Development Block Grant – Homeless Services (CDBG-HS) funding in the amount of \$61,000 for public service grant funding for fiscal year 2005-2006, and

WHEREAS, the agencies that provided Winter Shelter Programs to the homeless, were under contract with the City of Modesto and could spend the funds in a short period of time, received the additional funds, and

WHEREAS, of the \$61,000 reprogrammed CDBG-HS funds, the Salvation Army received an allocation of \$36,600 for operational cost of their Emergency Winter Shelter to cover the Winter Shelter program staff salaries, and

WHEREAS, the Citizens Housing and Community Development Committee met on December 9, 2005, and supported the recommendation to provide \$36,600 in Community Development Block Grant – Homeless Services (CDBG-HS) funds to the Salvation Army for Winter Shelter program staff salaries,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 2006-2007 operating budget to allocate \$36,600 from 1152-800-8000-8003, Revolving Loan Fund Reserve, to 1152-320-3270-0496, Direct 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 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-534**

**A RESOLUTION AMENDING THE FISCAL YEAR 06-07 OPERATING BUDGET TO: 1) ESTIMATE \$466,410 IN REVENUE IN COMMUNITY DEVELOPMENT BLOCK GRANT CARRYOVER IN OBJECT 3511; 2) APPROVE THE CREATION OF A MULTI-YEAR ORGANIZATION 1130-320-32XX, KING-KENNEDY MEMORIAL CENTER ROOFING UPGRADE; 3) APPROVE THE CREATION OF A MULTI-YEAR ORGANIZATION 1130-320-32XX, PIKE PARK PLAY EQUIPMENT AND 4) APPROPRIATE EQUIVALENT EXPENDITURES TO THE FOLLOWING ACTIVITIES: A) 1130-320-32XX, KING-KENNEDY MEMORIAL CENTER ROOFING UPGRADE (\$93,535); B) 1130-320-3254-0505, NEIGHBORHOOD BASED PROJECTS (\$40,000); C) 1130-320-3214, ADA CURB RAMPS (\$182,875); D) 1130-320-32XX, PIKE PARK PLAY EQUIPMENT (\$50,000); AND E) 1130-320-3254-0496, DIRECT GRANTS (\$100,000).**

WHEREAS, on May 9, 2006, by Resolution No. 2006-294, the City Council approved the 2006-2007 Annual Action Plan (AAP) and authorized staff to submit the plan and related documents to the Department of Housing and Urban Development, per federal requirements, and

WHEREAS, the Annual Action Plan, prepared before the beginning of each fiscal year that starts on July 1, details the City's plan for the expenditure of funds received from the Department of Housing & Urban Development (HUD) for the following three grants: Community Development Block Grant (CDBG); HOME Investment Partnership Grant (HOME); and Emergency Shelter Grant (ESG), and

WHEREAS, at the time the AAP is prepared, staff has received confirmation from HUD regarding the amount of the upcoming year's entitlement grant, which comprises the largest portion of the available funding for the programs, and

WHEREAS, there are two other funding sources that must be estimated at the time the AAP is prepared: 1) the carryover or unused entitlement funds, that will be

available for reprogramming at the end of the fiscal year (June 30), and 2) the amount of program income that will have been generated by the end of the fiscal year (June 30) through unspent funds budgeted for program loans and the repayment of program loans (Revolving Loan Fund (RLF) Program Income), and

WHEREAS, staff has now determined the amount of the entitlement carryover placed in the CDBG Fund Reserve on June 30, 2006 (\$835,410) and the program income, considered new revenue (\$1,027,919), and

WHEREAS, staff is recommending that \$466,000 of the carryover be used for the following operating budget activities: King-Kennedy Memorial Center Roofing Upgrade (\$93,535); Neighborhood Based Projects (\$40,000); ADA Curb Ramps (\$182,875); Pike Park Play Equipment (\$50,000); and Direct Grants for Economic Development Technical Assistance (\$100,000),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 06-07 operating budget to estimate \$466,410 in revenue in Community Development Block Grant Carryover.

BE IT FURTHER RESOLVED that the Council hereby approves the creation of a multi-year organization 1130-320-32XX, King-Kennedy Memorial Center Roofing Upgrade.

BE IT FURTHER RESOLVED that the Council hereby approves the creation of a multi-year organization 1130-320-32XX, Pike Park Play Equipment.

BE IT FURTHER RESOLVED that the Council hereby approves amending the Fiscal Year 06-07 operating budget to estimate \$93,535 of the Community Development

Block Grant Carryover revenue in 1130-320-32XX-3511 and to appropriate \$93,535 in expenditures to 1130-320-32XX, King-Kennedy Memorial Center Roofing Upgrade.

BE IT FURTHER RESOLVED that the Council hereby approves amending the Fiscal Year 06-07 operating budget to estimate \$40,000 of the Community Development Block Grant Carryover revenue in 1130-320-3254-3511 and appropriate \$40,000 in expenditures to 1130-320-3254-0505, Neighborhood Based Projects.

BE IT FURTHER RESOLVED that the Council hereby approves amending the Fiscal Year 06-07 operating budget to estimate \$182,875 of the Community Development Block Grant Carryover revenue in 1130-320-3214-3511 and appropriate \$182,875 in expenditures to 1130-320-3214, ADA Curb Ramps.

BE IT FURTHER RESOLVED that the Council hereby approves amending the Fiscal Year 06-07 operating budget to estimate \$50,000 of the Community Development Block Grant Carryover revenue in 1130-320-32XX-3511 and appropriate \$50,000 in expenditures to 1130-320-32XX, Pike Park Play Equipment.

BE IT FURTHER RESOLVED that the Council hereby approves amending the Fiscal Year 06-07 operating budget to estimate \$100,000 of the Community Development Block Grant Carryover revenue in 1130-320-3254-3511 and appropriate \$100,000 to 1130-320-3254-0496, Direct 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 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridneour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-535**

**A RESOLUTION AMENDING THE FISCAL YEAR 06-07  
OPERATING BUDGET TO appropriate \$300,000 from 1150-800-  
8000-8003, Revolving Loan Fund Reserve to fund the following  
activities: 1150-320-3266-0495, Emergency Home Repair Program  
(\$125,000) and 1150-320-3266-0497, Housing Maintenance Program  
(\$175,000).**

WHEREAS, on May 9, 2006, by Resolution No. 2006-294, the City Council approved the 2006-2007 Annual Action Plan (AAP) and authorized staff to submit the plan and related documents to the Department of Housing and Urban Development, per federal requirements, and

WHEREAS, the Annual Action Plan, prepared before the beginning of each fiscal year that starts on July 1, details the City's plan for the expenditure of funds received from the Department of Housing & Urban Development (HUD) for the following three grants: Community Development Block Grant (CDBG); HOME Investment Partnership Grant (HOME); and Emergency Shelter Grant (ESG), and

WHEREAS, at the time the AAP is prepared, staff has received confirmation from HUD regarding the amount of the upcoming year's entitlement grant, which comprises the largest portion of the available funding for the programs, and

WHEREAS, there are two other funding sources that must be estimated at the time the AAP is prepared: 1) the carryover or unused entitlement funds, that will be available for reprogramming at the end of the fiscal year (June 30), and 2) the amount of program income that will have been generated by the end of the fiscal year (June 30) through unspent funds budgeted for program loans and the repayment of program loans (Revolving Loan Fund (RLF) Program Income), and

WHEREAS, staff has now determined the amount of the entitlement carryover placed in the CDBG Fund Reserve on June 30, 2006 (\$835,410) and the program income, considered new revenue (\$1,027,919), and

WHEREAS, staff is recommending that the \$466,000 of the carryover be used for the following operating budget activities: King-Kennedy Memorial Center Roofing Upgrade (\$93,535); Neighborhood Based Projects (\$40,000); ADA Curb Ramps (\$182,875); Pike Park Play Equipment (\$50,000); and Direct Grants for Economic Development Technical Assistance (\$100,000), and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 06-07 operating budget to estimate \$93,535 of the Community Development Block Grant Carryover revenue in 1130-320-32XX-3511 and appropriate \$93,535 in expenditures to 1130-320-32XX, King-Kennedy Memorial Center Roofing Upgrade.

BE IT FURTHER RESOLVED that the Council hereby approves amending the Fiscal Year 06-07 operating budget to estimate \$40,000 of the Community Development Block Grant Carryover revenue in 1130-320-3254-3511 and appropriate \$40,000 in expenditures to 1130-320-3254-0505, Neighborhood Based Projects.

BE IT FURTHER RESOLVED that the Council hereby approves amending the Fiscal Year 06-07 operating budget to estimate \$182,875 of the Community Development Block Grant Carryover revenue in 1130-320-3214-3511 and appropriate \$182,875 in expenditures to 1130-320-3214, ADA Curb Ramps.

BE IT FURTHER RESOLVED that the Council hereby approves amending the Fiscal Year 06-07 operating budget to estimate \$50,000 of the Community Development

Block Grant Carryover revenue in 1130-320-32XX-3511 and appropriate \$50,000 in expenditures to 1130-320-32XX, Pike Park Play Equipment.

BE IT FURTHER RESOLVED that the Council hereby approves amending the Fiscal Year 06-07 operating budget to estimate \$100,000 of the Community Development Block Grant Carryover revenue in 1130-320-3254-3511 and appropriate \$100,000 to 1130-320-3254-0496, Direct 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 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-536**

**A RESOLUTION AMENDING THE FISCAL YEAR 06-07 CAPITAL IMPROVEMENT PLAN TO: 1) ESTIMATE \$369,000 IN REVENUE IN 1130-320-3254-3511, COMMUNITY DEVELOPMENT BLOCK GRANT CARRYOVER; 2) TRANSFER SAID REVENUE TO 2330-800-8000-8003, CAPITAL GRANTS-PARKS RESERVE; 3) ESTABLISH A NEW CIP, 2330-310-NCIP, KING-KENNEDY KITCHEN/AUDITORIUM PHASE II; AND 4) ALLOCATE \$369,000 FROM THE FUND 2330 RESERVE TO SAID CIP.**

WHEREAS, on May 9, 2006, by Resolution No. 2006-294, the City Council approved the 2006-2007 Annual Action Plan (AAP) and authorized staff to submit the plan and related documents to the Department of Housing and Urban Development, per federal requirements, and

WHEREAS, the Annual Action Plan, prepared before the beginning of each fiscal year that starts on July 1, details the City's plan for the expenditure of funds received from the Department of Housing & Urban Development (HUD) for the following three grants: Community Development Block Grant (CDBG); HOME Investment Partnership Grant (HOME); and Emergency Shelter Grant (ESG), and

WHEREAS, at the time the AAP is prepared, staff has received confirmation from HUD regarding the amount of the upcoming year's entitlement grant, which comprises the largest portion of the available funding for the programs, and

WHEREAS, there are two other funding sources that must be estimated at the time the AAP is prepared: 1) the carryover or unused entitlement funds, that will be available for reprogramming at the end of the fiscal year (June 30), and 2) the amount of program income that will have been generated by the end of the fiscal year (June 30) through unspent funds budgeted for program loans and the repayment of program loans (Revolving Loan Fund (RLF) Program Income), and

WHEREAS, staff has now determined the amount of the entitlement carryover placed in the CDBG Fund Reserve on June 30, 2006 (\$835,410) and the program income, considered new revenue (\$1,027,919), and

WHEREAS, staff is recommending that \$369,000 in Community Development Block Grant Carryover revenue be allocated to a new CIP for Phase II of the King-Kennedy Memorial Center Kitchen/Auditorium Remodel.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 06-07 Capital Improvement Plan to: 1) estimate \$369,000 in revenue in 1130-320-3254-3511, Community Development Block Grant Carryover; 2) transfer said revenue to 2330-800-8000-8003, Capital Grants-Parks Reserve; 3) establish a new CIP, 2330-310-NCIP, King-Kennedy Kitchen/Auditorium Phase II; and 4) allocate \$369,000 from the Fund 2330 Reserve to said CIP.

BE IT FURTHER RESOLVED that the Council hereby approves amending the Fiscal Year 06-07 operating budget to appropriate \$175,000 from 1150-800-8000-8003, Revolving Loan Fund Reserve, to 1150-320-3266-0497, Housing Maintenance 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 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-537**

**A RESOLUTION AMENDING THE FISCAL YEAR 06-07 CAPITAL IMPROVEMENT PLAN TO: 1) TRANSFER \$11,000 FROM 1150-800-8000-8003, REVOLVING LOAN FUND RESERVE TO 2330-800-8000-8003, CAPITAL GRANTS-PARKS RESERVE; AND 2) ALLOCATE \$11,000 TO CIP PROJECT 2330-310-NCIP, KING-KENNEDY KITCHEN/AUDITORIUM PHASE II.**

WHEREAS, on May 9, 2006, by Resolution No. 2006-294, the City Council approved the 2006-2007 Annual Action Plan (AAP) and authorized staff to submit the plan and related documents to the Department of Housing and Urban Development, per federal requirements, and

WHEREAS, the Annual Action Plan, prepared before the beginning of each fiscal year that starts on July 1, details the City's plan for the expenditure of funds received from the Department of Housing & Urban Development (HUD) for the following three grants: Community Development Block Grant (CDBG); HOME Investment Partnership Grant (HOME); and Emergency Shelter Grant (ESG), and

WHEREAS, at the time the AAP is prepared, staff has received confirmation from HUD regarding the amount of the upcoming year's entitlement grant, which comprises the largest portion of the available funding for the programs, and

WHEREAS, there are two other funding sources that must be estimated at the time the AAP is prepared: 1) the carryover or unused entitlement funds, that will be available for reprogramming at the end of the fiscal year (June 30), and 2) the amount of program income that will have been generated by the end of the fiscal year (June 30) through unspent funds budgeted for program loans and the repayment of program loans (Revolving Loan Fund (RLF) Program Income), and

WHEREAS, staff has now determined the amount of the entitlement carryover placed in the CDBG Fund Reserve on June 30, 2006 (\$835,410) and the program income, considered new revenue (\$1,027,919), and

WHEREAS, staff is recommending that \$369,000 in Community Development Block Grant Carryover revenue be allocated to a new CIP for Phase II of the King-Kennedy Memorial Center Kitchen/Auditorium Remodel,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 06-07 Capital Improvement Plan to estimate 1) transfer \$11,000 from 1150-800-8000-8003, Revolving Loan Fund Reserve to 2330-800-8000-8003, Capital Grants-Parks Reserve; and 2) allocate \$11,000 to CIP project 2330-310-NCIP, King-Kennedy Kitchen/Auditorium Phase II.

BE IT FURTHER RESOLVED by the Council that it hereby approves amending the Fiscal Year 06-07 Capital Improvement Plan to establish a new CIP, 2330-310-NCIP, King-Kennedy Kitchen/Auditorium Phase II and to allocate \$369,000 from the Fund 2330 Reserve to said CIP.

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 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-538**

**A RESOLUTION AMENDING THE FISCAL YEAR 06-07 OPERATING  
BUDGET TO REDUCE FUNDING TO 1130-320-3223, STREET PAVING, BY  
\$53,890.**

WHEREAS, in Fiscal Year 2005-06, a single-year operating organization was created for the purpose of funding street paving in low income areas, and

WHEREAS, annually, a portion of the City's entitlement from the federal Department of Housing and Urban Development is allocated to street paving projects in low income areas, and

WHEREAS, a new multi-year organization was created in Fiscal Year 2006-07 for street paving, and

WHEREAS, there was a balance of \$175,391 in the 05-06 Street Paving budget organization on June 30, 2006, which was transferred to the new organization, and

WHEREAS, after the new organization was created, charges of \$53,890 were made against the 05-06 organization, and

WHEREAS, in order to accurately reflect available funds, funding in the multi-year organization needs to be reduced by \$53,890,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 06-07 operating budget to reduce funding to 1130-320-3223, Street Paving, by \$53,890.

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 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-539**

**A RESOLUTION APPROVING A REQUEST FROM EL NUEVO PACTO FOR USE OF AMPLIFIED MUSIC AT MANCINI BOWL FOR A MUSICAL EVENT TO BE HELD ON OCTOBER 7, 2006, FROM 2:00 PM TO 7:00 PM.**

WHEREAS, staff from the Parks, Recreation and Neighborhoods Department has received a request from El Nuevo Pacto, requesting use of amplified music at Mancini Bowl on Saturday, October 7, 2006, from 2:00 p.m. to 7:00 p.m. for a musical event, and

WHEREAS, El Nuevo Pacto is planning to host a free musical event that will feature three to five live bands, and

WHEREAS, El Nuevo Pacto is requesting permission to use amplified music for the bands, and

WHEREAS, City Council Policy No. 6-007 prohibits the use of amplified music in public without City Council approval,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a request from El Nuevo Pacto for the use of amplified music at Mancini Bowl for a musical event on October 7, 2006, from 2:00 p.m. to 7:00 p.m.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-540**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE  
FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE AND  
INSTALLATION OF NEW CARPET FOR THE LOBBY AND DOWNSTAIRS  
MEETING AREA OF THE MODESTO CENTRE PLAZA.**

WHEREAS, the existing carpet in the lobby and downstairs meeting rooms at the Modesto Centre Plaza is eight (8) years old, and

WHEREAS, the existing carpet had begun to deteriorate in numerous areas, along with several permanent stains and burn marks, and

WHEREAS, replacement of this carpet is necessary in order to continue serving the clients at the Modesto Centre Plaza in a professional atmosphere, 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 cost of replacement shall include the removal and disposal of the existing carpet, as well as the labor for the installation of the new carpet, and

WHEREAS, the issuance of a formal Request for Bid for the purchase and installation of new carpet for the Modesto Centre Plaza lobby and meeting rooms, will conform to Modesto Municipal Code Section 8-3.203,

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 competitive sealed bids for the purchase and installation of new carpet for the Modesto Centre Plaza 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 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 5th of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 541**

**A RESOLUTION ACCEPTING THE 2006 GANG RESISTANCE EDUCATION AND TRAINING (G.R.E.A.T.) PROGRAM GRANT IN THE AMOUNT OF \$250,000 FROM THE U.S. DEPARTMENT OF JUSTICE, BUREAU OF JUSTICE ASSISTANCE, FOR TWO POLICE OFFICERS TO EDUCATE STUDENTS TO REDUCE THEIR INVOLVEMENT IN DELINQUENT BEHAVIOR, VIOLENCE, AND GANG MEMBERSHIP; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS.**

WHEREAS, the City of Modesto Police Department desires to undertake a certain Program designated as the 2006 Gang Resistance Education and Training (G.R.E.A.T.) Program to be funded in part by a grant from the U.S. Department of Justice, Bureau of Justice Assistance, and

WHEREAS, said \$250,000 Program grant will fund 75% of the cost of two full-time Police Officers to educate middle school and elementary school students to reduce their involvement in delinquent behavior, violence, and gang membership, and

WHEREAS, \$66,305 will be appropriated from the General Fund reserves to fund 25% of the cost of two full-time Police Officers to educate middle school and elementary school students to reduce their involvement in delinquent behavior, violence, and gang membership, and

WHEREAS, said Program grant will fund 20% of an existing Police Sergeant's position to oversee the G.R.E.A.T. Program, and

WHEREAS, said Program grant will also fund one temporary part-time Police Clerk,

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the 2006 Gang Resistance Education and Training (G.R.E.A.T.) Program grant in



the amount of \$250,000 from the U.S. Department of Justice, Bureau of Justice Assistance.

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, Bureau of Justice Assistance in relation thereto.

BE IT FURTHER RESOLVED that the grant funds received hereunder shall not be used to supplant expenditures controlled by this body.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2006-542**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006/07 OPERATING  
BUDGET, ESTIMATING REVENUE OF \$250,000, EXPENSES OF \$313,306, AND  
APPROPRIATING \$66,305 GENERAL FUND RESERVES FOR THE 2006 GANG  
RESISTANCE EDUCATION AND TRAINING (G.R.E.A.T.) PROGRAM.**

WHEREAS, the Police Department acquired a program award in the sum of \$250,000 from the U.S. Department of Justice, Bureau of Justice Assistance for two full-time police officers to educate students to reduce their involvement in delinquent behavior, violence, and gang membership, and

WHEREAS, the Program will pay 75% of the cost of two full-time Police Officers and 25% will be paid by the City of Modesto, and

WHEREAS, the Program will also pay for 20% of an existing Police Sergeant's position to oversee the G.R.E.A.T. Program, and

WHEREAS, the Program will pay for a temporary part-time Police Clerk (\$17,270), and

WHEREAS, the Program will provide for fuel and maintenance for two City of Modesto Fleet Lease Police Vehicles, and

WHEREAS, the City match for the G.R.E.A.T. Program is \$66,305 which will be transferred from the General Fund,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the FY 2006/2007 Operating Budget is hereby amended as indicated below to initiate said Program:

Expense:

To:	0410-190-2905-0110	\$141,674	Salaries
	0410-190-2905-0140	17,270	Part-time
	0410-190-2905-0188	82,306	Fringe Benefits
	0410-190-2905-0209	2,470	Training
	0410-190-2905-0235	8,610	Professional Services
	0410-190-2905-0308	26,751	Field Supplies
	0410-190-2905-0218	<u>37,224</u>	Fuel & Maintenance
	Total	\$316,305	

Revenue:

To:	0410-190-2905-3508	\$250,000	Federal Grant - G.R.E.A.T.
-----	--------------------	-----------	----------------------------

Expenses:

From:	0100-800-8000-8003	<\$66,305>	General Fund Reserves
-------	--------------------	------------	-----------------------

Transfer:

To:	0410-700-2905-9010
From:	0100-700-2905-7041

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 September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2006-543**

**A RESOLUTION ACCEPTING A DONATION UP TO \$5,000 FROM SAVE MART/MILK-BONE FOR THE PURCHASE OF A NEW POLICE CANINE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS.**

WHEREAS, Milk-Bone and Save Mart retail customers have partnered to donate police dogs to law enforcement agencies across the country since 1998, and

WHEREAS, Save Mart/Milk-Bone would like to present to the Modesto Police Department a donation up to \$5,000 toward the purchase of a new canine for the Canine Unit, and

WHEREAS, the donation will be made on September 16, 2006 at “The Emergency Preparedness Fair at Save Mart”, and

WHEREAS, there is no fiscal impact to the City of Modesto, and

WHEREAS, the money will be deposited in the K-9 Trust Account, fund 8600, and balance sheet account 3403,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts a donation from Save Mart/Milk-Bone in an amount up to \$5,000.

BE IT FURTHER RESOLVED that said amount will be deposited in the K9 Trust Account, Fund 8600, Balance Sheet Account 3403:

Balance Sheet:

To:	8600-3403	\$5,000	K9 Trust
-----	-----------	---------	----------

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 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 -544**

**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 2006/07, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.**

WHEREAS, in 2001 the Stanislaus County Probation Department received a grant to provide funding of the High Risk Offender/Juvenile Warrant Enforcement Program, and

WHEREAS, the goals of the High Risk Offender/Juvenile Warrant Enforcement Program are to reduce juvenile crime and gang involvement and increase offender accountability, and

WHEREAS, the Stanislaus County Probation Department has a need for a Police Officer to partner with a Probation Officer to provide intensive supervision and monitoring to high risk juvenile wards and enforcement of Juvenile Court warrants and conduct police/probation activities to curtail delinquent behavior in high crime areas, and

WHEREAS, the Modesto Police Department has provided an experienced and competent Police Officer for these purposes since 2001, and

WHEREAS, the term of this Agreement is July 1, 2006, through June 30, 2007, and

WHEREAS, the City shall be compensated \$91,670 for the salary and benefits for one (1.0 FTE) Police Officer,

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 Court Warrant Enforcement Program.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 -545**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006/07 OPERATING BUDGET TO APPROPRIATE \$91,670 IN REVENUE FOR THE HIGH-RISK OFFENDER/JUVENILE WARRANT ENFORCEMENT PROGRAM, AND TO APPROPRIATE \$91,670 IN BUDGETED SALARIES FROM ORGANIZATION 1941 TO ORGANIZATION 2983.**

WHEREAS, in 2001 the Stanislaus County Probation Department received a grant to provide funding of the High Risk Offender/Juvenile Warrant Enforcement Program, and

WHEREAS, the goals of the High Risk Offender/Juvenile Warrant Enforcement Program are to reduce juvenile crime and gang involvement and increase offender accountability, and

WHEREAS, the Stanislaus County Probation Department has a need for a Police Officer to partner with a Probation Officer to provide intensive supervision and monitoring to high risk juvenile wards and enforcement of Juvenile Court warrants and conduct police/probation activities to curtail delinquent behavior in high crime areas, and

WHEREAS, the Modesto Police Department has provided an experienced and competent Police Officer for these purposes since 2001, and

WHEREAS, the term of this Agreement is July 1, 2006, through June 30, 2007, and

WHEREAS, the City shall be compensated \$91,670 for the salary and benefits for one (1.0 FTE) Police Officer, and

WHEREAS, the salary and benefits for this officer were included in the 2007 budget as approved by Council June 6, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the 2006/07 operating budget is hereby amended to appropriate \$91,670 in revenue

for the High-Risk Offender/Juvenile Warrant Enforcement Program, and to appropriate \$91,670 in budgeted salaries from Organization 1941 to Organization 2983 as follows:

Revenue	\$91,670	0420-190-2983-3313	High Risk Offender
Expense	(\$91,670)	0100-190-1941-0110	Salaries
Expense	\$91,670	0420-190-2983-0110	Salaries
Transfers-Revenue	\$91,670	0420-700-2983-9010	
Transfers-Expense	\$91,670	0100-700-2983-7042	

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 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-546

**A RESOLUTION ACCEPTING THE WORK BY PLAYGROUNDS PLUS FOR THE PROJECT TITLED "PLAY EQUIPMENT UPGRADES FOR MODESTO PLAYGROUNDS – GROUP 1," WHICH INCLUDES GARRISON, CHRYSLER, SYLVAN, WHITMORE, AND ROOSEVELT PARKS, AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$305,330.13**

WHEREAS, a report has been filed by the Public Works Director that the project titled "Play Equipment Upgrades for Modesto Playgrounds – Group 1," which includes Garrison, Chrysler, Sylvan, Whitmore, and Roosevelt Parks, was completed by Playgrounds Plus, on June 13, 2006, in accordance with the contract agreement dated December 14, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "Play Equipment Upgrades for Modesto Playgrounds – Group 1," which includes Garrison, Chrysler, Sylvan, Whitmore, and Roosevelt Parks, is hereby accepted as complete from said contractor, Playgrounds Plus, that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$305,330.13, as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)  
APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-547**

**A RESOLUTION ACCEPTING THE WORK BY COLLINS ELECTRICAL COMPANY, INC., FOR THE PROJECT TITLED "BRIGGSMORE AVENUE STREETLIGHT MODIFICATIONS" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$71,418.**

WHEREAS, a report has been filed by the Public Works Director that the project titled "Briggsmore Avenue Streetlight Modifications " has been completed by Collins Electrical Co., Inc., in accordance with the contract agreement dated November 9, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "Briggsmore Avenue Streetlight Modifications" project is hereby accepted as complete from said contractor, Collins Electrical Co., Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$71,418, as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By

  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-548**

**A RESOLUTION APPROVING THE REMOVAL OF THE PROTECTED/PERMISSIVE LEFT-TURN OPERATION AT THE FOLLOWING SIGNALIZED INTERSECTIONS: OAKDALE ROAD AND ORANGEBURG AVENUE (NORTH/SOUTH DIRECTION)/STANDIFORD AVENUE AND TULLY ROAD (EAST/WEST DIRECTION)/STANDIFORD AVENUE AND PRESCOTT ROAD (NORTH/SOUTH DIRECTION)/STANDIFORD AVENUE AND CARVER ROAD (EAST/WEST DIRECTION)/BRIGGSMORE AVENUE AND TULLY ROAD (NORTH/SOUTH DIRECTION)/CARPENTER ROAD AND WOODLAND AVENUE (NORTH/SOUTH DIRECTION)/PELANDALE AVENUE AND SISK ROAD (EAST/WEST DIRECTION). FUNDS ARE BUDGETED IN ACCOUNT NO. 0700-160-1612-0365-02, "STREET LIGHT & TRAFFIC MAINTENANCE"**

WHEREAS, our most recent protected/permissive (P/P) signal evaluation tabulates intersections with P/P phasing with corresponding speeds and total vs. left-turn related accidents, and

WHEREAS, the data trends, rather than single data point, are used in our evaluation and appropriate phasing decisions, and

WHEREAS, after reviewing the data presented in the attached evaluation, staff is suggesting replacing the P/P phase operation with fully protected left-turn phase operation at the following intersections:

- Oakdale Road and Orangeburg Avenue (north/south direction)
- Standiford Avenue and Tully Road (east/west direction)
- Standiford Avenue and Prescott Road (north/south direction)
- Standiford Avenue and Carver Road (east/west direction)
- Briggsmore Avenue and Tully Road (north/south direction)
- Carpenter Road and Woodland Avenue (north/south direction)

- Pelandale Avenue and Sisk Road (east/west direction), and

WHEREAS, in response to the increasing traffic collision trend, staff recommends replacing the P/P phasing at the above-mentioned intersections with protected left-turn only phasing, and

WHEREAS, at its meeting on July 31, 2006, the Safety and Communities Committee recommended approval of this item,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the removal of the P/P left-turn operation at the following signalized intersections:

- Oakdale Road and Orangeburg Avenue (north/south direction)
- Standiford Avenue and Tully Road (east/west direction)
- Standiford Avenue and Prescott Road (north/south direction)
- Standiford Avenue and Carver Road (east/west direction)
- Briggsmore Avenue and Tully Road (north/south direction)
- Carpenter Road and Woodland Avenue (north/south direction)
- Pelandale Avenue and Sisk Road (east/west direction)

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of September 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor  
Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA A. WOOD, CITY ATTORNEY

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-549**

**A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET TO RECOGNIZE AND APPROPRIATE NEW CONGESTION MITIGATION AIR QUALITY (CMAQ) GRANT REVENUES OF \$44,265, AND TO INCREASE THE EXPENDITURE APPROPRIATION OF MY-2370-160-E632, "SIGNAL MODIFICATION 12<sup>TH</sup>/LA LOMA (117)," TO REFLECT THE INCREASE OF CONSTRUCTION COSTS AND AN APPROPRIATION TRANSFER FROM 2370-160-E330, IN THE AMOUNT OF \$19,735**

WHEREAS, the bids received for the "Traffic Signal Modifications La Loma Avenue at Santa Ana; Needham Street at 12<sup>th</sup> Street/Virginia Avenue" project were opened at 11:00 a.m. on July 11, 2006, 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 \$294,292 received from Richard A. Heaps be accepted as the lowest responsible bid, and the contract be awarded to Richard A. Heaps, and

WHEREAS, the City has obtained CMAQ funding to pay for up to \$327,560 of the project costs, and the remaining portion of \$56,440 is matching funds from Gas Tax, and

WHEREAS, \$19,735 in additional local matching funds is required to fully fund the construction of this project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the CIP budget is hereby amended to reflect the changes in appropriations as shown in the **attached** Request for Budget Adjustment form that is incorporated by reference herein.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

## REQUEST FOR BUDGET ADJUSTMENT

Contact Person:	<u>Julie Hendee</u>	Council Action Date:	<u>August 8, 2006</u>
Telephone No.:	<u>2-2241</u>	Resolution Number:	<u>2006-?</u>
Department:	<u>Public Works</u>		
	<u>Traffic Signal Modifications La Loma Avenue at Santa Ana Avenue; Needham Street at 12th Street/Virginia Avenue</u>		
Project Title:	<u>Street at 12th Street/Virginia Avenue</u>	FY:	<u>06-07</u>
Fund Title:	<u>Capital Grants Gas</u>	Transfer No.:	<u></u>

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

### DEPARTMENTAL REVENUES

<b>FROM</b>					
<b>TO</b>					
2370-160-E632-3531		\$283,295	\$44,265	\$327,560	CMAQ

### APPROPRIATIONS

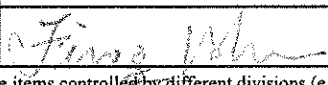
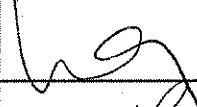
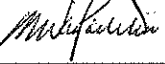

<b>FROM</b>					
2370-160-E330	E330	\$254,349	(\$19,735)	\$234,614	Traffic Control Upgrades
<b>TO</b>					
2370-160-E632-6010	E632	\$30,000	(\$4,992)	\$25,008	Design
2370-160-E632-6040	E632	\$235,000	\$59,292	\$294,292	Construction
2370-160-E632-6050	E632	\$30,000	(\$600)	\$29,400	Contingency
2370-160-E632-6060	E632	\$25,000	\$10,300	\$35,300	Construction Administration

### TRANSFERS

<b>FROM</b>					
2370-700-E330-9070		\$254,349	(\$19,735)	\$234,614	
0700-700-E330-7237	E330G	\$254,349	(\$19,735)	\$234,614	
<b>TO</b>					
2370-700-E632-9070		\$36,705	\$19,735	\$56,440	
0700-700-E632-7237	E632G	\$36,705	\$19,735	\$56,440	

### COMMENTS/JUSTIFICATION

This adjustment is being made to provide additional funds to construct the project titled, "Traffic Signal Modifications at La Loma Avenue at Santa Ana Avenue; Needham Street at 12th Street/Virginia Avenue."

AUTHORIZATION (check if required)	SIGNATURE	DATE
ADMIN. SERVICES OFFICER/ADMIN. ANALYST II		
DEPUTY DIRECTOR (Public Works) Authorized up to threshold of \$50k w/o Director Approval		
DEPUTY DIRECTOR (Public Works) * Authorized up to threshold of \$50k w/o Director Approval		8/14/06
* second signature required for movement of funds between CIP orgs & line items controlled by different divisions (e.g. Water and E&T)		
DEPARTMENT DIRECTOR or AUTHORIZED ASSISTANT <i>MIA JTB</i> (Allocation of Dept Appr to Line-Item Level)		8/16/06
FINANCE DIRECTOR (Transfers to/from Internal Service Charges) (All items requiring City Manager's Approval)		8/29/06
CFF/CFD ADMINISTRATOR		
CITY MANAGER (Transfers between Budgeted Activities of Departments within Funds) (Appropriation of Unbudgeted Dept Revenues) (Salary lines movement in or out)		8/29/2006

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-550**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS AND  
AWARDING THE BID AND APPROVING A \$294,292 CONSTRUCTION  
CONTRACT WITH RICHARD A. HEAPS, FOR THE PROJECT ENTITLED  
“TRAFFIC SIGNAL MODIFICATIONS LA LOMA AVENUE AT SANTA ANA  
AVENUE; NEEDHAM STREET AT 12<sup>TH</sup> STREET/VIRGINIA AVENUE,” AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, City staff has reviewed the plans and specifications for the project entitled, “Traffic Signal Modifications La Loma Avenue at Santa Ana Avenue; Needham Street at 12<sup>th</sup> Street/Virginia Avenue” and recommends approval to the City Council, and

WHEREAS, the bids received for the “Traffic Signal Modifications La Loma Avenue at Santa Ana Avenue; Needham Street at 12<sup>th</sup> Street/Virginia Avenue” project were opened at 11:00 a.m. on July 11, 2006, 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 \$294,292 received from Richard A. Heaps be accepted as the lowest responsible bid, and the contract be awarded to Richard A. Heaps,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the “Traffic Signal Modifications La Loma Avenue at Santa Ana Avenue; Needham Street at 12<sup>th</sup> Street/Virginia Avenue” project.

BE IT FURTHER RESOLVED that the Council accepts the bid of Richard A. Heaps in the amount of \$294,292, and hereby awards Richard A. Heaps the contract for “Traffic Signal Modifications La Loma Avenue at Santa Ana Avenue; Needham Street at 12<sup>th</sup> Street/Virginia Avenue.”

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 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Oslen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susan Alcala Wood  
SUSAN ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-551**

**A RESOLUTION AMENDING THE CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET TO RECOGNIZE AND APPROPRIATE NEW CONGESTION MITIGATION AND AIR QUALITY (CMAQ) GRANT REVENUES OF \$26,560, AND TO INCREASE THE EXPENDITURE APPROPRIATION OF MY-2370-160-E690, "LIGHTED CROSSWALKS," TO REFLECT THE INCREASE OF CONSTRUCTION COSTS, AND AN APPROPRIATION TRANSFER FROM 2370-160-E330, IN THE AMOUNT OF \$12,440.**

WHEREAS, the bids received for the "Installation of Lighted Crosswalks" project were opened at 11:00 a.m. on June 27, 2006, 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 \$223,680 received from Collins Electrical Company, Inc. be accepted as the lowest responsible bid and the contract be awarded to Collins Electrical Company, Inc., and

WHEREAS, the City has obtained CMAQ funding to pay for up to \$247,884 of the project costs and the remaining portion of \$41,116 is matching funds from Gas Tax, and

WHEREAS, \$12,440 in additional local matching funds is required to fully fund the construction of this project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the CIP budget is hereby amended to increase the expenditure appropriation of Account Number 2370-160-E690, and decrease appropriations in Traffic Control Upgrades Account Number 2370-160-E330.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridernour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-552**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS AND  
AWARDING THE BID AND APPROVING A \$223,680 CONSTRUCTION  
CONTRACT WITH COLLINS ELECTRICAL COMPANY, INC., FOR THE  
PROJECT ENTITLED "INSTALLATION OF LIGHTED CROSSWALKS," AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT  
AGREEMENT**

WHEREAS, City staff has reviewed the plans and specifications for the project entitled "Installation of Lighted Crosswalks" and recommends approval to the City Council, and

WHEREAS, this project will install lighted crosswalks at the following locations:

1. Paradise Road at Jefferson Street
2. Rumble Road at Park Place
3. McClure Road at Penny Lane
4. Rose Avenue at Primrose Lane
5. Mt. Vernon Avenue at Sharondell Drive, and

WHEREAS, the bids received for the "Installation of Lighted Crosswalks" project were opened at 11:00 a.m. on June 27, 2006, 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 \$223,680 received from Collins Electrical Company, Inc. be accepted as the lowest responsible bid, and the contract be awarded to Collins Electrical Company, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the "Installation of Lighted Crosswalks" project.

BE IT FURTHER RESOLVED that the Council accepts the bid of Collins Electrical Company, Inc. in the amount of \$223,680 and hereby awards Collins Electrical Company, Inc. the contract for "Installation of Lighted Crosswalks."

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 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susan Alcala Wood  
SUSAN ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-553**

**A RESOLUTION INCREASING THE PUBLIC WORKS DIRECTOR'S AUTHORITY TO ISSUE CHANGE ORDERS ON THE "2003-2004 PAVEMENT MAINTENANCE PROGRAM - COFFEE ROAD RECONSTRUCTION FROM 365' NORTH OF SYLVAN AVENUE TO 2,500' NORTH OF SYLVAN AVENUE" PROJECT FROM \$148,988.48 TO \$164,153.25, APPROXIMATELY 15 AND 16.5 PERCENT RESPECTIVELY OF THE ORIGINAL CONTRACT PRICE WITH TOP GRADE CONSTRUCTION, INC.**

WHEREAS, on March 22, 2005, by Resolution No. 2005-155, the City Council awarded a \$993,256.50 contract to Top Grade Construction, Inc. to construct the "2003/04 Pavement Maintenance Program – Coffee Road Reconstruction from 365' North of Sylvan Avenue to 2,500' North of Sylvan Avenue" project, and

WHEREAS, the contractor started work on May 23, 2005, and

WHEREAS, extra work was necessary that was not foreseen under the original contract to allow completion of the project to design requirements, and

WHEREAS, the cost of the extra work was estimated to be as high as \$148,988.48, 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, on November 9, 2005, the Council by Resolution No. 2005-558, increased the Public Works Director's authority to approve change orders up to a cumulative amount of \$148,988.48, and

WHEREAS, during the course of constructing the project, the Contractor was required to perform additional work that was not anticipated at the start of construction to achieve a completed project that conforms to the contract specification requirements of the project, and

WHEREAS, the added unanticipated cost increased the total change order cost for the project to \$164,153.25, which exceeds the previously approved Director's Authority increase to \$148,988.48, and

WHEREAS, an increase in the Director's Authority to issue change orders on this project to \$164,153.25 is being requested.,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that it hereby increases the Public Works Director's authority level to issue change orders, from \$148,988.48 to \$164,153.25, approximately 15 and 16.5 percent respectively, of the original contract price for the project entitled "2003/04 Pavement Maintenance Program – Coffee Road Reconstruction from 365' North of Sylvan Avenue to 2,500' North of Sylvan Avenue."

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-554**

**A RESOLUTION ACCEPTING THE WORK BY TOP GRADE CONSTRUCTION, INC., FOR THE PROJECT TITLED “2003-2004 PAVEMENT MAINTENANCE PROGRAM - COFFEE ROAD RECONSTRUCTION FROM 365’ NORTH OF SYLVAN AVENUE TO 2,500’ NORTH OF SYLVAN AVENUE” AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$1,157,409.75.**

WHEREAS, a report has been filed by the Public Works Director that the project titled “2003-2004 Pavement Maintenance Program – Coffee Road Reconstruction from 365’ North of Sylvan Avenue to 2,500’ North of Sylvan Avenue” has been completed by Top Grade Construction., Inc., in accordance with the contract agreement dated March 22, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council that the “2003-2004 Pavement Maintenance Program – Coffee Road Reconstruction from 365’ North of Sylvan Avenue to 2,500’ North of Sylvan Avenue” project is hereby accepted as complete from said contractor, Top Grade Construction, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$1,157,409.75, as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-555**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE CALIFORNIA AVENUE IMPROVEMENTS - MARK TWAIN JUNIOR HIGH SCHOOL SAFE ROUTE TO SCHOOLS PROJECT, ACCEPTING THE BID AND APPROVING A \$156,575 CONTRACT WITH GEORGE REED, INC., FOR THE PROJECT TITLED, "CALIFORNIA AVENUE IMPROVEMENTS - MARK TWAIN JUNIOR HIGH SCHOOL SAFE ROUTE TO SCHOOLS," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, plans and specifications have been prepared for the "California Avenue Improvements - Mark Twain Junior High School Safe Route to Schools" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "California Avenue Improvements - Mark Twain Junior High School Safe Route to Schools" were opened at 11:00 a.m. on August 15, 2006, 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 \$156,575 received from George Reed, Inc., of Modesto, California 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 said project, and accepts the bid of George Reed, Inc., in the amount \$156,575, and hereby awards George Reed, Inc., the contract titled "California Avenue Improvements - Mark Twain Junior High School Safe Route to Schools".

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 5th day of September 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-556**

**A RESOLUTION AMENDING THE CURRENT CAPITAL IMPROVEMENT BUDGET BY APPROPRIATING \$25,000 FROM ACCOUNT 0700-800-8000-8003 (GAS TAX RESERVES) TO CIP ACCOUNT 2370-160-E701 (CALIFORNIA AVENUE IMPROVEMENTS) IN ORDER TO FULLY FUND THE PROJECT "CALIFORNIA AVENUE IMPROVEMENTS - MARK TWAIN JUNIOR HIGH SCHOOL SAFE ROUTE TO SCHOOLS."**

WHEREAS, the bids received for "California Avenue Improvements - Mark Twain Junior High School Safe Route to Schools" were opened at 11:00 a.m. on August 15, 2006, 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 \$156,575.00 received from George Reed, Inc., of Modesto, California be accepted as the lowest responsible bid and the contract be awarded to George Reed, Inc.,

WHEREAS, the Public Works Director has determined that \$25,000 in additional funds is required to fully fund the construction of this project, and

WHEREAS, the Finance Department has indicated that there are sufficient funds in the Gas Tax Reserves balance for the appropriation of this project within the FY 2006-2007 Capital Improvement Program Budget to fully fund MY-2370-160-E701,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves the transfer of funds as set forth herein to fully fund the California Avenue Improvements - Mark Twain Junior High School Safe Route to Schools.

BE IT FURTHER RESOLVED that the acting Finance Director, or his designee, is hereby authorized to take the steps necessary to amend the Capital Improvement Program Budget.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 –557**

**A RESOLUTION APPROVING AN AGREEMENT WITH RED OAK CONSULTING IN THE AMOUNT OF \$43,000 TO CONDUCT AN ORGANIZATIONAL AND MANAGEMENT ANALYSIS OF THE WATER QUALITY CONTROL DIVISION, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.**

WHEREAS, the Water Quality Control Division (WQC) would like to hire Red Oak Consulting to conduct an organizational and management analysis, bringing practical, customized recommendations specific to the WQC organization's new management, and

WHEREAS, over the past several years there have been several managerial and operational changes at both the Sutter and Jennings Treatment Plant, and

WHEREAS, this evaluation will involve the following departments: Wastewater Collections, Wastewater Treatment Primary, Wastewater Treatment Secondary, Wastewater Monitoring/Control, Environmental Services, Storm Water Collections and Storm Drainage Admin/Monitor, and

WHEREAS, both the Director and Deputy Director of Public Works want to ensure that WQC can effectively meet the goals of their organization for the present operation and into the future as new collection and treatment facilities are expanded, and

WHEREAS, staff requests that Red Oak Consulting evaluate the following:

1. Organizational functions and management structure effectiveness; 2. Operations effectiveness and efficiency and 3. Use of performance measures, and

WHEREAS, one of the key issues facing the wastewater industry is the lack of qualified, experienced operators; the lack of operational staff is an industry wide issue, and

WHEREAS, currently the department has several staff members in journey-level positions either eligible for retirement now or in the near future, and

WHEREAS, Red Oak Consulting has special knowledge of the industry, and understands the challenges for recruiting qualified operators, and

WHEREAS, this evaluation is vital to the organization's mission and will dovetail completely with the ongoing citywide organization assessment being conducted by Management Partners, and

WHEREAS, funds are budgeted in 6210-480-5212-0235,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with Red Oak Consulting in the amount of \$43,000 to conduct an organizational and management analysis of the Water Quality Control Division.

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 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor  
Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: Susana Alcala Wood

SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 –558**

**A RESOLUTION REJECTING THE SOLE BID FOR THE PROJECT TITLED “STAIRCASE REPLACEMENTS AT PRIMARY TREATMENT PLANT” AND AUTHORIZING STAFF TO RENEGOTIATE WITH ORIGINAL BIDDERS AND AUTHORIZING THE PURCHASING MANAGER, OR HIS DESIGNEE TO ISSUE A PURCHASE ORDER FOR THE AWARDED BIDDER(S).**

WHEREAS, on 11/12/05, an informal Request for Quotations was sent out to vendors for this work to be completed, the following responses were received:

	OHI Company	G & S Enterprises	BWM Inc.
Influent Screw Pump Pit	\$13,254.70	\$16,453.00	\$28,309.00
Clarifier Walk Over Stairs	\$9,969.00	\$8,739.00	\$20,787.00
Digester #1	\$13,484.00	\$28,875.00	\$33,744.34

, and

WHEREAS, on 12/23/05 a Request for Purchase was sent to Purchasing to award to G & S Enterprises for the Clarifier Walk Over Stairs and the Digester #1 and OHI Company for the Influent Screw Pump Pit, and

WHEREAS, purchasing reviewed the responses and made the determination that a formal bid was required as the total project has a total dollar amount over \$50,000, and

WHEREAS, on 3/14/06, staff received Council authorization per Resolution No. 2006-216 for a Request for Proposals for these staircases, and

WHEREAS, informal bid proposal packages were sent to over 50 contractors with staff received only one bid response from G & S Enterprise as follows:

	G & S Enterprises
Influent Screw Pump Pit	\$18,263.00
Clarifier Walk Over Stairs	\$10,012.00
Digester #1	\$34,650.00

, and

WHEREAS, these quotes represented an increase in costs of \$12,802 or 23%, and

WHEREAS, on 6/06/06, staff went to Council to request that the sole bid be rejected and authorization be given to re-advertise the project, and

WHEREAS, the project went out as a formal bid package on 7/12/06, and

WHEREAS, the sole bid was received for replacement of staircases at the Primary Treatment Plant and was opened at 2 p.m. on August 8, 2006, and

WHEREAS, as the bid quotes are increasing in price dramatically, staff has requested and received approval from the City Manager to ask Council authorization to reject the sole bid and authorize staff to negotiate a cost with the previous bidders, and

WHEREAS, as stated in Modesto Municipal Code, Section 8-3.203(e) "*The Council, after rejecting bids, or if no bids are received, may declare and determine that, in its opinion, based on estimates approved by the City Manager, the purchase in question may be made without a formal bid procedure and, after the adoption of a resolution to this effect by at least five (5) affirmative votes of the Council, may proceed to have said purchase made in the manner stated without further observation of the provisions of this section*" and with approval from City Manager, staff is requesting authorization to reject the sole bid and negotiate a cost with the previous bidders and have the Purchasing Department issue purchase orders for the awarded bidder(s).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the sole bid for the replacement of staircases at the Primary Treatment Plant opened on August 8, 2006, is hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to renegotiate with original bidders.

BE IT FURTHER RESOLVED that the Purchasing Manager, or his designee, is hereby authorized to issue a Purchase Order for the awarded bidder(s).

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

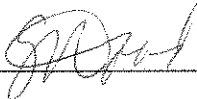
ATTEST:

  
\_\_\_\_\_

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
\_\_\_\_\_

SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-559**

**A RESOLUTION SUMMARILY VACATING A PUBLIC UTILITY EASEMENT  
LOCATED ON 3048 HAHN DR OR APN 076-042-015 IN THE CITY OF  
MODESTO**

WHEREAS, Chapter 4, Part 3 of Division 9, Section 8333, et seq of the California Streets and Highway Code authorizes a city council, by resolution, to summarily vacate public service easements where the easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years, and

WHEREAS, on or about January 28, 1981, Rex Properties, the then owner of the property, dedicated to the City of Modesto a Public Utility Easement for a proposed project located on 3048 Hahn Dr or APN 076-042-015, and

WHEREAS, the Public Utility Easement is more particularly described in **Exhibit "A"** attached hereto and incorporated herein by this reference, and

WHEREAS, the City of Modesto has received a request from Lynette Redal Stime, LCSW Northern California, Director of BETHANY CHRISTIAN SERVICES, the owner of the property, to vacate the Public Utility Easement, and

WHEREAS, the Public Works Department contacted all public utility companies, and none of these agencies have any objection to the proposed vacation, and

WHEREAS, the Council of the City of Modesto finds and declares that:

1. The vacation of this easement is made pursuant to Chapter 4, Part 3 of Division 9, Section 8333(a) of the California Streets and Highways Code.
2. The easement which is proposed to be vacated is a public utility easement located on 3048 Hahn Dr or APN 076-042-015 in the City of Modesto. This easement has not

been used for utilities for over five (5) consecutive years. And is located through an existing building as well as a proposed building.

3. That from and after the date this resolution is recorded, the public utility easement which is proposed for vacation will no longer constitute a public service easement.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the public utility easement located on 3048 Hahn Dr or APN 076-042-015 in the City of Modesto, which is more particularly described in **Exhibit "A"**, attached hereto and incorporated herein by reference, be and is hereby vacated.

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 public utility easement shall no longer constitute a public service easement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



EASEMENT FOR PUBLIC  
LA  
Parcel

Recording Requested by  
City of Modesto

When Recorded Mail To:  
City of Modesto  
City Clerk  
P. O. Box 642  
Modesto, CA 95353

NO  
FEE

RECORDED AT	1025	BY
CITY CLERK		
OFFICIAL RECORDS STANISLAUS CO., CALIF.		
DWAYNE E. LILLY, RECORDER		
BY	<i>[Signature]</i>	
ASST. RECORDER		

46132 JAN 28 81

EASEMENT DEED  
Corporation

REX PROPERTIES, A PARTNERSHIP, GRANTS to the CITY OF MODESTO, a municipal corporation, an easement for public utility purposes and the right to construct, operate, maintain, replace, remove and renew the facilities and appurtenances together with the right of ingress thereto and egress therefrom over, under and across the following described real property in the State of California, County of Stanislaus, City of Modesto:

All that portion of Parcel A as shown on the map recorded in Volume 25 of Parcel Maps, at page 83, Stanislaus County Records and lying in the southwest quarter of Section 12, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, described as follows:

Ten foot wide easement the centerline of which is described as follows:

Commencing at the northwest corner of said Parcel A; thence on the west line of said Parcel A, South 0°14'17" East 49.11 feet to the POINT OF BEGINNING of this description; thence North 85°53'31" East parallel with and 49.00 feet south of the north line of said Parcel A, 89.76 feet to a point which is 60.00 feet west of the east line of said Parcel A; thence South 0°12'07" East parallel with and 60.00 feet west of the east line of said parcel A, 35.00 feet to a point 63.66 feet north of the south line of said Parcel A and the end of this centerline description.

46132 JAN 28 81

Joaquin Construction Co., Inc.

Dated Jan 6, 1981

By *[Signature]*  
Brett L. Speer President  
*[Signature]*  
Richard A. Franco Executive V.P.

Rumble Family Investments

Dated Jan 5, 81

By *[Signature]*  
*[Signature]*

⑥

This is to certify that the interest in real property conveyed by this deed is hereby accepted by order of the Modesto City Council Resolution No. 57-566, dated December 18, 1957, and the grantee consents to recreation thereof.

Date January 27, 1981

BY *[Signature]*  
NORRINE COYLE, City Clerk

REAL PROPERTY

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-560**

**A RESOLUTION APPROVING A STANDARD AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND FEHR AND PEERS TRANSPORTATION CONSULTANTS FOR WORK ON A TRANSPORTATION STUDY FOR VINTAGE FAIRE MALL VILLAGE EXPANSION PROJECT AND AUTHORIZING THE CITY MANAGER, OR DESIGNEE TO EXECUTE THE AGREEMENT IN AN AMOUNT NOT TO EXCEED \$69,845.00**

WHEREAS, on May 15, 2006, Macerich Company applied for an amendment to P-D(109) to build-out the remaining portion of the original 1.3 million-square-foot Vintage Faire Mall entitlement to allow for an additional 59,296 square feet of specialty retail shops and restaurants, on property located on the west side of Dale Road, east side of Sisk Road (Vintage Faire Mall Village Expansion), 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, negative declaration or mitigated negative declaration is required for projects, and

WHEREAS, the City has determined that a transportation study is required as a component of the environmental analysis for the Vintage Faire Mall Village Expansion in order to make a determination on the level of environmental impacts for the project as required by CEQA, and

WHEREAS, City staff selected Fehr and Peers Transportation Consultants to prepare a transportation study for the Vintage Faire Mall Village Expansion because of their knowledge of the immediate area surrounding the Vintage Faire Mall due to their work on the Kaiser Medical Center, Promenade, and Kiernan Business Park Specific Plan projects.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Standard Agreement for Consultant Services between the City of Modesto and Fehr and Peers Transportation Consultants for work on a transportation study for the Vintage Faire Mall Village Expansion Project in an amount not to exceed \$69,845 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 5th day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote.

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST Jean Morris  
JEAN MORRIS, City Clerk  
(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-561**

**A RESOLUTION PERMITTING PARKING ON THE SIERRA DRIVE BRIDGE  
OVER STATE HIGHWAY 99 IN THE CITY OF MODESTO**

WHEREAS, City staff received a request from the New Bethany Missionary Baptist Church to permit parking on the Sierra Drive Bridge over State Highway 99, and

WHEREAS, California Vehicle Code Section 22500(k) requires parking on bridge decks be authorized by city council prior to installation, and

WHEREAS, on February 7, 2006, City staff was directed by Council to work with Caltrans to determine if this request could be accommodated, and

WHEREAS, Caltrans has determined the Sierra Drive Bridge over State Highway 99 to be under City of Modesto's jurisdiction, and

WHEREAS, staff evaluated the traffic volumes and speeds for this section of roadway and concluded that parking can be accommodated on the Sierra Drive Bridge over State Highway 99,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes parking on the Sierra Drive Bridge over State Highway 99.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of September 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

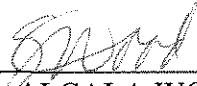
AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

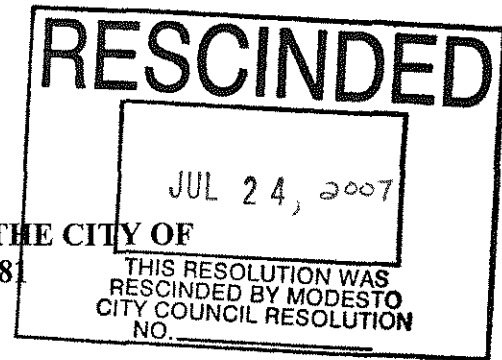
ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-562**

**A RESOLUTION ESTABLISHING ANGLE PARKING IN THE CITY OF  
MODESTO AND RESCINDING RESOLUTION NO. 2006-081**



WHEREAS, Article 10 of Chapter 2 of Title 3 of the Modesto Municipal Code 2007-452 authorizes the City Council, by resolution, to establish angle parking in the City of Modesto, and

WHEREAS, City staff received a request from New Bethany Missionary Baptist Church to install angle parking on Sierra Drive between 5th Street and 6th Street and on 6<sup>th</sup> Street from Sierra Drive to the north property line of the New Bethany Missionary Baptist Church to create additional on-street parking, and

WHEREAS, staff evaluated the traffic volumes and the speeds for these sections of roadway and concluded that angle parking can be accommodated on Sierra Drive, between 5th Street and 6<sup>th</sup> Street and on 6<sup>th</sup> Street, from Sierra Drive to north property line of the New Bethany Missionary Baptist Church without creating a hazard and without impeding traffic flow, and

WHEREAS, a condition prior to installation of angle parking space markings New Bethany Missionary Baptist Church shall complete a landscape bulb-out return, built to current City Standards, and

WHEREAS, City Council determined that if New Bethany Missionary Baptist Church chose not to construct the required landscaped bulb-out return for angled parking they would be permitted parallel parking on both sides of the Sierra Drive Bridge over State Highway 99 which is the standard permitted parking.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. ANGLE PARKING. Angle parking in the City of Modesto is hereby established at the following locations:

- Portions of 10<sup>th</sup> Street, between I & K Streets (west side) (diagonal)
- 18<sup>th</sup> Street, between G and H Streets (west side) (diagonal)
- F Street, between 10<sup>th</sup> and 11<sup>th</sup> Streets (south side) (diagonal)
- I Street, between 9<sup>th</sup> and 12<sup>th</sup> Streets (both sides) (diagonal)
- P Street, between 9<sup>th</sup> and Needham Streets (both sides) (diagonal)
- Coldwell Avenue, between Tully Road and College Avenue
- 4<sup>th</sup> Street, between E Street and G Street (west side)
- 16<sup>th</sup> Street, between I Street and J Street (east side)
- Elm Street, between Jefferson and Washington Streets (diagonal)
- Jefferson Street, between 8<sup>th</sup> and Laurel Streets (diagonal)
- 13<sup>th</sup> Street, between H and L Streets (east side)
- J Street, between 7<sup>th</sup> Street and 8<sup>th</sup> Street (north side)
- 10<sup>th</sup> Street, between G Street and F Street (east side) (diagonal)
- F Street, between 10<sup>th</sup> Street and 11<sup>th</sup> Street (north side) (diagonal)
- 15<sup>th</sup> Street, between K Street and H Street (east side) (diagonal)
- F Street, between 9<sup>th</sup> Street and 10<sup>th</sup> Street (north side) (diagonal)
- 8<sup>th</sup> Street, between J Street and K Street (east side) (diagonal)
- 8<sup>th</sup> Street, between K Street and L Street (east side) (diagonal)
- Sierra Drive between F Street and 4<sup>th</sup> Street (north side)
- 8<sup>th</sup> Street between L Street and Jefferson Street (east side) (diagonal)
- M Street between 7<sup>th</sup> Street and 8<sup>th</sup> Street (south side) (diagonal)
- 10<sup>th</sup> Street between G Street and I Street (east side) (diagonal)

- Sierra Drive between 6<sup>th</sup> Street and the alley at the west property edge of New Bethany Missionary Baptist Church (diagonal)
- Sierra Drive between 5<sup>th</sup> Street and 6<sup>th</sup> Street (north side) (diagonal)
- 6<sup>th</sup> Street, Sierra Drive to north property line of New Bethany Missionary Baptist Church (west side) (diagonal)

SECTION 2. The Public Works Director is hereby directed to implement the provisions of this resolution.

SECTION 3. Resolution No. 2006-081 is hereby rescinded.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of September 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_

  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-563**

**A RESOLUTION AMENDING SECTIONS 1 AND 2 OF RESOLUTION NO. 2004-045 ENTITLED "A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(564), (SOELLING)." (ISMAIL)**

WHEREAS, the City Council, by Ordinance No. 3342-C.S., adopted on January 13, 2004, and which became effective on February 26, 2004, granted Planned Development Zone, P-D(564) to allow 24,925 square feet of office, a 7,350 square foot restaurant, and a 8,625 square foot financial/retail building as provided in the C-1 Zone on property located on the southwest corner of Briggsmore Avenue and Oakdale Road, and

WHEREAS, Modesto City Council Resolution No. 2004-045, adopted by the Council on January 13, 2006, approved a development plan for Planned Development Zone, P-D(564), and contained the conditions of approval thereof, and

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(564), was filed by Bobby and John Ismail on March 29, 2006, to allow a restaurant as permitted in the C-2 Zone to provide for a restaurant with a pub, property located on the southwest corner of Briggsmore Avenue and Oakdale Road, and

WHEREAS, after a public hearing held on July 17, 2006, in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2006-47, that the amendment to Planned Development Zone P-D(564), as requested is required by public necessity, convenience, and general welfare for the following reasons:

- a. The proposed restaurant with a pub is consistent with the current General Plan land use designation for the site.

- b. The proposed restaurant with a pub is compatible with the adjacent office and commercial uses.
- c. The proposed pizza pub will provide a much-needed social gathering place in underserved East Modesto.

WHEREAS, said matter was set for a public hearing of the City Council to be held on September 5, 2006, in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Bobby and John Ismail for an amendment to Planned Development Zone, P-D(564) should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2006-47 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3424-C.S. on the 5<sup>th</sup> day of September, 2006, amending Section 2 of Ordinance No. 3342-C.S. to allow a restaurant as permitted in the C-2 Zone to provide for a restaurant with a pub to be established in Planned Development Zone, P-D(564).

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Sections 1 and 2 of Modesto City Council Resolution No. 2004-045 entitled "A Resolution Approving a Development Plan for Planned Development Zone, P-D(564), (Soelling)" are hereby amended to read as follows:

"SECTION 1. DEVELOPMENT PLAN. An amended development plan for Planned Development Zone, P-D(564), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan and elevations titled "Uno's Pizzeria and Chicago Grill at Eastgate Plaza" as amended in red, stamped approved by the City Council.
2. All signs shall be placed below the main building ridgeline as required by Section 10-2.2110(c) of the Municipal Code.
3. The applicant shall determine, to the satisfaction of the Stanislaus County 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 and II studies) prior to the issuance of a grading permit. Any discovery of under-ground storage tanks, former underground storage tank locations, buried chemicals, buried refuse, or contaminated soil shall be brought to the immediate attention of DER.
4. Prior to the issuance of a building permit, the developer shall submit three sets of food facility construction plans to the Department of Environmental Resources.
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 conditions of City Council Resolution No. 2004-045, and Planning Commission Resolution 2006-46, not in conflict with this action shall remain in full force and effect."

"SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(564):

Phase I – Construction to start on or before January 13, 2007, and be completed by not later than January 13, 2008.

Phase II – Construction to start on or before January 13, 2008, and be completed by not later than January 13, 2009."

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. 3424-C.S. amending Ordinance No. 3342-C.S becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of September, 2006, 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:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-564**

**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 P-D(564), PROPERTY LOCATED ON THE SOUTHWEST CORNER OF BRIGGSMORE AVENUE AND OAKDALE ROAD (ISMAIL)**

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, Bobby and John Ismail have proposed an amendment to P-D(564) to change the use for the restaurant located on the northeast corner of the project site from a restaurant as permitted in the C-1 Zone to a restaurant as permitted in the C-2 Zone, property located at the southwest corner of Briggsmore Avenue and Oakdale 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 2006-42 (“Initial Study”) reviewed the proposed Amendment of P-D(564) 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 on August 14, 2006 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 September 5, 2006, 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(564), 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.
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.
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 that was identified in the MEIR.
  - b. Through implementation of the conditions of approval for this project, including payment of the

current water connection fees, all feasible mitigation measures have been incorporated into the project, as set forth in and required by the MEIR.

c. No new or additional mitigation measures or alternatives are required.

6. The Initial Study, Environmental Assessment No. EA/C&ED 2006-42, provides the substantial evidence to support finding Nos. 2-5, noted above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of approval or determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of September, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:

Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2006-42



EXHIBIT A

Initial Study

EA/C&ED 2006-42

**City of Modesto**

**Finding of Conformance to  
General Plan Master EIR:**

**Initial Study Environmental Checklist  
C&ED No. 2006-42**

**For the proposed:**

**Planned Development Amendment for P-D(564)**

**Prepared by:  
City of Modesto  
Community & Economic Development Department  
Planning Division**

**7/5/06**

**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 proposed project for P-D(564) 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: Planned Development Amendment for P-D(564)
- B. Address or Location: Southwest corner of Briggsmore Ave. and Oakdale Road
- C. Applicant: Warner Soelling, 1500 Santa Paula Drive #11, Modesto, Ca. 95355
- D. City Contact Person: Josh Bridegroom/ Daniel DeLaO

Project Manager: Josh Bridegroom  
Department: Community and Economic Development Department  
Phone Number: (209) 577-5267  
E-mail address: jbridegroom@modestogov.com

- E. Current General Plan Designation(s): MU
- F. Current Zoning Classification(s): P-D(564)
- G. Surrounding Land Uses: North: Briggsmore Avenue  
South: Single Family Residential  
East: Oakdale Road  
West: 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):

This is an application for an amendment to the previously approved Planned Development Zone P-D(564). The amendment request is regarding the proposed 7,350-square-foot restaurant that will be located on the southwest corner of Briggsmore Avenue and Oakdale Road. The application for the amendment is to change the use for the restaurant from a restaurant as permitted in the C-1 Zone to a restaurant as permitted in the C-2 Zone, which allows a pub.

- I. Other Public Agencies Whose Approval is Required: None

**III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)**

1.  **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:

- A. The type of project is described in Chapter II of the Master EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.
- C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.
- D. Based on the Initial Study, the City of Modesto finds and determines:
  - a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
  - b) No new or additional mitigation measures or alternatives are required.
- E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.

2.  **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

- A. The type of project is described in Chapter II of the Master EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.

3.      **Focused EIR Required-** On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:

A. The type of project is described in Chapter II of the Master EIR.

B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.

C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

  
\_\_\_\_\_  
Project Manager

ASSISTANT PLANNER  
Title

7/6/2006  
Date

#### 4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

- |   | YES | NO                       |
|---|-----|--------------------------|
| (1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.  | X   | <input type="checkbox"/> |
| (2) City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. | X   | <input type="checkbox"/> |
| (3) Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).  | X   | <input type="checkbox"/> |
| (4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.  | X   | <input type="checkbox"/> |
| (5) The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.  | X   | <input type="checkbox"/> |
| (6) Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.  | X   | <input type="checkbox"/> |

#### 5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any no response must be discussed.

- |   | YES | NO                       |
|---|-----|--------------------------|
| (1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.  | X   | <input type="checkbox"/> |
| (2) This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings: . | X   | <input type="checkbox"/> |
| (3) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.  | X   | <input type="checkbox"/> |

- (4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available. X
- (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 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.

**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.	<input type="checkbox"/>	X
(2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	<input type="checkbox"/>	X
(3) Result in inadequate emergency access.	<input type="checkbox"/>	X
(4) Result in inadequate parking capacity.	<input type="checkbox"/>	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, as conditioned, is in accordance to City standards.



- (3) Fire and Police Staff have reviewed this proposal and have not indicated that there is an emergency access problem. The project meets the City's Standards with regard to the maneuverability of emergency vehicles, provided hydrant and FDC locations are provided in the appropriate locations. This can be accommodated by the proposed site plan and will be handled at the time of the issuance of a building permit.
- (4) The project meets City Standards for number of parking spaces required on-site.

**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

**c. Project-Specific Effects**

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

- (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 is within the scope of the Master EIR for traffic related impacts. Therefore, it should be within the scope of the Master EIR for CO and NOx emissions in that these pollutants are traffic induced.
- (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 in that it is an office complex. Thus, the main source of pollution that would come with the development is traffic related. Since the traffic impacts are within the scope of the MEIR, 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 development should not produce objectionable odors; in that office buildings and restaurants generally do not.

**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:

Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

**c. Project-Specific Effects**

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	<input type="checkbox"/>	X
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	X
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	<input type="checkbox"/>	X

Discussion:

- (1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.
- (2) The project is consistent with what the General Plan assumed for the site both in land use and intensity and 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. 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.

##### 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:

There are no mitigation measure applicable to this project.

##### c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2)	The project will directly result in the development of land outside the March 2003 planning area boundaries.	<input type="checkbox"/>	X
(3)	The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	<input type="checkbox"/>	X

- (4) The project will involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.  X

Discussion:

- (1) The project is consistent with the General Plan land use policies. It is an infill project, proposed within the urbanized area of the City. There are no agricultural parcels affected by the proposal and no agricultural land 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 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

Mitigation Measures appropriate to this project include: WS-11

**c. Project-Specific Effects**

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	<input type="checkbox"/>	X

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
- (2) The City has determined that it is experiencing a cumulative deficiency in water supply for new development throughout the City's service area. According to the City's recent long-term water supply analyses, the anticipated growth of the City's urban area will increase overall demand for water. By 2010, the demand will exceed the City's assured supply, which is currently provided through treated surface water and the pumping of the groundwater basin (up to the safe yield). Water demand exceeding the assured supply in the future is a significant cumulative environmental impact. (See Stanislaus Natural Heritage Project v. County of Stanislaus (1995) 48 Cal.App.4th 182.) Each new development, which creates a demand on the City's water system, contributes to this significant cumulative impact.

The City has thus implemented a long-term program for securing and developing additional water supplies, including the expansion of the Modesto Surface Water Treatment Facility, and has established a mitigation fee program, in the form of increased water connection fees, in order to fund the cost of developing these new water supplies. Payment of the new water connection fees represents a project's fair share of the cost of mitigating this significant cumulative impact, and the applicants have agreed to a condition requiring payment of the new water connection fees.

## **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 measure applicable to this project.

### **c. Project-Specific Effects**

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- |   | YES                      | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (2) The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments. | <input type="checkbox"/> | X  |

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
- (2) The project was referred to Public Works 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 V, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation measure applicable to this project. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

**c. Project-Specific Effects**

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.



Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- |   | YES                      | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species. | <input type="checkbox"/> | X  |
| (3) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.  | <input type="checkbox"/> | X  |

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
- (2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.
- (3) There is no conflict with any local policies or ordinances protecting biological resources

**8. ARCHAEOLOGICAL OR HISTORICAL SITES**

**a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 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-12, Master EIR.

**c. Project-Specific Effects**

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2)	The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	<input type="checkbox"/>	X

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.
- (2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. The mitigation measure called for by the General Plan is incorporated into the conditions of approval for the project.

**9. STORM DRAINAGE**

**a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General

Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less than significant.

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

Mitigation measures appropriate to this project include: SD-7, MEIR.

**c. Project-Specific Effects**

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	<input type="checkbox"/>	X
(3) Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	<input type="checkbox"/>	X

### Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.
- (2) The project proposes to increase the impervious surface. However, it should be designed to meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City and applied to the project as a Mitigation Measure. With the application of the appropriate mitigation, the effect will be less than significant.
- (3) The project will contribute additional water runoff. However, with the application of the mitigation measures called for in the conditions of approval for the project, the effect will be less than significant.

## **10. FLOODING AND WATER QUALITY**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less than significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less than significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

Mitigation measures appropriate to this project include: FWQ-14, MEIR.

**c. Project-Specific Effects**

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	<input type="checkbox"/>	X
(3) The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	<input type="checkbox"/>	X
(4) The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	<input type="checkbox"/>	X

Discussion:

- (1) The project is consistent with the General Plan Designation for the site both in 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. The appropriate mitigation measures will be applied to the project.

## 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:

There are no mitigation measures applicable to this 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. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- (1) The project is consistent with the General Plan 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, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

### b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. ). As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

#### Discussion:

There are no mitigation measures applicable to this project.

### c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- |  | YES                      | NO |
|--|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.  | <input type="checkbox"/> | X  |
| (2) The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures, which provide that compliance results in less-than-significant impacts on schools. | <input type="checkbox"/> | X  |

Discussion:

- (1) The project is consistent with the General Plan in both land use and intensity.
- (2) The project includes no residential student-gathering component.

**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.	<input type="checkbox"/>	X
(2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	<input type="checkbox"/>	X



Discussion:

- (1) The project is consistent with the General Plan 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 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-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.  | <input type="checkbox"/> | X  |
| (2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. | <input type="checkbox"/> | X  |

Discussion:

- (1) The project is consistent with the General Plan 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: 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.   | <input type="checkbox"/> | X  |
| (2) The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity. | <input type="checkbox"/> | X  |

#### Discussion:

- (1) The project is consistent with the General Plan in both land use and intensity.
- (2) This project was referred to the County and Solid Waste Division of the Public Works Department 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 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-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	<input type="checkbox"/>	X
(3) The project contains a contaminated site not identified as of March 2003.	<input type="checkbox"/>	X
(4) The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	<input type="checkbox"/>	X
(5) The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	<input type="checkbox"/>	X

Discussion:

- (1) The project is consistent with the General Plan 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.
- (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. It is an office complex.
- (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 this project.

### **c. Project-Specific Effects**

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	<input type="checkbox"/>	X

#### Discussion:

- (1) The project is consistent with the General Plan in both land use and intensity.
- (2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

## 18. ENERGY

### a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less than significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less than significant.

### b. Master EIR and/or New Mitigation Measures Applied to the Project

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 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. | <input type="checkbox"/> | X  |

Discussion:

- (1) The project is consistent with the General Plan in both land use and intensity.

## 19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

### a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project includes a substantive amendment to the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(3) The project would physically divide an established community	<input type="checkbox"/>	X

#### Discussion:

- (1) The project is consistent with the General Plan in both land use and intensity.
- (2) No amendment to the General Plan is required by this project.
- (3) The project 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 significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project would have a substantial adverse effect on a scenic vista.	<input type="checkbox"/>	X
(3) The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	<input type="checkbox"/>	X

- (4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.  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.

**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).

**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.

A Mitigated Negative Declaration/EIR shall be prepared for the project and the following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

**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.
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; and
9. Limit the area subject to excavation, grading and other construction activity at any one time.

### 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:**

1. Prior to issuance of a building permit for each of the buildings within the development, the applicant shall pay the water connection fees at the rate in effect at the time of issuance of the building permit.

**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. Prior to the issuance of a building permit, the developer shall submit a plan for approval by the Operations and Maintenance Director to provide on-site treatment of storm water in accordance with the guidance manual for new development stormwater quality control measures. Storm drain improvements shall be constructed in accordance with the approved plans.
2. 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. Prior to the issuance of a building permit, the developer shall submit a plan for approval by the Operations and Maintenance Director to provide on-site treatment of storm water in accordance with the guidance manual for new development stormwater quality control measures. Storm drain improvements shall be constructed in accordance with the approved plans.
2. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

**Parks and Open Space Measures:**

N/A

**Schools Measures:**

N/A

**Police Services:**

N/A

**Fire Services:**

N/A

**Generation of Solid Waste**

N/A

**Generation of Hazardous Materials**

N/A

**Potential for Landslides and Seismic Activity**

N/A

**Energy**

N/A

**Planning and Land Use**

N/A

**Aesthetics**

N/A

**B. New or Additional Mitigation Measures or Alternatives Required**

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: ***None***.

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-565

**AMENDED**  
on August 12, 2008  
By Resolution 2008-481

**A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(575) (BRIJ GUPTA)**

WHEREAS, a verified application for an amendment to Section 9-3-9 of the Zoning Map was filed by Brij Gupta on March 1, 2006, to reclassify from Low-Density Residential Zone, R-1, to 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, described as follows,

R-1 to P-D(575)

All that portion of the east half of the southeast quarter of Section 9, Township 3 South, Range 9 East, Mount Diablo Base and Meridian, particularly described as follows:

Commencing on the southeast corner of said Section 9; thence north 89° 37' west along the section line 20.00 feet; thence north 0° 50' 30" west along the west line of a 40 foot country road 657.00 feet to the true point of beginning of this description; thence continuing north 0° 50' 30" west along the west line of a 40 foot country road 158.00 feet; thence north 89° 37' west 278.00 feet; thence south 0° 50' 30" east 158.00 feet; Thence south 89° 37' east 278.00 feet to the true point of beginning of this description.

Excepting there from that portion deeded to the City of Modesto recorded June 11, 1990 as Instrument No. 051426, Stanislaus County Records.

Also including the west one-half of Coffee Road immediately adjacent to the above described property;

WHEREAS, after a public hearing held on June 19, 2006, in the Tenth Street Place Chambers, 1010 Tenth Street, Modesto, California, and continued to July 17, 2006, to allow sufficient time for the applicant and neighboring party to reach and draw up an Agreement to share in the costs and future maintenance of the shared driveway, it was found and determined by the Planning Commission, by its Resolution No. 2006-49,

AMENDED

that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed Planned Development corresponds with Professional Office Zoning (P-O) for which the subject property is designated in the "Coffee Road Zoning & Development Policy" adopted by the Planning Commission on January 18, 1972 (Amended on February 6, 1989). The Policy calls for higher intensity land uses such as Professional Office (P-O) Zones along the Coffee Road frontage.
2. That the proposed Planned Development Zone, by reason of its plot plan design and conditions of approval, will be compatible with the surrounding land uses.  
and

WHEREAS, the Planning Commission recommended approval to the City Council of the proposed rezoning from R-1 to P-D(575) to allow development of medical and professional offices on property located on the west side of Coffee road north of E. Rumble Road, and

WHEREAS, said matter was set for a public hearing of the City Council to be held on September 5, 2006, in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Brij Gupta for a Planned Development Zone, P-D(575), should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2006-49 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3425-C.S. on the 5th day of September, 2006, reclassifying the above-described property from Low Density Residential Zone, R-1, to Planned Development Zone, P-D(575).

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(575), is hereby approved subject to the following conditions:

1. All development shall conform to the plot plan and elevations titled "Gupta Professional Office Complex Plot Plan" as amended in red, stamped approved by the City Council on September 5, 2006.
2. Prior to the issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhood Director or designee. Screen landscaping shall be installed along the west property line. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.
3. Prior to the issuance of a building permit, the developer shall (a) make a fair share contribution to the owners of the parcel immediately to the south of the project site at APN: 013-068-035 for the development of the shared reciprocal driveway located on APN: 013-068-035, consistent with the letter agreement dated June 29, 2006, and (b) enter into a reciprocal easement agreement provide for a fair share contribution toward future ongoing maintenance of the shared reciprocal driveway located on APN: 013-068-035 and (c) submit written documentation confirming its compliance with this condition, in a form satisfactory to the Community and Economic Development Director or designee.
4. Fences or walls shall be constructed prior to occupancy and shall be as follows:
  - a. Install a seven-foot-high masonry wall along the western and northern property lines.
5. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
6. Street dedication consistent with Standard Specifications 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.

7. The project shall dedicate ten feet of street right-of-way along Coffee Road and install street improvements per City Standards, including, but not limited to, curb, gutter, sidewalk, streetlights, and street pavement. Street improvements consistent to Standard Specifications shall be provided prior to the occupancy of any structures or when requested by the City Engineer or designee to alleviate a health, safety, or traffic problem in the area.
8. 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. The project shall install street improvements per City Standards, including, but not limited to, curb, gutter, sidewalk, streetlights, and street pavement. New street improvements shall provide appropriate connection to existing curb, gutter, and sidewalk on adjacent properties as approved by the City Engineer or designee to alleviate health, safety, or traffic problem in the area.
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. Irrigation lines shall be removed, relocated, or protected as required by the Modesto Irrigation District and the City Engineer or designee. Easements for irrigation lines to remain shall be dedicated.
11. All outdoor lighting shall be shielded from adjacent residential properties as required by the City Engineer or designee.
12. Trash enclosures shall comply with the provisions of Public Resources Code Section 42911, to include adequate, accessible and convenient areas for the collection and loading of recyclable materials to be shown on the approved plans 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.
13. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building and 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.



14. Ten-foot-wide public utility easements, and planting easements located within the ten-foot-wide public utility easements, as required by the City Engineer or designee shall be dedicated along all street frontages.
15. 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.
16. All signs shall comply with the sign requirements of the P-O Zone.
17. 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.
18. The Capital Facilities Fees payable at the time of the issuance of a building permit for any construction in this subdivision map shall be based on the rates in effect at time of issuance of the building permit.
19. The developer shall, in a manner approved by the City Attorney, provide a vehicular access way for future on-site traffic circulation for the benefit of the properties to the south; substantially as shown in red on the plot plan.
20. The onsite storm water will need to be mitigated in accordance with the current storm water standards in the "Guidance Manual for New Development – Storm-water Quality Control Measures.
21. Wastewater facilities shall be sized and located to accommodate the peak flow rates according to the procedures and methodologies of the Sanitary Sewer System Design Standards (Section 5) of the City's Standard Specifications.

22. Prior to issuance of a building permit, the applicant shall provide to the Chief Building Official a parking survey that depicts the overall building footage for medical and professional occupancy in relation to the required parking. The maximum parking permitted for medical is 66.6% and the maximum parking permitted for professional is 33.3%.

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:

23. 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.
24. 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.
25. 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.
26. 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.
27. 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.
28. 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.

29. If archaeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archaeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria as presented in Appendix K.
30. 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(575):

The entire construction program to be accomplished in one phase, construction to begin on or before September 5, 2008 and completion to be not later than September 5, 2009.

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(575), becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of September, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By: Steve Mitchell  
Community & Economic Development Department  
Planning Division

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-566**

**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 9-3-9 OF THE ZONING MAP TO REZONE FROM LOW DENSITY RESIDENTIAL ZONE, R-1, TO PLANNED DEVELOPMENT ZONE, P-D(575), PROPERTY LOCATED AT 3125 COFFEE ROAD. (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, Mid-Valley Engineering has proposed that the zoning designation for the property located on the west side of Coffee Road north of the Rumble Road/Coffee Road intersection, be amended to rezone from Low Density Residential, (R-1), to Planned Development Zone, P-D(575), to allow for the development of a 12,000 square foot medical and professional office building and associated off-street parking, 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. 2006-39 ("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 August 14, 2006, 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. 2006-49 recommended to the City Council approval of the application of Mid-Valley Engineering to amend section 9-3-9 of the zoning map to rezone from Low-Density Residential, (R-1), to Planned Development Zone, P-D(575), for the property located on the west side of Coffee Road north of Rumble Road, to allow the future development of a medical and professional office building and associated parking as set forth in said Resolution No. 2006-49, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing, which was held on September 5, 2006, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed rezoning to Planned Development Zone P-D(575) for medical and professional offices, 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 5<sup>th</sup> day of September, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**EXHIBIT A**

**Initial Study**

**EA/C&ED No. 2006-39**

# **City of Modesto**

## **Finding of Conformance to General Plan Master EIR:**

**Initial Study C&ED No. (2006-39)**

**For the proposed:**

**PDZ- Planned Development Zone  
3125 Coffee Road - Gupta**

**Prepared by:  
City of Modesto  
Community & Economic Development Department  
Planning Division**

**06/01/06**

**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: PDZ – Gupta Professional Office Complex
- B. Address or Location: 3125 Coffee Road
- C. Applicant: Mid-Valley Engineering, 1117 "L" Street, Modesto, CA. 95354
- D. City Contact Person: Rita Doscher

Project Manager: Rita Doscher  
Department: Community and Economic Development Department  
Phone Number: (209) 577-5267  
E-mail address: rdoscher@modestogov.com

- E. Current General Plan Designation(s): "MU" Mixed Use
- F. Current Zoning Classification(s): R-1, Low-Density Residential Zone
- 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 rezone the above reference property from R-1 (Single Family Residential) to P-D (Planned Development Zone) in order to facilitate development of a medical and professional office complex. The proposed development will consist of two single story medical office buildings each 4,000 square feet in size, and two single story professional office buildings each 2,000 square feet in size. In addition the proposed development will provide on site parking, landscaping, and street improvements. The proposed buildings will front onto Coffee Road and access into the site shall be provided by way of a 30-foot wide off-site reciprocal driveway located on the parcel just to the south of the development. The parking area will be located to the rear of the property 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.

**III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)**

1. X **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:
- A. The type of project is described in Chapter II of the Master EIR.
  - B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.
  - C. An Initial Study was prepared by the City of Modesto that analyzed whether the proposed subsequent project may cause any significant effect on the environment that was not examined in the MEIR and it has been determined that the project was described in the MEIR as being within the scope of the MEIR.
  - D. Based on the Initial Study, the City of Modesto finds and determines:
    - a) The proposed subsequent project will have no additional significant effect as defined in CEQA Section 21158 that was not identified in the MEIR.
    - b) No new or additional mitigation measures or alternatives are required.
  - E. The criteria for currency of the Master EIR were reviewed (section 5 below) and it was determined that the Master EIR is current for all areas of the Initial Study.
2. \_\_\_\_\_ **Mitigated Negative Declaration Required** - On the basis of the above determinations, the project is not within the scope of the Master EIR. A mitigated negative declaration will be prepared for the project. The following items are found to be true:

- A. The type of project is described in Chapter II of the Master EIR.
  - B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.
  - C. The project will have one or more potential new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures are being required of the project that will reduce the effects to a less-than-significant level.
3.        **Focused EIR Required-** On the basis of the above determinations, the project is not within the scope of the Master EIR. A Focused EIR will be prepared for the project. The following items are found to be true:
- A. The type of project is described in Chapter II of the Master EIR.
  - B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.
  - C. The project will have one or more new significant effects on the environment that were not addressed as significant effects in the Master EIR. New or additional mitigation measures or alternatives are required as a result.

  
Project Manager

Assistant Planner  
Title

June 1, 2006  
Date

#### 4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

- |   | YES | NO                       |
|---|-----|--------------------------|
| (1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.  | X   | <input type="checkbox"/> |
| (2) City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. | X   | <input type="checkbox"/> |
| (3) Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).  | X   | <input type="checkbox"/> |
| (4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.  | X   | <input type="checkbox"/> |
| (5) The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.  | X   | <input type="checkbox"/> |
| (6) Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.  | X   | <input type="checkbox"/> |

#### 5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any "No" response must be discussed.

- |   | YES | NO                       |
|---|-----|--------------------------|
| (1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.  | X   | <input type="checkbox"/> |
| (2) This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings: | X   | <input type="checkbox"/> |
| (3) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.  | X   | <input type="checkbox"/> |

- (4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available. X
- (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 R-1 (Single Family Residential) to P-D (Planned Development Zone) in order to facilitate development of a medical and professional office complex. The addition of the office complex 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. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Note:

If a project exceeds an additional one hundred (100) or more peak hour trips contribution, a site access study may be conducted to determine to what extent the project would exceed the year 2025 level of service (LOS) expected for the adjoining roadways under the Master EIR. The site access study would recommend new, project-specific mitigation measures. If the project also exceeds the Master EIR's traffic generation assumption, as determined by Engineering & Transportation staff, a comprehensive traffic study would be required that will include off-site traffic impact analysis.

	YES	NO
(2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	<input type="checkbox"/>	X
(3) Result in inadequate emergency access.	<input type="checkbox"/>	X
(4) Result in inadequate parking capacity.	<input type="checkbox"/>	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 property 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-significant unless:

	YES	NO
(1) The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	<input type="checkbox"/>	X
(2) The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	<input type="checkbox"/>	X
(3) The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(4) The project would expose sensitive receptors to substantial pollutant concentrations.	<input type="checkbox"/>	X
(5) The project would create objectionable odors affecting a substantial number of people.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.
- (2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).
- (3) Applicable General Plan Policies 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 building addition for an existing church. 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-significant unless:

	YES	NO
(1) The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	<input type="checkbox"/>	X
(2) The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(3) The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	X

- (4) The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.  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 measure applicable to this project.

**c. Project-Specific Effects**

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project will directly result in the development of land outside the March 2003 planning area boundaries.	<input type="checkbox"/>	X
(3) The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	<input type="checkbox"/>	X
(4) The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	<input type="checkbox"/>	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-significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2)	Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan MU (Mixed Use) 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 measure applicable to this project.



**c. Project-Specific Effects**

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	<input type="checkbox"/>	X

**DISCUSSION:**

- (1) The project is consistent with the Modesto Urban Area General Plan MU (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-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	<input type="checkbox"/>	X
(3) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan MU (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-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan MU (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 changes 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-significant unless:

- |  | YES                      | NO |
|--|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.  | <input type="checkbox"/> | X  |
| (2) The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.  | <input type="checkbox"/> | X  |
| (3) Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. | <input type="checkbox"/> | X  |

**DISCUSSION:**

- (1) The project is consistent with the Modesto Urban Area General Plan MU (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-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	<input type="checkbox"/>	X
(3) The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	<input type="checkbox"/>	X
(4) The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan MU (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-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan MU (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-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 MU (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-significant unless:

YES NO

- (1) The project is inconsistent with the Modesto Urban Area General Plan.  YES  NO
- (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.  YES  NO

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan MU (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-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	<input type="checkbox"/>	X

**DISCUSSION:**

- (1) The project is consistent with the Modesto Urban Area General Plan MU (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-significant unless:

- |   | YES                      | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (2) The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity. | <input type="checkbox"/> | X  |

**DISCUSSION:**

- (1) The project is consistent with the Modesto Urban Area General Plan MU (Mixed Use) 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-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	<input type="checkbox"/>	X
(3) The project contains a contaminated site not identified as of March 2003.	<input type="checkbox"/>	X
(4) The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.	<input type="checkbox"/>	X
(5) The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment.	<input type="checkbox"/>	X

**DISCUSSION:**

- (1) The project is consistent with the Modesto Urban Area General Plan MU (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-significant unless:

- |   |                          |                                     |
|---|--------------------------|-------------------------------------|
|   | YES                      | NO                                  |
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

- (2) The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.  X

DISCUSSION:

- (1) The project is consistent with the General Plan MU (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-significant unless:

- |   | YES                      | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | X  |

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan MU (Mixed Use) 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-significant unless:

- |  | YES                      | NO |
|--|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.                | <input type="checkbox"/> | X  |
| (2) The project includes a substantive amendment to the Modesto Urban Area General Plan. | <input type="checkbox"/> | X  |
| (3) The project would physically divide an established community                         | <input type="checkbox"/> | X  |

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan MU (Mixed Use) 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-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project would have a substantial adverse effect on a scenic vista.	<input type="checkbox"/>	X
(3) The project would substantially degrade the existing visual character or quality of the project site and its surroundings.	<input type="checkbox"/>	X
(4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project is consistent with the General Plan MU (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:**

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**.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-567**

**A RESOLUTION AMENDING SECTIONS 1 & 2 OF RESOLUTION NO. 73-972 ENTITLED "A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED-DEVELOPMENT ZONE, P-D(118) (JOHN QUARESMA – TULLY & ROSEBURG)," (JEFF & HEATHER SUTTON)**

WHEREAS, the City Council, by Ordinance No. 1303-C.S., adopted on December 10, 1973, and which became effective on January 9, 1974, granted Planned Development Zone, P-D(118) to allow for a mixture of professional offices, two-story apartments, three one-story single family dwellings with two-car garages, utility and maintenance buildings, a storage, laundry and recreation building, and swimming pool, property located at Tully Road and Roseburg Avenue, and

WHEREAS, Modesto City Council Resolution No. 73-972, adopted by the City Council on November 26, 1973, approved a development plan for Planned Development Zone, P-D(118), and contained the conditions of approval thereof, and

WHEREAS, a verified application for an amendment to Planned Development Zone, P-D(118), was filed by Jeff and Heather Sutton on May 31, 2006, to allow the construction of a new two-story residence with a three-car garage, property located at 1124 Notre Dame Avenue, and

WHEREAS, after a public hearing held on July 17, 2006, in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2006-52, that the amendment to Planned Development Zone P-D(118), as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The requested P-D Amendment to P-D(118) to allow the building of up to three two-story residences with a maximum three-car garage is consistent with the current General Plan designation of R for Residential.
2. The proposed amendment to Planned Development Zone P-D(118) is categorically exempt from the California Environmental Quality Act under Section 15303(a) of the CEQA Guidelines, which include but are not limited to: the construction of up to three single-family residences in an urbanized area in a residential zone.

WHEREAS, said matter was set for a public hearing of the City Council to be held on September 5, 2006, in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Jeff and Heather Sutton for an amendment to Planned Development Zone, P-D(118) should be granted as consonant with public necessity, convenience and general welfare for the reasons set forth in Planning Commission Resolution No. 2006-52 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3426-C.S. on the 5<sup>th</sup> day of September, 2006, amending Section 2 of Ordinance No. 1303-C.S. to allow the construction of a new two-story residence with a three-car garage, to be established in Planned Development Zone, P-D(118),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Sections 1 & 2 of Modesto City Council Resolution No. 73-972 entitled "A Resolution Approving a Development Plan for Planned Development Zone, P-D(118), (John Quaresma – Tully & Roseburg)" is hereby amended to read as follows:

“SECTION 1. DEVELOPMENT PLAN. An amended development plan for Planned Development Zone, P-D(118), is hereby approved subject to the following conditions:

1. All development shall conform to the site plan and elevations titled “Sutton Residence – 1124 Notre Dame Avenue”, stamped approved by the Planning Commission on July 17, 2006.
2. Prior to the issuance of a building permit for construction of a two-story addition or new two-story construction, parcels 45 and 47 in Block 842, the two remaining single-family homes fronting on Notre Dame Avenue shall be subject to plot plan approval by the Director or designee in accordance with Article 27, and Article 5, Section 10-2.508 of the Modesto Municipal Code.
3. All conditions of City Council Resolution No. 73-972, and Planning Commission Resolution No. 2006-52, not in conflict with this action shall remain in full force and effect.
4. 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.
5. 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.
6. Prior to the issuance of a building permit and/or grading permit if required, the applicant shall provide a Phase I study (and Phase II study if necessary) to the satisfaction of the Stanislaus County Department of Environmental Resources (DER).”

“SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(118):



The entire construction program be accomplished in one phase, construction to begin on or before September 5, 2008, and completion to be not later than September 5, 2009.”

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. 3426C.S. amending Ordinance No. 1303-C.S becomes effective.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-568**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF  
MODESTO AND JONES AND STOKES ASSOCIATES FOR THE PREPARATION OF  
A MAINTENANCE UPDATE TO THE MODESTO URBAN AREA GENERAL PLAN  
AND AN UPDATE TO THE GENERAL PLAN MASTER ENVIRONMENTAL  
IMPACT REPORT (MEIR) IN AN AMOUNT NOT TO EXCEED \$937,280 AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, on March 7, 2006, the City Council by Motion directed staff to proceed with preparation of a Request For Proposals (RFP) for the consultant selection process/work program for a maintenance update to the Modesto Urban Area General Plan and update to the General Plan Master EIR (MEIR), and

WHEREAS, RFP's were sent to 14 firms on April 7, 2006, and

WHEREAS, City staff received two responses, and

WHEREAS, the selection committee consisted of management staff from the Planning Division, Community & Economic Development Department, and

WHEREAS, City staff recommends that Jones and Stokes Associates be accepted to prepare a Maintenance Update to the Modesto Urban Area General Plan and an update to the General Plan MEIR because of their extensive experience on similar projects in other jurisdictions, and

WHEREAS, City staff anticipates the project will involve one phase in an amount not to exceed \$937,280,

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 Jones and Stokes

Associates to prepare a Maintenance Update to the Modesto Urban Area General Plan and an update to the General Plan MEIR in an amount not to exceed \$937,280.

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 5<sup>th</sup> day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST Jean Morris  
Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: Susana Alcala Wood  
Susana Alcala Wood, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-569**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007 OPERATING BUDGET TO CREATE A MULTI-YEAR OPERATING ORGANIZATION 0800-140-1440 – GENERAL PLAN/MEIR UPDATE AND TO APPROPRIATE \$625,000 TO THIS ACCOUNT FROM THE GENERAL FUND RESERVES (0100-800-8000-8003) FOR CONTRACT PROFESSIONAL SERVICES (\$525,000) AND STAFF CHARGES (\$100,000).**

WHEREAS, on March 7, 2006, the City Council by motion directed staff to proceed with the consultant selection process/work program for a maintenance update to the Modesto Urban Area General Plan and update to the General Plan Master EIR (MEIR), and

WHEREAS, the City has entered into an Agreement with Jones and Stokes Associates for the General Plan/MEIR Update, in an amount not to exceed \$937,280, for completion of the General Plan/MEIR Update, and

WHEREAS, staff time on the General Plan/MEIR Update is estimated at \$100,000 through the end of Fiscal Year 2006/07, and

WHEREAS, funding currently available for the General Plan/MEIR Update, in the amount of \$412,638 (Account No. 0800 140 1440 0235), is not sufficient to complete the work program, and

WHEREAS, funding for the work program will be drawn from the amount currently budgeted for the General Plan/MEIR Update in account No. 0800-140-1440 0235, and from a budget appropriation of \$625,000 from the general fund reserve to org 0800-040-1440-0235 (\$525,000) for contract professional expenses and 0255 (\$100,000) for staff charges for time working on this project.

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby amends the Fiscal Year 2006-2007 operating budget to create a multi-year operating organization 0800-140-1440 – General Plan/MEIR Update and to appropriate \$625,000 to this account from the General Fund Reserves (0100-800-8000-8003) for contract professional services (\$525,000) and staff charges (\$100,000) for time working on this project.

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 5<sup>th</sup> day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
Susana Alcala Wood, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 -570**

**A RESOLUTION REJECTING ALL APPLICATIONS/PROPOSALS FOR A CITY OF  
MODESTO NON-EXCLUSIVE, NON-CONSENSUAL FRANCHISE TOW PROGRAM**

WHEREAS, the Modesto City Council authorized the issuance of a Request for Applications/Request for Proposal for a City of Modesto Non-Exclusive, Non-Consensual Franchise Tow Program, and

WHEREAS, on July 15, 2005, the City of Modesto solicited Requests for Application/Request for Proposal for the Franchise Tow Program, and

WHEREAS, on September 6, 2005, the City of Modesto received thirteen (13) applications for Non-Exclusive Franchise, and

WHEREAS, on February 14, 2006, the City Council was advised of the Franchise Tow Evaluation Committee's recommendation for six (6) approved companies, and

WHEREAS, the City Council referred the recommendations to the City Manager for recommendation and report pursuant to Modesto Municipal Code Section 11-2.04, and

WHEREAS, the City Manager conducted a review and provided a report to the City Council, and

WHEREAS, the City Manager recommends that because of procedural flaws in the evaluation and rating process all proposals/applications received in response to the City of Modesto's Request for Proposals/Application process, Specifications No. 0405-24 for City of Modesto generated Non-Exclusive, Non-Consensual Franchise Tow Program be rejected,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto in accordance with Modesto Municipal Code Title 11, Chapter 2, that all proposals/applications received in response to the City of Modesto's request for Proposal/Application process No. 0405-24 for the City of Modesto generated Non-Exclusive, Non-Consensual Franchise Tow Program be rejected.

The foregoing resolution was introduced at regular meeting of the Council of the City of Modesto held on the 12<sup>th</sup> day of September, 2006 by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

(seal)

APPROVED AS TO FORM:

BY:   
SUSAN ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-571**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF MODESTO AND BRUCE A. WHITACRE, SUCCESSOR TRUSTEE OF THE WHITACRE FAMILY 1993 TRUST DATED 12-16-93 (APN: 085-050-007; 085-050-008) FOR THE FLOYD-ROSELLE ROUNDABOUT PROJECT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.**

WHEREAS, the City Council of the City of Modesto directed staff to enter into negotiations with Bruce A. Whitacre, successor trustee of the Whitacre Family 1993 Trust dated 12-16-93 (APN: 085-050-007; 085-050-008) to purchase the necessary real property for the Floyd-Roselle Roundabout Project, and

WHEREAS, said real properties were appraised and City offered the appraised values, and

WHEREAS, said real properties need to be acquired for this roundabout project, and

WHEREAS, an agreement is needed for the acquisition of each parcel of the needed real property, and

WHEREAS, a Written Checklist Environmental Assessment (EA/PW No: 2006-09) has been prepared and is on file with the City of Modesto Community & Economic Development Department, and

WHEREAS, pursuant to said Environmental Assessment it has been determined that, pursuant to Sections 15168 (c) and 15182 of the California Environmental Quality Act Guidelines (“CEQA”), this Project is within the scope of the projects covered by the Village One Program EIR (SCH No. 90020181), as amended by the 1994 Supplemental EIR and the 2003 Addendum to the EIR, and no new environmental document or findings are required by CEQA,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that an agreement between City of Modesto and BRUCE A. WHITACRE, SUCCESSOR TRUSTEE OF THE WHITACRE FAMILY 1993 TRUST DATED 12-16-93 (APN: 085-050-007; APN: 085-050-008) to purchase the necessary real property for the Floyd-Roselle Roundabout Project in the amount of \$125,000 is hereby approved.

BE IT FURTHER RESOLVED that the 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 12<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

Approved as to Form:

Susana Alcala Wood

SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-572**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN ACCEPTANCE FORMS FOR GRANT DEEDS FOR THE ACQUISITION OF PROPERTIES OWNED BY BRUCE A. WHITACRE, SUCCESSOR TRUSTEE OF THE WHITACRE FAMILY 1993 TRUST DATED 12-16-93 (APN: 085-050-007; 085-050-008) FOR THE FLOYD-ROSELLE ROUNDABOUT 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 portions of the following parcels for right of way for the Floyd-Roselle Roundabout Project from BRUCE A. WHITACRE, SUCCESSOR TRUSTEE OF THE WHITACRE FAMILY 1993 TRUST DATED 12-16-93 (APN: 085-050-007; APN: 085-050-008),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or designee, is hereby authorized to sign an acceptance form on behalf of the City of Modesto for the Grant Deeds for the acquisition of portions of the properties owned by BRUCE A. WHITACRE, SUCCESSOR TRUSTEE OF THE WHITACRE FAMILY 1993 TRUST DATED 12-16-93 (APN: 085-050-007; 085-050-008) for the Floyd-Roselle Roundabout Project.

///

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-573**

**A RESOLUTION AUTHORIZING THE PURCHASE OF TWO (2) NEW, CURRENT YEAR/MODEL, STENCIL PAINT TRUCKS BY “ACCESSING THE TERMS” OF A CONTRACT THROUGH LINE MASTER ENGINEERING, INC. OF LONG BEACH, CALIFORNIA FOR A TOTAL ESTIMATED COST OF \$173,583.10.**

WHEREAS, the Public Works Department-Fleet Services Division has requested the purchase of two (2) new, current year/model, stencil paint trucks, and

WHEREAS, the two (2) new stencil paint trucks will replace (2) current stencil paint trucks in the Traffic Engineering Department, and

WHEREAS, the old trucks are being replaced because they have reached the end of their useful life, and were on the schedule replacement list approved by Council, and

WHEREAS, Resolution No. 2005-381 authorized the Purchasing Manager to solicit bids for new vehicles and heavy equipment throughout FY 05/06 using various competitive processes, with the Purchasing Division coming back to Council for award authorization, and

WHEREAS, the Purchasing Division solicited formal bids for six (6) new, current year/model utility trucks, which included two (2) new, current year/model stencil paint trucks on Request for Bid 0506-29, with a bid opening date of May 16, 2006,

WHEREAS, twenty-eight (28) vendors were solicited of which five (5) were local vendors, and

WHEREAS, out of twenty-eight (28) vendors solicited, one (1) chose to respond to the RFB, and

WHEREAS, the sole bid received was for one (1) crew cab & chassis F550 truck with utility body, with the bid amount exceeding the budgeted amount of \$70,000, and

WHEREAS, Resolution No. 2006-418 authorized the rejection of the sole bid for six (6) new, current year/model utility trucks, and

WHEREAS, the Public Works Department has an urgent need for the two (2) stencil paint trucks, and

WHEREAS, the Purchasing Division working in conjunction with the Public Works Department Fleet Service staff was able to identify a competitive bid contract made by the City of Ukiah with Line Master Engineering, Inc. of Long Beach, California for stencil paint trucks, and

WHEREAS, Line Master Engineering Inc. of Long Beach, California has extended the same base pricing for stencil paint trucks to other government agencies as quoted to the City of Ukiah, except for upgrades, and

WHEREAS, the City of Modesto may purchase these stencil paint trucks by “accessing the terms” through the City of Ukiah’s purchase order No. 036800 with Line Master Engineering Inc. of Long Beach, California, and

WHEREAS, the total estimated cost for the two (2) new, current year/model, stencil paint trucks is \$173,583.10, and

WHEREAS, Modesto Municipal Code (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, Pursuant to MMC Section 8-3.204(d) the Purchasing Manager may determine that a process other than the formal bid process set forth in Section 8-3.203 will result in procurements for the City at the lowest possible cost commensurate with the desired quality, and

WHEREAS, by “accessing the terms” of the City of Ukiah, California contract, the purchase of this equipment will conform to MMC Section 8-3.204(d), and

WHEREAS, the City Council has appropriated funds in the following accounts:  
7210-480-5814-5290 (Fleet Equipment, Replacement), 7210-480-5814-5292 (Fleet  
Equipment, Replacement), 0700-480-4622-0360 (Streets, Traffic & Forestry),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto  
that it hereby authorizes the purchase of two (2) new, current year/model, stencil paint  
trucks by "accessing the terms" of a competitively bid contract through the City of  
Ukiah's purchase order No. 036800 with Line Master Engineering, Inc. of Long Beach,  
California for a total estimated cost of \$173,583.10.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it  
hereby authorizes the Purchasing Manager to issue a purchase order to Line Master  
Engineering, Inc. of Long Beach, California. for the estimated cost of \$173, 583.10.

The foregoing resolution was introduced at a regular meeting of the  
Council of the City of Modesto held on the 12th day of September, 2006, by  
Councilmember Dunbar, who moved its adoption, which motion being duly seconded by  
Councilmember Hawn, was upon roll call carried and the resolution adopted by the  
following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
Jean Morris, City Clerk

APPROVED AS TO FORM:

BY:   
Susana Alcalá Wood, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-574**

**A RESOLUTION AMENDING THE FY 06-07 OPERATIONS BUDGET TO TRANSFER \$23,583.10 FROM ACCOUNT NUMBER 0700-480-4622-0360 TO ACCOUNT NUMBER 7210-480-5814-5290 (\$11,791.55), AND ACCOUNT NUMBER 7210-480-5814-5292 (\$11,791.55) FLEET EQUIPEMENT REPLACEMENT FUNDS**

WHEREAS, the Public Works Department-Fleet Services Division has requested the purchase of two (2) new current year/model stencil paint trucks, and

WHEREAS, the two (2) new, current year/model stencil paint trucks will replace two (2) current stencil paint trucks in the Public Works Department Traffic Engineering Division, and

WHEREAS, the current two (2) stencil paint trucks have met their useful life expectancy and were on the scheduled vehicle replacement list approved by Council in the budget process, and

WHEREAS, an appropriation transfer in the amount of \$23,583.10 from Streets, Traffic & Forestry will allow better account monitoring of the capitalization process,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Finance Director, or his designee, is hereby authorized to amend the FY06-07 operating budget to transfer \$23,583.10 from 0700-480-4622-0360 Streets, Traffic & Forestry to account number 7210-480-5814-5291 (\$11,791.55) and account number 7210-480-5814-5292 (\$11,791.55), Fleet Equipment Replacement Funds.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY:   
Susana Alcalá Wood, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-575**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF WATER VALVES AND FIRE HYDRANTS FOR AN INITIAL TWO (2) YEAR PERIOD, WITH THREE (3) ADDITIONAL ONE-YEAR CONTRACT EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, TO THE FOLLOWING VENDORS: AMERICAN AVK COMPANY OF FRESNO, CA. FOR AN ESTIMATED ANNUAL COST OF \$169,065.09; FERGUSON ENTERPRISES OF MODESTO, CA. FOR AN ESTIMATED ANNUAL COST OF \$21,925.10; AND GROENIGER & COMPANY OF MODESTO, CA. FOR AN ESTIMATED ANNUAL COST OF \$8,375.25, FOR THE TOTAL ESTIMATED ANNUAL COST OF APPROXIMATELY \$200,000.**

WHEREAS, the Finance Department-Central Stores Division has requested the purchase of water valves and fire hydrants, and

WHEREAS, water valves and fire hydrants are used exclusively by the Public Works Department-Water Division, and

WHEREAS, the City's fire hydrants are being replaced at a rate of thirty (30) per week, and

WHEREAS, the water valves are used to replace existing valves which may be non-operable, to extend existing water lines, and for new service laterals to new businesses, and

WHEREAS, the new hydrants have a four and one half-inch (4½") outlet, which allows for greater flow of water in the event of a fire, and

WHEREAS, hydrants are also used in new developments, and

WHEREAS, Resolution No. 2006-335 authorized the Purchasing Manager to solicit bids for water valves and fire hydrants for an initial two (2) year period, with three (3) additional one-year contract extension options, at the sole discretion of the City, and

WHEREAS, the Purchasing Division solicited formal bids for water valves and

fire hydrants on Request for Bid (RFB) 0506-33, with a bid opening dated of July 11, 2006, and

WHEREAS, thirty-one (31) vendors were solicited of which two (2) were local vendors, and

WHEREAS, out of the thirty-one (31) vendors solicited three (3) chose to respond, and

WHEREAS, the Purchasing Division and Finance Department-Central Stores staff evaluated bids, and

WHEREAS, based on the evaluation of bids American AVK Company of Fresno, CA. was deemed to be the lowest responsive and responsible bidder for line items 1-2, 4-5, and 10-14 for an estimated annual cost of \$169,065.09; Ferguson Enterprises of Modesto, CA. was deemed to be the lowest responsive and responsible bidder for line items 3, 6-9, 15-19 and 21 for an estimated annual cost of \$21,925.10; and Groeniger & Company of Modesto, CA. was deemed to be the lowest responsive and responsible bidder for line item 20 for an estimated annual cost of \$8,375.25; and

WHEREAS, Modesto Municipal Code, (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, Section 8-3.203 (a) of the MMC states that purchases whose total maximum cost to the City exceeds \$50,000 shall require preliminary approval of Council, and

WHEREAS, this requirement for the purchase of water valves and fire hydrants received said approval by Resolution No. 2006-335, and

WHEREAS, this Request for Bids (RFB) process conforms to the Modesto Municipal Code, and

WHEREAS, the water valves and fire hydrants are purchased through Central Stores-7110-120-8311-0439 (Inventory Purchases) and are sold as needed to the Water Division, and

WHEREAS, the Water Division has budgeted and made available funds for the purchase of water valves and fire hydrants in account number 6100-480-5012-0360-50 Real Property Maintenance and Repair Supplies,

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 valves and fire hydrants for an initial two (2) year period, with three (3) additional one-year contract extension options, at the sole discretion of the City, for the total estimated annual cost of \$200,000 to the following vendors:

- American AVK Company of Fresno, California for an estimated annual cost of \$169,065.09;
- Ferguson Enterprises of Modesto, California for an estimated annual cost of \$21,925.10;
- Groeniger & Company of Modesto, California for an estimated annual cost of \$8,375.25

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue a purchase order to the following vendors:

- American AVK Company of Fresno, California for an estimated annual cost of \$169,065.09;
- Ferguson Enterprises of Modesto, California for an estimated annual cost of \$21,925.10;
- Groeniger & Company of Modesto, California for an estimated annual cost of \$8,375.25

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
 Jean Morris, City Clerk

APPROVED AS TO FORM:

BY:   
 Susana Alcalá Wood, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-576**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF JANITORIAL PAPER PRODUCTS FOR AN INITIAL THREE (3) YEAR PERIOD, WITH TWO (2) ADDITIONAL ONE-YEAR CONTRACT EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, TO THE FOLLOWING VENDORS: CENTRAL SANITARY SUPPLY OF MODESTO, CA. FOR AN ESTIMATED ANNUAL COST OF \$45,694.40 AND RANDIK PAPER COMPANY OF MODESTO, CA. FOR AN ESTIMATED ANNUAL COST OF \$105,718.68; FOR A TOTAL ESTIMATED ANNUAL COST OF \$151,413.08.**

WHEREAS, the Finance Department-Central Stores has requested the purchase of janitorial paper products, and

WHEREAS, departments purchase the janitorial paper products from Central Stores with accounts designated for that purpose, and

WHEREAS, Resolution No. 2006-109 authorized the Purchasing Manager to solicit bids for janitorial paper supplies for an initial three (3) year period, with two (2) additional one year contract extension options at the sole discretion of the City, and

WHEREAS, the Purchasing Division solicited formal bids for janitorial paper supplies on Request for Bid 0506-11, with a bid opening date of June 27, 2006, and

WHEREAS, sixteen (16) vendors were solicited of which two (2) were local vendors, and

WHEREAS, Out of sixteen (16) vendors solicited four (4) chose to respond to the RFB, and

WHEREAS, Modesto Municipal Code (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, the MMC Section 8-3.203 (a) states that purchases whose total maximum cost to the City exceeds \$50,000 shall receive preliminary approval of Council, and

WHEREAS, the janitorial paper products received said approval with Resolution No. 2005-572, and

WHEREAS, this Request for Bid (RFB) process conforms to the MMC, and

WHEREAS, the funds for inventory purchases have been appropriated in account number 7110-120-8311-0439 (INVENTORY PURCHASES STORES), and

WHEREAS, material is purchased using these funds and recouped through sales to City divisions, and

WHEREAS, the Purchasing Division has coordinated the solicitation and evaluation of bids for janitorial paper supplies with the Finance Department-Central Stores Division staff, and

WHEREAS, Central Sanitary Supply of Modesto, CA. was deemed to be the lowest responsive and responsible bidder for line items 2-4, 8, 11, 14-18 and 20-21 for an estimated annual cost of \$45,694.40, and

WHEREAS, Randik Paper Company of Modesto, CA. is deemed to be the lowest responsive and responsible bidder for line items 1, 5-7, 9-10, 12-13, and 19 for an estimated annual cost of \$105,718.68,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for janitorial paper products for an initial three (3) year period, with two (2) additional one-year contract extension options,

at the sole discretion of the City, for an estimated annual cost of \$151,413.08 to the following vendors:

- Central Sanitary Supply of Modesto, CA. for an estimated annual cost of \$45,694.40;
- Randik Paper Company of Modesto, CA. for an estimated annual cost of \$105,718.68.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue a purchase order to the following vendor: Central Sanitary Supply of Modesto, CA. for an estimated annual cost of \$45,694.40: and Randik Paper Company of Modesto, CA. for an estimated annual cost of \$105,718.68.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
Jean Morris, City Clerk

APPROVED AS TO FORM:

BY:   
Susana Alcalá Wood, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-577**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF CONCRETE BOXES AND COVERS, AND CAST IRON COVERS AND FRAMES FOR AN INITIAL TWO (2) YEAR PERIOD, WITH THREE (3) ADDITIONAL ONE-YEAR CONTRACT EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, TO THE FOLLOWING VENDORS: FERGUSON ENTERPRISES OF MODESTO, CA. FOR AN ESTIMATED ANNUAL COST OF \$134,817.64; A.C.E. FABRICATIONS OF FREMONT, CA. FOR AN ESTIMATED ANNUAL COST OF \$2,265.73; AND KENKO UTILITY SUPPLY, INC, OF TRACY, CA. FOR AN ESTIMATED ANNUAL COST OF \$2,099.59, FOR AN ESTIMATED TOTAL ANNUAL COST OF \$139,182.96.**

WHEREAS, the Finance Department-Central Stores Division has requested the purchase of concrete boxes and covers, and cast iron covers and frames, and

WHEREAS, the Central Stores Division of the Finance Department inventories various materials for use by the Public Works Department and Parks, Recreation and Neighborhoods Department for City projects, and

WHEREAS, concrete boxes and covers, and cast iron covers and frames are used to house water valves and meters, and

WHEREAS, Resolution No. 2006-336 authorized the Purchasing Manager to solicit bids for concrete boxes and covers, and cast iron covers and frames for an initial two (2) year period, with three (3) additional one-year contract extension options, at the sole discretion of the City, and

WHEREAS, the Purchasing Division solicited formal bids for concrete boxes and covers, and cast iron covers and frames on Request for Bid 0506-34, with a bid opening date of July 11, 2006, and

WHEREAS, twenty-two (22) vendors were solicited of which five (5) were local vendors, and

WHEREAS, out of twenty-two (22) vendors solicited, five (5) chose to respond to the RFB, and

WHEREAS, one bid response was a no bid, and

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 requires all purchases which meet or exceed \$50,000 for material, equipment, or contractual services to be formally bid, and

WHEREAS, MMC Section 8-3.203 (a) states that purchases whose total maximum cost to the City exceeds \$50,000 shall require preliminary approval of Council, and

WHEREAS, the concrete boxes and covers, and cast iron covers and frames received said approval with Resolution No. 2006-336, and

WHEREAS, this Request for Bid (RFB) process conforms to the MMC, and

WHEREAS, the funds for inventory purchases have been appropriated in account number 7110-120-8311-0439 (Inventory Purchase Stores), and

WHEREAS, material is purchased using these funds and recouped through sales to City divisions, and

WHEREAS, the Purchasing Division has coordinated the solicitation and evaluation of bids of bids for concrete boxes and covers, and cast iron covers and frames with Central Stores staff, and

WHEREAS, Ferguson Enterprises of Modesto, CA. is deemed to be the lowest responsive and responsible bidder for line items 1-25, 28, and 31-33 for an estimated annual cost of \$134,817.64, and

WHEREAS, A.C.E. Fabrication of Fremont, CA was deemed to be the lowest responsive and responsible bidder for line items 26 and 27 for an total annual cost of \$2,265.73, and

WHEREAS, Kenko Utility Supply, Inc. of Tracy, CA was deemed to be the lowest responsive and responsible bidder for line items 29 and 30 for an estimated annual cost of \$2,099.59,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for concrete boxes and covers, and cast iron covers and frames for an initial two (2) year period, with three (3) additional one-year contract extension options, at the sole discretion of the City, for an estimated annual cost of \$139,182.96 to the following vendors:

- Ferguson Enterprises of Modesto, California for an estimated annual cost of \$134,817.64;
- A.C.E. Fabrications of Fremont, California for an estimated annual cost of \$2,265.73;
- Kenko Utility Supply, Inc. of Tracy, California for an estimated annual cost of \$2,099.59.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue a purchase order to the following vendors:

- Ferguson Enterprises of Modesto, California for an estimated annual cost of \$134,817.64;
- A.C.E. Fabrications of Fremont, California for an estimated annual cost of \$2,265.73;
- Kenko Utility Supply, Inc. of Tracy, California for an estimated annual cost of \$2,099.59.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of September, 2006, by Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour


NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
Jean Morris, City Clerk

APPROVED AS TO FORM:

BY:   
Susana Alcalá Wood, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-578**

**A RESOLUTION APPROVING THE PURCHASE AND INSTALLATION OF A  
FIRE DEPARTMENT AUTOMATED INSPECTION PROGRAM FOR A TOTAL  
COST OF \$40,300.**

WHEREAS, the Modesto Fire Department's Fire Prevention Bureau is responsible for the fire and life safety inspections in the City of Modesto, and

WHEREAS, the Fire Prevention Bureau conducts over 1900 inspection activities per year, and

WHEREAS, the Automated Inspection Program will improve efficiency and life safety through increase quantity and quality inspections, and

WHEREAS the Safety and Communities Committee approved this request on July 31, 2006 for recommendation to the full Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the purchase of a Fire Department Automated Inspection Program for a total cost of \$40,300.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:

  
SUSANA ALCALA WOOD, City Attorney

**RESCINDED**  
JAN 2, 2007  
THIS RESOLUTION WAS  
RESCINDED BY MODESTO  
CITY COUNCIL RESOLUTION  
NO. 2007-040

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-579**

**RESCINDED**  
MAR 13  
APR -16 2007  
THIS RESOLUTION WAS  
RESCINDED BY MODESTO  
CITY COUNCIL RESOLUTION  
NO. 2007-173

**A RESOLUTION APPROVING THE QUARTERLY FUEL ADJUSTMENT TO THE MAXIMUM RATE SCHEDULE FOR RESIDENTIAL AND COMMERCIAL SOLID WASTE COLLECTION SERVICES, AND RESCINDING**

**RESOLUTION NO. 2006-410.**

WHEREAS, pursuant to Chapter 6 of Title 11 of the Modesto Municipal Code, 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, on June 27, 2006, by Resolution No. 2006-410, the Council approved making quarterly adjustments to the component of the maximum rates for residential and commercial service that is attributable to the cost of fuel, and

WHEREAS, the methodology approved by the Council uses the average diesel fuel prices from the Department of Energy/Energy Information Agency (DOE/EIA) for a prior quarter to set the fuel component for a subsequent quarter, and

WHEREAS, for this quarter's adjustment, which would become effective October 1, 2006, average diesel fuel prices for April-June were used, and

WHEREAS, the maximum allowable fuel component for residential rates is therefore \$1.00 per month, and the new maximum residential rate for standard container service is therefore \$19.75 per month, and

WHEREAS, the maximum allowable fuel component for commercial customers for the quarter beginning October 1, 2006, is \$0.20 per cubic yard, and

WHEREAS, the maximum rate for a one (1) yard bin collected once a week is \$33.47, which includes the \$0.87 per month fuel allocation, and

WHEREAS, the Economic Development Committee met on June 12, 2006, and supported the recommendation to implement adjustments to the maximum rate schedule for City solid waste collection services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the quarterly fuel adjustment to the maximum rate schedule for City residential and commercial solid waste collection services as shown on **Exhibit "1"** attached hereto and incorporated herein by reference.

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. 2006-410 is hereby rescinded, effective October 1, 2006.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, 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 **\$19.75 per month** regardless of size of container. **A fuel component of \$1.00 per month is included in the maximum rate for the quarter beginning October 1, 2006 and ending December 31, 2006.** The fuel component may be adjusted quarterly.
- b. The maximum rate for each additional garbage container shall be **\$14.62 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 **\$16.70 per month.** **A fuel component of \$1.00 per month is included in the maximum rate for the quarter beginning October 1, 2006 and ending December 31, 2006.** The fuel component may be adjusted quarterly.
- b. The maximum rate for each additional garbage container shall be **\$14.62 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	\$ 33.47	\$ 56.45	\$ 79.40	\$102.37	\$ 125.34	\$ 148.31
1½ CY	\$ 44.99	\$ 79.40	\$113.90	\$148.06	\$ 183.13	\$ 217.23
2 CY	\$ 56.45	\$ 102.37	\$148.31	\$194.24	\$ 240.16	\$ 286.09
3 CY	\$ 79.40	\$ 148.31	\$217.20	\$286.09	\$ 355.00	\$ 423.89
4 CY	\$102.37	\$ 194.24	\$286.09	\$377.96	\$ 469.82	\$ 561.69
5 CY	\$125.34	\$ 240.16	\$355.00	\$469.82	\$ 587.66	\$ 699.48
6 CY	\$148.31	\$ 286.09	\$423.89	\$561.69	\$ 699.48	\$ 837.28

\* A detachable container rental rate of \$10.00 per month is included in the above schedule.

- Weekly rental/Detachable Containers** - Shall not exceed the rate for 1 pickup per week for each size container.
- Fuel Component** - A fuel component of \$0.20 per cubic yard (\$0.87 per month for a 1 cubic yard container collected once a week) is included in the maximum rate for the quarter beginning October 1, 2006, and ending December 31, 2006. The fuel component shall be analyzed quarterly and adjustments shall be made as necessary. The adjustment shall be based on the average price of fuel for a preceding quarter as follows: July 1/January-March; October/April-June; January 1/July-September; April 1/October-December. Average prices shall be determined based on published prices for California from the Department of Energy.

**DROP BOX CONTAINERS**

- Pick up charge** - \$202.10 per pick up
- Rental**
  - \$0.85 per day up to 7 day maximum rental
  - \$3.00 per day for boxes kept 7 or more days without servicing
  - \$10 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

**Roll-Off Type:**

- |                             |                                      |
|-----------------------------|--------------------------------------|
| 1. 6 CY to 40 CY            | \$202.10 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**

- 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.
- Pursuant to Section 11-6.15(c)(2) of the Modesto Municipal Code, the garbage company may require a deposit equivalent to two (2) months service charge from customers prior to beginning service.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-580**

**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 Recreation Coordinator. The job specification for this classification is being amended to update the essential functions and certification requirements to more accurately reflect the job requirements. The job specification for the classification of Recreation Coordinator, as shown on the attached **Exhibit "A,"** which is hereby made a part of this resolution by reference, is hereby approved and made part of the Position Classification Plan of the City of Modesto.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after September 12, 2006.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 12th day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

## RECREATION COORDINATOR

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

### DEFINITION

To plan, organize and supervise major recreational programs such as adult and youth recreation activities, social services, sports and aquatics, special events, camps and classes.

### SUPERVISION RECEIVED AND EXERCISED

Receives direction from a Recreation Supervisor II.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS – Essential and other important responsibilities and duties may include, but are not limited to, the following:

#### Essential Functions:

Plan, organize, supervise and evaluate recreation programs.

Assist with hiring of part-time personnel necessary for programs, special events, camps and classes.

Conduct orientation meetings for part time staff; assign and train part-time staff; and work with part time employees to correct performance and/or program deficiencies.

Schedule specific program hours. Schedule and assign staff to provide program coverage, including contacting off-duty employees to make necessary adjustments in schedules.

Maintain and submit reports and records.

Monitor the certification of instructor-lifeguards in the aquatics programs; monitor first aid certification of recreation leaders in the park program.

Maintain close contact with school officials and community groups regarding program offerings and coordination of services.

Essential Functions: (Continued)

Participate in training recreation staff and volunteers in procedures and the use of equipment as required.

Monitor and coach assigned staff ensuring all rules, policies and procedures are enforced; follow up on problems and complaints; participate in selection of hourly staff.

Track expenditures and provide input for program budget needs.

Marginal Functions:

Perform other related work as may be assigned.

QUALIFICATIONS:

Knowledge of:

Principles and techniques used in developing a well-balanced recreation program.

Principles and practices of office management, fiscal record keeping and scheduling.

Personal computers including word processing and spreadsheets.

Recreational, social and cultural needs of the community.

Ability to:

Communicate in a clear and concise manner.

Train and coach hourly and volunteer staff.

Write concise reports and maintain accurate records.

Think clearly, quickly and accurately in emergencies.

Identify and analyze potential problems, situations and needs; accurately and quickly carry out solutions.

Perform medium manual labor, meaning lifting and carrying up to fifty (50) pounds of weight.

Ability to: (Continued)

Establish and maintain cooperative-working relationships with those contacted during work.

Coordinate, organize and implement recreation and leisure activities and special events.

Operate programs within allocated budget.

Monitor programs to ensure compliance with related regulations, policies and procedures.

Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities are qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Three (3) years of increasingly responsible experience in development, administration or facilitation of a related program (such as aquatics, sports, senior activities, special population, after school activities, physical education), including experience in supervision of part-time staff.

Training:

Equivalent to an Associates of Arts degree with an emphasis in recreation, physical education, social services or a related field.

License or Certificate

Possession of valid Class C drivers' license issued by California Department of Motor Vehicles at the time of appointment.

When Assigned to Aquatics

Possession of American Red Cross Water Safety Instructor Certificate is required within six months of appointment. Failure to obtain the license within this period shall be grounds for release from probation or termination.



When Assigned to Aquatics (Continued)

Possession of American Red Cross Lifeguard Certificate, or comparable certificate accepted by the department, is required within six months of appointment. Failure to obtain the license within this period shall be grounds for release from probation or termination

Possession of American Red Cross Standard First Aid certificate is required within six months of appointment. Failure to obtain the license within this period shall be grounds for release from probation or termination.

Possession of Cardiopulmonary Resuscitation (CPR) certificate is required within six months of appointment. Failure to obtain the license within this period shall be grounds for release from probation or termination.

WORKING CONDITIONS

Environmental Conditions:

Office and field environment, travel from site to site; hot and cold temperatures; inclement weather.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for walking or standing for prolonged periods of time; operating motorized equipment and vehicles.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 581**

**A RESOLUTION APPROVING AN AGREEMENT WITH PHILIP S. TROMPETTER, Ph.D., A PSYCHOLOGICAL CORPORATION, AND JOCELYN E. ROLAND, PSYCHOLOGIST, IN THE AMOUNT OF \$51,336.20, TO PROVIDE COUNSELING AND PSYCHOTHERAPY SERVICES, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.**

WHEREAS, Philip S. Trompetter, Ph.D., A Psychological Corporation, and Joycelyn E. Roland, Psychologist, can provide counseling/therapy to all full-time, regular sworn officers and reserves, participate in Modesto Police SWAT activations and hostage negotiations, consult on cases with the Investigative Services Division and Administration, and provide crisis debriefing, and

WHEREAS, the Memorandum of Understanding between the City of Modesto and the Modesto Police Officers' Association provides for mental health services for sworn police officers, and

WHEREAS, Philip S. Trompetter, Ph.D., is the only psychological corporation in the area that offers this service, and

WHEREAS, the term of this agreement is for one year commencing on July 1, 2006, and ending June 30, 2007, and

WHEREAS, sufficient funds are budgeted in the Police Department's budget account 010-190-1921-0235 for Services, Professional and Other,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Philip S. Trompetter, Ph.D., A Psychological Corporation, and Jocelyn E. Roland, Psychologist, in the amount of \$51,336.20, to provide counseling and psychotherapy services.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridneour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-582**

**A RESOLUTION APPROVING THE 2006/2007 FISCAL YEAR ANNUAL ANTICIPATED DBE PARTICIPATION LEVEL (AADPL) GOAL OF 7.5%, AND AUTHORIZING THE CITY MANAGER OR HIS DESIGNEE TO EXECUTE THE DISADVANTAGED BUSINESS ENTERPRISE (DBE) RACE-NEUTRAL IMPLEMENTATION AGREEMENT AND PROGRAM PLAN FOR FEDERALLY FUNDED STREET, AIRPORT, AND TRANSIT PROJECTS**

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) and as a condition of receiving this assistance, is required to sign the California Department of Transportation's Disadvantaged Business Enterprise Race-Neutral Implementation Agreement for federally funded street, airport, and transit projects, and

WHEREAS, the City of Modesto wishes to enter into a Disadvantaged Business Enterprise (DBE) Race-Neutral Implementation Agreement, and adopt the required Annual Anticipated DBE Participation Level (AADPL) goal of 7.5%.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it is the goal of the City of Modesto that if any United States Department of Transportation funds are used for contract services, it will assure that no portion of the projected goal will be attained by using race-and gender-conscious means in accordance with 49 CFR Part 26 and other applicable statutes, regulations, and executive orders.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that an Annual Anticipated DBE Participation Level (AADPL) goal of 7.5% is hereby established for the City of Modesto for the 2006/2007 Fiscal Year.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the City Manager or his designee is authorized to execute the DBE Race-Neutral Implementation Agreement and Program Plan with the Federal Transit Administration.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-583**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO PAY UP TO \$2,000 FOR PARTICIPATION IN THE “UNIFIED CERTIFICATION PROGRAM” (UCP) FOR CERTIFYING DISADVANTAGED BUSINESS ENTERPRISE (DBE) CONTRACTORS**

WHEREAS, Federal regulations (49 CFR Part 26) necessitate that the City 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 Unified Certification Program (UCP) consistent with federal regulations and receive approval, and

WHEREAS, financial participation in the Unified Certification Program is also required in order to continue receiving Federal funding on street projects,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to pay up to \$2,000 for participation in the “Unified Certification Program” (UCP) for certifying DBE contractors.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-584**

**A RESOLUTION AMENDING THE ADOPTED CAPITAL IMPROVEMENT PROGRAM BUDGET FOR FISCAL YEAR 2006-07 AND APPROPRIATING \$285,000 IN FEDERAL AVIATION ADMINISTRATION GRANT FUNDING (95%) AND \$15,000 IN PASSENGER FACILITY CHARGES REVENUE (5%) TO ESTABLISH A CAPITAL IMPROVEMENT PROJECT TITLED "NOISE STUDY" (6320-430-A803).**

WHEREAS, Modesto City-County Airport's Master Plan includes the requirement for a Noise Study, and

WHEREAS, the future use levels of the airport will impact the noise levels in the areas adjacent to the airport, and

WHEREAS, the Federal Aviation Administration (FAA) made a Grant Offer to the City of Modesto of \$285,000 for funding of "airport development or noise program implementation", and

WHEREAS, on July 11, 2006, by Resolution No. 2006-445, the City Council accepted the \$285,000 Grant Offer from the FAA for funding of "airport development or noise program implementation", and

WHEREAS, Passenger Facility Charges (PFC) Revenue will cover the additional \$15,000 to fully fund this project,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto, that an amendment to the adopted Capital Improvement Program Budget for fiscal year 2006-07 is hereby approved, establishing a Capital Improvement Project titled "Noise Study" (6320-440-A803).


BE IT FURTHER RESOLVED that The Council hereby authorizes the Finance Director, or his designee, to make the necessary amendments to the



budget in coordination with the Finance Department to appropriate funding in the amount of \$285,000 from FAA grant funds and \$15,000 in PFC Revenue to Account No. 6320-440-A803.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of September 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-585**

**A RESOLUTION APPROVING A REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND KAISER PERMANENTE HOSPITAL IN AN AMOUNT NOT-TO-EXCEED \$180,880 FOR THE CITY'S SHARE OF CONSTRUCTION COST FOR PELANDALE AVENUE/DALE ROAD INTERSECTION EAST LEG IMPROVEMENTS, AUTHORIZING THE CITY MANAGER, OR DESIGNEE, TO EXECUTE THE AGREEMENT, AND FINDING THAT THE PROPOSED PROJECT IS CONSISTENT WITH AND COVERED BY THE KAISER MODESTO MEDICAL CENTER-CORNERSTONE BUSINESS PARK PROJECT EIR**

WHEREAS, Council Resolution No. 2004-541 adopted the 2004/2005 Capital Improvement Program, and

WHEREAS, the 2004/2005 Capital Improvement Program included a project titled, "CIP H422 Pelandale Avenue/Dale Road Intersection Improvements", and

WHEREAS, the intersection improvements at Pelandale Avenue and Dale Road are scheduled to commence in fiscal year 2006, 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 Build 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 additional 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 has evaluated the cost and time benefit of combining the construction of the Kaiser Build and City Build improvements to allow construction at the same time under the same construction contract, and

WHEREAS, the construction of Kaiser Build and City Build improvements under one construction contract will avoid the traffic disruption resulting from two projects at the same location at different times, will eliminate the need to sawcut and remove newly constructed pavement to establish join lines, and will offer the most effective cost and time alternative for both Kaiser and the City, and

WHEREAS, a reimbursement agreement between the City and Kaiser to compensate Kaiser for the City's portion of the construction is necessary in order to combine the projects and facilitate construction of the subject improvements, and

WHEREAS, the potential impacts of this project have been adequately addressed within the context of a previously completed and certified Environmental Impact Report, or Negative Declaration SCH No. 2003072085. No changes have been proposed in this project subsequent to the just referenced action, which would require important revisions of the environmental document. No substantial changes have occurred in the circumstances under which the project is undertaken which would require such changes. Pursuant to Section 15070 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 it hereby approves a Reimbursement Agreement between the City of Modesto and Kaiser Permanente Hospital for construction of the East Leg of the Pelandale

Avenue/Dale Road Intersection Improvement in an amount not-to-exceed \$180,880 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 Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of September, 2006, by Councilmember Dunbar, 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: Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn


ATTEST:

  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By

  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 – 586**

**A RESOLUTION APPROVING AN AGREEMENT WITH FORD AVIATION CONSULTING, INC., FOR AN AMOUNT NOT TO EXCEED \$35,000, TO PREPARE A NEW PASSENGER FACILITY CHARGE (PFC) APPLICATION TO OBTAIN PFC FUNDING FOR MODESTO CITY-COUNTY AIRPORT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT.**

WHEREAS, the Passenger Facility Charge (PFC) Program, administered by the Federal Aviation Administration (FAA), allows for collection of PFC fees for every enplaned passenger at commercial airports controlled by public agencies, and

WHEREAS, the Modesto City-County Airport is controlled by public agencies and is therefore eligible for PFC funds, and

WHEREAS, PFC funds are used to pay for FAA-approved projects that enhance safety, security, or capacity; reduce noise; or increase air carrier competition, at airports, and

WHEREAS, in order to collect the PFC payments, a new PFC Application for Modesto City-County Airport must be submitted to and approved by the FAA, and

WHEREAS, there is a need for technical expertise to draft and submit the new PFC Application, and

WHEREAS, Ford Aviation Consultants, Inc., has submitted a proposal to prepare a new PFC Application for Modesto City-County Airport, and

WHEREAS, the Economic Development Committee endorsed support for approval of this Agreement at its August 7, 2006 meeting,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Ford Aviation Consultants, Inc., for an amount not to exceed \$35,000, to prepare a new Passenger Facility Charge Application to obtain PFC funding for the Modesto City-County Airport.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12<sup>th</sup> day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn was upon roll call carrier and the resolution adopted by the following vote:

AYES: Councilmember: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour  
NOES: Councilmember: None  
ABSENT: Councilmember: None

ATTEST:   
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

by   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-587**

**A RESOLUTION ADOPTING THE DESIGN GUIDELINES FOR  
COMMERCIAL AND INDUSTRIAL DEVELOPMENT, DIRECTING STAFF TO  
BEGIN A WORK PROGRAM TO IMPLEMENT THE DESIGN GUIDELINES  
FOR COMMERCIAL AND INDUSTRIAL DEVELOPMENT, DIRECTING  
STAFF TO ANNUALLY REVIEW AND UPDATE THE DESIGN GUIDELINES  
AS NEEDED, AND DIRECTING STAFF TO PROVIDE QUARTERLY REPORTS  
TO THE PLANNING COMMISSION REGARDING PROJECTS BEING  
CONSIDERED UNDER THE DESIGN GUIDELINES**

WHEREAS, the City is experiencing a substantial increase in requests for non-residential development resulting in concerns that new development should have some guidance to meet acceptable design standards, and Strategy V.A.4, which promotes the creation of walkable communities, and

WHEREAS, the 2001-2004 Strategic Plan, adopted October 23, 2001, includes Strategy V.A.5, which promotes the fostering of distinctive, attractive communities with a strong sense of place, and

WHEREAS, Action V.A.5.a of the 2001-2004 Strategic Plan, which promotes the establishment of aesthetic criteria for evaluation of projects, supports Strategy V.A.5 of the Strategic Plan, and

WHEREAS, the Urban Area General Plan provides that, “. . .The Urban Area General Plan presents a blueprint for the preservation of Modesto’s ‘quality of life’ while providing direction for the growth of business and industry to meet the needs of the future generations . . .”, which supports the concept of Design Guidelines, and

WHEREAS, Title 10 of the Modesto Municipal Code establishes regulations for the use of land and buildings for the public health, safety and general welfare and to

provide the physical, economic and social advantages resulting from an orderly, planned use of land resources, and

WHEREAS, the proposed “Design Guidelines for Commercial and Industrial Development” for commercial and industrial development in order to:

- A. Help keep Modesto architecturally distinctive and not allow it to become “anywhere USA”
  - 1. Maintain a high quality of craftsmanship in development through use of building styles, design elements, and materials that are found in the architectural vernacular of Modesto.
  - 2. Integrate local cultural and historical themes into building and site design where appropriate.
  - 3. Enhance and bring greater attention to gateways and key corridors to enhance the overall city image, beautify its entrances, visual corridors, and vistas to attract visitors and improve the overall experience for citizens.
  - 4. Design for surrounding context and scale of urban form and land uses.
  - 5. Require design excellence for infill and redevelopment sites.
  - 6. Minimize the use of “stock” plans and design in corporate and franchise architecture.
  - 7. Integrate public squares, public space and art that respond to local cultural and historical themes in development.
  
- B. Design for the pedestrian scale in appropriate areas.
  - 1. Encourage pedestrian oriented buildings and site planning in commercial development.
  - 2. Incorporate design elements that respond to, and take advantage of environmental conditions such as wind, sun, shade, et cetera, to improve the pedestrian experience, and that will provide an enjoyable pedestrian experience.
  - 3. Encourage an appropriate scale of building height to street width in commercial areas and minimize parking between buildings and the street.
  - 4. Respect the natural environment by protecting natural resources and integrating the natural environment and open space into building and site planning, wherever possible.
  - 5. Continue and improve streetscape landscaping
  - 6. Control outdoor lighting to provide necessary security, but not create spillage onto adjacent properties or interfere with views of night skies, and



- C. Assist in guiding the style and appearance of future development by giving potential developers a very good idea of what style of development is acceptable and desirable to the City.
- D. Providing a comprehensive set of guidelines early in the development process regarding City development expectations for builders, investors and residents so the “rules” are known up front. This will allow expedited City review of development proposals.
- E. Ensuring new development is consistent and compatible with the design and character of existing neighborhoods.
- F. Providing flexibility to encourage distinctive design themes in various areas of the community.

WHEREAS, the proposed “Design Guidelines for Commercial and Industrial Development” is intended to be implemented in all commercial and industrial zones; and

WHEREAS, public workshops were held by the Planning Commission on July 6, 2006, at 7:00 p.m. and July 27, 2006, at 7:00 p.m. in Room B300, Tenth Street Place, 1010 Tenth Street, Modesto, California, at which time public comments were received and considered, and

WHEREAS, a duly noticed public hearing was held by the Planning Commission on August 21, 2006, at 7:00 p.m., in the, Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, at which time and place comments were received and evidence, both oral and documentary, was received and considered, and

WHEREAS, at said meeting, the Planning Commission voted unanimously to recommend that the City Council adopt the “Design Guidelines for Commercial and Industrial Development” and to direct staff to begin a work program for implementation, and

WHEREAS, at said meeting, the Planning Commission further unanimously voted to add to the original recommendation that said “Design Guidelines for

Commercial and Industrial Development” be reviewed and updated, as needed to ensure they reflect the City’s vision for itself, and

WHEREAS, the Planning Commission desires to be informed about design review on a continuing basis and desires that staff prepare and present a list of projects being considered under the “Design Guidelines for Commercial and Industrial Development” on a quarterly basis, and

WHEREAS, a public hearing was held by the City Council of the City of Modesto on September 12, 2006, at 5:30 p.m. in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, at which time and place comments were received and evidence both oral and documentary was received and considered, and

WHEREAS, “Design Guidelines for Commercial and Industrial Development” is a policy document and therefore is not a project pursuant to Section 15378(b)(2) of the CEQA Guidelines,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby adopts the “Design Guidelines for Commercial and Industrial Development,” a copy of which is on file with the City Clerk’s office.

BE IT FURTHER RESOLVED that City staff is hereby directed to (1) begin a work program for Implementation Option C, which would amend all commercial and industrial zones to require staff review of site plans and elevations for all commercial and industrial development, (2) annually review the Design Guidelines and update the Design Guidelines as needed, and (3) provide a list of projects being considered under the “Design Guidelines for Commercial and Industrial Development,” on a quarterly basis.

The foregoing resolution was introduced at the regular meeting of the Council of the City of Modesto held on the 12th day of September, 2006, 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: Dunbar, Hawn, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

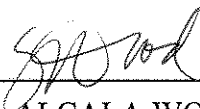
Noes: Councilmembers: Keating

Absent: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-588**

**A RESOLUTION ACCEPTING THE WALKER PARKING CONSULTANTS PARKING ASSESSMENT REPORT AND, AS RECOMMENDED BY THE CITY COUNCIL FINANCE COMMITTEE, DIRECTING STAFF TO: A) IMPLEMENT RECOMMENDATIONS #2 (ENFORCE PENALTIES FOR EMPLOYEE MISUSE OF PARKING); #3 (INCREASE MONTHLY PASSES AND EQUALIZE RATES TO SURFACE LOTS); #7 (INCREASE RESPONSIBILITY OF LEAD GARAGE ATTENDANTS); AND #8 (CONDUCT BOOTH AUDITS); B) INCLUDE A PORTION OF RECOMMENDATION #4 IN THE FISCAL YEAR 2006-07 CAPITAL IMPROVEMENT PROGRAM (AUTOMATED PAY STATIONS); C) INCLUDE IN THE SUPPLEMENTAL REQUESTS FOR FISCAL YEAR 2006-07 THE REQUESTS FOR NEW POSITIONS IN RECOMMENDATIONS #4, #5 AND #6 (6 PARKING SERVICE REPRESENTATIVES, 1 PARKING SUPERVISOR AND 1 ADMINISTRATIVE ANALYST); AND D) PLACE ON HOLD PENDING FURTHER STUDY RECOMMENDATIONS #1 (AMEND TIME ALLOWANCES FOR VALIDATIONS ) AND #9 (INSTALL ON-STREET METERS), INCLUDING THE ADDITION OF REVIEWING ALTERNATE PLACES FOR CITY AND COUNTY EMPLOYEE.**

WHEREAS, the City of Modesto Parks, Recreation and Neighborhoods Department's Parking Services Division operates and services the City's parking garages and surface parking lots, and

WHEREAS, more specifically, the Division is responsible for operation, maintenance and collections of fees for 2,434 parking spaces located in three parking structures and ten surface lots, and

WHEREAS, on September 13, 2005, following the City's established three-bid process, the City hired Walker Parking Consultants to complete an assessment of the City-owned parking facilities (the Walker Report), 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 and operations, and the feasibility of privatization of the parking system, and

WHEREAS, the specific recommendations in the Walker Report are to:

1. Implement a structured validation system at Tenth Street Place, involving time limits based on type of retail tenant and/or tenant need and supply retail tenants with Valometer ® machines and track and monitor validation usage;
2. Amend the enforcement of City/County employee parking to provide penalties for misuse or taking advantage of City provided parking that are consistent with the agreement with the Doubletree Hotel;
3. Implement a rate increase of \$20 per month to bring the monthly parking pass rate from \$40 to \$60; implement annual rate increases of 3% for monthly passes until they are equivalent to 50% of the regular hourly parking fee for 160 hours a month; and standardize parking rates, resulting in the surface lots having the same per hour charge as the garages;
4. Install automated pay stations at 9<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup> Street Garages, and the Centre Plaza and other surface lots;
5. Designate a Parking Supervisor;
6. Create an Administrative Analyst position, to perform the daily and monthly auditing of all parking activity;
7. Increase responsibilities of the Lead Garage Attendants to assist with ensuring revenue integrity;
8. Perform a booth audit for each parking facility; and
9. Install on-street meters and implement rate structure of 25¢ per 12-minute increment (\$1.25 per hour), and

WHEREAS, on July 24, 2006, and August 9, 2006, the recommendations in the Walker Report were presented to the Finance Committee, and

WHEREAS, at its August 9, 2006, meeting, the Finance Committee recommended that staff proceed with implementation of: enforcement of penalties for employee misuse of parking;

increasing monthly passes and equalization of rates to surface lots; installation of automated pay stations; increasing responsibility of Lead Garage Attendants; conducting booth audits; and hiring of Parking Service Representatives, a Parking Supervisor and an Administrative Analyst, and

WHEREAS, the Finance Committee further recommended that amending the time allowances for validations and installation of on-street meters be placed on hold pending further study,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby accepts the Walker Parking Consultants Parking Assessment Report.

BE IT FURTHER RESOLVED that the Council hereby directs staff to implement the recommendations to: enforce penalties for employee misuse of parking; increase monthly passes and equalize rates to surface lots; increase responsibility of Lead Garage Attendants; and conduct booth audits.

BE IT FURTHER RESOLVED that the Council hereby directs staff to include purchase and installation of automated pay stations in the Fiscal Year 2006-07 Capital Improvement Program.

BE IT FURTHER RESOLVED that the Council hereby directs staff to include the requests for 6 Parking Service Representatives, 1 Parking Supervisor and 1 Administrative Analyst in the supplemental requests for Fiscal Year 2006-07.

BE IT FURTHER RESOLVED by the Council that the recommendations to amend the time allowances for validations and install on-street meters are hereby placed on hold pending further study.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12<sup>th</sup> day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-589**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING AN  
AMENDED CONFLICT OF INTEREST CODE FOR THE OFFICE OF THE CITY  
ATTORNEY OF THE CITY OF MODESTO AND RESCINDING RESOLUTION NO.  
2002-448**

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a conflict of interest code, and

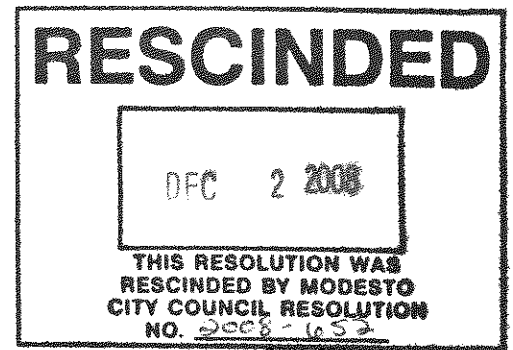
WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted conflict of interest codes, and

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 September 26, 2006 considered the adoption of amended conflict of interest codes for various City departments, including the Office of the City Attorney.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby adopts an amended Conflict of Interest Code for the Office of the City Attorney of the City of Modesto as submitted, a copy of which Code is **attached** hereto.

BE IT FURTHER RESOLVED that Resolution No. 2002-448 adopted by the Council is hereby rescinded.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26<sup>th</sup> day of September 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

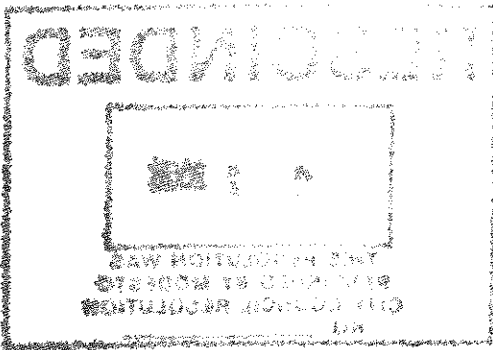
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**CONFLICT OF INTEREST CODE  
OF THE  
OFFICE OF THE CITY ATTORNEY  
OF THE CITY OF MODESTO**

The Political Reform Act (Government Code Section 8100, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Office of the City Attorney.

Designated employees shall file their statements with the Office of the City Clerk and Auditor 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 & Auditor.

OFFICE OF THE CITY ATTORNEY

CONFLICT OF INTEREST CODE

EXHIBIT "A"

<u>Designated Positions</u>	<u>Disclosure Category</u>
Assistant City Attorney	2
City Attorney	1
<i>Community Facilities District Administrator</i> 2 Consultant	3
Deputy City Attorney I, II	2
Senior Deputy City Attorney I, II	2
Paralegal/EEO Investigator	2

OFFICE OF THE CITY ATTORNEY  
CONFLICT OF INTEREST CODE  
EXHIBIT "B"

Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: The City Attorney is required, pursuant to Government Code Section 87200, to disclose investments, interests in real property and income. No other or additional disclosure requirements are imposed by this Conflict of Interest Code.

Group 2: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Group 3: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the City Clerk on beginning and ending the job.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-590**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING AN  
AMENDED CONFLICT OF INTEREST CODE FOR THE OFFICE OF THE CITY  
MANAGER OF THE CITY OF MODESTO AND RESCINDING RESOLUTION NO.  
2004-474**

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a conflict of interest code, and

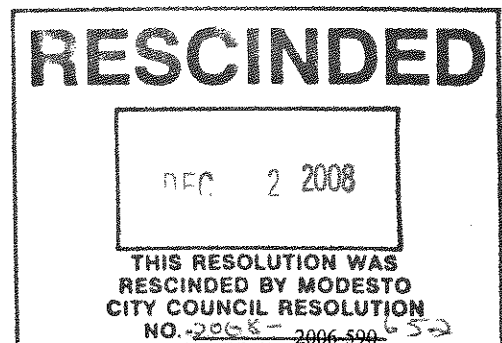
WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted conflict of interest codes, and

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 September 26, 2006 considered the adoption of amended conflict of interest codes for various City departments, including the Office of the City Manager.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby adopts an amended Conflict of Interest Code for the Office of the City Manager of the City of Modesto as submitted, a copy of which Code is **attached** hereto.

BE IT FURTHER RESOLVED that Resolution No. 2004-474 adopted by the Council is hereby rescinded.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26<sup>th</sup> day of September 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

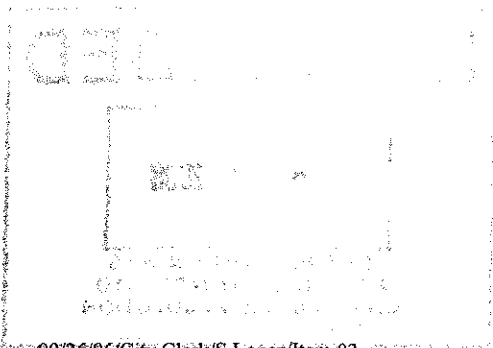
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**CONFLICT OF INTEREST CODE**  
**OF THE**  
**OFFICE OF THE CITY MANAGER**  
**OF THE CITY OF MODESTO**

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Office of the City Manager.

Designated employees shall file their statements with the Office of the City Clerk and Auditor 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 & Auditor.



OFFICE OF THE CITY MANAGER

CONFLICT OF INTEREST CODE

EXHIBIT "A"

<u>Designated Positions</u>	<u>Disclosure Category</u>
City Manager	1 & 2
Consultant(s)	3
Deputy City Manager (1)	2
CFD Administrative Officer	2
<b><i>Management Analyst</i></b>	<b>2</b>

OFFICE OF THE CITY MANAGER  
CONFLICT OF INTEREST CODE

EXHIBIT "B"

Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: The City Manager is required, pursuant to Government Code Section 87200, to disclose investments, interests in real property and income. No other or additional disclosure requirements are imposed by this Conflict of Interest Code.

Group 2: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Group 3: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the City Clerk on beginning and ending the job.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-591**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING AN  
AMENDED CONFLICT OF INTEREST CODE FOR THE COMMUNITY &  
ECONOMIC DEVELOPMENT DEPARTMENT OF THE CITY OF MODESTO AND  
RESCINDING RESOLUTION NO. 2004-475**

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a conflict of interest code, and

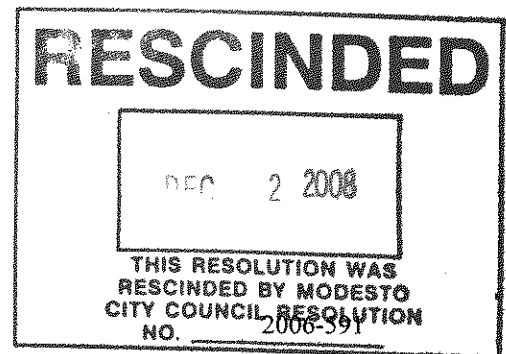
WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted conflict of interest codes, and

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 September 26, 2006 considered the adoption of amended conflict of interest codes for various City departments, including the Community & Economic Development Department.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby adopts an amended Conflict of Interest Code for the Community & Economic Development Department of the City of Modesto as submitted, a copy of which Code is **attached** hereto.

BE IT FURTHER RESOLVED that Resolution No. 2004-475 adopted by the Council is hereby rescinded.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26<sup>th</sup> day of September 2006, by Councilmember Hawn who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM

By: [Signature]  
SUSANA ALCALA WOOD, City Attorney

RECEIVED  
CITY OF MODESTO  
09/26/06/City Clerk/S Lopez/Item 03

**CONFLICT OF INTEREST CODE**  
**OF THE**  
**COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT**  
**OF THE CITY OF MODESTO**

The Political Reform Act (Government Code Section 81000, 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) that contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Community Development Department.

Designated employees shall file their statements with the Office of the City Clerk and Auditor who 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 & Auditor.

COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT

CONFLICT OF INTEREST CODE

EXHIBIT "A"

<u>Designated Positions</u>		<u>Disclosure Category</u>
Administrative Analyst I, II	1	
Administrative Services Officer		1
Assistant Planner		1
Associate Civil Engineer		1
Associate Planner		1
Building Inspector I, II		1
Business Analyst	1	
Business Development Division Manager		1
Chief Building Official		1
Community & Economic Development Director		1
Consultant		2
Deputy Chief Building Official		1
Plan Review Engineer		1
Planning Assistant		1
Planning Division Manager	1	
Planning Technician II	1	
Principal Planner		1
Senior Building Inspector		1
Senior Civil Engineer	1	
Senior Planner		1
Supervising Building Inspector		1

COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT

CONFLICT OF INTEREST CODE

EXHIBIT "B"

Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the Modesto Urban Area General Plan.)

Group 2: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department that hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest the consultant is required to file with the City Clerk on beginning and ending the job.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-592**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING AN  
AMENDED CONFLICT OF INTEREST CODE FOR THE FINANCE DEPARTMENT  
OF THE CITY OF MODESTO AND RESCINDING RESOLUTION NO. 2004-476**

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a conflict of interest code, and

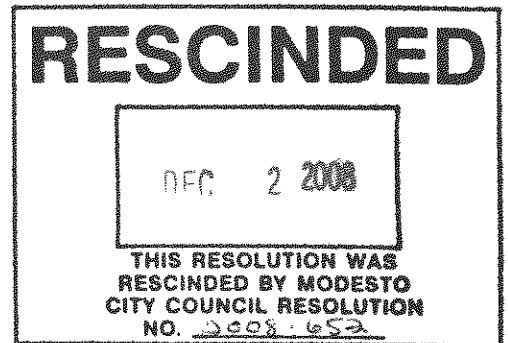
WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted conflict of interest codes, and

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 September 26, 2006 considered the adoption of amended conflict of interest codes for various City departments, including the Finance Department.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby adopts an amended Conflict of Interest Code for the Finance Department of the City of Modesto as submitted, a copy of which Code is **attached** hereto.

BE IT FURTHER RESOLVED that Resolution No. 2004-476 adopted by the Council is hereby rescinded.





The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26<sup>th</sup> day of September 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

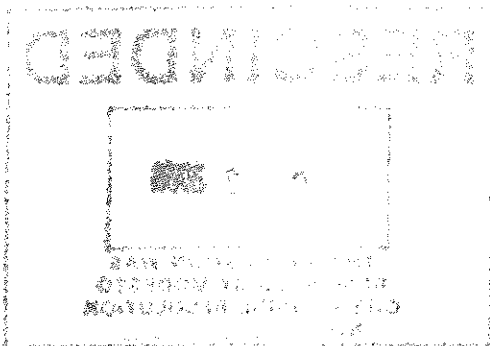
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**CONFLICT OF INTEREST CODE  
OF THE  
FINANCE DEPARTMENT**

OF THE CITY OF MODESTO

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Finance Department.

Designated employees shall file their statements with the Office of the City Clerk and Auditor 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 & Auditor.

FINANCE DEPARTMENT  
 CONFLICT OF INTEREST CODE  
 EXHIBIT "A"

<u>Designated Employee Positions</u>	<u>Disclosure Category</u>	
Accounting Division Manager	2	
Assistant Buyer (Purchasing Division)	2	
Buyer/Senior Buyer	3	
<del>Customer Services Division Manager</del>	<del>2</del>	<u>Customer Services Supervisor</u>
	2	
<u>Deputy Finance Director (2)</u>	2	Deputy
<del>Information Services Manager</del>	<del>4</del>	
<del>Development Services Coordinator</del>	<del>2</del>	
<u>Director of Finance</u>	1	
<del>Financial/Investment Officer</del>	<del>2</del>	
<del>GIS Coordinator</del>	<del>2</del>	
<del>Information Services Manager</del>	<del>2</del>	
<del>Manager of Budget and Financial Analysis</del>	<del>2</del>	
Purchasing Manager	2	
Stores Manager	3	
<del>Systems Analyst</del>	<del>2</del>	
<del>Systems Engineer</del>	<del>2</del>	
Consultants	5	

## FINANCE DEPARTMENT

### CONFLICT OF INTEREST CODE

#### EXHIBIT "B"

##### Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: The Director is required, pursuant to Government Code Section 87200, to disclose investments, interests in real property and income. No other or additional disclosure requirements are imposed by this Conflict of Interest Code.

Group 2: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Group 3: Designated employees in this group shall report all business positions, all investments, income, loans or gifts from individuals or businesses - Schedules A, C, D, E and F - from business entities located in or doing business within the jurisdiction.

Group 4: Designated employees in this group shall report all business positions, all investments, income, loans or gifts from individuals or businesses - Schedules A, C, D, E and F - from business entities located in or doing business within the jurisdiction which manufacture, sell or design data processing equipment or related services.

Group 5: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the City Clerk on beginning and ending the job.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 -593**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING AN  
AMENDED CONFLICT OF INTEREST CODE FOR THE FIRE DEPARTMENT OF  
THE CITY OF MODESTO AND RESCINDING RESOLUTION NO. 2000-493**

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a conflict of interest code, and

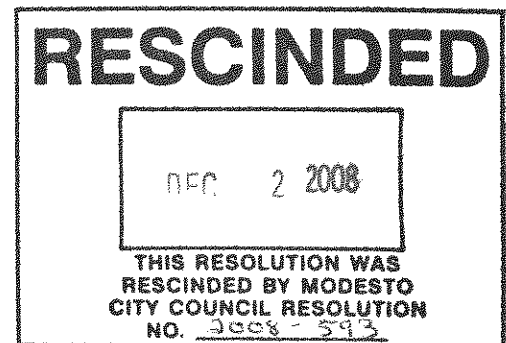
WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted conflict of interest codes, and

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 September 26, 2006 considered the adoption of amended conflict of interest codes for various City departments, including the Fire Department.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby adopts an amended Conflict of Interest Code for the Fire Department of the City of Modesto as submitted, a copy of which Code is **attached** hereto.

BE IT FURTHER RESOLVED that Resolution No. 2000-493 adopted by the Council is hereby rescinded.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26<sup>th</sup> day of September 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

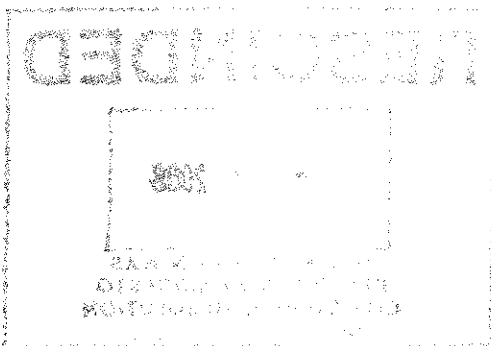
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**CONFLICT OF INTEREST CODE  
OF THE  
FIRE DEPARTMENT**

OF THE CITY OF MODESTO

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Fire Department.

Designated employees shall file their statements with the Office of the City Clerk and Auditor 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 & Auditor.

FIRE DEPARTMENT  
CONFLICT OF INTEREST CODE  
EXHIBIT "A"

<u>Designated Positions</u>		<u>Disclosure Category</u>
Administrative Analyst		1
Apparatus Committee Members		2
Buyer Business Services Analyst		1
Consultant		3
<i>Deputy Fire Marshal</i>	2	
Fire Chief		1
Fire Division Chief		1
Fire Battalion Chief		1
Fire Marshal		1
Senior Fire Mechanic		2



FIRE DEPARTMENT  
CONFLICT OF INTEREST CODE  
EXHIBIT "B"

Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Group 2: Designated employees in this group shall report all business positions, all investments, income, loans or gifts from individuals or businesses - Schedules A, C, D, E and F - from business entities located in or doing business within the jurisdiction which manufacture or sell fire-related equipment or parts.

Group 3: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the City Clerk on beginning and ending the job.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-594**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING AN  
AMENDED CONFLICT OF INTEREST CODE FOR THE INFORMATION &  
TECHNOLOGY DEPARTMENT OF THE CITY OF MODESTO AND RESCINDING  
RESOLUTION NO. 2004-477**

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a conflict of interest code, and

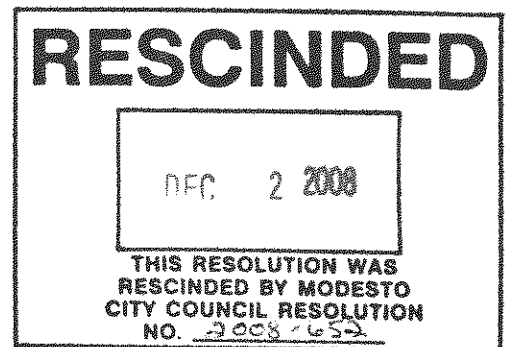
WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted conflict of interest codes, and

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 September 26, 2006 considered the adoption of amended conflict of interest codes for various City departments, including the Information & Technology Department.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby adopts an amended Conflict of Interest Code for the Information & Technology Department of the City of Modesto as submitted, a copy of which Code is **attached** hereto.

BE IT FURTHER RESOLVED that Resolution No. 2004-477 adopted by the Council is hereby rescinded.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26<sup>th</sup> day of September 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

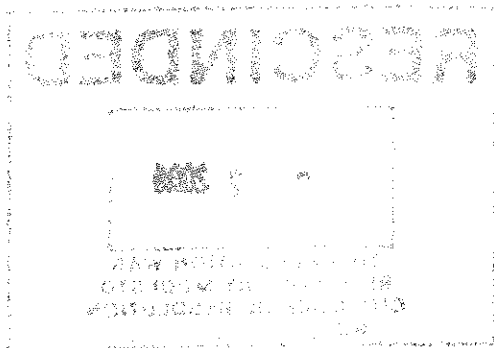
NOES: Councilmembers: None

ABSENT: Councilmembers: None:

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**CONFLICT OF INTEREST CODE**  
**OF THE**  
**INFORMATION TECHNOLOGY DEPARTMENT**  
**OF THE CITY OF MODESTO0**

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Information Technology Department.

Designated employees shall file their statements with the Office of the City Clerk and Auditor 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 & Auditor.

INFORMATION TECHNOLOGY DEPARTMENT

CONFLICT OF INTEREST CODE

EXHIBIT "A"

<u>Designated Positions</u>	<u>Disclosure Category</u>
Consultant	5
Chief Information Officer	1
<b><i>Deputy Chief Information Officer</i></b>	<b>2</b>
<u>Information Technology Unit Manager</u>	<u>2</u>
<u>Software Analyst IV</u>	<u>2</u>
<u>Software Analyst III</u>	<u>2</u>
<u>System Engineer III</u>	<u>2</u>
<u>System Engineer II</u>	<u>2</u>
<del><i>Development and Operations Supervisor</i></del>	<del>2</del>
<del><i>GIS Coordinator</i></del>	<del>2</del>
<del>Information Technology Manager</del>	<del>2</del>
<del>GIS Analyst</del>	<del>2</del>
<del>Systems Analyst</del>	<del>2</del>
<del><i>Systems Engineer</i></del>	<del>2</del>

# INFORMATION TECHNOLOGY DEPARTMENT

## CONFLICT OF INTEREST CODE

### EXHIBIT "B"

#### Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: The Director is required, pursuant to Government Code Section 87200, to disclose investments, interests in real property and income. No other or additional disclosure requirements are imposed by this Conflict of Interest Code.

Group 2: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Group 3: Designated employees in this group shall report all business positions, all investments, income, loans or gifts from individuals or businesses - Schedules A, C, D, E and F - from business entities located in or doing business within the jurisdiction.

Group 4: Designated employees in this group shall report all business positions, all investments, income, loans or gifts from individuals or businesses - Schedules A, C, D, E and F - from business entities located in or doing business within the jurisdiction which manufacture, sell or design data processing equipment or related services.

Group 5: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the City Clerk on beginning and ending the job.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-595**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING AN  
AMENDED CONFLICT OF INTEREST CODE FOR THE PARKS, RECREATION &  
NEIGHBORHOODS DEPARTMENT OF THE CITY OF MODESTO AND  
RESCINDING RESOLUTION NO. 2004-478**

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a conflict of interest code, and

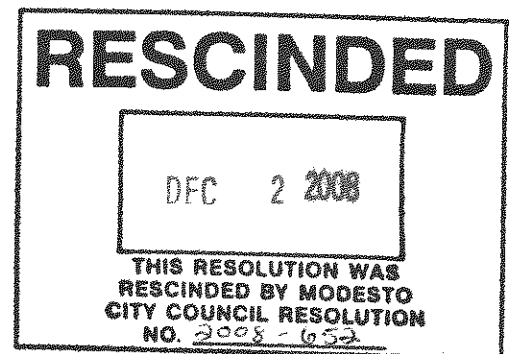
WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted conflict of interest codes, and

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 September 26, 2006 considered the adoption of amended conflict of interest codes for various City departments, including the Parks, Recreation & Neighborhoods Department.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby adopts an amended Conflict of Interest Code for the Parks, Recreation & Neighborhoods Department of the City of Modesto as submitted, a copy of which Code is **attached** hereto.

BE IT FURTHER RESOLVED that Resolution No. 2004-478 adopted by the Council is hereby rescinded.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26<sup>th</sup> day of September 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

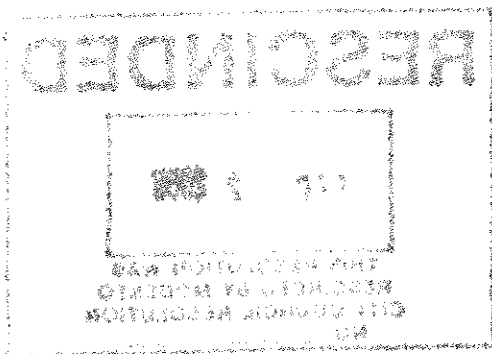
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney





**CONFLICT OF INTEREST CODE**  
**OF THE**  
**PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT**  
**OF THE CITY OF MODESTO**

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Parks, Recreation and Neighborhoods Department.

Designated employees shall file their statements with the Office of the City Clerk and Auditor 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 & Auditor.

PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT  
 CONFLICT OF INTEREST CODE  
 EXHIBIT "A"

<u>Designated Positions</u>	<u>Disclosure Category</u>
Administrative Analyst II	2
Administrative Analyst I	2
Administrative Services Officer	1
Building Maintenance Superintendent      1	
Building Maintenance Supervisor	1
Code Enforcement Officer I, II	2
Compost Facility Supervisor	<u>2</u>
<del>Community Development Program Specialist II</del>	<del>2</del>
Consultant	3
Cultural Services Manager	2
Custodian Supervisor	2
<del>Customer Services Supervisor</del>	<del>2</del>
Deputy Director – Cultural and Enterprise Services	1
Deputy Director – Recreation <del>&amp;</del> and Neighborhood Services	1
Events <del>Supervisor I</del> <u>Coordinator</u>	2
<b>Events Supervisor II</b>	<b><u>1</u></b>
Housing Financial Specialist	2
<del>Housing Program Supervisor</del>	<del>2</del>
Housing Rehabilitation Specialist II	2
HUD Programs Manager                      1	
Integrated Waste Specialist	1
Neighborhood Preservation Supervisor	2
Operations & Maintenance Supervisor	2
Operations Supervisor	2
Parks Operations Superintendent	1
Parks Planning and Development Manager	1
Project Coordinator	2
Parks, Recreation and Neighborhoods Director	1
Recreation <del>Superintendent</del> <u>Program Manager</u>	1

Recreation Supervisor II		2
Recycling Program Coordinator	1	
<del>Senior Building Inspector</del>		<del>2</del>
Senior Community Development Program Specialist		2
Senior Housing Rehabilitation Specialist		2
Solid Waste Program Manager	1	

PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT  
CONFLICT OF INTEREST CODE  
EXHIBIT "B"

Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Group 2: Designated employees in this group shall report all business positions, all investments, income, loans or gifts from individuals or businesses - Schedules A, C, D, E and F - from business entities located in or doing business within the jurisdiction which manufacture, sell or supply equipment, including but not limited to horticulture, construction, craft, office and safety supplies and/or equipment.

Group 3: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the City Clerk on beginning and ending the job.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-596  
A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING AN  
AMENDED CONFLICT OF INTEREST CODE FOR THE PERSONNEL  
DEPARTMENT OF THE CITY OF MODESTO AND RESCINDING RESOLUTION NO.  
2000-495**

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a conflict of interest code, and

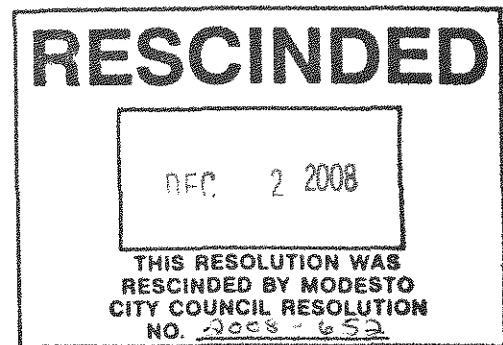
WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted conflict of interest codes, and

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 September 26, 2006 considered the adoption of amended conflict of interest codes for various City departments, including the Personnel Department.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby adopts an amended Conflict of Interest Code for the Personnel Department of the City of Modesto as submitted, a copy of which Code is **attached** hereto.

BE IT FURTHER RESOLVED that Resolution No. 2000-495 adopted by the Council is hereby rescinded.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26<sup>th</sup> day of September 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

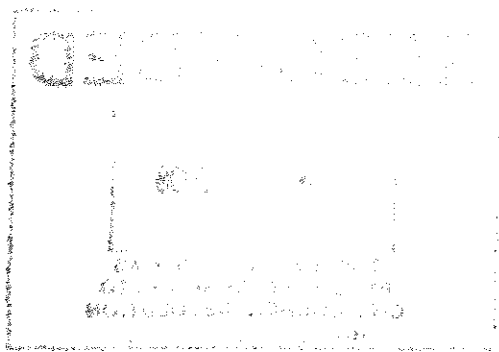
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**CONFLICT OF INTEREST CODE  
OF THE  
PERSONNEL DEPARTMENT**

OF THE CITY OF MODESTO

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Personnel Department.

Designated employees shall file their statements with the Office of the City Clerk and Auditor 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 & Auditor.

PERSONNEL DEPARTMENT  
CONFLICT OF INTEREST CODE

EXHIBIT "A"

<u>Designated Positions</u>	<u>Disclosure Category</u>
Assistant Personnel Director	1
Assistant Risk Manager	1
Consultant	3
Deputy Director of Personnel	1
Personnel Director	1
Risk Manager	1
Workers' Compensation Claims Examiner	2



PERSONNEL DEPARTMENT  
CONFLICT OF INTEREST CODE  
EXHIBIT "B"

Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Group 2: Designated employees in this group shall report all business positions, all investments, income, loans or gifts - Schedules A, C, D, E and F - from all individuals or businesses involved in healthcare or vocational rehabilitation, which are located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Group 3: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the City Clerk on beginning and ending the job.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-597**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING AN  
AMENDED CONFLICT OF INTEREST CODE FOR THE POLICE DEPARTMENT OF  
THE CITY OF MODESTO AND RESCINDING RESOLUTION NO. 2000-496**

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a conflict of interest code, and

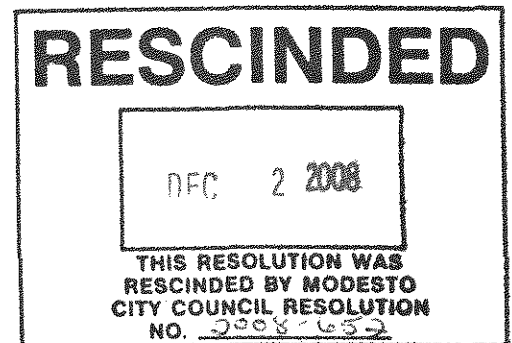
WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted conflict of interest codes, and

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 September 26, 2006 considered the adoption of amended conflict of interest codes for various City departments, including the Police Department.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby adopts an amended Conflict of Interest Code for the Police Department of the City of Modesto as submitted, a copy of which Code is **attached** hereto.

BE IT FURTHER RESOLVED that Resolution No. 2000-496 adopted by the Council is hereby rescinded.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26<sup>th</sup> day of September 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

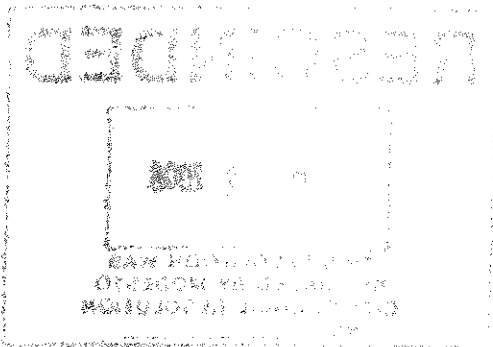
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**CONFLICT OF INTEREST CODE**  
**OF THE**  
**POLICE DEPARTMENT**  
**OF THE CITY OF MODESTO**

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Police Department.

Designated employees shall file their statements with the Office of the City Clerk and Auditor 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 & Auditor.

POLICE DEPARTMENT  
CONFLICT OF INTEREST CODE  
EXHIBIT "A"

<u>Designated Positions</u>		<u>Disclosure Category</u>
Administrative Analyst		2
Administrative Technician		1
Chief of Police		1
Assistant Chief of Police		1
Police Captain (3)	1	
Police Lieutenant (12)	2	
Senior Deputy City Attorney I, II		2

POLICE DEPARTMENT  
CONFLICT OF INTEREST CODE  
EXHIBIT "B"

Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Group 2: Designated employees in this group shall report all business positions, all investments, income, loans or gifts from individuals or businesses - Schedules A, C, D, E and F - from business entities located in or doing business within the jurisdiction selling, manufacturing, or distributing equipment and supplies for office, personnel or vehicles.

Group 3: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the City Clerk on beginning and ending the job.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-598**

**A RESOLUTION OF THE COUNCIL OF THE CITY OF MODESTO ADOPTING AN  
AMENDED CONFLICT OF INTEREST CODE FOR THE PUBLIC WORKS  
DEPARTMENT OF THE CITY OF MODESTO AND RESCINDING RESOLUTION NO.  
2004-481**

WHEREAS, pursuant to Government Code Section 87300, every local agency must adopt a conflict of interest code, and

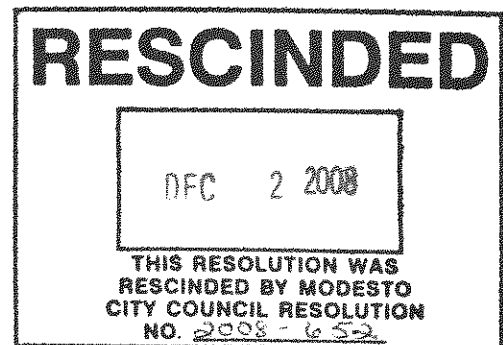
WHEREAS, the City Clerk is authorized to maintain a current list of the City agencies/departments which have adopted conflict of interest codes, and

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 September 26, 2006 considered the adoption of amended conflict of interest codes for various City departments, including the Public Works Department.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby adopts an amended Conflict of Interest Code for the Public Works Department of the City of Modesto as submitted, a copy of which Code is **attached** hereto.

BE IT FURTHER RESOLVED that Resolution No. 2004-481 adopted by the Council is hereby rescinded.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26<sup>th</sup> day of September 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

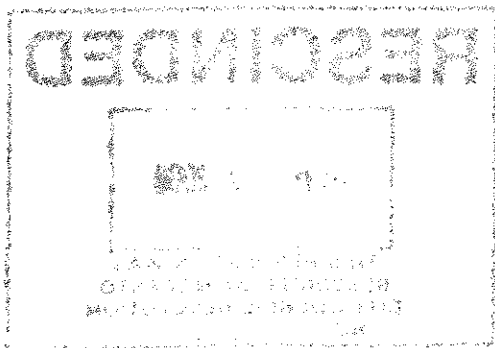
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney





**CONFLICT OF INTEREST CODE  
OF THE  
PUBLIC WORKS DEPARTMENT  
OF THE CITY OF MODESTO**

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. 18730) which contains the terms of a standard conflict of interest code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories, shall constitute the conflict of interest code of the Public Works Department.

Designated employees shall file their statements with the Office of the City Clerk and Auditor 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 & Auditor.

PUBLIC WORKS DEPARTMENT  
 CONFLICT OF INTEREST CODE  
 EXHIBIT "A"

<u>Designated Positions</u>	<u>Disclosure Category</u>
Administrative Analyst II	1
Administrative Services Officer	1
Airport Maintenance Crewleader	1
Airport Manager	1
Associate Civil Engineer	1
Associate Traffic Engineer	1
Construction Inspector	1
Consultant	3
Deputy Director of Public Works	1
Electrical Supervisor	2
Environmental Compliance Inspector	2
Fleet Manager	1
Laboratory & Environmental Monitoring Supervisor	1
Land Surveyor	1
Public Works Director	1
Operations & Maintenance Supervisor (Org #s 5012-5016,5212, 5312 only)	2
Regulatory Compliance Supervisor	1
<b><u>SCADA Supervisor</u></b>	<b><u>2</u></b>
Senior Civil Engineer	1
Senior Construction Inspector	1
Senior Environmental Compliance Inspector	2
Supervising Construction Inspector	1
Streets Maintenance Superintendent	1
Traffic Engineer	1
Transit Manager	1
Transportation Planner	1
Urban Forestry Superintendent	1
Wastewater Collection Superintendent	1
Wastewater Treatment Plant Manager	1

Water Quality Control Maintenance Supervisor

2

Water Superintendent

1

PUBLIC WORKS DEPARTMENT  
CONFLICT OF INTEREST CODE  
EXHIBIT "B"

Disclosure Categories

An investment, interest in real property, or income is reportable if the business entity in which the investment is held, the interest in real property, or the income, or source of income may foreseeably be affected materially by any decision made or participated in by the designated employee by virtue of the employee's position.

Group 1: Designated employees in this group shall report all business positions, all investments, interests in real property, income, loans or gifts from individuals or businesses - Schedules A, B, C, D, E and F - from all sources located in or doing business within the jurisdiction. (Real property shall be deemed to be "within the jurisdiction" if the property or any part of it is located within or not more than two miles outside the boundaries of the city or within two miles of any land owned or used by the City.)

Group 2: Designated employees in this group shall report all business positions, all investments, income, loans or gifts from individuals or businesses - Schedules A, C, D, E and F - from business entities located in or doing business within the jurisdiction which manufacture, sell or supply equipment, including but not limited to horticulture, construction, craft, office and safety supplies and/or equipment.

Group 3: A consultant is any person who under contract provides information, advice, recommendation or counsel to any agency. The head of the department which hires a consultant shall determine on a case-by-case basis the appropriate disclosure of economic interest which the consultant is required to file with the City Clerk on beginning and ending the job.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-599**

**A RESOLUTION APPROVING A MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES WITH HARRIS AND ASSOCIATES FOR THE PREPARATION OF FACILITIES MASTER PLANS, INFRASTRUCTURE FINANCE PLANS, AND FOR FORMATION OF COMMUNITY FACILITIES DISTRICTS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the City, has determined that Facilities Master Plans (“FMPs”), and Infrastructure Finance Plans, (“IFPs”) should be prepared for new Specific Plan areas to provide for the public facilities and services needed to serve these areas and to provide for phasing and funding mechanisms, such as Community Facilities District (“CFDs”) to ensure that the infrastructure necessary to serve development will be available in a timely manner, and

WHEREAS, the City has also determined that various technical studies and finance-related studies are needed to support the preparation of the FMPs and IFPs, and

WHEREAS, Harris and Associates (“Consultant”) has been pre-qualified and approved by the Council to provide the services to prepare said FMPs and IFPs , and

WHEREAS, City and Consultant desire to enter into a Master Professional Services Agreement for Consultant Services (“Master Agreement”) pursuant to which Consultant shall prepare FMPs, IFPs, technical studies and related on-call services as assigned by City, and

WHEREAS, prior to commencement of services under the Master Agreement, all work and services to be provided to City by Consultant shall be outlined in a Task Order for each project and shall be approved by the City in accordance with City’s policies regarding contracting authority,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Master Professional Services Agreement for Consultant Services between the City of Modesto and Harris and Associates for the preparation of Facilities Master Plans, Infrastructure Finance Plans, and for formation of Community Facilities Districts is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or designee, is hereby authorized to execute the Master Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of September, 2006, 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:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-600**

**A RESOLUTION APPROVING TASK ORDER NO. 1 TO THE MASTER  
PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES  
WITH HARRIS AND ASSOCIATES FOR THE PREPARATION OF A  
FACILITIES MASTER PLAN, INFRASTRUCTURE FINANCE PLAN, AND FOR  
FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE  
KIERNAN BUSINESS PARK EAST SPECIFIC PLAN AREA**

WHEREAS, the City Council is desirous of creating a Facilities Master Plan (“FMP”) and Infrastructure Finance Plan (“IFP”) for the Kiernan Business Park East Specific Plan Area (“Project”), and

WHEREAS, Chopra Development Enterprises (“Applicant”) has a legal interest in real property located within a portion of the Kiernan Business Park East Specific Plan Area, shown in **Exhibit “A”**, and is interested in pursuing development of properties in the Specific Plan Area, and

WHEREAS, on September 26, 2006, the Council of the City of Modesto approved a Master Professional Services Agreement for Consultant Services with Harris and Associates for the preparation of FMPs, IFPs, technical studies and related on-call services as assigned by City, and

WHEREAS, Harris and Associates (“Consultant”) has prepared Task Order No. 1 (“Task Order”) for the Project, attached as **Exhibit “B”**, and

WHEREAS, Applicant has advanced a deposit in the amount of two hundred and sixty-three thousand dollars (\$263,000) to the City to fund a portion of Task Order No. 1 and to pay staff and consultant expenses expected to be incurred in connection with the Project, and

WHEREAS, additional deposits will be provided by Applicant, as required by the City and as necessary to fund the Task Order, and

WHEREAS, the City will issue Notices to Proceed to the City's Consultant only for those subtasks for which the Applicant has deposited funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Task Order No. 1, attached as **Exhibit "B"** hereto are hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26 day of September, 2006, Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

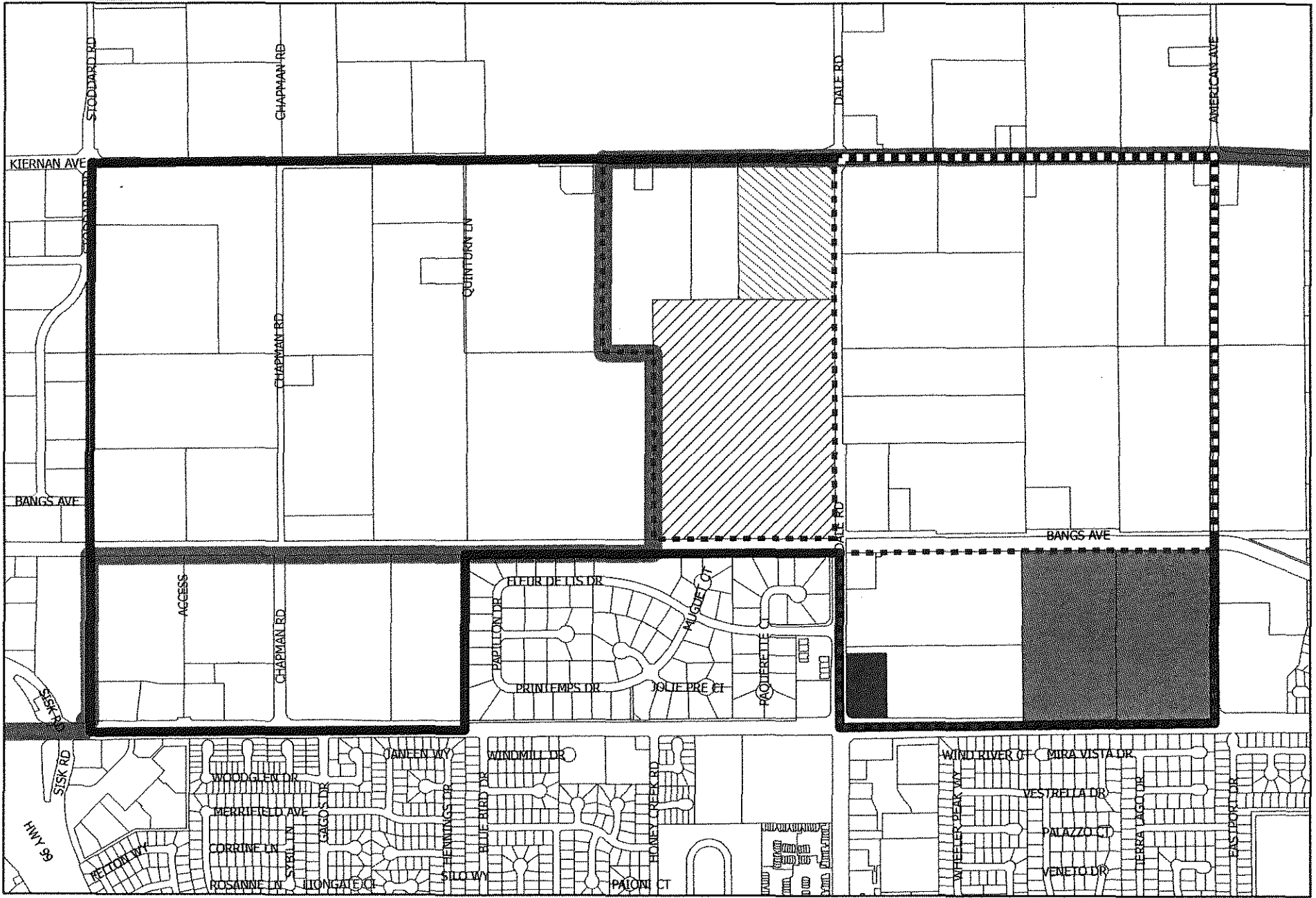
ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney













**EXHIBIT A**



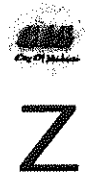
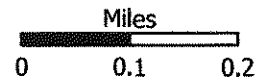
KBPE 11-05.mxd

City of Modesto

# Kiernan Business Park Specific Planning Area

- |   |                             |  |                  |
|---|-----------------------------|--|------------------|
|  | Modesto Sphere of Influence |  | Bank of Stockton |
|  | Kiernan Business Park SP    |  | Mana/Wagner      |
|  | Kiernan Business Park East  |  | Bridges (Malik)  |
|  | Kiernan Business Park South |  | Kaiser Hospital  |
|  | Kiernan Business Park West  |  | Leaping Lizards  |

November 30, 2005



**EXHIBIT B**

**City of Modesto**  
**TASK ORDER NO. 1**  
**for**  
**Harris & Associates'**  
**Master Professional Services Agreement**

**Kiernan Business Park East**

This Task Order No. 1 is made and entered into by and between the City of Modesto, a municipal corporation (hereinafter "CITY"), and Harris & Associates, Inc., a California Corporation (hereinafter "CONSULTANT") and is effective as of \_\_\_\_\_.

**RECITALS**

- A. CONSULTANT has entered into a Master Professional Services Agreement, (hereinafter "Agreement") , dated \_\_\_\_\_ ("AGREEMENT") with the CITY, by which the CONSULTANT has agreed to provide professional engineering and financial engineering services for various development projects, which is incorporated herein by reference.
- B. At the request of CITY and in compliance with the terms of the AGREEMENT, CONSULTANT has prepared the Task Order No. 1, a copy of which is attached hereto as Exhibit A.
- C. CITY and CONSULTANT desire that CONSULTANT perform the services as identified in the attached Scope of Work.

**NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

1. **INCORPORATION OF MASTER PROFESSIONAL SERVICES AGREEMENT.** This Task Order hereby incorporates by reference all terms and conditions set forth in the Master Professional Services Agreement, unless expressly modified by this Task Order. The AGREEMENT and this Task Order shall, to the fullest extent possible, be read and considered as fully integrated documents and shall be interpreted so as to avoid inconsistencies, comply with all applicable laws and ensure that the objectives of the parties will be fully realized.

Nothing in this Task Order is intended to supersede, terminate, modify or otherwise affect any provision of the AGREEMENT, except to the extent that a provision of this AGREEMENT is in direct and irreconcilable conflict with a provision of the AGREEMENT. Then, and only in that event, the provisions of the AGREEMENT shall prevail over the contradictory provision of the Task Order.

2. **SCOPE OF SERVICES.** CONSULTANT shall perform the services described in Exhibit "A" attached hereto and incorporated herein by reference. CONSULTANT shall not replace its Authorized Representative, nor shall CONSULTANT use any subcontractors or subconsultants not listed in this Task Order, without the prior written consent of CITY.

- 3. **TIME OF PERFORMANCE.** CONSULTANT shall commence performance within five (5) working days after receipt of a Notice to Proceed from City, and shall complete all required services no later than the dates set forth in Exhibit "A".
- 4. **COMPENSATION.** For services performed by CONSULTANT in accordance with this Task Order, CONSULTANT agrees to accept a sum not to exceed \$524,421.00. CONSULTANT shall be paid at the times and in the manner set forth in Paragraph 3 of the Master Professional Services Agreement, unless expressly provided otherwise in the attached Scope of Work.
- 5. **SIGNATURES.** The individuals executing this Task Order represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Task Order on behalf of the respective legal entities of the CONSULTANT and CITY. This Task Order shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

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-\_\_\_\_\_, adopted by the Council of the City of Modesto on the \_\_\_\_ day of \_\_\_\_\_, 2006, and has caused this Agreement to be duly executed in duplicate as of the Effective Date set forth above.

CITY OF MODESTO,  
a municipal corporation

CONSULTANT,  
a California corporation\*

By \_\_\_\_\_  
GEORGE W. BRITTON,  
City Manager

By *Guy A. Erickson*  
Name Title  
*Guy A. Erickson President*

APPROVED AS TO FORM:  
SUSANA ALCALA WOOD, City Attorney

By *Manian Ross*  
Name Title  
*Manian Ross C.F.O.* (Seal)

By \_\_\_\_\_  
ALISON A. BARRATT-GREEN,  
Senior Deputy City Attorney

Consultant's Federal ID # 94.2385238

ATTEST:

*\* Corporations - signature of two (2) officers required or one (1) officer plus corporate seal*

By \_\_\_\_\_  
JEAN MORRIS, City Clerk

*Partnership - signature of a partner required*

## EXHIBIT A

**Harris & Associates  
Scope of Work  
For Task Order No. 1  
Kiernan Business Park East  
Preparation of the Capacity Studies, Infrastructure Finance Plan,  
Facilities Master Plan and Community Facilities District  
September 11, 2006**

The following Scope of Work is for preparation of the capacity studies for the support of the Kiernan Business Park East Draft EIR. In addition, following identification of necessary mitigation measures, this scope details the preliminary scope for preparation of a Benefit and Burden Analysis, Infrastructure Finance Plan, Facilities Master Plan and Community Facilities District. The Harris Team includes five sub consultants on this project: West Yost and Associates for Water, Carollo Engineers for Wastewater, Omni Means for Traffic, Stantec for Storm Drainage and Goodwin Consulting Group. The work will be performed on a time and materials basis. The cost estimate for Harris' hours and the sub-consultants are summarized in Exhibit B including hourly rate schedule. The following provides Harris and Associates' (Harris) approach and level of effort for this scope of work.

### Task 1.1 – Project Coordination and Preparation of Capacity Studies

Harris will coordinate with all parties and will peer review the capacity studies prepared by each of the subconsultants, listed below, for the Draft Environmental Impact Report (EIR) to be prepared by Turnstone Consulting. Harris will attend up to eight (8) meetings with City staff during the preparation of the Draft EIR and Final EIR. The City and EIR Consultant will provide the Harris team with a complete "Project Description" which details proposed layout, traffic circulation and land use with anticipated densities included.

#### Water Capacity Study - West Yost Associates(WYA)

Based on the provided information regarding land use, roadway alignments, etc. WYA will calculate the water demands for Phase 1, Phase 2 and the total project. WYA will modify the existing water system hydraulic model to be representative of the new demands of the proposed project. WYA will then use this modified hydraulic model to evaluate the potential hydraulic impacts of the increased water demands and various fire flow analyses from Phase 1 of the Project. If the City's existing water system cannot meet the City's minimum water system design criteria with the increased demands, then WYA will make recommendations for whatever new water supply sources and/or water system infrastructure facilities will be required to mitigate the hydraulic impacts of the Project. WYA will prepare an estimate of the probable construction cost for the infrastructure required to provide adequate supply. In addition, the report will contain a section which will include an evaluation of water supply availability in response to SB610.

#### Wastewater – Carollo Engineers

Using development layout and land use data provided by the City, Carollo will update the hydraulic model to reflect changes in planning assumptions created by the Project since they prepared the Draft Wastewater Master Plan for the City in 2005. Carollo will revise the sewer improvements to reflect changes in planning assumptions. The Collection system and WWTP improvements will be revised as necessary to accommodate growth based on revisions to the hydraulic model and updates to the

WWTP Master Plan currently being prepared by Carollo. Carollo will develop probable construction cost estimates to reflect changes in the Capacity Study and a cost allocation associated with proposed recommended improvements.

Storm Drain - Stantec

Using previously prepared studies and additional project information, Stantec will use a combination of empirical calculations and hydrologic modeling to determine 10-year and 100-year peak discharges and 100-year 24-hour storm runoff volumes that will be generated by the Project. The storm drainage infrastructure plan proposed to serve Watershed D as represented in the Draft Storm Drainage Master Plan will be modified to accommodate project development requirements. The Consultant will attend a meeting with the City and MID staff to determine if MID is likely to be willing to accept discharges from a detention/retention basin that will serve the project into their Lateral No. 6 that extends adjacent to the project along the alignment of Bangs Road. Initial MID requirements pertaining to such a discharge will also be determined at the meeting.

**Level of Effort and Costs for Task 1.1:**

<b>Firm</b>	<b>Hours</b>	<b>Costs</b>	<b>Meetings in Scope</b>
Harris – PM	168	\$28,340	8
West Yost – Water	420	\$65,333	4
Carollo – Wastewater	161	\$24,667	2
Stantec – Drainage	192	\$22,467	2
Mark-ups on Subs		\$16,870	
<b>Totals</b>	<b>---</b>	<b>\$157,677</b>	

**Deliverables for Task 1.1**

Water: 10 to 15 page Technical Memorandum (TM) of both Draft and Final TMs, as five (5) hard copies and a PDF file of each submittal.

Wastewater: Draft, Final Draft and Final Report of the Wastewater Capacity Study as five (5) hard copies and a PDF file of each submittal.

Storm Drain: Technical Report of the drainage infrastructure plan for the project. The Technical Report will be submitted at Initial Draft, Final Draft, and Final stages of completion as five (5) hard copies and a PDF file of each submittal.

**Task 1.2 – Engineering Support during the EIR process**

Harris & Associates will coordinate all consultants and issues regarding the technical studies and issues between consultants.

WYA will provide up to 40 hours engineering support to the Project EIR Consultant during the preparation of the Draft and Final EIR by answering questions and/or requests for further information.

Carollo will provide up to 60 hours of engineering support to the Project EIR Consultant during the preparation of the Draft and Final EIR by answering questions and/or requests for further information.

Stantec will provide up to 40 hours engineering support to the Project EIR Consultant during the preparation of the Draft and Final EIR by answering questions and/or requests for further information.

**Level of Effort and Costs for Task 1.2:**

<b>Firm</b>	<b>Hours</b>	<b>Costs</b>	<b>Meetings in Scope</b>
Harris - PM	100	\$16,020	4
West Yost - Water	40	\$ 7,000	2
Carollo - Wastewater	60	\$12,000	2
Stantec - Drainage	40	\$ 5,700	2
Mark-ups on Subs		\$ 3,705	
<b>Totals</b>	---	<b>\$44,425</b>	

**Deliverables for Task 1.2**

Written response to questions or requests for more information regarding sewer, water and storm drainage issues during the EIR preparation including peer review and coordination with other EIR consultants including traffic.

Upon completion of the identification of mitigation measures in the Draft and Final EIR, the following additional tasks have been identified for general scoping purposes. They include Task 1.3, Preparation of the project Benefit & Burden Analysis, Task 1.4, Preparation of Infrastructure Finance Plan (IFP), Task 1.5, Preparation of the Facilities Master Plan (FMP) and Task 1.6, Preparation of a Community Facilities District.

**Task 1.3 – Preparation of a Benefit and Burden Analysis**

Harris will assemble all of the technical studies prepared for the project, all recommended mitigation measures, and land use data in electronic format. The land use data will include the development layout, irrigation areas (potable water demand), land uses, acreage, dwelling units, square footage of non-residential building space, pavement areas, and planned layout of the arterial streets and internal street network which will be the responsibility of the project on and off-site infrastructure, as outlined for the project.

Based on the sub-consultants' capacity studies, Harris will describe each type of capital facility that has been and will need to be constructed to serve the project. This data will be given to each of the sub-consultants so that they can prepare the necessary reports to support the development of the Infrastructure Finance Plan (IFP). The report will include conceptual layouts and cost estimates of the infrastructure needed to support build-out of the development.



Based on the existing technical studies for the EIR and the new studies to support the IFP, Harris will prepare a Benefit and Burden Analysis. The analysis will define the infrastructure and cost burden that each land use will receive from the infrastructure that will be included in the IFP and detailed in the Facilities Master Plan (FMP). It will also identify the cost burden that each acre of land will have towards public facility improvements, by land use, at build-out of the development area. The benefit and burden analysis will also identify those projects which will likely need to be funded up-front by the developer in order to allow the development to proceed regardless of how the developer chooses to phase the construction of the project. This analysis will not define how these costs will be paid for. The analysis will be prepared for the entire development at build out. As the project is further defined, if a phased Benefit and Burden Analysis is proposed, additional scope and consultant fees will be required.

Harris will participate in one (1) City Council presentation associated with this task, as well as three (3) meetings with staff and the developer. Harris will also set meetings related to each infrastructure analysis with the sub consultants and various City departments as necessary. The Benefit and Burden analysis will define water, sewer, traffic, park, storm drainage and public and government facilities impacts.

Harris will provide ten (10) copies of the Draft Benefit and Burden Analysis for review by the City staff. Once written comments have been received, at the City's direction, a final draft will be prepared for review by the developers. At this point, Harris will try to reach consensus among the parties in order to proceed with a facility cost summary that all agree is appropriate. Twenty (20) final copies, including 1 electronic copy, will be provided to the City once all final comments have been received and incorporated.

Harris will assist the City in the preparation of the City Council staff report associated with the presentation of the Tivoli Development Benefit and Burden Analysis.

**Estimated Level of Effort and Costs for Task 1.3:**

<b>Firm</b>	<b>Hours</b>	<b>Costs</b>	<b>Meetings in Scope</b>
Harris - PM	322	\$ 45,870	3 w/staff; 1 w/Council
West Yost - Water	24	\$ 4,560	1 w/staff
Carollo - Wastewater	24	\$ 4,320	1 w/staff
Stantec - Drainage	24	\$ 3,600	1 w/staff
Omni-Means - Traffic	80	\$ 11,000	1 w/staff
Mark-ups on Subs		\$ 3,522	
<b>Totals</b>	<b>474</b>	<b>\$ 72,872</b>	

**Deliverables for Task 1.3**

- 10 copies of the draft Benefit and Burden Analysis
- 10 copies of a final draft of the Benefit and Burden Analysis
- 20 copies of the final Benefit and Burden Analysis
- 1 electronic copy of the final Benefit and Burden Analysis.

<sup>1.5</sup>  
**Task ~~1.4~~ – Infrastructure Finance Plan**

After the Benefit and Burden analysis is completed and prior to beginning the Infrastructure Finance Plan or Facilities Master Plan, Harris will meet with the developer and the City to determine how all of the infrastructure project costs will be paid for by the developer including: 1) “build and dedicate”, 2) condition of approval on the development mapping, 3) defined points within a development agreement, 4) part of a land secure financing district and/or 5) paid for by the development impact fees for the development.

Harris will work with the developer(s) to set project phasing. Harris, the sub-consultants and the City will build upon the Benefit and Burden analysis, and shall meet with and proceed with the coordination of all Finance Plan Consultants, including City CFD staff, the Appraiser, and Bond Counsel (assumed to have separate contracts with the City) regarding assumptions upon which the Project IFP shall be performed.

The purpose of the IFP will be to clearly describe what is expected to occur with regard to land uses, infrastructure costs and financing. This is an iterative process that will require consensus building among all of the stakeholders. Harris will play an integral role in generating this consensus.

The IFP will define the financing details related to water, sewer, storm drainage, traffic, public facilities and parks. For those portions of the infrastructure that are associated with impact fees, a cash flow analysis will be provided defining when each project is anticipated and can be funded.

Harris will prepare a Draft Infrastructure Finance Plan which will include, for each program improvement described in the Technical Analyses performed by the Sub- Consultants: a project detail sheet, the project description, the itemized project costs, the capital improvement program (CIP) numbers, a priority list of projects, and cash flow projections based upon estimated revenue from fees and debt financing.

Upon approval of the draft plan, Harris will assist City staff in two (2) City Council presentations for the IFP. The first presentation will be a public meeting to present the IFP and receive comments. The second presentation will adopt the IFP and associated Development Impact Fees.

Harris will assist the City in the preparation of all required City Council staff reports, resolutions and public notices associated with the adoption of the IFP.

Harris will provide ten (10) copies for City staff review. At the City’s direction, Harris will complete a final draft to be presented to stakeholders.

<sup>1.5</sup>  
**Level of Effort and costs for Task ~~1.4~~:**

<b>Firm</b>	<b>Hours</b>	<b>Costs</b>	<b>Meetings in Scope</b>
Harris - PM	365	\$56,535	4 w/staff; 2 w/Council
West Yost - Water	24	\$4,560	1 w/staff
Carollo - Wastewater	24	\$4,320	1 w/staff
Stantec - Drainage	24	\$3,600	1 w/staff
Omni-Means - Traffic	80	\$11,000	1 w/staff
Subs Mark-ups		\$3,522	
<b>Totals</b>	<b>517</b>	<b>\$79,677</b>	

1.5

**Deliverables for Task 1.4**

- 10 copies of the draft Infrastructure Finance Plan
- 10 copies of a final draft of the Infrastructure Finance Plan
- 20 copies of the final Infrastructure Finance Plan
- 1 electronic copy of the final Infrastructure Finance Plan.

1.4

**Task 1.5 – Facilities Master Plan**

Harris will prepare the Facilities Master Plan, which includes the following:

- Introduction
- Sanitary Sewer System
- Storm Drainage System
- Construction Phasing
- Circulation System
- Potable Water System
- Parks (provided by City)

Harris will prepare the "Kiernan Business Park East Facilities Master Plan". It will incorporate all of the information provided by the sub consultants related to infrastructure requirements. This task assumes that no aerial or field surveying is required but will be available from the other work being completed by the developer. If survey information is not available, then an additional task to provide this service will be needed.

This scope of work assumes that twenty (20) sheets of drawings will be created during this process.

Harris assumes that the adoption of the FMP will occur as part of the IFP process discussed in Task 1.4. 1.5.

Ten (10) copies of the 30% design level drawings will be submitted to the City for review. The 30% submittal would be a submittal of all drawings anticipated to be submitted and would include alignments and planned locations of all facilities. Once the City has submitted written comments to Harris, 90% drawings will be completed. Ten (10) copies of the 90% drawings will be submitted to the City for final review. The 90% submittal would include all alignments for roads and pipes including face of curb, edge of pavement, existing right-of-way, future right-of-way, and existing buildings, profiles for all roads and pipes including slopes, and elevation call-outs, cross section of roads including lane widths, landscaping widths and side walk widths, intersection details including lengths of turn lanes, lane configurations, face of curb, edge of pavement, existing right of way, future right of way, and any existing buildings and location of any planned detention basins, parks, schools, and any other pertinent facilities. The 90% would also include all notes, all call-outs, any details that are to be incorporated such as curb and gutter, sidewalk, etc. or reference to the City's design standards.

Twenty (20) copies of the final drawings, including an electronic copy, will be provided to the City when all comments have been addressed.

1.4

Task 1.5 assumes 4 meetings with the City and/or developers to discuss the drawings.

**1.4**

**Level of Effort and costs for Task 1.5:**

<b>Firm</b>	<b>Hours</b>	<b>Costs</b>	<b>Meetings in Scope</b>
Harris - PM	812	\$ 99,060	4 w/staff
West Yost - Water	40	\$7,600	
Carollo - Wastewater	40	\$7,200	
Stantec - Drainage	40	\$6,000	
Omni-Means - Traffic	40	\$6,000	
Subs Mark-ups		\$4,020	
<b>Totals</b>	<b>972</b>	<b>\$129,880</b>	

**Deliverables for Task 1.5 1.4**

- 10 copies of the 30% level drawings of the Facilities Master Plan
- 10 copies of a 90% level drawings of the Facilities Master Plan
- 20 copies of the final Facilities Master Plan
- 1 electronic copy of the final Facilities Master Plan

**Task 1.6 – Community Facilities District**

Harris will prepare the Community Facilities District, which includes the following:

Goodwin Consulting Group, Inc. (GCG) will serve as special tax consultant to assist the City of Modesto (City) in the formation of a Mello-Roos Community Facilities District (CFD) that will fund public improvements and public services required to serve the Kiernan East project. GCG will meet with City staff, property owners, the City’s financial advisor, bond counsel and other members of the financing team to compile data and to discuss the structure and components of the Mello-Roos cash flow analysis. This task will include (i) determining the initial boundaries of the CFD and future annexation areas both inside and outside existing City limits, (ii) identifying proposed land uses, public facilities to be financed, annual storm drain and landscape maintenance costs, anticipated absorption rates, and timing and number of bond issues, (iii) discussing assumptions to be used for the initial allocation of special taxes to land uses within the CFD and reviewing the advantages and disadvantages associated with various allocation methods, (iv) evaluating the potential for separate CFDs, improvement areas or tax zones based on the objectives of the City and developers, and (v) coordinating with the financial advisor regarding the anticipated bond structure, including special tax/debt service escalator, bond interest rate, short-term reinvestment rate, capitalized interest, reserve fund, and other features that may affect the size of bond issues and the corresponding annual debt service.

Mello-Roos Cash Flow Analysis GCG will use the information compiled to prepare an analysis of the annual cash flow of the CFD. The analysis will identify the maximum special tax that will be needed to maintain required debt service coverage on bonded indebtedness issued on behalf of the CFD. In addition, the cash flow will (i) estimate the special tax burden on undeveloped property based on a given absorption scenario, (ii) determine the size of the initial and subsequent bond sales taking into consideration minimum value-to-lien requirements set forth in state law and City policy, and (iii) evaluate the increased bonding capacity that is created from an escalating special tax and debt service or other unique bond structure.

GCG will present the cash flow analysis at a second meeting and discuss alternatives that the working group would like analyzed. Subsequent iterations of the analysis will be prepared based on feedback

from City staff, affected property owners, the financial advisor, bond counsel and other members of the working group. Ultimately, through review and discussion of each alternative, the team will select a special tax structure which GCG will incorporate in the Rate and Method of Apportionment of Special Tax outlined below.

Rate and Method of Apportionment of Special Tax Based on the special tax structure selected pursuant to Task B-2 above, GCG will prepare the Rate and Method of Apportionment of Special Tax (RMA), which will serve as the official special tax formula for the CFD. The RMA will provide detail and direction as to how the special tax should be levied in future years to ensure adequate revenues are available for timely repayment of debt service on bonded indebtedness issued by the CFD. The RMA will be included as an exhibit to the Resolution of Intention to Form the CFD, which will be adopted by the City Council as part of the first set of actions taken towards forming the CFD.

In addition to providing guidance relative to the annual levy of special taxes in the CFD, the RMA will provide some or all of the following items:

- Identification of the maximum special tax for each special tax category, including each category of developed and undeveloped property
- Provision for a back-up special tax or alternate mechanism to be used to maintain maximum special tax revenues in the event that land uses change in future years
- A detailed prepayment formula that will provide flexibility for a property owner to prepay all or a portion of the special tax obligation after some or all bonds have been issued for the CFD
- If additional property is expected to annex into the CFD, a description of the “catch-up tax” that will apply to annexing parcels to equalize the cumulative special tax burdens (if applicable)

Contributions and Review of Other CFD Formation Documents In coordination with the working group, GCG will review, prepare and contribute to other documents required in the CFD formation proceedings. Specifically, GCG will prepare the CFD Report required, pursuant to Section 53321.5 of the Government Code, to be filed with the City Clerk prior to the public hearing. GCG will also review all CFD formation documents and, based on results of the cash flow analysis, assist in calculating the maximum bond authorization and appropriations limit for the CFD. GCG will also ensure that the CFD boundary map is consistent with the areas expected to be included in the CFD when the maximum special tax and/or bonding capacity is calculated.

In preparation for the issuance of bonds, GCG will review the bond purchase agreement, fiscal agent agreement and/or bond indenture to assure that the flow of special tax revenues and interest earnings as set forth in these documents are consistent with assumptions used in the Mello-Roos cash flow analysis. In addition, GCG will review the preliminary official statement and, at the request of the financial advisor or underwriter, prepare one or more of the following:

- A table demonstrating special tax coverage based on the projected stream of revenues compared to annual debt service on the bonds
- If multiple landowners/developers are included within the CFD, a table showing diversification of special tax burdens among the major participants
- Incorporating information provided in the appraisal, a table identifying the value-to-lien ratios for each assessor parcel or major property owner
- A table summarizing a sample tax bill for individual residential units within each tax category to demonstrate compliance with City policy pertaining to the total effective tax rate

- Any other tables requested by the financial advisor and/or underwriter to assist in disclosure related to the special tax formula

Certification of Special Tax Revenues and Acceptance of Associated Liability GCG will execute the Certificate of Special Tax Consultant, which commits to bond buyers that the minimum debt service coverage will be maintained by application of GCG's tax formula regardless of land use changes that occur within the CFD in future years.

Task 1.6 assumes 4 meetings with the City and/or developers.

**Level of Effort and costs for Task 1.6:**

<b>Firm</b>	<b>Hours</b>	<b>Costs</b>	<b>Meetings in Scope</b>
<b>Harris – PM</b>	78	\$ 11,140	4 w/staff
<b>Goodwin Consult Grp</b>		\$25,000	4 w/staff
<b>Subs Mark-ups</b>		\$3,750	
<b>Totals</b>		<b>\$ 39,890</b>	

**Deliverables for Task 1.6**

*See Above*

Harris & Assoc Anticipated Schedule for Kiernan Business Park East

Tasks	Months																
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
Task 1.1 - Project Coord & Capacity Studies	■	■	■	■													
Task 1.2 - Engineering Support During EIR	■	■	■	■	■	■	■	■									
Task 1.3 - Benefit and Burden Analysis																	
Draft Report					■	■	■	■									
Final Report								■									
Council / and Developer Presentations								■									
Task 1.4 - Infrastructure Finance Plan																	
1.5 Draft report								■	■	■							
Final Finance Plan										■							
City Council Presentations											■						
Task 1.4 - Facilities Master Plan																	
1.4								■	■	■	■						
Task 1.6 - Community Facilities District																	
Draft Report										■	■	■					
Final Report												■					
Council Presentations													■				

Note: The schedule for tasks 2, 4 and 5 are based on working concurrently on the benefit and burden analysis and IFP while the EIR is being prepared. This poses some risk to the developer due to the fact that if the EIR changes, the reports will have to be modified and this would require additional scope of work. The final reports would not be adopted until the adoption of the Final EIR. Should the EIR take longer than shown on this schedule, the IFP and FMP would not be completed as shown.

**EXHIBIT B**

Harris & Associates Estimation of Man-hours and Costs for Kiernan Business Park East September 11, 2006

	Steve Roberts \$ 190	Jim Bissell \$ 190	Dennis Anderson \$ 180	Alison Bouley \$ 160	Project Engineer \$ 100	Admin \$ 75	Hours	Total
<b>Task 1.1 - Project Coordination &amp; Capacity Studies</b> (assumes studies performed simultaneous with KBP South)								
Project Coordination, Review & Meetings	20	80	8	40		20	168 \$	28,340
Subtotal for Harris	20	80	8	40	0	20	168 \$	28,340
West Yost & Associates							420 \$	65,333
Carollo Engineers							161 \$	24,667
Stantec							192 \$	22,467
Subtotal sub consultants							773 \$	112,467
Sub Consultant Mark-up at 15%								16,870
<b>Task 1.1 Totals</b>							<b>941 \$</b>	<b>157,677</b>
<b>Task 1.2 - Engineering Support during Draft EIR preparation</b>								
Document Review, EIR support & Meetings	12	40	8	20		20	100 \$	16,020
Subtotal for Harris	12	40	8	20	0	20	100 \$	16,020
West Yost & Associates							40 \$	7,000
Carollo Engineers							60 \$	12,000
Stantec							40 \$	5,700
Subtotal Sub consultants							140 \$	24,700
Sub Consultant Mark-up at 15%								3,705
<b>Task 1.2 Totals</b>							<b>240 \$</b>	<b>44,425</b>
<b>Subtotal for Tasks 1.1 and 1.2</b>							<b>1181 \$</b>	<b>202,102</b>
<b>ESTIMATE OF ADDITIONAL TASKS THRU IFP/FMP/CFD</b>								
<b>Task 1.3 Benefit Burden Analysis</b>								
Draft Report	6	12	12	40	48	6	124 \$	17,230
Final Report	6	8	4	24	20	4	66 \$	9,520
Coord/mtgs w/ staff and sub-consultants	8	8		32	24	4	76 \$	10,860
Council / and Developer Presentations	8	12		16	16	4	56 \$	8,260
Subtotal for Harris	28	40	16	112	108	18	322 \$	45,870
West Yost & Associates							24 \$	4,560
Carollo Engineers							24 \$	4,320
Omni-Means							80 \$	11,000
Stantec							24 \$	3,600
Subtotal Sub consultants							152 \$	23,480
Sub Consultant Mark-up at 15%								3,522
<b>Task 1.3 Totals</b>	<b>28</b>	<b>40</b>	<b>16</b>	<b>112</b>	<b>108</b>	<b>18</b>	<b>474 \$</b>	<b>72,872</b>
<b>Task 1.4 - Infrastructure Finance Plan</b>								
Define First Phase Land Use	2	4			16	1	23 \$	2,815
Review Available Funding Mechanisms	2	6	4	4	16	2	34 \$	4,630
Impact fee determination	2	4		4	16		26 \$	3,380
Cash Flow Analysis	2	4	2	4	16		28 \$	3,740
Capital Improvement Program	2	4		4	24		34 \$	4,180
Draft report	4	24		8	40	8	84 \$	11,200
Coord/meet with developers and City staff	8	40	4	8	0	4	64 \$	11,420
Final Finance Plan	2	16	2	2	16	2	40 \$	5,850
City Council Presentations	8	12	4	4	0	4	32 \$	5,460
Subtotal for Harris	32	114	16	38	144	21	365 \$	52,675
West Yost & Associates							24 \$	4,560
Carollo Engineers							24 \$	4,320
Omni-Means							80 \$	11,000
Stantec							24 \$	3,600
Subtotal Sub consultants							152 \$	23,480
Sub Consultant Mark-up at 15%								3,522
<b>Task 1.4 Totals</b>	<b>32</b>	<b>114</b>	<b>16</b>	<b>38</b>	<b>144</b>	<b>21</b>	<b>517 \$</b>	<b>79,677</b>
<b>Task 1.5 - Facilities Master Plan</b>								
Assumes 20 drawings	8	40		120	480	40	688 \$	79,320
Meetings and Coordination	16	40		40	24	4	124 \$	19,740
Subtotal for Harris	24	80	0	160	504	44	812 \$	99,060
West Yost & Associates							40 \$	7,600
Carollo Engineers							40 \$	7,200
Omni-Means							40 \$	6,000
Stantec							40 \$	6,000
Subtotal Sub consultants							160 \$	26,800
Sub Consultant Mark-up at 15%								4,020
<b>Task 1.5 Totals</b>	<b>24</b>	<b>80</b>	<b>0</b>	<b>160</b>	<b>504</b>	<b>44</b>	<b>972 \$</b>	<b>129,880</b>
<b>Task 1.6 - Community Facilities District</b>								
Boundary Map	0	2		4	24	4	34 \$	3,720
Meetings and Coordination	8	16		16	0	4	44 \$	7,420
Subtotal for Harris	8	18	0	20	24	8	78 \$	11,140
Goodwin Consulting Group								25,000
Subtotal Sub consultants								25,000
Sub Consultant Mark-up at 15%								3,750
<b>Task 1.6 Totals</b>	<b>8</b>	<b>18</b>	<b>0</b>	<b>20</b>	<b>24</b>	<b>8</b>	<b>78 \$</b>	<b>39,890</b>
<b>Subtotal for Tasks 1.3 thru 1.6</b>								<b>322,319</b>
<b>Total All Tasks (1.1 thru 1.6)</b>								<b>\$ 524,421</b>





EXHIBIT B - 1

Harris & Associates

RANGE OF HOURLY RATES:  
DESIGN AND PUBLIC WORKS SERVICE GROUPS

Effective January 1 – December 31, 2006

<u>ENGINEERING DESIGN AND PUBLIC WORKS SERVICES GROUPS</u>	<u>HOURLY RATE</u>
Jim Bissell, P.E.	\$190
Steve Roberts, P.E.	\$190
Dennis Anderson, P.E.	\$180
Alison Bouley, P.E.	\$160
Project Directors	\$170-240
Project Managers	\$120-190
Project Engineers	\$80-160
Construction Manager	\$120-190
Administration	\$50-90

Notes:

1. These individuals include professionals and support personnel who might work on Harris projects. Support personnel include technicians and administrative staff.
2. Rates are subject to adjustment due to promotions during the effective period of this schedule. A new rate schedule will become effective and apply to this contract on January 1, 2007.
3. Unless otherwise indicated in the agreement, hourly rates include most direct costs such as vehicle usage and mileage, equipment usage (including computer and telephone), and printing and copying (except large quantities such as construction documents for bidding purposes).
4. Billing rates for independent contractors and hourly employees are determined on a case-by-case basis.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-601**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007 OPERATING  
BUDGET TO CREATE A MULTI-YEAR ACCOUNT (2900-020-0261) AND  
APPROPRIATING \$263,000, FUNDED BY CHOPRA DEVELOPMENT  
ENTERPRISES, FOR THE PREPARATION OF A FACILITIES MASTER PLAN,  
INFRASTRUCTURE FINANCE PLAN, AND FOR FORMATION OF A  
COMMUNITY FACILITIES DISTRICT FOR THE KIERNAN BUSINESS PARK  
EAST SPECIFIC PLAN AREA**

WHEREAS, the Kiernan Business Park East Specific Plan Area is in need of a Facilities Master Plan (“FMP”), and Infrastructure Finance Plan (“IFP”) to plan for necessary facilities and associated costs for buildout of that specific plan area, and

WHEREAS, on September 26, 2006, the Council of the City of Modesto approved a Master Professional Services Agreement for Consultant Services (“Agreement”) with Harris and Associates for the preparation of FMPs, IFPs, technical studies and related on-call services as assigned by City, and

WHEREAS, on September 26, 2006, the Council of the City of Modesto approved Task Order No. 1 to the Agreement for the preparation of a FMP, IFP, and for formation of a Community Facilities District (“CFD”), and

WHEREAS, an Advanced Funding Agreement between the City and Chopra Development Enterprises (“Applicant”) has been approved by the City Council, and

WHEREAS, Applicant has deposited with the City the amount of two hundred and sixty-three thousand dollars (\$263,000) to fund a portion of the costs for the Project and provide for reimbursement as appropriate, and

WHEREAS, additional deposits will be provided by Applicant, as required by the City and as necessary to fund Task Order No. 1, and

WHEREAS, the City will issue Notices to Proceed to the City's Consultant only for those subtasks for which the Applicant has deposited funds,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby amends the Fiscal Year 2006-2007 operating budget to create a multi-year account for the preparation of the Kiernan Business Park East Specific Plan Area Facilities Master Plan and Infrastructure Finance Plan and appropriate \$184,100 to (2900-020-0261-0235) for professional services and \$78,900 to (2900-020-0261-0255) for city 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 26th day of September, 2006, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-602**

**A RESOLUTION APPROVING TASK ORDER NO. 2 TO THE MASTER  
PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES  
WITH HARRIS AND ASSOCIATES FOR THE PREPARATION OF A  
FACILITIES MASTER PLAN, INFRASTRUCTURE FINANCE PLAN, AND FOR  
FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE  
KIERNAN BUSINESS PARK SOUTH SPECIFIC PLAN AREA**

WHEREAS, the City Council is desirous of creating a Facilities Master Plan (“FMP”) and Infrastructure Finance Plan (“IFP”) for the Kiernan Business Park South Specific Plan Area (“Project”), and

WHEREAS, Mana Developments and Hans J. Wagner (collectively the “Applicant”) has a legal interest in real property located within a portion of the Kiernan Business Park South Specific Plan Area, shown in **Exhibit “A”**, and is interested in pursuing development of properties in the Specific Plan Area, and

WHEREAS, on September 26, 2006, the Council of the City of Modesto approved a Master Professional Services Agreement for Consultant Services with Harris and Associates for the preparation of FMPs, IFPs, technical studies and related on-call services assigned by City, and

WHEREAS, Harris and Associates (“Consultant”) has prepared Task Order No. 2 for the Project (“Task Order”), attached as **Exhibit “B”**, and

WHEREAS, Applicant has advanced a deposit to the City in the amount of two hundred fifty thousand dollars (\$250,000) to fund a portion of Task Order No. 2 and to pay staff and consultant expenses expected to be incurred in connection with the Project, and

WHEREAS, additional deposits will be provided by Applicant, as required by the City and as necessary to fund the Task Order, and

WHEREAS, the City will issue Notices to Proceed to the City's Consultant only for those subtasks for which the Applicant has deposited funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Task Order No. 2, attached as Exhibit "B" hereto are hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of September, 2006, Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-603**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007 OPERATING BUDGET TO CREATE A MULTI-YEAR ACCOUNT (2900-020-0262) AND APPROPRIATING \$250,000, FUNDED BY MANA DEVELOPMENTS AND HANS J. WAGNER, FOR THE PREPARATION OF A FACILITIES MASTER PLAN, INFRASTRUCTURE FINANCE PLAN, AND FOR FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE KIERNAN BUSINESS PARK SOUTH SPECIFIC PLAN AREA**

WHEREAS, the Kiernan Business Park South Specific Plan Area is in need of a Facilities Master Plan (“FMP”), and Infrastructure Finance Plan (“IFP”) to plan for the necessary facilities and associated costs for buildout of that specific plan area, and

WHEREAS, on September 26, 2006, the Council of the City of Modesto approved a Master Professional Services Agreement for Consultant Services (“Agreement”) with Harris and Associates for the preparation of FMPs, IFPs, technical studies and related on-call services as assigned by City, and

WHEREAS, On September 26, 2006, the Council of the City of Modesto approved Task Order No. 2 to the Agreement for the preparation of a FMP, IFP, and for formation of a Community Facilities District (“CFD”), and

WHEREAS, an Advanced Funding Agreement between the City and Mana Developments and Hans J. Wagner (collectively the “Applicant”) has been approved by the City Council, and

WHEREAS, Applicant has deposited with the City the amount of two hundred and fifty thousand dollars (\$250,000) to fund a portion of the costs for the Project and provide for reimbursement as appropriate, and

WHEREAS, additional deposits will be required by Applicant, as required by the City and as necessary to fund Task Order No. 2, and

WHEREAS, the City will issue Notices to Proceed to the City's Consultant only for those subtasks for which the Applicant has deposited funds,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby amends the Fiscal Year 2006-2007 operating budget to create a multi-year account for the preparation of the Kiernan Business Park South Specific Plan Area and to appropriate \$200,000 to 2900-020-0262-0235 for professional services and \$50,000 to 2900-020-0262-0255 for city 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 26th day of September, 2006, by Councilmember O'Bryant, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST Jean Morris  
JEAN MORRIS, City Clerk

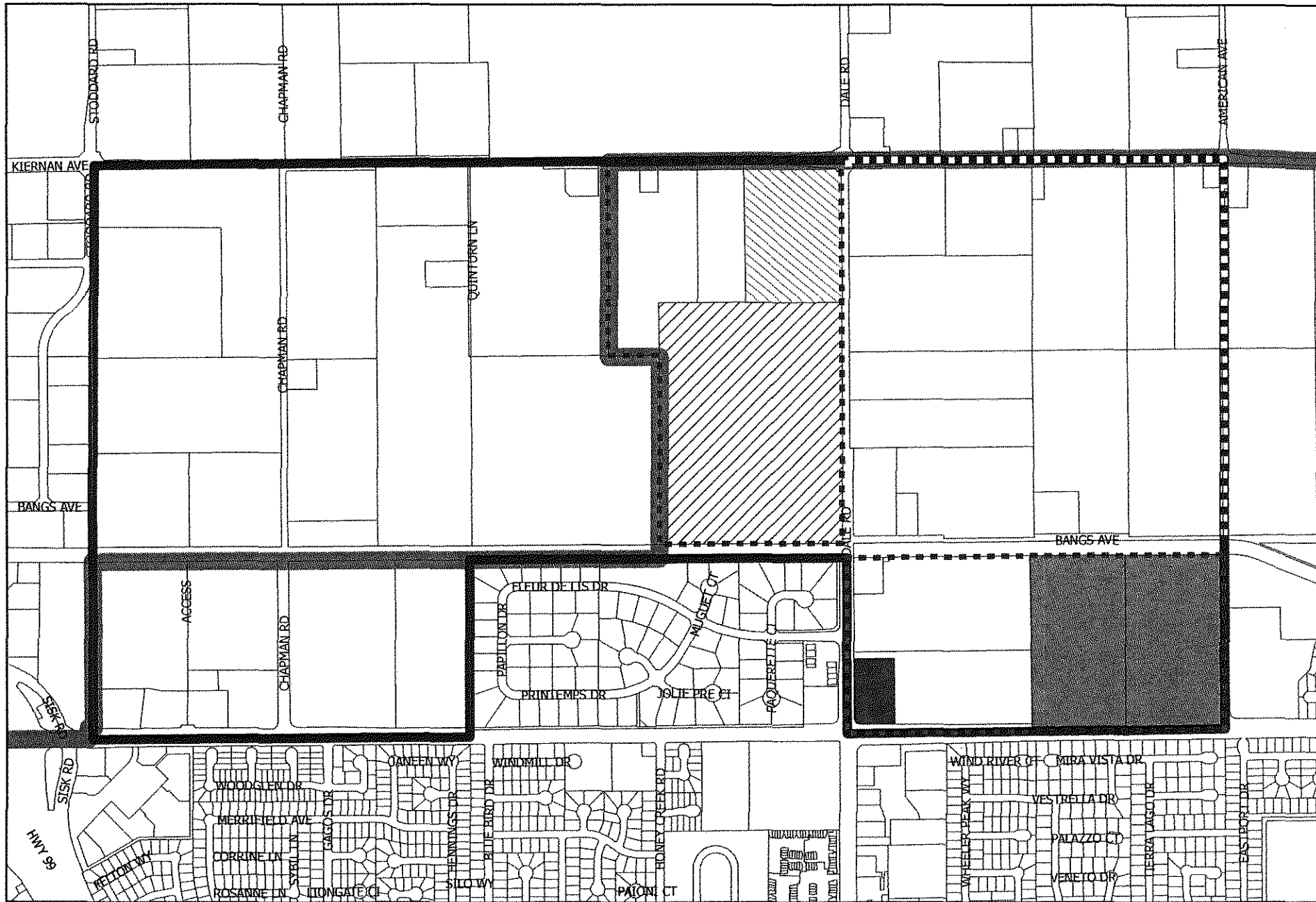
(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**EXHIBIT A**














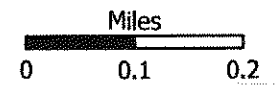
KBPE 11-05.mxd

City of Modesto

# Kiernan Business Park Specific Planning Area

- |   |                             |   |                                |
|---|-----------------------------|---|--------------------------------|
|  | Modesto Sphere of Influence |  | Bank of Stockton               |
|  | Kiernan Business Park SP    |  | Mana/Wagner<br>Bridges (Malik) |
|  | Kiernan Business Park East  |  | Kaiser Hospital                |
|  | Kiernan Business Park South |  | Leaping Lizards                |
|  | Kiernan Business Park West  |   |                                |

November 30, 2005



**EXHIBIT B**

City of Modesto  
TASK ORDER NO. 2  
for  
Harris & Associates'  
Master Professional Services Agreement

Kiernan Business Park South

This Task Order No. 2 is made and entered into by and between the City of Modesto, a municipal corporation (hereinafter "CITY"), and Harris & Associates, Inc., a California Corporation (hereinafter "CONSULTANT") and is effective as of \_\_\_\_\_.

RECITALS

- A. CONSULTANT has entered into a Master Professional Services Agreement, (hereinafter "Agreement"), dated \_\_\_\_\_ ("AGREEMENT") with the CITY, by which the CONSULTANT has agreed to provide professional engineering and financial engineering services for various development projects, which is incorporated herein by reference.
- B. At the request of CITY and in compliance with the terms of the AGREEMENT, CONSULTANT has prepared the Scope of Work, a copy of which is attached hereto as Exhibit A.
- C. CITY and CONSULTANT desire that CONSULTANT perform the services as identified in the attached Scope of Work.

**NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

1. **INCORPORATION OF MASTER PROFESSIONAL SERVICES AGREEMENT.** This Task Order hereby incorporates by reference all terms and conditions set forth in the Master Professional Services Agreement, unless expressly modified by this Task Order. The AGREEMENT and this Task Order shall, to the fullest extent possible, be read and considered as fully integrated documents and shall be interpreted so as to avoid inconsistencies, comply with all applicable laws and ensure that the objectives of the parties will be fully realized.

Nothing in this Task Order is intended to supersede, terminate, modify or otherwise affect any provision of the AGREEMENT, except to the extent that a provision of this AGREEMENT is in direct and irreconcilable conflict with a provision of the AGREEMENT. Then, and only in that event, the provisions of the AGREEMENT shall prevail over the contradictory provision of the Task Order.

2. **SCOPE OF SERVICES.** CONSULTANT shall perform the services described in Exhibit "A" attached hereto and incorporated herein by reference. CONSULTANT shall not replace its Authorized Representative, nor shall CONSULTANT use any subcontractors or subconsultants not listed in this Task Order, without the prior written consent of CITY.

3. **TIME OF PERFORMANCE.** CONSULTANT shall commence performance within five (5) working days after receipt of a Notice to Proceed from City, and shall complete all required services no later than the dates set forth in Exhibit "A".
4. **COMPENSATION.** For services performed by CONSULTANT in accordance with this Task Order, CONSULTANT agrees to accept a sum not to exceed \$281,390.00. CONSULTANT shall be paid at the times and in the manner set forth in Paragraph 3 of the Master Professional Services Agreement, unless expressly provided otherwise in the attached Scope of Work.
5. **SIGNATURES.** The individuals executing this Task Order represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Task Order on behalf of the respective legal entities of the CONSULTANT and CITY. This Task Order shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

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-\_\_\_\_\_, adopted by the Council of the City of Modesto on the \_\_\_\_ day of \_\_\_\_\_, 2006, and has caused this Agreement to be duly executed in duplicate as of the Effective Date set forth above.

CITY OF MODESTO,  
a municipal corporation

CONSULTANT,  
a California corporation\*

By \_\_\_\_\_  
GEORGE W. BRITTON,  
City Manager

By *Guy A. Erickson*  
Name Title  
*Guy A. Erickson President*

APPROVED AS TO FORM:  
SUSANA ALCALA WOOD, City Attorney

By *Marian Ross*  
Name Title *C.F.O.*  
*Marian Ross* (Seal)

By \_\_\_\_\_  
ALISON A. BARRATT-GREEN,  
Senior Deputy City Attorney

Consultant's Federal ID # *94.2385238*

ATTEST:

*\* Corporations - signature of two (2) officers  
required or one (1) officer plus corporate seal.*

By \_\_\_\_\_  
JEAN MORRIS, City Clerk

*Partnership - signature of a partner required*

## EXHIBIT A

**Harris & Associates  
Scope of Work  
For Task Order No. 2  
Kiernan Business Park South  
Preparation of the Capacity Studies, Infrastructure Finance Plan,  
Facilities Master Plan and Community Facilities District  
September 12, 2006**

The following Scope of Work is for preparation of the capacity studies for the support of the Kiernan Business Park East Draft EIR. In addition, following identification of necessary mitigation measures, this scope details the preliminary scope for preparation of a Benefit and Burden Analysis, Infrastructure Finance Plan, Facilities Master Plan and Community Facilities District. The Harris Team includes six sub consultants on this project: West Yost and Associates for Water, Carollo Engineers for Wastewater, Fehr & Peers for Traffic, Omni Means for traffic finance planning, Stantec for Storm Drainage and Goodwin Consulting Group. The work will be performed on a time and materials basis. The cost estimate for Harris' hours and the sub-consultants are summarized in Exhibit B including hourly rate schedule. The following provides Harris and Associates' (Harris) approach and level of effort for this scope of work.

### Task 2.1 – Project Coordination and Preparation of Capacity Studies

Harris will coordinate with all parties and will peer review the capacity studies prepared by each of the subconsultants, listed below, for the Kiernan South Project (and in conjunction with the Draft EIR to be prepared by Turnstone Consulting for the Kiernan East Project). Harris will attend up to six (6) meetings with City staff during the preparation of the capacity studies. The City and developer will provide the Harris team with a complete "Project Description" which details the proposed layout, traffic circulation and land use with anticipated densities included.

#### Water Capacity Study - West Yost Associates(WYA)

Based on the provided information regarding land use, roadway alignments, etc. WYA will calculate the water demands for the project. WYA will modify the existing water system hydraulic model to be representative of the new demands of the proposed project. WYA will then use this modified hydraulic model to evaluate the potential hydraulic impacts of the increased water demands and various fire flow analyses from the Project. If the City's existing water system cannot meet the City's minimum water system design criteria with the increased demands, then WYA will make recommendations for whatever new water supply sources and/or water system infrastructure facilities will be required to mitigate the hydraulic impacts of the Project. WYA will prepare an estimate of the probable construction cost for the infrastructure required to provide adequate supply. It is assumed that the Kiernan South project does not need an evaluation of water supply availability in response to SB610.

#### Wastewater – Carollo Engineers

Using development layout and land use data provided by the City, Carollo will update the hydraulic model to reflect changes in planning assumptions created by the Project since they prepared the Draft Wastewater Master Plan for the City in 2005. Carollo will revise the sewer improvements to reflect changes in planning assumptions. The Collection system and WWTP improvements will be revised as necessary to accommodate growth based on revisions to the hydraulic model and updates to the

WWTP Master Plan currently being prepared by Carollo. Carollo will develop probable construction cost estimates to reflect changes in the Capacity Study and a cost allocation associated with proposed recommended improvements.

Storm Drain - Stantec

Using previously prepared studies and additional project information, Stantec will use a combination of empirical calculations and hydrologic modeling to determine 10-year and 100-year peak discharges and 100-year 24-hour storm runoff volumes that will be generated by the Project. The storm drainage infrastructure plan proposed to serve Watershed D as represented in the Draft Storm Drainage Master Plan will be modified to accommodate project development requirements. The Consultant will attend a meeting with the City and MID staff to determine if MID is likely to be willing to accept discharges from a detention/retention basin that will serve the project into their Lateral No. 6 that extends adjacent to the project along the alignment of Bangs Road. Initial MID requirements pertaining to such a discharge will also be determined at the meeting.

Traffic - Fehr & Peers

In conjunction with their traffic analysis for the adjacent properties and developments, Fehr & Peers will be developing traffic projections for near-term conditions and for far-term (2025) conditions. The far-term forecasts will include development of Kiernan Business Park South according to its General Plan designation, as estimated by the City of Modesto's traffic model. They can be used to size the roadways adjacent to the site. In addition, F&P will develop near-term and 2025 traffic forecasts to determine the size of the internal streets (number of travel lanes) and to size the access locations (lane configurations at the intersections of the internal roadways with Bangs and Dale).

**Level of Effort and Costs for Task 2.1:**

<b>Firm</b>	<b>Hours</b>	<b>Costs</b>	<b>Meetings in Scope</b>
Harris – PM	168	\$28,340	8
West Yost – Water	210	\$32,667	2
Carollo – Wastewater	80	\$12,333	2
Stantec – Drainage	96	\$11,233	2
Fehr & Peers - Traffic	100	\$15,000	2
Mark-ups on Subs		\$10,685	
<b>Totals</b>	<b>---</b>	<b>\$110,258</b>	

**Deliverables for Task 2.1**

Water: 10 to 15 page Technical Memorandum (TM) of both Draft and Final TMs, as five (5) hard copies and a PDF file of each submittal.

Wastewater: Draft, Final Draft and Final Report of the Wastewater Capacity Study as five (5) hard copies and a PDF file of each submittal.

Storm Drain: Technical Report of the drainage infrastructure plan for the project. The Technical Report will be submitted at Initial Draft, Final Draft, and Final stages of completion as five (5) hard copies and a PDF file of each submittal.

Traffic: Draft and Final Report of the Traffic Study as five (5) hard copies and a PDF file of each submittal.

**Task <sup>2.3</sup>~~2.2~~ – Infrastructure Finance Plan**

Prior to beginning the Infrastructure Finance Plan or Facilities Master Plan, Harris will meet with the developer and the City to determine how all of the infrastructure project costs will be paid for by the developer including: 1) “build and dedicate”, 2) condition of approval on the development mapping, 3) defined points within a development agreement, 4) part of a land secure financing district and/or 5) paid for by the development impact fees for the development. In addition, Harris will work with the developer(s) to set project phasing. Harris and sub-consultants will meet with and/or coordinate with developer and developer’s engineer, City CFD staff, the Appraiser, and Bond Counsel (assumed to have separate contracts with the City) regarding assumptions upon which the Project IFP shall be performed.

The purpose of the IFP will be to clearly describe what is expected to occur with regard to land uses, infrastructure costs and financing. This is an iterative process that will require consensus building among all of the stakeholders. Harris will play an integral role in generating this consensus.

The IFP will define the financing details related to water, sewer, storm drainage, traffic, public facilities and parks. For those portions of the infrastructure that are associated with impact fees, a cash flow analysis will be provided defining when each project is anticipated and can be funded.

Harris will prepare a Draft Infrastructure Finance Plan which will include, for each program improvement described in the Technical Analyses performed by the Sub- Consultants: a project detail sheet, the project description, the itemized project costs, the capital improvement program (CIP) numbers, a priority list of projects, and cash flow projections based upon estimated revenue from fees and debt financing.

Upon approval of the draft plan, Harris will assist City staff in two (2) City Council presentations for the IFP. The first presentation will be a public meeting to present the IFP and receive comments. The second presentation will adopt the IFP and associated Development Impact Fees.

Harris will assist the City in the preparation of all required City Council staff reports, resolutions and public notices associated with the adoption of the IFP.

Harris will provide ten (10) copies for City staff review. At the City’s direction, Harris will complete a final draft to be presented to stakeholders.

**Level of Effort and costs for Task <sup>2.3</sup>~~2.2~~:**

<b>Firm</b>	<b>Hours</b>	<b>Costs</b>	<b>Meetings in Scope</b>
Harris - PM	330	\$45,710	4 w/staff; 2 w/Council
West Yost - Water	24	\$4,560	2 w/staff
Carollo - Wastewater	24	\$4,320	2 w/staff
Stantec - Drainage	24	\$3,600	2 w/staff
Omni-Means - Traffic	60	\$8,250	2 w/staff
Subs Mark-ups		\$3,110	
<b>Totals</b>	<b>462</b>	<b>\$69,550</b>	

**2.3**  
Deliverables for Task ~~2.2~~

- 10 copies of the draft Infrastructure Finance Plan
- 10 copies of a final draft of the Infrastructure Finance Plan
- 20 copies of the final Infrastructure Finance Plan
- 1 electronic copy of the final Infrastructure Finance Plan.

**2.2**  
Task ~~2.3~~ – Facilities Master Plan

Harris will prepare the Facilities Master Plan, which includes the following:

- Introduction
- Sanitary Sewer System
- Storm Drainage System
- Construction Phasing
- Circulation System
- Potable Water System
- Parks (provided by City)

Harris will prepare the "Kiernan Business Park South Facilities Master Plan". It will incorporate all of the information provided by the sub consultants related to infrastructure requirements. This task assumes that no aerial or field surveying is required but will be available from the other work being completed by the developer. If survey information is not available, then an additional task to provide this service will be needed.

This scope of work assumes that ten (10) sheets of drawings will be created during this process.

Harris assumes that the adoption of the FMP will occur as part of the IFP process discussed in Task ~~2.2.2.3~~.

Ten (10) copies of the 30% design level drawings will be submitted to the City for review. The 30% submittal would be a submittal of all drawings anticipated to be submitted and would include alignments and planned locations of all facilities. Once the City has submitted written comments to Harris, 90% drawings will be completed. Ten (10) copies of the 90% drawings will be submitted to the City for final review. The 90% submittal would include all alignments for roads and pipes including face of curb, edge of pavement, existing right-of-way, future right-of-way, and existing buildings, profiles for all roads and pipes including slopes, and elevation call-outs, cross section of roads including lane widths, landscaping widths and side walk widths, intersection details including lengths of turn lanes, lane configurations, face of curb, edge of pavement, existing right of way, future right of way, and any existing buildings and location of any planned detention basins, parks, schools, and any other pertinent facilities. The 90% would also include all notes, all call-outs, any details that are to be incorporated such as curb and gutter, sidewalk, etc. or reference to the City's design standards.

Twenty (20) copies of the final drawings, including an electronic copy, will be provided to the City when all comments have been addressed.

**2.2**  
Task ~~2.3~~ assumes 3 meetings with the City and/or developers to discuss the drawings.



**2.2**

**Level of Effort and costs for Task ~~2.3~~:**

<b>Firm</b>	<b>Hours</b>	<b>Costs</b>	<b>Meetings in Scope</b>
Harris – PM	348	\$ 44,540	3 w/staff
West Yost – Water	24	\$4,560	
Carollo - Wastewater	24	\$4,320	
Stantec - Drainage	24	\$3,600	
Omni-Means - Traffic	24	\$3,600	
Subs Mark-ups		\$2,412	
<b>Totals</b>	<b>524</b>	<b>\$63,032</b>	

**Deliverables for Task ~~2.3~~ <sup>2.2</sup>**

- 10 copies of the 30% level drawings of the Facilities Master Plan
- 10 copies of a 90% level drawings of the Facilities Master Plan
- 20 copies of the final Facilities Master Plan
- 1 electronic copy of the final Facilities Master Plan

**Task 2.4 – Community Facilities District**

Harris will prepare the Community Facilities District, which includes the following:

Goodwin Consulting Group, Inc. (GCG) will serve as special tax consultant to assist the City of Modesto (City) in the formation of a Mello-Roos Community Facilities District (CFD) that will fund public improvements and public services required to serve the Kiernan South project. GCG will meet with City staff, property owners, the City’s financial advisor, bond counsel and other members of the financing team to compile data and to discuss the structure and components of the Mello-Roos cash flow analysis. This task will include (i) confirming land uses for the Bank of Stockton site and future property that will be designated as future annexation area for the CFD, (ii) identifying proposed land uses, public facilities to be financed, annual storm drain and landscape maintenance costs, anticipated absorption rates, and timing and number of bond issues, (iii) discussing assumptions to be used for the initial allocation of special taxes to land uses within the CFD and reviewing the advantages and disadvantages associated with various allocation methods, (iv) evaluating the potential for separate CFDs, improvement areas or tax zones based on the objectives of the City and developers, and (v) coordinating with the financial advisor regarding the anticipated bond structure, including special tax/debt service escalator, bond interest rate, short-term reinvestment rate, capitalized interest, reserve fund, and other features that may affect the size of bond issues and the corresponding annual debt service.

Mello-Roos Cash Flow Analysis GCG will use the information compiled to prepare an analysis of the annual cash flow of the CFD. The analysis will identify the maximum special tax that will be needed to maintain required debt service coverage on bonded indebtedness issued on behalf of the CFD. In addition, the cash flow will (i) estimate the special tax burden on undeveloped property based on a given absorption scenario, (ii) determine the size of the initial and subsequent bond sales taking into consideration minimum value-to-lien requirements set forth in state law and City policy, and (iii) evaluate the increased bonding capacity that is created from an escalating special tax and debt service or other unique bond structure.

GCG will present the cash flow analysis at a second meeting and discuss alternatives that the working group would like analyzed. Subsequent iterations of the analysis will be prepared based on feedback from City staff, affected property owners, the financial advisor, bond counsel and other members of the working group. Ultimately, through review and discussion of each alternative, the team will select a special tax structure which GCG will incorporate in the Rate and Method of Apportionment of Special Tax outlined below.

Rate and Method of Apportionment of Special Tax Based on the special tax structure selected pursuant to Task B-2 above, GCG will prepare the Rate and Method of Apportionment of Special Tax (RMA), which will serve as the official special tax formula for the CFD. The RMA will provide detail and direction as to how the special tax should be levied in future years to ensure adequate revenues are available for timely repayment of debt service on bonded indebtedness issued by the CFD. The RMA will be included as an exhibit to the Resolution of Intention to Form the CFD, which will be adopted by the City Council as part of the first set of actions taken towards forming the CFD.

In addition to providing guidance relative to the annual levy of special taxes in the CFD, the RMA will provide some or all of the following items:

- Identification of the maximum special tax for each special tax category, including each category of developed and undeveloped property
- Provision for a back-up special tax or alternate mechanism to be used to maintain maximum special tax revenues in the event that land uses change in future years
- A detailed prepayment formula that will provide flexibility for a property owner to prepay all or a portion of the special tax obligation after some or all bonds have been issued for the CFD
- If additional property is expected to annex into the CFD, a description of the “catch-up tax” that will apply to annexing parcels to equalize the cumulative special tax burdens (if applicable)

Contributions and Review of Other CFD Formation Documents In coordination with the working group, GCG will review, prepare and contribute to other documents required in the CFD formation proceedings. Specifically, GCG will prepare the CFD Report required, pursuant to Section 53321.5 of the Government Code, to be filed with the City Clerk prior to the public hearing. GCG will also review all CFD formation documents and, based on results of the cash flow analysis, assist in calculating the maximum bond authorization and appropriations limit for the CFD. GCG will also ensure that the CFD boundary map is consistent with the areas expected to be included in the CFD when the maximum special tax and/or bonding capacity is calculated.

In preparation for the issuance of bonds, GCG will review the bond purchase agreement, fiscal agent agreement and/or bond indenture to assure that the flow of special tax revenues and interest earnings as set forth in these documents are consistent with assumptions used in the Mello-Roos cash flow analysis. In addition, GCG will review the preliminary official statement and, at the request of the financial advisor or underwriter, prepare one or more of the following:

- A table demonstrating special tax coverage based on the projected stream of revenues compared to annual debt service on the bonds
- If multiple landowners/developers are included within the CFD, a table showing diversification of special tax burdens among the major participants
- Incorporating information provided in the appraisal, a table identifying the value-to-lien ratios for each assessor parcel or major property owner

- A table summarizing a sample tax bill for individual residential units within each tax category to demonstrate compliance with City policy pertaining to the total effective tax rate
- Any other tables requested by the financial advisor and/or underwriter to assist in disclosure related to the special tax formula

Certification of Special Tax Revenues and Acceptance of Associated Liability GCG will execute the Certificate of Special Tax Consultant, which commits to bond buyers that the minimum debt service coverage will be maintained by application of GCG's tax formula regardless of land use changes that occur within the CFD in future years.

Task 2.4 assumes 4 meetings with the City and/or developers.

**Level of Effort and costs for Task 2.4:**

<b>Firm</b>	<b>Hours</b>	<b>Costs</b>	<b>Meetings in Scope</b>
<b>Harris – PM</b>	66	\$ 9,800	4 w/staff
<b>Goodwin Consult Grp</b>		\$25,000	4 w/staff
<b>Subs Mark-ups</b>		\$3,750	
<b>Totals</b>		<b>\$ 38,550</b>	

**Deliverables for Task 2.4**

*See Above*

Harris & Assoc Anticipated Schedule for Kiernan Business Park South

Tasks	Months																
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
<b>Task 2.1 - Project Coord &amp; Capacity Studies</b>	■	■	■	■													
<b>Task 2.2 - Infrastructure Finance Plan</b>																	
<b>2.3</b> Draft report				■	■	■	■										
Final Finance Plan							■										
City Council Presentations								■									
<b>Task 2.3 - Facilities Master Plan</b>				■	■	■	■	■									
<b>2.2</b>																	
<b>Task 2.4 - Community Facilities District</b>																	
Draft Report							■	■	■								
Final Report									■								
Council Presentations										■							





## EXHIBIT B - 1

Harris &amp; Associates

**RANGE OF HOURLY RATES:  
DESIGN AND PUBLIC WORKS SERVICE GROUPS**

Effective January 1 – December 31, 2006

<b><u>ENGINEERING DESIGN AND PUBLIC WORKS SERVICES GROUPS</u></b>	<b><u>HOURLY RATE</u></b>
Jim Bissell, P.E.	\$190
Steve Roberts, P.E.	\$190
Dennis Anderson, P.E.	\$180
Alison Bouley, P.E.	\$160
Project Directors	\$170-240
Project Managers	\$120-190
Project Engineers	\$80-160
Construction Manager	\$120-190
Administration	\$50-90

## Notes:

1. These individuals include professionals and support personnel who might work on Harris projects. Support personnel include technicians and administrative staff.
2. Rates are subject to adjustment due to promotions during the effective period of this schedule. A new rate schedule will become effective and apply to this contract on January 1, 2007.
3. Unless otherwise indicated in the agreement, hourly rates include most direct costs such as vehicle usage and mileage, equipment usage (including computer and telephone), and printing and copying (except large quantities such as construction documents for bidding purposes).
4. Billing rates for independent contractors and hourly employees are determined on a case-by-case basis.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-604**

**A RESOLUTION APPROVING A CFF RIGHT OF WAY REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND PPC THOMAS TERRACE, LP, A CALIFORNIA LIMITED PARTNERSHIP, WITH A MAXIMUM REIMBURSEMENT AMOUNT OF \$756,076 FOR RIGHT OF WAY LOCATED AT THE NORTHWEST CORNER OF BRIGGSMORE AVENUE AND CLAUS ROAD, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND FINDING THAT THE AGREEMENT 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 of Modesto's General Plan calls for Claus Road to be constructed as a Class A expressway, and

WHEREAS, the future Claus Road will be developed as an expressway and additional right of way is necessary for the future realignment of Claus Road, and

WHEREAS, PPC Thomas Terrace, LP, A California Limited Partnership, ("Developer") has a legal interest in a certain tract of land located west of Claus Road in the Village One Specific Plan area of the City of Modesto, commonly known as the Thomas Terrace Subdivision ("Subdivision"), and

WHEREAS, as a condition of approval of the Subdivision, the Developer is required to dedicate 145,847 square feet of right of way for the future interchange for Claus Road and for the construction of the Claus Road bike trail (collectively "the Dedication"), and

WHEREAS, the Dedication will be made through the recordation of the final map for the Subdivision ("Final Map") and the Dedication will be effective upon recordation of said Final Map, and

WHEREAS, a portion of the Dedication is 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 Reimbursement Agreement ("Agreement") between the City of Modesto and Developer to provide for reimbursement for (a portion of) the ROW to be dedicated, and

WHEREAS, said Agreement shall have a maximum reimbursement amount of \$756,076, of which \$692,239 will be allocated from the Streets CFF fund, and \$63,737 will be allocated from the Air Quality CFF fund not later than fifteen (15) days after recordation of the Final Map for the Subdivision or October 31, 2006, whichever occurs later, and

WHEREAS, the City Council has received and considered the Written Checklist, Environmental Assessment No. EA/C&ED 2004-58, which concludes that the dedication of the right of way for which the Developer will be reimbursed under the proposed Agreement, 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 that:

1. The proposed CFF Right of Way Reimbursement Agreement between the City of Modesto and PPC Thomas Terrace, LP ("Project") is



consistent with the Village One Specific Plan and the Modesto Urban Area General Plan.

2. The reimbursement for the proposed right of way is included in the 2003 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 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.
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.

7. The Written Checklist, Environmental Assessment EA/C&ED 2004-58, provides the substantial evidence to support findings 3-7, above.

BE IT FURTHER RESOLVED that the CFF Right of Way Reimbursement Agreement between the City of Modesto and PPC Thomas Terrace, LP 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 26<sup>th</sup> day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

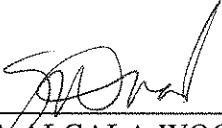
NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-605**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007 CAPITAL  
IMPROVEMENT PROGRAM TO TRANSFER \$63,448 FROM 1430-800-8000-  
8003, AIR QUALITY CFF RESERVE, TO 1430-020-H403-6030, AIR QUALITY  
CFF DEVELOPER IMPROVEMENTS AND RIGHT OF WAY ACQUISITION**

WHEREAS, the City of Modesto's General Plan calls for Claus Road to be constructed as a Class A expressway, and

WHEREAS, the future Claus Road will be developed as an expressway and additional right of way is necessary for the future realignment of Claus Road, and

WHEREAS, PPC Thomas Terrace, LP, A California Limited Partnership, ("Developer") has a legal interest in a certain tract of land located west of Claus Road in the Village One Specific Plan area of the City of Modesto, commonly known as the Thomas Terrace Subdivision ("Subdivision"), and

WHEREAS, as a condition of approval of the Subdivision, the Developer is required to dedicate 145,847 square feet of right of way for the future interchange for Claus Road and for the construction of the Claus Road bike trail (collectively "the Dedication"), and

WHEREAS, Developer will make the Dedication through the recordation of the final map for the Subdivision ("Final Map") and the Dedication will be effective upon recordation of said Final Map, and

WHEREAS, a portion of the Dedication is reimbursable through the City's Capital Facilities Fees ("CFF") program, and

WHEREAS, City and Developer have proposed to enter into a CFF Right of Way Reimbursement Agreement ("Agreement"), and

WHEREAS, said Agreement shall have a maximum reimbursement amount of \$756,076, of which \$692,239 will be allocated from the Streets CFF fund, and \$63,737 will be allocated from the Air Quality CFF fund not later than fifteen (15) days after recordation of the Final Map for the Subdivision or October 31, 2006, whichever occurs later, and

WHEREAS, funding is available in 1430-800-8000-8003, the Air Quality Capital Facilities Fees Reserve Fund,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Fiscal Year 2006-2007 Capital Improvement Program to transfer \$63,448 from 1430-800-8000-8003, Air Quality CFF Reserve, to 1430-020-H403-6030, Air Quality CFF Developer Improvements and Right of Way Acquisition.

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 26<sup>th</sup> day of September, 2006, Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-606**

**A RESOLUTION APPROVING AN ADVANCED FUNDING  
AGREEMENT FOR THE KIERNAN BUSINESS PARK WEST SPECIFIC  
PLAN AREA BETWEEN THE CITY OF MODESTO AND KAISER  
FOUNDATION HOSPITALS FOR FORMATION OF CITY OF  
MODESTO COMMUNITY FACILITIES DISTRICT NO. 2006-1  
(KIERNAN BUSINESS PARK WEST) AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, Kaiser Foundation Hospitals, a California Non-Profit Public Benefit Corporation, (the “Developer”) has agreed to advance all funds necessary to form a community facilities district (“CFD”) for a portion of the Kiernan Business Park Specific Plan Area commonly known as Kiernan Business Park West (“KBP West”), and

WHEREAS, the parties agreed to enter into an Advanced Funding Agreement For The City of Modesto Community Facilities District No. 2006-1 (Kiernan Business Park West) by and between the City and the Developer relating to advances made and to be made by the Developer to the City, and providing for potential reimbursement to the Developer if and when certain funds from the community facilities district become available, a copy of which is attached as **Exhibit A.**

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Advanced Funding Agreement For The City of Modesto Community Facilities District No. 2006-1 (Kiernan Business Park West) between the City of Modesto and Kaiser Foundation Hospitals is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or designee, is hereby authorized to execute the Advanced Funding Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26<sup>th</sup> day of September, 2006, 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: Dunbar, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney



**ADVANCED FUNDING AGREEMENT  
FOR THE CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2006-1  
(KIERNAN BUSINESS PARK WEST)**

THIS ADVANCED FUNDING AGREEMENT FOR THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2006-1 (KIERNAN BUSINESS PARK WEST) (this "Agreement"), dated as of \_\_\_\_\_, 2006, is entered into by and between the CITY OF MODESTO, a Municipal Corporation (the "City"), and KASIER FOUNDATION HOSPITALS, A CALIFORNIA NON-PROFIT PUBLIC BENEFIT CORPORATION (the "Developer").

*RECITALS:*

A. The Developer has requested that the City form a community facilities district to be known as "City of Modesto Community Facilities District No. 2006-1 (Kiernan Business Park West)" (the "CFD") for the principal purpose of financing and maintaining various public facilities necessary or desirable in connection with the development of the Developer's project in the Kiernan Business Park Specific Plan Area.

B. In accordance with the City's "Policies & Procedures for the Formation, Annexation, and Administration of Community Facilities Districts Created Pursuant to the Provisions of the Mello-Roos Community Facilities Act of 1982" (the "City's CFD Policies and Procedures"), the Developer has heretofore deposited with the City the sum of \$64,500 in order to provide the City with a source of funds with which to pay expenses expected to be incurred in connection with the possible formation of the CFD.

C. Pursuant to California Government Code Section 53314.9 and the City's CFD Policies and Procedures, the City Council of the City is authorized to accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or work-in-kind for any authorized purpose, including, but not limited to, paying any costs incurred by the City in connection with the formation of a community facilities district. The City Council of the City is also authorized to enter into an agreement, by resolution, with the person or entity advancing the funds or work-in-kind to repay all or a portion of the funds advanced or to reimburse the person or entity for the cost or value of the work-in-kind provided that certain conditions are met. The conditions to be satisfied with respect to funds advanced require that (1) the proposal to repay the funds or to pay the cost or value of the work-in-kind must be included in the resolution of intention for the proposed community facilities district and in the resolution of formation for the proposed community facilities district, (2) any proposed special tax is approved by the qualified electors of the community facilities district and, if a proposed special tax is not approved, any funds advanced which have not been committed for any authorized purpose by the time of the election must be returned to the person or entity advancing funds and (3) any work-in-kind accepted shall have been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority, of the local agency.

D. The City and the Developer are desirous of entering into this Agreement in accordance with Government Code Section 53314.9 and the City's CFD Policies and Procedures in order to provide a mechanism by which the Developer may make additional deposits if determined necessary pursuant to the City's CFD Policies and Procedures and, when and if bonds are issued and proceeds are available, the CFD can reimburse the Developer for the amounts advanced by the Developer.

### AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

1. Recitals. Each of the above recitals is incorporated herein and is true and correct.
2. Proposed Formation of the CFD and Issuance of Bonds.

(a) Upon receipt by the City of a completed application for the formation of the CFD and all documents related thereto as described in the City's CFD Policies and Procedures, the City will undertake to analyze the appropriateness of forming the CFD and the issuance of bonds by it. In connection therewith, the City has either retained or will retain, at the Developer's expense, the consultants that the City determines necessary or convenient to assist it in studying the proposed formation of the CFD and, if the City determines to proceed with the formation of the CFD, to assist it in connection therewith and with the possible issuance of bonds.

(b) Pursuant to the City's CFD Policies and Procedures, the Developer shall make additional advances to the City within ten (10) days following receipt from the City of a request for an additional advance to cover the costs referred to herein. In the event the Developer does not deliver the requested amount to the City within such ten (10) day period, the City will have no obligation to proceed with any activity relating to the formation of the CFD and/or the issuance of bonds. The Developer may notify the City at any time, in writing, of its intention to abandon the formation of the CFD or the issuance of bonds. Upon receipt of such notice, the City shall instruct its consultants to cease work as soon as practicable. The Developer shall be responsible for all costs and expenses incurred by the City or any City consultant or advisor relating to the proposed formation of the CFD and/or bond issuance until work with respect to the proposed formation or bond issuance ceases following the receipt of the Developer's notice of abandonment.

(c) Developer agrees that, notwithstanding the Developer's reimbursement obligations under this Agreement, the consultants selected by the City shall be the contractor exclusively of the City and not of the Developer. Except for those disclosures required by law including, without limitations, the Public Records Act, all conversations, notes, memoranda, correspondence, and other forms of communication by and between the City and its consultants shall be, to the extent permissible by law, privileged and confidential and not subject to disclosure to the Developer. The Developer agrees that it shall have no claim to, nor shall it

assert any right in any reports, correspondence, plans, maps, drawings, news releases or any and all other documents or work product produced by the City's consultants. Developer understands that it will not be a third party beneficiary to City's contracts with the consultants. The Developer agrees that the City may select other consultants to replace its current consultants and may do so without consulting with the Developer or obtaining the Developer's approval

3. Developer to Cooperate with the City's Consultants. Developer agrees to cooperate in good faith with the City's consultants. Developer agrees that it will instruct its agents, employees, consultants, contractors and attorneys to reasonably cooperate with the City's consultants and to provide all necessary documents or information reasonably requested of them by the City's consultants; provided, however, that the foregoing shall not require the disclosure of any documents or information of the Developer which by law is privileged, proprietary, confidential, or exempt from disclosure under the Public Records Act.

4. Reimbursement Procedure. If the CFD is formed and bonds are issued, bond proceeds in excess of the amount determined by the City's District Administrator to be required in order to satisfy the requirements of the City's CFD Policies and Procedures with respect to capitalized interest and reserves and to pay for the Facilities and other Incidental Expenses may be used to reimburse the Developer for the amounts that the Developer has advanced to the City in connection with this Agreement, all as provided for in the City's CFD Policies and Procedures. In the event that the CFD is not formed for any reason, or in the event that the CFD is formed and bonds are not issued for any reason, the City shall return any funds which have been advanced by the Developer pursuant to this Agreement and which have not been expended, obligated or otherwise committed for any authorized purpose, subject to the complete reimbursement to the City of all of its direct and indirect costs. If the amounts previously advanced by the Developer are insufficient to fully reimburse the City for all of its direct and indirect costs, the Developer shall pay to the City the amount of the deficiency within ten (10) days after receipt of a demand by City. The City shall be entitled to pay any refund required pursuant to the provisions hereof to the entity that is the signatory to this Agreement irrespective of any changes in the ownership of the property or the organization of the Developer, and the City shall not be required to pay interest on any amount required to be refunded pursuant to this Agreement.

5. Abandonment of Proposed CFD. The Developer understands that, subject to the satisfaction of all applicable legal requirements, the decision to form the CFD and the decision to issue bonds shall be each in the sole discretion of the City. No provision of this Agreement shall be construed as a promise, warranty or agreement by the City to form the CFD or to issue bonds. The City shall have no liability to Developer for a decision not to form the CFD or issue bonds.

6. Indemnification and Hold Harmless. The Developer hereby assumes the defense of, and indemnifies and saves harmless, the City and each of its officers, directors, agents, contractors, and employees, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of or arising out of any acts or omissions of the Developer or any of the Developer's officers, employees, contractors and agents in connection with the proposed formation of the CFD or any work-in-

kind provided by or on behalf of the Developer or its consultants, except for any action, damages, claims, losses or expenses arising out of the sole negligence or willful misconduct of the City, its officers, directors, employees or agents.

7. 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.

Developer: Kaiser Foundation Hospitals  
1777 W. Yosemite Avenue  
Manteca, CA 95337  
Attention: Corwin N. Harper  
Phone: (209) 825-3874  
Facsimile: (209) 825-3524

City: City of Modesto  
1010 Tenth Street, Suite 6100  
Modesto, California 95354  
Attention: IPF Administrative Officer  
Phone: (209) 577-5211  
Facsimile: (209) 571-5128

8. Assignment. The Developer may not assign its interest in this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld. Any assignment or attempt to assign this Agreement without the prior written consent of CITY shall be deemed null and void as of the date of the purported assignment. All covenants, stipulations, and agreements in this Agreement shall bind any such representatives, successors and assigns.

9. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent permitted by law.

10. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the matters provided for herein. All previous proposals, offers and communications relative to this Agreement, whether oral or written, are hereby superseded except to the extent that they have been incorporated into this Agreement. No future waiver of or exception to any of the terms, conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to in writing by all the parties.

11. Amendments. This Agreement may be amended or modified only by written instrument signed by all parties. Any amendment or addendum to this Agreement shall expressly refer to this Agreement.

12. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

13. No Third Party Beneficiaries. No person or entity shall be deemed to be a third party beneficiary hereof; and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than the City (and its officers, directors, employees and agents providing services under this Agreement) and the Developer, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

14. Singular and Plural; Gender. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

15. Termination. This Agreement shall terminate and be of no further force and effect on the first anniversary of the date of this Agreement unless expressly amended by the parties; provided, however, that the Developer's obligations under Section 6 shall survive the termination and the City's obligation to provide reimbursement in accordance with Section 4 for expenses incurred prior to the termination date shall also survive termination.

16. Time is of the Essence. Except as otherwise expressly stated, time is of the essence in the performance of each and every action required pursuant to this Agreement

17. Language Construction. The language of each and all paragraphs, terms and/or provisions of this Agreement, shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.

18. Representations of Authority. Each party signing this Agreement on behalf of a party which is not a natural person hereby represents and warrants to the other party that all necessary legal prerequisites to that party's execution of this Agreement have been satisfied and that he or she has been authorized to sign this Agreement and bind the party on whose behalf he or she signs.

19. Relationship of Parties. Nothing contained in this Agreement shall be interpreted or understood by any of the parties, or by any third person, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between City and Owner or its agents, employees or contractors. Except as City may specify in writing, Owner shall have no authority to act as an agent of City or to bind City to any obligation.

20. Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of Agreement's provisions.

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-\_\_\_\_, adopted by the Council of the City of Modesto on the \_\_\_\_ day of \_\_\_\_\_, 2006, and KAISER FOUNDATION HOSPITALS, a California non-profit public benefit corporation, has caused this Agreement to be executed in duplicate, effective as of the date first written above.

CITY OF MODESTO, a  
Municipal Corporation

By:

\_\_\_\_\_  
GEORGE BRITTON, City Manager

ATTEST:

By:

\_\_\_\_\_  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:  
SUSANA ALCALA WOOD, City Attorney

By:

\_\_\_\_\_  
ALISON A. BARRATT-GREEN  
Senior Deputy City Attorney

KAISER FOUNDATION HOSPITALS, a  
California Non-profit Public Benefit  
Corporation

By: Corwin M. Harper

Name: Corwin M. Harper

Title: Sr. V.P. / Area Manager

By: I. Oberjoch

Name: INDRAJIT OBERSEKERG

Title: Counsel & Asst Secy

#### Signature Requirements

- *Corporation:*
  - Signature of two (2) officers
  - or
  - Signature of one (1) officer plus the corporate seal
- *Partnership:* Signature of one partner
- *Sole Proprietorship:* Signature of proprietor

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-607**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO SOLICIT FORMAL REQUEST FOR BIDS (RFB) FOR BRASS SERVICE FITTINGS FOR AN INITIAL TWO (2) YEAR PERIOD, WITH THREE (3) ONE-YEAR CONTRACT EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF \$100,000, WITH FUNDING BUDGETED IN FY 2006/2007**

WHEREAS, the Central Stores Division of the Finance Department inventories various materials for use by the Public Works Department and the Parks, Recreation and Neighborhoods Department for City projects, and

WHEREAS, said materials include brass service fittings used mainly by the Water Division, and

WHEREAS, these items are stocked at Central Stores and charged to the appropriate job/account number designed for such work, and

WHEREAS, the needs and specifications for these materials have been developed over time through collaboration between Central Stores staff and division personnel requesting the materials, and

WHEREAS, by soliciting bids, the City will achieve the best value for brass service fittings and meet Modesto Municipal Code requirements for formal bids, and

WHEREAS, the Modesto Municipal Code 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, this Request for Bid (RFB) for the purchase of brass service fittings conforms to the Modesto Municipal Code, and

WHEREAS, the funds for inventory purchases have been appropriated in account number 7110-120-8311-0439,

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 brass service fittings, for an initial two (2) year period, with three (3) one-year contract extension options at the sole discretion of City, to be opened in the office of the City Clerk, 1010 10<sup>th</sup> 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 bids are opened, they shall be tabulated and analyzed and a report submitted to the Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26<sup>th</sup> day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None


ABSENT: Councilmembers: None

ATTEST:

  
Jean Morris, City Clerk

APPROVED AS TO FORM:

BY:

  
Susana Alcalá Wood, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 608**

**A RESOLUTION APPROVING A 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 Policy for Investment of Public Funds.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

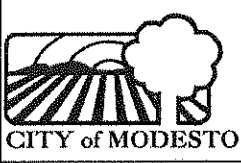
ATTEST:

  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
SUSAN ALCALA WOOD, City Attorney

		
<p align="center"><b>SUBJECT: INVESTMENT POLICY</b></p>		

**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)

**ATTACHMENT A**

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

#### ATTACHMENT A

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.

#### 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:

- 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



## ATTACHMENT A

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 ~~in the conduct~~ as part of their annual audit of the City.

**APPENDIX A - GLOSSARY****Bankers Acceptances (BAs)**

Bankers Acceptance is a time bill of exchange drawn on and accepted by a commercial bank to<sup>1</sup> 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.

**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.

## ATTACHMENT A

**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.

## ATTACHMENT A

### **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.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-609**

**A RESOLUTION APPROVING THE PURCHASE OF A FIRE DEPARTMENT HEAVY  
RESCUE VEHICLE IN THE AMOUNT OF \$502,951.52 AND THE CREATION OF AN  
INTEFUND LOAN BETWEEN THE GENERAL FUND AND FUND 7200 (FLEET  
MANAGEMENT FUND)**

WHEREAS, the Modesto Fire Department recommends the replacement of an existing fire rescue vehicle with the purchase of a new vehicle from Pierce Manufacturing, and

WHEREAS, at it's April 3, 2006 meeting, the Safety and Communities Committee approved this recommendation, and

WHEREAS, on June 27, 2006 the City Council previously adopted Resolution No. 2006-416 which approved the use of Pierce Manufacturing as the sole provider of apparatus to the City of Modesto Fire Department, and

WHEREAS, the Fire Department anticipates savings of at least \$120,000.00 per year in future fleet vehicle replacement charges, and

WHEREAS, Fund 7200 (Fleet Management Fund) has sufficient unappropriated fund balance reserves that can be used to provide an interfund loan to the General Fund for the purpose of financing the rescue vehicle purchase; and

WHEREAS, the City Council accepts staff's recommendation to finance the purchase of the heavy rescue vehicle through the use of an interfund loan between the General Fund and Fund 7200 (Fleet Management Fund); and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the purchase of a fire rescue vehicle in the amount of \$502,951.52

BE IT FURTHER RESOLVED that the Finance Director is instructed to take all steps necessary to create an interfund loan between the General Fund and Fund 7200 (Fleet Management Fund) in order to finance the purchase of this vehicle, in accordance with the city's financial policies.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26<sup>th</sup> day of September 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:


AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
Jean Morris, City Clerk

APPROVED AS TO FORM:

By:   
Susana Alcala Wood, ~~Assistant~~ City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-610**

**A RESOLUTION ACCEPTING A \$23,000 HABITAT CONSERVATION FUND GRANT FROM THE STATE OF CALIFORNIA RESOURCES AGENCY FOR THE TREES FOR TOTS TREE PLANTING PROGRAM IN THE GATEWAY PARCEL OF THE TUOLUMNE RIVER REGIONAL PARK AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT CONTRACT.**

WHEREAS, staff has been notified by the State of California Resources Agency that the City has been awarded \$23,000 in funding from the Habitat Conservation Fund under the California Wildlife Protection Act of 1990, and

WHEREAS, said funding will allow for the funding of the Trees for Tots tree planting program in the Gateway Parcel of the Tuolumne Regional River Park (TRRP), and

WHEREAS, the Habitat Conservation Grant funding requires a 50% match, and

WHEREAS, the match funding will come from the FY 06-07 apportionments from the City of Modesto, City of Ceres and Stanislaus County allocated to TRRP capital projects, 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 the Council hereby accepts \$23,000 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 the Grant Contract

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-611**

**A RESOLUTION APPROVING THE APPLICATION FOR \$125,000 IN FUNDING FROM THE FEDERAL RECREATIONAL TRAILS PROGRAM, FOR THE RIVERWALK TRAIL IN THE GATEWAY PARCEL OF THE TUOLUMNE REGIONAL RIVER PARK AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE GRANT APPLICATION.**

WHEREAS, the SAFETEA-LU Act provides federal funds to the State of California for grants to state, local and non-profit organizations for the acquisition, development and/or maintenance of motorized and non-motorized trails, 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 City desires to apply for grant funds in the amount of \$125,000 from the Recreational Trails Program for the Riverwalk Trail in the Gateway Parcel of the Tuolumne River Regional Park, 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 Riverwalk trail in the Gateway Parcel of the Tuolumne River Regional Park is consistent with the Recreational Trails Program grant project criteria, and

WHEREAS, as the fiscal and administrative authority for the Tuolumne River Regional Park, the City of Modesto will enter into an agreement with the State of California for development of 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;
2. Certifies that the Tuolumne River Regional Park Joint Powers Authority 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
3. Appoints the City Manager, or his designee, as agent of the City of Modesto 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 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 26<sup>th</sup> day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-612**

**A RESOLUTION APPROVING A FIVE (5) -YEAR LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND METRO PCS CALIFORNIA/FLORIDA, INC., A DELAWARE CORPORATION, D/B/A METRO PCS, FOR A CELLULAR TOWER SITE LOCATED ON A PORTION OF DOWNEY COMMUNITY PARK, WITH THREE (3) FIVE (5) -YEAR OPTIONS TO EXTEND THE LEASE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LEASE AGREEMENT.**

WHEREAS, Metro PCS California/Florida, Inc., a Delaware corporation, d/b/a Metro PCS, desires to lease a cellular tower site located on a portion of Downey Community Park for a period of five (5) years, with three (3) five (5) -year options to extend the lease, for the installation of cellular telephone equipment, and

WHEREAS, the City of Modesto is willing to lease a portion of Davis Community Park to Metro PCS for said use for the sum of \$1,900.00 per month with an annual rental increase of 3% and an adjustment equal to the Consumer Price Index for the San Francisco/Oakland/San Jose Metropolitan Statistical Area (MSA) at the beginning of each renewal period, and

WHEREAS, Metro PCS will replace an existing ball field light pole that will meet its structural requirements, and

WHEREAS, the new light pole installed by Metro PCS will become the property of the City of Modesto, and

WHEREAS, at its August 24, 2006, meeting, by Resolution No. 2006-18, the Board of Zoning Adjustment approved a conditional use permit, subject to the following conditions:

1. Prior to issuance of a building permit, the applicant shall submit a set of revised plot plans and structural elevations titled "Metro PCS – Modesto Scenic Drive, Site No. SAC-347-A", located at 1200 Brighton Avenue, showing all changes required by the Board of Zoning. All development shall conform to this revised plan as amended in red, stamped approved by the Board of Zoning Adjustment on August 24, 2006.

2. Upon completion and City approval of the replacement light standard/cellular monopole, any subsequent modifications to the monopole will require City

approval, and Building and Development Services with the Community & Economic Development Department shall be notified of any changes and revised plans submitted for approval.

3. Prior to issuance of a building permit, the applicant shall coordinate installation work and submit a landscape and irrigation plan to the City of Modesto Parks, Recreation and Neighborhoods Department for review and approval.

4. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash and other debris.

5. The Capital Facilities Fees payable at the time of the issuance of a building permit for construction shall be based on the rates in effect at time of issuance of the building permit.

6. The Applicant shall record a "Notice of Conditions" in the Stanislaus County Recorder's Office on a form available in the Community and Economic Development Department.

7. The property owner and developer shall, at their sole expense defend, and hold harmless the City of Modesto, its agents, officers, and employees from and against any and all claims, actions, damages, losses or expenses of every type and description, including, but not limited to payment of 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 claim, action, or proceeding and shall cooperate fully in the defense.

8. Construction activities shall follow guidelines listed in the California Stormwater Quality Association (CASQA) Best Management Practice Handbook for Construction to prevent any drag out of soil or sediments onto the public roadway or into the City storm drain system

9. Prior to placement of any stationary lead-acid battery systems or on-site generators, a permit shall be obtained from the Fire Department.

10. All improvement plans pursuant to construction shall be prepared by a California licensed civil engineer and in accordance with City of Modesto standards.

11. 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 Parks, Recreation and Neighborhoods Director. The Noise Ordinance prohibits the loud and raucous operation or use of any tools or equipment before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State and Federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.).

12. Prior to final inspection with the Building and Development Services Division, the applicant shall install signage approved by the Parks, Recreation and Neighborhoods Director or designee to be located on the entrance gate to the cellular communications facility indicating the cell tower provider and the hours permitted for operation and maintenance of the cellular communications facility, which shall be limited to the hours of operation for Downey Community Park and in accordance with City Municipal Code Noise Ordinance Section 4-9.101.

13. Prior to the issuance of a building permit, applicant shall provide the City's Parks, Recreation and Neighborhoods Director or designee ("Parks Director") with the name, address and telephone number of applicant's contact person designated to receive notices, complaints, documents and other correspondence related to ownership, operation and maintenance of the cell tower facilities. Applicant and its successors in interest shall notify the Parks Director of any changes to the contact information within ten (10) working days after such a change is made. Applicant and its successors in interest shall provide the Parks Director with advance notice of any transfer or change of ownership of any facilities authorized by the conditional use permit, and,

WHEREAS, by Resolution 2006-18, the Board of Zoning Adjustment also adopted the findings of Initial Study, Environmental Assessment No. EA/C&ED 2006-54, “Wireless Antenna on Replacement Ball Field Light Pole in Downey Park”, which find and determine:

1. The proposed project is within the scope of the Modesto Urban Area General Plan Master Environmental Impact Report (SCH No. 1999082041).
2. Pursuant to Section 21157.1 of CEQA, no new environmental review is required.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Five (5) -Year Lease Agreement between the City of Modesto and Metro PCS California/Florida, Inc., a Delaware Corporation, d/b/a/ Metro PCS, for a cellular site located on a portion of Downey Community Park, with three, five-year options to extend the lease.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Lease Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26<sup>th</sup> day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD  
City Attorney

ATTEST:

By   
JEAN MORRIS  
City Clerk

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-613**

**A RESOLUTION APPROVING A FIVE (5) -YEAR LEASE AGREEMENT BETWEEN THE CITY OF MODESTO AND OMNIPOINT COMMUNICATIONS, D/B/A T-MOBILE FOR A CELLULAR TOWER SITE LOCATED ON A PORTION OF CREEKSIDE MUNICIPAL GOLF COURSE, WITH THREE (3) FIVE (5) -YEAR OPTIONS TO EXTEND THE LEASE, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE LEASE AGREEMENT.**

WHEREAS, Omnipoint Communications, d/b/a T-Mobile, desires to lease a cellular tower site located on a portion of Creekside Golf Course for a period of five (5) years, with three (3) five (5) -year options to extend the lease, for the installation of cellular telephone equipment, and

WHEREAS, the City of Modesto is willing to lease a portion of Creekside Municipal Golf Course to T-Mobile for said use for the sum of \$1,800.00 per month with an annual rental increase of 3% and an adjustment equal to the Consumer Price Index for the San Francisco/Oakland/San Jose Metropolitan Statistical Area (MSA) at the beginning of each renewal term, and

WHEREAS, within thirty (30) days of execution of the agreement, T-Mobile will make a lump sum contribution to the City of Modesto's golf program in the amount of \$10,000, and

WHEREAS, T-Mobile will install a 75-foot high stealth cellular monopole on the northeast corner of the golf course adjacent to Dry Creek Regional Park and to place cellular equipment on the ground in the vicinity of the pole, and

WHEREAS, at its August 24, 2006, meeting, by Resolution No. 2006-19, the Board of Zoning Adjustment approved a conditional use permit, subject to the following conditions:

1. All development shall conform to the plot plan and elevation plans titled "T-Mobile – Modesto GC, Site No. SC13443A", stamped approved by the Board of Zoning Adjustment on August 24, 2006.



2. Prior to issuance of a building permit, the applicant shall coordinate the design and installation work of the chain-link fence with the City of Modesto's Parks, Recreation and Neighborhoods Department for review and approval before a permit is issued.

3. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash and other debris.

4. The Capital Facilities Fees payable at the time of the issuance of a building permit for construction shall be based on the rates in effect at time of issuance of the building permit.

5. The Applicant shall record a "Notice of Conditions" in the Stanislaus County Recorder's Office on a form available in the Community and Economic Development Department.

6. The property owner and developer shall, at their sole expense defend, and hold harmless the City of Modesto, its agents, officers, and employees from and against any and all claims, actions, damages, losses or expenses of every type and description, including, but not limited to payment of 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 claim, action, or proceeding and shall cooperate fully in the defense.

7. Construction activities shall follow guidelines listed in the California Stormwater Quality Association (CASQA) Best Management Practice Handbook for Construction to prevent any drag out of soil or sediments onto the public roadway or into the City storm drain system

8. All improvement plans pursuant to construction shall be prepared by a California licensed civil engineer and in accordance with City of Modesto standards.

9. Prior to placement of any stationary lead-acid battery systems or on-site generators, a permit shall be obtained from the Fire Department.

10. All outdoor lighting shall be shielded from adjacent residential properties as required by the City Engineer or designee, and shall be at a height and of a type that is least intrusive to the adjacent neighborhood, as determined by the City Engineer or designee and the City of Modesto's Parks, Recreation and Neighborhoods Department Director or designee.

11. 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 Parks, Recreation and Neighborhoods Director. The Noise Ordinance prohibits the loud and raucous operation or use of any tools or equipment before 7:00 a.m. or after 9:00 p.m. daily (except Saturday and Sunday and State and Federal holidays, when the prohibited time shall be before 9:00 a.m. and after 9:00 p.m.).

12. Prior to final inspection with the Building and Development Services Division, the applicant shall install signage approved by the Parks, Recreation and Neighborhoods Director or designee to be located on the entrance gate to the cellular communications facility indicating the cell tower provider and the hours permitted for operation and maintenance of the cellular communications facility, which shall be limited to the hours of operation for Downey Community Park and in accordance with City Municipal Code Noise Ordinance Section 4-9.101.

13. Prior to the issuance of a building permit, applicant shall provide the City's Parks, Recreation and Neighborhoods Director or designee ("Parks Director") with the name, address and telephone number of applicant's contact person designated to receive notices, complaints, documents and other correspondence related to ownership, operation and maintenance of the cell tower facilities. Applicant and its successors in interest shall notify the Parks Director of any changes to the contact information within ten (10) working days after such a change is made. Applicant and its successors in

interest shall provide the Parks Director with advance notice of any transfer or change of ownership of any facilities authorized by the conditional use permit, and

WHEREAS, by Resolution 2006-19, the Board of Zoning Adjustment also adopted the findings of Initial Study, Environmental Assessment No. EA/C&ED 2006-55, "Conditional Use Permit to allow addition of a 75-Foot-High Monopole with Attached Cellular Antenna and Related Communication Equipment Facility", which find and determine:

1. The proposed project is within the scope of the Modesto Urban Area General Plan Master Environmental Impact Report (SCH No. 1999082041).
2. Pursuant to Section 21157.1 of CEQA, no new environmental review is required.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Five (5) -Year Lease Agreement between the City of Modesto and T-Mobile California/Florida, Inc., a Delaware Corporation, d/b/a/ T-Mobile, for a cellular site located on a portion of Downey Community Park, with three (3), five (5) -year options to extend the lease.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Lease Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26<sup>th</sup> day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD  
City Attorney

ATTEST:

By   
JEAN MORRIS  
City Clerk

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 -614**

**A RESOLUTION ACCEPTING THE 2006 ANTI-DRUG ABUSE ENFORCEMENT PROGRAM GRANT FROM THE GOVERNOR'S OFFICE OF EMERGENCY SERVICES (OES), IN THE AMOUNT OF \$253,754, FOR THE STANISLAUS ANTI-DRUG TASK FORCE TO COMBAT MAJOR DRUG TRAFFICKING AND MANUFACTURING, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS.**

WHEREAS, in June 2006 the Modesto Police Department applied for funding from the Governor's Office of Emergency Services (OES) for the Stanislaus Anti-Drug Task Force, and

WHEREAS, the Stanislaus Anti-Drug Task Force is part of the Stanislaus Drug Enforcement Agency (SDEA), and

WHEREAS, this program will integrate federal, state, and local law enforcement agencies, prosecutors, and probation officers for the purpose of enhancing interagency coordination and intelligence and facilitating multi-jurisdictional investigations to combat major drug trafficking and manufacturing, and

WHEREAS, SDEA has been a recipient of a Byrne grant award from the Office of Emergency Services (OES) for the past 16 years, and

WHEREAS, said grant is used to add additional personnel and needed equipment to the countywide Joint Powers Agreement unit, and

WHEREAS, the term of this Agreement is July 1, 2006, through June 30, 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the 2006 Anti-Drug Abuse Enforcement Program grant

from the Governor's Office of Emergency Services (OES), in the amount of \$253,754, for the Stanislaus Anti-Drug Task Force to combat major drug trafficking and manufacturing.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary program grant documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26<sup>th</sup> day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 -615**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE A FORMAL REQUEST FOR BIDS FOR THE PURCHASE OF SPECIALIZED LABORATORY FURNITURE FOR THE WATER QUALITY CONTROL DIVISION LABORATORY AT AN ESTIMATED TOTAL COST OF \$72,000.**

WHEREAS, on October 25, 2005, Council, by Resolution 2005-537, approved the Capital Improvement Program (CIP) budget for FY 05-06, and

WHEREAS, a project to remodel the Water Quality Control (WQC) Lab (B584-WQC Lab Remodel) is included in this CIP, and

WHEREAS, the furniture purchased under this Request for Bids is specialized furniture designed to house the new laboratory equipment at an estimated total cost of \$72,000, and

WHEREAS, Modesto Municipal Code Section 8-3.203 generally requires all purchases which meet or exceed \$50,000 for materials, equipment, or contractual services to be formally bid, and

WHEREAS, staff has contacted ISEC Inc. regarding the purchase of this specialized laboratory furniture and was informed that the pricing was based on California Multiple Award Schedules (CMAS) program pricing, and

WHEREAS, after submitting a purchase order for the purchase of this furniture, it was determined that this CMAS pricing did not go through a competitive bidding process, and

WHEREAS, staff is requesting authorization for the Purchasing Manager to solicit formal Request for Bids for this specialized furniture,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Purchasing Manager is hereby authorized to solicit formal bids as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids, for the purchase of specialized furniture for the new water quality control laboratory equipment, 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 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 Water Quality Control Division and a report submitted to Council.


The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
\_\_\_\_\_

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
\_\_\_\_\_

SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-616**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF FOUR (4) LIGHTED CROSSWALK UNITS FOR A TOTAL ESTIMATED COST OF \$80,000**

WHEREAS, the Public Works Department-Traffic Engineering & Operations organization requested the purchase of four (4) Lighted Crosswalk Units, and

WHEREAS, staff recommends installation of the lighted crosswalks at the following locations:

1. Lucern Avenue and Hunter Avenue
2. Sheldon Drive and Pembroke Drive
3. Evergreen Avenue and Dougfir Drive
4. 11<sup>th</sup> Street and the 10<sup>th</sup> Street Parking Garage, and

WHEREAS, staff's recommendation to install lighted crosswalks at the above locations is based on the prioritization process approved by Council on March 19, 2002, and

WHEREAS, by issuing a formal RFB, the City will achieve the best value for the purchase of four (4) Lighted Crosswalk Units, and

WHEREAS, the Modesto Municipal Code MMC Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment, or contractual services to be formally bid, and

WHEREAS, the issuance of a formal RFB for the purchase of four (4) Lighted Crosswalk Units conforms to this code, and

WHEREAS, funding from an Office of Traffic Safety (OTS) grant in the amount of \$80,000 has been awarded to the City to pay for the purchase of the lighted crosswalk equipment, and

WHEREAS, the lighted crosswalk installation costs are budgeted in Account No. 2370-160-E736, "Pedestrian and Bicyclist Safety Enhancement Program," and

WHEREAS, the Economic Development Committee (EDC) at their August 8, 2005 meeting discussed the item and concurs with staff's recommendation to install four (4) lighted crosswalk units,

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 competitive sealed bids for the purchase of four (4) lighted crosswalk units to be opened in the Office of the City Clerk, 1010 10<sup>th</sup> 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 bids are opened, they shall be tabulated and analyzed by the Purchasing Division, and a report submitted to the Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26<sup>th</sup> day of September, 2006, 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: Dunbar, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Hawn

Attest: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-617**

**A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH  
KLEINFELDER, INC., FOR CONTINUED WELL MONITORING AND REPORTING  
SERVICES FROM THE 3RD QUARTER 2006 THROUGH THE 2ND QUARTER 2007  
OF THE PROJECT TITLED "9<sup>TH</sup> STREET STORM DRAINAGE BASIN AT KANSAS –  
9<sup>TH</sup> –NEEDHAM " IN THE AMOUNT OF \$14,152, AND AUTHORIZING THE CITY  
MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, during excavation of the 9<sup>th</sup> Street Storm Drainage Basin, as part of the Kansas-Needham Overhead construction, petroleum products were discovered, and

WHEREAS, the site had been assessed for the potential of soil contamination from the former Bulk Plant constructed in the 1920s. No contamination was found during the previous 1990s study, and

WHEREAS, the Bulk Plant had above ground tanks, but may have had underground piping that leaked, and

WHEREAS, on April 22, 2005, the City entered into an Agreement with Kleinfelder, Inc., for a Sensitive Receptor Survey and Limited Soil Sampling and Analysis at the request of Stanislaus County Department of Environment Resources (SCDER). Additionally, Kleinfelder has written a Corrective Action Plan (CAP) for the cleanup of the site, and

WHEREAS, Kleinfelder has developed and implemented a site work plan that was reviewed and approved by SCDER and Regional Water Quality Control Board (RWQCB), and collected soil and groundwater samples, installed monitoring wells, laboratory analysis, and submitted reports, and

WHEREAS, Kleinfelder has completed the 2<sup>nd</sup> quarter 2006 Ground Water Sampling and Analysis report and SCDER has requested continued monitoring through the 2<sup>nd</sup> quarter 2007. It is hoped in the 3<sup>rd</sup> quarter annual monitoring will commence followed by site cleanup, and

WHEREAS, the Amendment to Agreement continues the ground water monitoring per SCDER and the RWQCB, and

WHEREAS, the original Agreement was for \$30,513 and the additional work associated with this Amendment is \$14,152, which will increase the total Agreement to an amount not-to-exceed \$44,665, and

WHEREAS, the current budgeted amount of \$14,152 for the Amendment to Agreement is available in the CIP Account 0700-430-F265-6001 "Kansas/Needham Overhead Project" to cover the cost for these additional services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement between City of Modesto and Kleinfelder, Inc., for additional services related to the Groundwater Monitoring and Reporting at the former Kansas-Needham Overhead Storm Drainage Basin Site in the amount of \$14,152.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Amendment to Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-618**

**A RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION  
AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE  
DISSOLVED AIR FLOTATION FACILITY PROJECT**

WHEREAS, the City of Modesto operates and maintains a secondary treatment system and wastewater reclamation facility at 7007 Jennings Road, and

WHEREAS, during the late fall, winter, and early spring months, discharge of treated wastewater is allowed into the San Joaquin River if it is of adequate quality, and

WHEREAS, at times during the allowed river discharge period, especially in the fall months, discharge is not possible due to the high concentration of algae in the stored effluent, and

WHEREAS, installation of the Dissolved Air Flotation facility will improve the quality of the effluent discharge and allow the City to discharge to the San Joaquin River, and

WHEREAS, Section 15070 of the CEQA Guidelines relating to Initial Study/Mitigated Negative Declarations (EA/PW No. 2006-11) provides for a lead agency to prepare an Initial Study on any proposed Project to analyze whether the Project may cause any significant effect on the environment, and

WHEREAS, the City of Modesto Department of Public Works has prepared an Initial Study/Mitigated Negative Declaration as provided for by CEQA, and

WHEREAS, a 30-day public review period for the proposed Initial Study/Mitigated Negative Declaration began on August 3, 2006 and ended on September 5, 2006, and

WHEREAS, the City received public comments on the draft Initial Study/Mitigated Negative Declaration and no changes to the document were necessary as a result, and

WHEREAS, the Mitigation Monitoring Plan (MMP) is included and described within the Initial Study/Mitigated Negative Declaration,

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. 2006-11) and Mitigation Monitoring Plan prepared for the Dissolved Air Flotation Facility Project, and based on the substantial evidence provided in said Initial Study/Mitigated Negative Declaration makes the following findings:

1. The recitals set forth above are true and correct.
2. The Initial Study/Mitigated Negative Declaration prepared for the proposed project has identified potentially significant environmental effects.
3. 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.
4. There is no substantial evidence, in light of the whole record before the public agency, that the project, as revised, may have a significant effect on the environment (Public Resources Code Section 21064.5(2)).
5. The Initial Study/Mitigated Negative Declaration reflects the independent judgment of the lead agency.
6. As required by Public Resources Code Section 21081.6 et seq., the Mitigation Monitoring and Reporting Program is hereby adopted, a copy of which is included in the Mitigated Negative Declaration, which is on file with the City Clerk.
7. The Initial Study/Mitigated Negative Declaration, Environmental Assessment (EA/PW 2006-11) 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 Initial Study/Mitigated Negative Declaration EA/PW 2006-11, 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 26th day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-619**

**A RESOLUTION APPROVING AN AGREEMENT FOR THE ACQUISITION OF A PORTION OF A PARCEL OF LAND CURRENTLY ENCUMBERED BY A WILLIAMSON ACT CONTRACT ALONG PELANDALE AVENUE AT MCHENRY AVENUE OWNED BY BURCHELL NURSERY, INC. - APN: 046-008-016, PARCELS A AND PARCEL B, INCLUDING TEMPORARY CONSTRUCTION EASEMENT; AND A PORTION OF A PARCEL APN 046-008-024, OWNED BY BURCHELL NURSERY, INC.; INCLUDING TEMPORARY CONSTRUCTION EASEMENT FROM DETROIT LANE TO APPROXIMATELY 383 FT EAST OF DETROIT LANE TO THE CITY OF MODESTO FOR THE PELANDALE EXPRESSWAY 6-LANE WIDENING PROJECT, AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT**

WHEREAS, Council Resolution No. 2004-451 adopted the 2004/2005 Capital Improvement Program, and

WHEREAS, the 2004/2005 Capital Improvement Program included a project to widen Pelandale Avenue to full 6-Lane Expressway status from Dale Road to McHenry Avenue, project titled, "CIP H461: Pelandale Expressway 6-Lane Widening - Dale Road to McHenry Avenue", and

WHEREAS, the 6-lane widening of Pelandale Avenue from Dale Road to McHenry is scheduled to commence in fiscal year 2006, and

WHEREAS, the project scope of work requires (1) acquisition of additional permanent right-of-way along the south and north roadsides, and (2) temporary construction easements outside the permanent right-of-way limits on both sides of the roadway, and

WHEREAS, the City has evaluated the cost and time benefit of acquiring the additional right-of-way, and

WHEREAS, by Resolution No. 2005-118, adopted on February 22, 2005, the City Council previously resolved to proceed with the widening of Pelandale Avenue to full 6-lane status, and as part of this widening, to acquire necessary right-of-way to construct the additional lanes, and

WHEREAS, the roadway widening at Pelandale Avenue between Detroit Land and McHenry Avenue requires a permanent right-of-way take of approximately 9,146 sq ft (0.21 acres) with a 6,244 sq ft Temporary Construction Easement (TCE) at the Burchell Nursery, Inc., property, APN: 046-008-016; and 12,371 sq ft (0.284 acres) with a 5,662 sq ft TCE at the Burchell Nursery, Inc., property, APN: 046-008-0024, and

WHEREAS, the City Council of the City of Modesto directed staff to enter into negotiations with Burchell Nursery, Inc., to purchase the portion of their real property as described herein above (hereafter the "subject property") for the Pelandale Expressway 6-Lane Widening Project, and

WHEREAS, a purchase agreement has been completed between the City and Burchell Nursery, Inc., and

WHEREAS, by Resolution No. 2006-456, adopted July 11, 2006, the City Council previously resolved that the public interest and necessity require the acquisition of these certain property interests, being portions of APN 046-008-016 and APN 046-008-024 including temporary construction easements, and directed the filing of eminent domain proceedings for the Pelandale Avenue Capitol Improvement Project. Council also made findings in compliance with Government Code Section 51292 related to acquisition of real property encumbered by the Williamson Act relating to APN 046-008-016,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Agreement for Purchase of Real Property between the City of Modesto and Burchell Nursery, Inc., (APN 046-008-016 and APN 046-008-024) to purchase the necessary real property for the Pelandale Expressway 6-Lane Widening Project in the amount of \$106,000.00.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridernour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-620**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN ACCEPTANCE FORMS FOR THE GRANT DEEDS FOR THE ACQUISITION OF A PORTION OF TWO PARCELS OF LAND ALONG PELANDALE AVENUE AT MCHENRY AVENUE AND ALONG PELANDALE AVENUE EAST OF DETROIT LANE OWNED BY BURCHELL NURSERY, INC. (APN: 046-008-016 AND 046-008-024), AND TEMPORARY CONSTRUCTION EASEMENTS TO THE CITY OF MODESTO FOR THE PELANDALE EXPRESSWAY 6-LANE WIDENING PROJECT**

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a portion of two parcels (APN: 046-008-016 and APN: 046-008-024) for the Pelandale Expressway 6-Lane Widening Project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager, or his designee, is hereby authorized to sign an acceptance form on behalf of the City of Modesto for two (2) Grant Deeds for the acquisition of a portion of two properties owned by Burchell Nursery, Inc., (APN: 046-008-016 and 046-008-024) and two (2) Temporary Construction Easements (APN: 046-008-016 and 046-008-024) for the Pelandale Expressway 6-Lane Widening Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-621**

**A RESOLUTION APPROVING AN AGREEMENT WITH WEST YOST ASSOCIATES, INC., FOR THE SOUTH MODESTO INTERIM WATER SUPPLY STUDY IN THE NOT-TO-EXCEED AMOUNT OF \$130,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the existing water system in the South Modesto area has several deficiencies, including but not limited to supply, storage, transmission, and distribution facilities, and

WHEREAS, these system deficiencies impact the City's ability to deliver adequate system pressure and provide sufficient supply/storage during high water demand periods to existing City customers, and

WHEREAS additional future demands are placed on the system due to new development and in-fill projects, particularly over the next 5-year period, and

WHEREAS an Interim Water Supply Study needs to be developed for the South Modesto Area to provide both interim and long-term solutions to address these existing and future issues and recommend solutions for the near-term, the next 5-years, and

WHEREAS, the Public Works Department – Capital Improvement Services (CIS) Division performs a number of tasks requiring water engineering and related services. However, the City's engineering staff lacks the specific ability to accomplish a large-scale study such as the South Modesto Interim Water Supply Study in a timely manner, and

WHEREAS, the Public Works Department – Capital Improvement Services Division has utilized the services of specialized consulting engineers to perform targeted water system engineering services in the past, and

WHEREAS, West Yost Associates is familiar with the City's existing infrastructure, having provided prior services in conjunction with the City's overall utilities master planning efforts, and have demonstrated satisfactory services to the City on past projects, and

WHEREAS, the firm of West Yost Associates is deemed the most qualified to provide the requested Interim Water Supply Study in a timely and cost effective manner. As an example, West Yost Associates recently completed the City's Water System Hydraulic Model Update, a difficult and detailed computer modeling study of the City's existing system for which the firm was selected based on competitive basis, and

WHEREAS, West Yost Associates has an intimate knowledge of the shortcomings and opportunities of the City's utility networks; therefore, staff recommends the consulting firm of West Yost Associates be awarded a contract for the South Modesto Interim Water Supply Study,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between City of Modesto and West Yost Associates, Inc., for the South Modesto Water Interim Water Supply Study in the not-to-exceed amount of \$130,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 -622**

**A RESOLUTION APPROVING AN AGREEMENT WITH THE CALIFORNIA ENERGY COMMISSION FOR THE CITY OF MODESTO TO ENTER INTO AN ENERGY PARTNERSHIP PROGRAM, AND AUTHORIZING THE PUBLIC WORKS DIRECTOR, OR HIS DESIGNEE, TO EXECUTE ALL RELATED DOCUMENTS.**

WHEREAS, digester gas is a byproduct of the wastewater treatment process, and

WHEREAS, the Primary Wastewater Treatment Facility does not fully use the digester gas generated from the treatment plant's digesters, and

WHEREAS, installation of a cogeneration unit at the Primary Wastewater Treatment Facility would allow digester gas to be used to provide energy, including heat, for the Treatment Plant, and

WHEREAS, On June 13, 2006, staff returned to Council with the revised scope and costs from Carollo Engineers as directed by Economic Development Committee (EDC), and

WHEREAS, Council directed staff to return to EDC with more information regarding funding of a feasibility study by the California Energy Commission (CEC) and a listing of all grants, incentives and low interest loans available for this project, and

WHEREAS, staff has worked with CEC in identifying a Scope of Work for the Cogeneration project that will be performed through an Energy Partnership Program by a CEC selected and funded consultant, and

WHEREAS, the Economic Development Committee considered this item at its September 11, 2006 meeting and recommended its approval and consideration by the full Council, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with the California Energy Commission for the City of Modesto to enter into an Energy Partnership Program and

BE IT FURTHER RESOLVED that the Public Works Director, or his designee, is hereby authorized to execute all the related documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

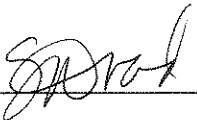
ABSENT: Councilmembers: None

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: 

SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-623**

**A RESOLUTION APPROVING AN AGREEMENT WITH CAROLLO ENGINEERS IN AN AMOUNT NOT TO EXCEED \$116,343 FOR CONSULTANT SERVICES ASSISTANCE IN THE PREPARATION OF A PRELIMINARY DESIGN REPORT AND DEVELOPMENT OF A REQUEST FOR PROPOSALS (RFP) FOR A DIGESTER GAS FIRED COGENERATION SYSTEM AT THE PRIMARY WASTEWATER TREATMENT PLANT, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.**

WHEREAS, digester gas is a byproduct of the wastewater treatment process, and

WHEREAS, the Primary Wastewater Treatment Facility does not fully use the digester gas generated from the treatment plant's digesters, and

WHEREAS, installation of a cogeneration unit at the Primary Wastewater Treatment Facility would allow digester gas to be used to provide energy, including heat, for the Treatment Plant, and

WHEREAS, staff expects increased revenue from the sale of electrical power and a decrease in natural gas expenses, and

WHEREAS, due to the nature of the project, its complexity and the need for a collaborative relationship with energy providers, the services of a consultant with significant experience in developing specifications and contracts for cogeneration projects is necessary, and

WHEREAS, the consultant will evaluate other sources of digester fuel such as oil and grease, food wastes, and industrial by-products, and

WHEREAS, the consultant will also help with the evaluation of several types of cogeneration facilities (such as internal combustion engines, gas turbines, microturbines, etc), preparing and RFP and evaluating vendor responses to the RFP and assisting in the selection process, and

WHEREAS, staff solicited proposals to 43 firms, formally advertised the RFP, and received nine (9) proposals, and

WHEREAS, these proposals were evaluated using criteria established in the RFP by a committee of four (4) City staff, and

WHEREAS, five (5) firms were formally interviewed, and

WHEREAS, Carollo Engineers was determined to be the most-qualified firm based on the total RFP evaluation score and interview results, and

WHEREAS, the Economic Development Committee (EDC) considered this item at its April 5, 2006 meeting, and

WHEREAS, EDC made the following recommendations:

1. The contract for consultant services include and evaluate the design and/or building and/or ownership and/or operation of a digester gas fired cogeneration unit at the Primary Wastewater Treatment Plant and send the amended scope of work to Council for consideration.
2. Staff negotiate the revised scope including cost with Carollo Engineers prior to Council consideration,
3. Return to EDC prior to any formal Council action

, and

WHEREAS, On June 13, 2006, staff returned to Council with the revised scope and costs from Carollo Engineers as directed by EDC, and

WHEREAS, staff has revised the scope for Carollo Engineers at a cost of \$116,343, and

WHEREAS, funds are budgeted in 6210-48-5213-0235,

WHEREAS, the Economic Development Committee considered this item at its September 11, 2006 meeting and recommended its approval and consideration by the full Council, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with the Carollo Engineers in an amount not to exceed \$116,343 for consultant services assistance in the preparation of a Preliminary Design Report and development of a Request for Proposals (RFP) for a digester gas fired cogeneration system at the Primary Wastewater Treatment Plant.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: Susana Alcala Wood

SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-624**

**A RESOLUTION APPROVING A PUBLIC WORKS DEPARTMENT POLICY  
REGARDING PROCEDURES TO DEFINE PROJECT SCOPE ON MAJOR  
CAPITAL IMPROVEMENT PROGRAM PROJECTS**

WHEREAS, the City's adopted Capital Improvement Program (CIP) often contains projects for which the project scope has not been fully developed, and

WHEREAS, this leads to the risk of a project scope changing significantly between the time it is initially approved by Council and the time Council is asked to award a construction contract for the project, and

WHEREAS, these changes in scope may involve significant changes in the project budget and schedule as well, and

WHEREAS, Council directed staff to develop a project scope policy that will apply to major projects, and

WHEREAS, for the purposes of this policy, a major project has been defined as a project for which the budget exceeds \$1,000,000, and

WHEREAS, said Major Project Scope Policy is attached hereto as **Exhibit "A"**, and made a part hereof,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Major Project Scope Policy to be applied to all major capital improvement projects in excess of \$1,000,000,

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of September, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**Public Works Department**

Policy # \_\_\_\_\_

**Background:**

During the development of a major Capital Improvement Program (CIP) project there is the potential that the scope of the project may change to the extent it significantly exceeds the original scope of work approved by Council. This may result in significant budget and schedule overruns. Most often scope changes are legitimate, justifiable changes that are needed to address issues that become apparent during the development of the project. However, it may create a situation where Council is asked to significantly increase the project's budget after a major investment has been made in the project design in terms of both funds and time, thereby reducing the options available to the policy makers. The purpose of this policy is to provide policy direction to reduce the occurrence of this situation without unduly burdening the development of CIP projects.

For the purpose of this policy a major project is defined as a project with an approved CIP budget of more than \$1 million. If a project is budgeted at less than \$1 million during the CIP process but through normal inflation the ultimate project cost exceeds \$1 million this policy does not apply provided that the scope did not change during the development of the project.

**Policy:**

All major CIP projects shall conform to one of the two procedures outlined below. The Public Works Director, or his/her designee, shall approve which procedure will be applied to the appropriate projects.

**Procedure "A"**

1. Following approved procedures, a firm shall be selected to provide preliminary design services for the project. A contract for these preliminary design services shall be presented to Council for approval.
2. The purpose of the preliminary design services shall be to clearly define the scope of work of the project to the greatest extent possible and produce a Preliminary Design Report (PDR). The PDR shall define the issues related to the project including environmental, utility, right of way, and technical issues. The report shall include an opinion of probable cost for the project including appropriate contingencies based on the identified issues.
3. Staff shall present the PDR to Council for approval of the project scope and budget prior to proceeding with final design.
4. Following approved procedures, a firm shall be selected to provide final design services for the project based on the PDR.
5. Staff may recommend, and with Council approval, use of the same firm for the PDR and final design phases of the project based on the initial selection process for the design services.
6. Staff shall present a contract for Council approval for final design services in accordance with approved procedures.
7. If during the course of final design the scope of the project changes significantly for previously unforeseen reasons, a report of the scope change shall be presented to Council as soon as practical once the extent of the scope change is known.

**Procedure "B"**

1. Following approved procedures, a firm shall be selected to provide all applicable professional services required to implement the project. A contract for these professional services shall be presented to Council for approval.



2. The scope of services shall include clearly defining the scope of work for the project to the greatest extent possible and producing a Preliminary Design Report (PDR). The PDR shall define the issues related to the project including environmental, utility, right of way, and technical issues. The report shall include an opinion of probable cost for the project including appropriate contingencies based on the identified issues.
3. If the PDR indicates that the project will exceed the project budget by more than 10%, staff will present the report to Council along with any alternatives to reduce the project budget for approval prior to proceeding to final design. Staff may also at this time present any adjustments to the consultant's contract that may be appropriate based on the results of the PDR.
4. If the Council approves the PDR or if the PDR indicates that the project is within 10% of the approved budget, staff will authorize the consultant to proceed with final design.
5. If during the course of final design the scope of the project changes significantly, for previously unforeseen reasons, a report of the scope change shall be presented to Council as soon as practical once the extent of the scope change is known.

Nothing in this policy is intended to restrict what work staff can perform. Any of the above work may be performed by City staff if appropriate.

---

Nicholas Pinhey, Public Works Director

---

Date

Attachments:

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-625**

**A RESOLUTION APPROVING THE CITY OF MODESTO  
CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION  
REPORT (CAPER) FOR FISCAL YEAR 2005-2006, AND AUTHORIZING  
THE CITY MANAGER, OR HIS DESIGNEE, TO SUBMIT THE REPORT  
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, the Consolidated Annual Performance and Evaluation Report (CAPER)  
reflects the activities of the City and its sub-recipients for the period of July 1, 2005, through  
June 30, 2006, 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  
September 9, 2006, through September 26, 2006, 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 8, 2006, and reviewed and recommended the CAPER, and

WHEREAS, a duly noticed public hearing was held by the Council on September 26,  
2006, 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 as

follows:

1. That the Consolidated Annual Performance and Evaluation Report for Fiscal Year 2005-2006 is hereby approved, and a copy of said report is on file in the office of the City Clerk.
2. That the City Manager, or his authorized designee, is hereby authorized, after having made any necessary correction, to submit said 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 26<sup>th</sup> day of September, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-626**

**A RESOLUTION GRANTING THE APPEAL OF BRETT MENEZES AND  
REVERSING PLANNING COMMISSION DECISION APPROVING AN  
AMENDMENT TO PLANNED DEVELOPMENT ZONE, P-D(339)**

WHEREAS, an application for an amendment to Planned Development Zone, P-D(339), to allow a 75-foot-high cell antenna monopole and related communication equipment facility, property located at 2612 Woodland Avenue, was filed on February 21, 2006, by Baran Telecom, and

WHEREAS, a public hearing was held by the Planning Commission on August 7, 2006, and continued to August 21, 2006, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California at which hearing it was found and determined by the Planning Commission, by its Resolution No. 2006-55, that amendment of Planned Development Zone, P-D(339), as proposed, is required by public necessity, convenience and general welfare for the following reason:

1. The seventy-foot-high monopole with six encapsulated cellular antenna with radome enclosure surrounded by a six-foot-high chain-link fence, is consistent with the General Plan and other similar facilities previously approved by the City of Modesto.

WHEREAS, on August 31, 2006, an appeal to the Planning Commission decision was filed in the office of the City Clerk by Brett Menezes, 2624 Woodland Avenue, which appeal cited among other things, unsightliness, possible health effects, decline in home values, and the location in the middle of a residential neighborhood, and

WHEREAS, said appeal was set for a duly noticed public hearing before the City Council to be held on September 26, 2006, 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, after said public hearing the Council of the City of Modesto found and determined that the appeal to the decision of the Planning Commission should be granted and the decision of the Planning Commission should be reversed for the reasons set forth as follows:

1. The proposed location of the 75-foot-high monopole antennae and related communication equipment would contribute an unwarranted visual intrusion into a residential area.
2. The applicant has failed to adequately demonstrate the actual need for the facility at this precise location and has not demonstrated that he has exhausted all alternate site locations to properly serve the surrounding area.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of Brett Menezes to the decision of the Planning Commission approving an amendment to Planned Development, P-D(339) to allow a 75-foot-high monopole antenna and related communication equipment at 2612 Woodland Avenue is hereby granted for the reasons set forth above and the amendment to P-D(339) is denied.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of September 2006, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: Keating

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-627**

**A RESOLUTION ACCEPTING THE PELANDALE-CLARATINA  
AVENUE/MCHENRY AVENUE INTERCHANGE EVALUATION REPORT,  
PREPARED BY RAJAPPAN AND MEYER, CONSULTING ENGINEERS, INC.,  
DATED JUNE 2006**

WHEREAS, the Modesto Urban Area General Plan designates Pelandale-Claratina Avenue as a 6-lane expressway and McHenry Avenue as a 6-lane principal arterial, and

WHEREAS, the General Plan designates an interchange at the intersections of these roadways, and

WHEREAS, City staff retained the services of Rajappan and Meyer, Consulting Engineers to prepare a report evaluating alternative designs for this intersection, and

WHEREAS, the report evaluated three types of intersections including:

1. Widened at-grade intersection
2. Compact diamond interchange
3. Single point interchange, and

WHEREAS, for each alternative, the report evaluated the effectiveness at an interim 2013 condition and at 2025 condition, the right-of-way necessary, and cost estimates of construction, and

WHEREAS, the report determined that, Alternate 3, the Single Point Interchange, is the preferred alternative,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and accepts the Pelandale-Claratina Avenue/McHenry

Avenue Interchange Evaluation Report, prepared by Rajappan and Meyer, Consulting Engineers, In., dated June 2006.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 26th day of September, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-628**

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF  
THOMAS STONE FROM THE CULTURE COMMISSION**

WHISEAS, THOMAS STONE was appointed a member of the CULTURE  
COMMISSION on August 3, 1999, and

WHISEAS, THOMAS STONE has tendered his resignation from the CULTURE  
COMMISSION, and

WHISEAS, THOMAS STONE 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 THOMAS STONE 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 this City, hereby expresses its sincere appreciation to  
THOMAS STONE 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 3rd day of October, 2006, by Councilmember Hawn, who moved its  
adoption, which motion being duly seconded by Councilmember Keating, was upon roll call  
carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Susana Alcalá Wood, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-629**

**A RESOLUTION ACCEPTING WITH REGRET THE RESIGNATION OF  
CAROLE STARK FROM THE COMMUNITY QUALITIES FORUM**

WHEREAS, CAROLE STARK was appointed a member of the Community Qualities Forum on March 22, 2005, and

WHEREAS, CAROLE STARK has tendered her resignation from the Community Qualities Forum, and

WHEREAS, CAROLE STARK 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 CAROLE STARK 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 CAROLE STARK for her 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 3rd day of October, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Susana Aloala Wood, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-630**

**A RESOLUTION APPROVING AN ADVANCED FUNDING AGREEMENT FOR THE KIERNAN BUSINESS PARK SOUTH SPECIFIC PLAN AREA BETWEEN THE CITY OF MODESTO AND MINER JOAQUIN BUILDING CORPORATION, A CALIFORNIA CORPORATION, FOR FORMATION OF CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2006-2 (KIERNAN BUSINESS PARK SOUTH) AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, Miner Joaquin Building Corporation, a California Corporation, (the “Developer”) has agreed to advance all funds necessary to form a community facilities district (“CFD”) for a portion of the Kiernan Business Park Specific Plan Area commonly known as Kiernan Business Park South (“KBP West”), and

WHEREAS, the parties agreed to enter into an Advanced Funding Agreement For The City of Modesto Community Facilities District No. 2006-1 (Kiernan Business Park West) (“Agreement”) by and between the City and the Developer relating to advances made and to be made by the Developer to the City, and providing for potential reimbursement to the Developer if and when certain funds from the community facilities district become available, copy of which is attached as **Exhibit A**,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Advanced Funding Agreement For The City of Modesto Community Facilities District No. 2006-1 (Kiernan Business Park West) between the City of Modesto and Miner Joaquin Building Corporation is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or designee, is hereby authorized to execute the Advanced Funding Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of October, 2006, by Councilmember Hawn who moved its adoption, which motion being duly seconded by Councilmember Keating was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**ADVANCED FUNDING AGREEMENT  
FOR THE CITY OF MODESTO  
COMMUNITY FACILITIES DISTRICT NO. 2006-2  
(KIERNAN BUSINESS PARK SOUTH)**

THIS ADVANCED FUNDING AGREEMENT FOR THE CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2006-2 (KIERNAN BUSINESS PARK SOUTH) (this "Agreement"), dated as of \_\_\_\_\_, 2006, is entered into by and between the CITY OF MODESTO, a municipal corporation (the "City"), and MINER JOAQUIN BUILDING CORPORATION, a California Corporation (the "Developer").

*RECITALS:*

A. The Developer has requested that the City form a community facilities district to be known as "City of Modesto Community Facilities District No. 2006-2 (Kiernan Business Park South)" (the "CFD") for the principal purpose of financing and maintaining various public facilities necessary or desirable in connection with the development of the Developer's project in the Kiernan Business Park Specific Plan Area.

B. In accordance with the City's "Policies & Procedures for the Formation, Annexation, and Administration of Community Facilities Districts Created Pursuant to the Provisions of the Mello-Roos Community Facilities Act of 1982" (the "City's CFD Policies and Procedures"), the Developer has heretofore deposited with the City the sum of \$64,500 in order to provide the City with a source of funds with which to pay expenses expected to be incurred in connection with the possible formation of the CFD.

C. Pursuant to California Government Code Section 53314.9 and the City's CFD Policies and Procedures, the City Council of the City is authorized to accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or work-in-kind for any authorized purpose, including, but not limited to, paying any costs incurred by the City in connection with the formation of a community facilities district. The City Council of the City is also authorized to enter into an agreement, by resolution, with the person or entity advancing the funds or work-in-kind to repay all or a portion of the funds advanced or to reimburse the person or entity for the cost or value of the work-in-kind provided that certain conditions are met. The conditions to be satisfied with respect to funds advanced require that (1) the proposal to repay the funds or to pay the cost or value of the work-in-kind must be included in the resolution of intention for the proposed community facilities district and in the resolution of formation for the proposed community facilities district, (2) any proposed special tax is approved by the qualified electors of the community facilities district and, if a proposed special tax is not approved, any funds advanced which have not been committed for any authorized purpose by the time of the election must be returned to the person or entity advancing funds and (3) any work-in-kind accepted shall have been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority, of the local agency.

D. The City and the Developer are desirous of entering into this Agreement in accordance with Government Code Section 53314.9 and the City's CFD Policies and Procedures in order to provide a mechanism by which the Developer may make additional deposits if determined necessary pursuant to the City's CFD Policies and Procedures and, when and if bonds are issued and proceeds are available, the CFD can reimburse the Developer for the amounts advanced by the Developer.

### AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

1. Recitals. Each of the above recitals is incorporated herein and is true and correct.
2. Proposed Formation of the CFD and Issuance of Bonds.

(a) Upon receipt by the City of a completed application for the formation of the CFD and all documents related thereto as described in the City's CFD Policies and Procedures, the City will undertake to analyze the appropriateness of forming the CFD and the issuance of bonds by it. In connection therewith, the City has either retained or will retain, at the Developer's expense, the consultants that the City determines necessary or convenient to assist it in studying the proposed formation of the CFD and, if the City determines to proceed with the formation of the CFD, to assist it in connection therewith and with the possible issuance of bonds.

(b) Pursuant to the City's CFD Policies and Procedures, the Developer shall make additional advances to the City within ten (10) days following receipt from the City of a request for an additional advance to cover the costs referred to herein. In the event the Developer does not deliver the requested amount to the City within such ten (10) day period, the City will have no obligation to proceed with any activity relating to the formation of the CFD and/or the issuance of bonds. The Developer may notify the City at any time, in writing, of its intention to abandon the formation of the CFD or the issuance of bonds. Upon receipt of such notice, the City shall instruct its consultants to cease work as soon as practicable. The Developer shall be responsible for all costs and expenses incurred by the City or any City consultant or advisor relating to the proposed formation of the CFD and/or bond issuance until work with respect to the proposed formation or bond issuance ceases following the receipt of the Developer's notice of abandonment.

(c) Developer agrees that, notwithstanding the Developer's reimbursement obligations under this Agreement, the consultants selected by the City shall be the contractor exclusively of the City and not of the Developer. Except for those disclosures required by law including, without limitations, the Public Records Act, all conversations, notes, memoranda, correspondence, and other forms of communication by and between the City and its consultants shall be, to the extent permissible by law, privileged and confidential and not subject to disclosure to the Developer. The Developer agrees that it shall have no claim to, nor shall it assert any right in any reports, correspondence, plans, maps, drawings, news releases or any and all other documents or work product produced by the City's consultants. Developer understands that it will not be a third party beneficiary to City's contracts with the consultants. The Developer agrees that the City may

select other consultants to replace its current consultants and may do so without consulting with the Developer or obtaining the Developer's approval

3. Developer to Cooperate with the City's Consultants. Developer agrees to cooperate in good faith with the City's consultants. Developer agrees that it will instruct its agents, employees, consultants, contractors and attorneys to reasonably cooperate with the City's consultants and to provide all necessary documents or information reasonably requested of them by the City's consultants; provided, however, that the foregoing shall not require the disclosure of any documents or information of the Developer which by law is privileged, proprietary, confidential, or exempt from disclosure under the Public Records Act.

4. Reimbursement Procedure. If the CFD is formed and bonds are issued, bond proceeds in excess of the amount determined by the City's District Administrator to be required in order to satisfy the requirements of the City's CFD Policies and Procedures with respect to capitalized interest and reserves and to pay for the Facilities and other Incidental Expenses may be used to reimburse the Developer for the amounts that the Developer has advanced to the City in connection with this Agreement, all as provided for in the City's CFD Policies and Procedures. In the event that the CFD is not formed for any reason, or in the event that the CFD is formed and bonds are not issued for any reason, the City shall return any funds which have been advanced by the Developer pursuant to this Agreement and which have not been expended, obligated or otherwise committed for any authorized purpose, subject to the complete reimbursement to the City of all of its direct and indirect costs. If the amounts previously advanced by the Developer are insufficient to fully reimburse the City for all of its direct and indirect costs, the Developer shall pay to the City the amount of the deficiency within ten (10) days after receipt of a demand by City. The City shall be entitled to pay any refund required pursuant to the provisions hereof to the entity that is the signatory to this Agreement irrespective of any changes in the ownership of the property or the organization of the Developer, and the City shall not be required to pay interest on any amount required to be refunded pursuant to this Agreement.

5. Abandonment of Proposed CFD. The Developer understands that, subject to the satisfaction of all applicable legal requirements, the decision to form the CFD and the decision to issue bonds shall be each in the sole discretion of the City. No provision of this Agreement shall be construed as a promise, warranty or agreement by the City to form the CFD or to issue bonds. The City shall have no liability to Developer for a decision not to form the CFD or issue bonds.

6. Indemnification and Hold Harmless. The Developer hereby assumes the defense of, and indemnifies and saves harmless, the City and each of its officers, directors, agents, contractors, and employees, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of or arising out of any acts or omissions of the Developer or any of the Developer's officers, employees, contractors and agents in connection with the proposed formation of the CFD or any work-in-kind provided by or on behalf of the Developer or its consultants, except for any action, damages, claims, losses or expenses arising out of the sole negligence or willful misconduct of the City, its officers, directors, employees or agents.

7. 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.

Developer: Miner Joaquin Building Corporation  
P.O. Box 1110  
Stockton, CA 95201  
Attn: John Dentoni  
Phone: (209) 929-1433  
Facsimile: (209) 465-5483

City: City of Modesto  
1010 Tenth Street, Suite 6100  
Modesto, California 95354  
Attention: IFP Administrative Officer  
Phone: (209) 577-5211  
Facsimile: (209) 571-5128

8. Assignment. The Developer may not assign its interest in this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld. Any assignment or attempt to assign this Agreement without the prior written consent of CITY shall be deemed null and void as of the date of the purported assignment. All covenants, stipulations, and agreements in this Agreement shall bind any such representatives, successors and assigns.

9. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent permitted by law.

10. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the matters provided for herein. All previous proposals, offers and communications relative to this Agreement, whether oral or written, are hereby superseded except to the extent that they have been incorporated into this Agreement. No future waiver of or exception to any of the terms, conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to in writing by all the parties.

11. Amendments. This Agreement may be amended or modified only by written instrument signed by all parties. Any amendment or addendum to this Agreement shall expressly refer to this Agreement.

12. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

13. No Third Party Beneficiaries. No person or entity shall be deemed to be a third party beneficiary hereof; and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than the City (and its officers, directors, employees and agents

providing services under this Agreement) and the Developer, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

14. Singular and Plural; Gender. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

15. Termination. This Agreement shall terminate and be of no further force and effect on the first anniversary of the date of this Agreement unless expressly amended by the parties; provided, however, that the Developer's obligations under Section 6 shall survive the termination and the City's obligation to provide reimbursement in accordance with Section 4 for expenses incurred prior to the termination date shall also survive termination.

16. Time is of the Essence. Except as otherwise expressly stated, time is of the essence in the performance of each and every action required pursuant to this Agreement

17. Language Construction. The language of each and all paragraphs, terms and/or provisions of this Agreement, shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.

18. Representations of Authority. Each party signing this Agreement on behalf of a party which is not a natural person hereby represents and warrants to the other party that all necessary legal prerequisites to that party's execution of this Agreement have been satisfied and that he or she has been authorized to sign this Agreement and bind the party on whose behalf he or she signs.

19. Relationship of Parties. Nothing contained in this Agreement shall be interpreted or understood by any of the parties, or by any third person, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between City and Owner or its agents, employees or contractors. Except as City may specify in writing, Owner shall have no authority to act as an agent of City or to bind City to any obligation.

20. Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of Agreement's provisions.



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-\_\_\_\_, adopted by the Council of the City of Modesto on the \_\_\_\_ day of \_\_\_\_\_, 2006, and Miner Joaquin Building Corporation, has caused this Agreement to be executed in duplicate, effective as of the date first written above.

CITY OF MODESTO, a  
Municipal Corporation

By: \_\_\_\_\_  
GEORGE BRITTON, City Manager

ATTEST:

By: \_\_\_\_\_  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:  
SUSANA ALCALA WOOD, City Attorney

By: \_\_\_\_\_  
ALISON A. BARRATT-GREEN  
Senior Deputy City Attorney

MINER JOAQUIN BUILDING  
CORPORATION, a California Corporation

By: \_\_\_\_\_

Name: Thomas H. Shaffer

Title: Director and President

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

### Signature Requirements

- *Corporation:*
  - Signature of two (2) officers  
or
  - Signature of one (1) officer plus the corporate seal
- *Partnership:* Signature of one partner
- *Sole Proprietorship:* Signature of proprietor

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 -631**

**A RESOLUTION DECLARING THE CITY OF MODESTO'S  
INTENTION TO REIMBURSE THE CITY FOR CERTAIN  
EXPENDITURES MADE AND/OR TO BE MADE IN CONNECTION  
WITH THE ACQUISITION, CONSTRUCTION AND EQUIPPING  
OF CERTAIN CAPITAL IMPROVEMENTS FROM THE  
PROCEEDS OF ONE OR MORE TAX-EXEMPT FINANCINGS**

WHEREAS, the City of Modesto (the "City") is a political subdivision organized and existing under the laws of the State of California, and

WHEREAS, the City has paid, beginning no earlier than 60 days prior to the date hereof, and will pay, on and after the date hereof, certain expenditures (the "Expenditures") in connection with the acquisition, construction and/or equipping of certain capital improvements for the City's wastewater system (the "Project"), as more fully described in **Exhibit A** attached hereto, and

WHEREAS, the City Council of the City (the "City Council") has determined that those moneys previously advanced no more than 60 days prior to the date hereof and to be advanced on and after the date hereof to pay the Expenditures are available only for a temporary period, and it is necessary to reimburse the City for the Expenditures from the proceeds of one or more issues of tax-exempt bonds (the "Bonds"),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby declares the City's intention to reimburse the City with the proceeds of said Bonds for the Expenditures with respect to the Project made prior to the issuance of the Bonds, but no more than 60 days prior to the date hereof. The City reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of said Bonds. Each Expenditure was and will be either: (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditure), (b) a cost of issuance with respect to the Bonds, or (c) a nonrecurring item that is not customarily payable from current revenues.

The maximum principal amount of the Bonds expected to be issued for the Project is \$30 million. The City will make a reimbursement allocation, which is a written allocation by the City that evidences the City's use of proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The City recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain *de minimis* amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction projects of at least 5 years.

BE IT FURTHER RESOLVED that this resolution shall take effect immediately upon its passage.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of October, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS,  
City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD,  
City Attorney

## EXHIBIT A

### DESCRIPTION OF PROJECT

The project includes various improvements to the City's wastewater system identified in the City's Domestic Wastewater Near Term Capacity Study dated March 2006. The improvements include, but are not limited to, design, acquisition, construction and installation of facilities necessary to implement dissolved air flotation treatment for effluent discharge into the San Joaquin River and the initial phases of tertiary treatment processes and facilities and related facilities.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-632**

**A RESOLUTION APPOINTING TEN (10) MODESTO AREA HIGH  
SCHOOL STUDENTS TO THE CITY OF MODESTO YOUTH  
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, as authorized by Resolution No. 89-443, principals from the High Schools within the City Limits of the City of Modesto have recommended students to serve as Modesto Youth Commissioners,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. Three (3) Modesto area high school students are hereby appointed to the City of Modesto Youth Commission, with a one-year term limit, as follows:

Central Catholic High School  
Leslie Hermann

Valley Charter High School  
Heather Cumpston

Downey High School  
Jessica Ramirez

SECTION 2. Seven (7) Modesto area high school students are hereby appointed to the City of Modesto Youth Commission, with a two-year term limit, as follows:

Beyer High School  
Eric Farrar

Chelsea Miller

Big Valley Grace High School  
Eugene Tiscornia

Modesto Christian High School  
Kelsey Meyer

Central Catholic High School  
David Misslbeck

Valley Charter High School  
Garrett Wilson

Downey High School

Modesto High School  
Julie Bernardo

SECTION 3. The City Clerk is hereby directed to transmit a copy of this resolution to the newly appointed members of the City of Modesto Youth Commission, and the Secretary thereof.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of October, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-633**

**A RESOLUTION AMENDING THE AGREEMENT WITH CALLANDER ASSOCIATES LANDSCAPE ARCHITECTURE, INC. TO PROVIDE ADDITIONAL SERVICES RELATED TO REVISING THE PLANS AND SPECIFICATIONS DUE TO ADDITIONAL SUBMITTAL REQUIREMENTS FROM CALTRANS AND A CHANGE IN THE SCOPE OF THE PROJECT DUE TO FUNDING AVAILABILITY, FOR AN ADDITIONAL AMOUNT NOT TO EXCEED \$31,665.00, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO THE AGREEMENT.**

WHEREAS, at the March 13, 2001, City Council Meeting, by Resolution No. 2001-115, the Council authorized the City Manager to submit an application and negotiate an agreement for the use of Transportation Enhancement Activities (TEA) funds for a landscape beautification project within and near the Briggsmore / State Route 99 Interchange, and

WHEREAS, on March 13, 2001, the City Council also committed matching funds of up to \$75,000 for this project from the General Fund, and

WHEREAS, in late March of 2001, the City Manager submitted an application for \$1,000,000 in State TEA funds for this project, and the City was notified in the Fall of 2002 that funding had been identified for this project and Amendment #34 to the Federal Transportation Improvement Program (FTIP) was approved, and

WHEREAS, Amendment #34 identified \$1,000,000 of State TEA funds, \$200,000 of Regional TEA funds and \$100,000 of Caltrans Minor Program funds for the Highway 99 Briggsmore Expressway Landscape Improvements Project, and

WHEREAS, in the Fall of 2002, City staff began working with Caltrans District 10 to prepare a cooperative agreement for the funding of the construction of landscape enhancements within and near the Briggsmore / State Route 99 Interchange, and

WHEREAS, the project area included landscape enhancements to the Briggsmore Interchange and along State Route 99 for 0.5 miles to the south and 0.8 miles to the north of the Briggsmore Expressway along the northbound and southbound lanes, and

WHEREAS, on May 3, 2004, the Safety and Communities Committee endorsed approval of the cooperative agreement, and

WHEREAS, on May 25, 2004, the Modesto City Council approved the cooperative agreement and authorized the City Manager to execute said agreement, and

WHEREAS on September 28, 2004, the City Council awarded the design contract for this project to Callander Associates Landscape Architecture, Inc. at a cost not to exceed \$133,500.00, and

WHEREAS, Callander Associates and City staff have been coordinating with Caltrans staff for the past two years to develop a conceptual design and construction documentation for the project, and

WHEREAS, Parks Planning and Development staff has held many stakeholders meetings during this process to ensure Caltrans review of the design, and

WHEREAS, in addition, a public comment period beginning on February 7, 2005, and ending on March 2, 2005, was conducted to obtain public input on the project design, and

WHEREAS, throughout the above described process, Caltrans has required many documents and design elements that were not revealed in the original contract agreement, including but not limited to a "Project Report", a Storm Water Data Report, additional design and engineering for slope and gore paving, Structural Engineering, and Geotechnical reports, and

WHEREAS, some of these items were paid for with the additional services portion of the existing contract, but the changes and requirements have become so extensive that they can no longer be funded in the current additional services portion of the existing contract, and



WHEREAS, at this time, requirements from Caltrans necessitate an amendment to the agreement in an amount not to exceed \$31,665.00, to complete the construction documentation, and

WHEREAS, funds are budgeted in Capital Improvement Project 1350-310-A080, Briggsmore-99,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an Amendment to the Agreement with Callander Associates Landscape Architecture, Inc. to provide additional services related to revising the plans and specifications due to additional submittal requirements from Caltrans and a change in the scope of the project due to funding availability, for an additional amount not to exceed \$31,665.00.

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 3<sup>rd</sup> day of October 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-634**

**A RESOLUTION APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH O'DELL ENGINEERING, INC. TO DESIGN THE FLOYD AVENUE ROAD IMPROVEMENTS BETWEEN ROSELLE AVENUE AND FINE AVENUE IN THE NOT-TO-EXCEED AMOUNT OF \$160,735, AND AUTHORIZING THE COMMUNITY FACILITIES DISTRICT ADMINISTRATOR, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, following a Request for Qualifications which was sent to all local engineering firms, eight firms were asked to provide a proposal for the Floyd Avenue design, and

WHEREAS, a selection team interviewed eight consulting firms, and

WHEREAS, the Selection Committee determined that O'Dell Engineering, Inc., rated highest for the design of the Floyd Avenue Road Improvement Project, in accordance with Administrative Directive 3.1, and

WHEREAS, the District Engineer has recommended that O'Dell Engineering, Inc., be accepted as the most qualified engineering consulting firm for engineering design services for the "Floyd Avenue Road Improvement project from Roselle Avenue to Fine Avenue", and

WHEREAS, the District Engineer has recommended accepting the proposal of O'Dell Engineering, Inc., in an amount not-to-exceed \$160,735,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between City of Modesto Community Facilities District and O'Dell Engineering, Inc. for engineering design services for the project titled "Floyd Avenue Road Improvement Project From Roselle Avenue to Fine Avenue" in the not-to-exceed amount of \$160,735.

BE IT FURTHER RESOLVED that the District Administrator, or his designee, is hereby authorized to execute said Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of October, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-635**

**A RESOLUTION AUTHORIZING STAFF TO SOLICIT COMPETITIVE PROPOSALS FOR A NEW MODESTO AREA EXPRESS (MAX) CONTRACT**

WHEREAS, on May 28, 2002 the City entered into an agreement with MV Transportation to operate the Modesto Area Express (MAX) bus service, and

WHEREAS, said agreement is due to expire on May 31, 2007, and

WHEREAS, concurrent with this request to solicit competitive proposals for MAX bus service, a contract amendment will extend the current MV Transportation contract through June 29, 2007, and

WHEREAS, a new contract is necessary to replace the contract amendment that will expire on June 29, 2007, and

WHEREAS, solicitation of proposals through the use of a request for proposals (RFP) process is the best method of selecting a new contractor, and

WHEREAS, by an agenda report to the City Council dated September 18, 2006, from the Public Works Director, City staff recommended to the Council that an RFP process, as described in said agenda report, be utilized to solicit proposals for a new contract to replace the contract extension with MV Transportation that will expire June 29, 2007, and

WHEREAS, the Council Economic Development Committee at its September 11, 2006 meeting recommended approval of this item,

NOW, THEREFORE BE IT RESOLVED by the Council of the City of Modesto that City staff is hereby directed to solicit proposals for a new MAX operating contract through the RFP process described in said agenda report.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3<sup>rd</sup> day of October, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood  
Susana Alcala Wood, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO.2006-636**

**A RESOLUTION APPROVING AN AMENDMENT TO THE EXISTING  
CONTRACT WITH MV TRANSPORTATION, INC. TO EXTEND THE  
CONTRACT'S EXPIRATION DATE TO JUNE 29, 2007.**

WHEREAS, on May 28, 2002 the City entered into an agreement with MV Transportation, Inc. to operate the Modesto Area Express (MAX) bus service, and

WHEREAS, said agreement is due to expire on May 31, 2007, and

WHEREAS, City wishes to extend said agreement through June 29, 2007, to provide for the best transition possible between MV Transportation, Inc. and any successor contractor that might be selected through the request for proposals (RFP) process being considered concurrently with this item at the October 3, 2006 Council meeting, and

WHEREAS, MV Transportation has agreed to said contract extension, and

WHEREAS, by an agenda report to the City Council dated September 18, 2006, from the Public Works Director, City staff recommended to the Council that the existing contract with MV Transportation be extended through June 29, 2007.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the existing contract with MV Transportation to extend the expiration date of the current contract through June 29, 2007

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Amendment

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 3rd day of October, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood  
Susana Alcala Wood, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 -637**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007 CAPITAL  
IMPROVEMENT PROGRAM BUDGET TO RE-APPROPRIATE NEW  
AND EXISTING PROJECTS AND RECOGNIZE ADDITIONAL  
REVENUE FOR FY 2006-2007**

WHEREAS, a financial analysis has been completed and it has been determined that certain adjustments are required to the Capital Improvement Budget of the City of Modesto for the Fiscal Year 2006-2007, and

WHEREAS, specific projects have unspent budgets as of July 1, 2006 which need to be reallocated into FY 2006-2007, and

WHEREAS, additional revenues for fiscal year 2006-2007 have been identified, and

WHEREAS, the Planning Commission at their regular meeting of September 21, 2006 approved for conformance with the City's General Plan the amended Capital Improvement Program budget, and

WHEREAS, at a special Finance Committee meeting of September 21, 2006 the committee recommended approval of the Capital Improvement Program budget, and

WHEREAS, at the City Council meeting of October 3, 2006 the City Council held a Public Hearing regarding the Capital Improvement Program budget,



NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that existing projects and new projects which are referenced in the Amended 2006-2007 Capital Improvement Program under the CIP Budget by Fund section of the budget documents hereby be re-appropriated into the BY 2006-2007 budget.

BE IT FURTHER RESOLVED that additional revenues, which are referenced in the Amended 2006-2007 Capital Improvement Program under the Revenues by Source section of the budget document, hereby be recognized.

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 3rd day of October, 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS,  
City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD,  
City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-638**

**A RESOLUTION APPROVING AMENDMENT NO. 1 TO THE STANDARD AGREEMENT FOR CONSULTANT SERVICES BETWEEN THE CITY OF MODESTO AND STOCKTON BLUE, TO ALLOW FOR FUTURE SCANNING, STORAGE, BACKUP AND MAINTENANCE OF PLAN DOCUMENTS; FOR \$50,001, FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$100,000.**

WHEREAS, the City of Modesto entered into a contract with Stockton Blue on April 7, 2004 to perform the conversion of existing microfilmed and paper plans to Tiff files, for the upload and maintenance of files on PlanWell Internet server, to burn back up CDs with PlanWell viewer and indexing, as well as the future scanning and Plan Well updates, and

WHEREAS, Stockton Blue has completed the conversion of all microfilmed and existing paper plans to Tiff files, in accordance with the original Standard Agreement, and

WHEREAS, Stockton Blue has completed the upload of all converted plans on PlanWell Internet server, in accordance with the original Standard Agreement, and

WHEREAS, Stockton Blue has completed burning the CDs with all converted plans, in accordance with the original Standard Agreement, and

WHEREAS, the need for storage, maintenance and future scanning of plans is an on-going necessity, and

WHEREAS, there are limitations of office space to store/house plans in our previous fashion, and

WHEREAS, there is a need to keep pace with technology that provides the most efficient access to information for our customers, and

WHEREAS, the Community and Economic Development Department desires to extend Consultant's contract for future services for an additional \$50,001, for a total contract amount not to exceed \$100,000.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Amendment No. 1 to the Agreement between the City of Modesto and Stockton Blue to provide future services in the amount of \$50,001, for a total contract amount not to exceed \$100,000, is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute Amendment No. 1 to the Agreement.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 10<sup>th</sup> day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Wood  
SUSANA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-639**

**A RESOLUTION APPROVING A MASTER PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF MODESTO AND HARRIS AND ASSOCIATES FOR PROJECT MANAGEMENT SERVICES IN CONJUNCTION WITH PROCESSING OF THE FAIRVIEW SPECIFIC PLAN AMENDMENT IN AN AMOUNT NOT TO EXCEED \$359,840 AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the City Council has directed staff to proceed with processing of the proposed Fairview Specific Plan Amendment, and

WHEREAS, The City has an approved consultant list for the preparation of Facilities Master Plans (FMP) and Infrastructure Master Plans (IMP), and

WHEREAS, processing of the Fairview Specific Plan Amendment must take place prior to, and in coordination with, preparation of the FMP and IMP for this service area, and

WHEREAS, City staff recommends that Harris and Associates be accepted to provide project management services associated with processing the proposed Fairview Specific Plan Amendment because of their extensive experience on similar projects in other jurisdictions, and

WHEREAS, City staff anticipates the project will involve one phase in an amount not to exceed \$359,840,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement between the Harris and Associates to provide project management services associated with processing the proposed Fairview Specific Plan Amendment in an amount not to exceed \$359,840.

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 10<sup>th</sup> day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

ATTEST Jean Morris  
Jean Morris, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: Susana Alcala Wood  
Susana Alcala Wood, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-640**

**A RESOLUTION AMENDING THE  
FISCAL YEAR 2006-2007 ANNUAL BUDGET**

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain year-end adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2006-2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2006-2007 budget have been adjusted as shown in **Schedule A.**

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 October 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(seal)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

## Schedule A

### *Finance Department*

Non-Departmental General Fund Accounts. The expense budgets for three areas were inadvertently left out of the FY 2006-07 adopted operating budget. This transaction will restore funding for Utility Users Tax (UUT) Collection reimbursement, Property Tax Collection reimbursement, and the Senior/Disabled Discount, each of which are described below.

The UUT Collection reimburses Modesto Irrigation District for collecting UUT on behalf of the City. This is applicable only to MID since they are another governmental agency. No other utility provider is reimbursed for collection of UUT.

The Property Tax Collection reimburses Stanislaus County for assessing, collecting and remitting annual property taxes to the City, per SB2557. Applicable costs of the County Assessor, Tax Collector and Auditor Controller are analyzed and allocated to all of the taxing agencies receiving property taxes, including the City and Redevelopment Agency.

The Senior/Disabled Discount is a subsidy to assist low-income and disabled seniors pay their utility bills. Based on the sign-up rate and the 15% water rate increase, it is estimated that the Senior/Disabled Discount will be approximately \$89,000 in FY2007.

This budget adjustment will appropriate funds from the General Fund Reserve to the expense accounts as follows:

From:	General Fund Reserve Acct #0100-800-8000-8003	\$(295,000)
To:	Utility Tax Collection Acct #0100-510-9510-0431	\$ 35,000
	Property Tax Collection Acct #0100-510-9510-0432	\$ 170,000
	Senior/Disabled Discount Acct #0100-510-9510-0440	\$ 90,000

### State Booking Fee

The State budget adopted in July authorized an appropriation for the reimbursement to cities of their prior year jail booking fee costs. Based on the actual amount paid for jail booking fees during the 2005-06 fiscal year, the City will receive \$279,416 in new revenue. Since this revenue was not budgeted for FY2007, this budget adjustment will increase the revenue budget amount as shown below:

To:	Jail Booking Revenue Acct #0100-190-1901-4045	\$279,416
-----	---	-----------

## Schedule A

### *Parks, Recreation & Neighborhoods Department*

Youth Financial Assistance Program (Leisure Bucks) - In FY2005-06, the County gave the City \$8,000 which was earmarked for County youth participating in the City Leisure Bucks Program. At year-end, there was \$3,551 still available to assist youth during the FY2006-07 budget year. A budget adjustment transferring funds from the General Fund Reserve to the Leisure Bucks Operating Account as shown below:

From:	General Fund Reserve Acct #0100-800-8000-8003	\$(3,551)
To:	Youth Scholarships Operating Acct #0100-350-3801-1061	\$ 3,551

Community Development Block Grant (CDBG) Program - A small amount of work remains on two projects within the CDBG Program. The Mark Twain Play Equipment project needs \$386 and the Chrysler 99 Play Equipment project needs \$268. Revenue funds in the amount of \$654 need to be carried over to the FY2007 budget to complete these two projects as shown below:

To:	CDBG Revenue Acct #1130-320-3233-3511	\$386
	CDBG Revenue Acct #1130-320-3234-3511	\$268
To:	Mark Twain Play Equipment Acct #1130-320-3233-6010	\$386
	Chrysler 99 Play Equipment Acct #1130-320-3234-6010	\$268

Play Equipment Upgrades (15 parks) – The 15 parks being upgraded are divided into groups. Group I is complete. Remaining funds from Group I are now being transferred to help fund Group II. Originally, remaining funds from Capital Project #M185 (Parks Infrastructure Preservation) were to be moved; however, to make better use of the resources allocated in the capital accounts, staff is requesting funds in the amount of \$24,724 be moved from Capital Project #P493 (Park System Improvements) to Capital Project #N442 (Play Equipment Upgrades) as shown below:

From:	Capital Project Acct #1400-310-P493-6040	\$(24,724)
To:	Capital Project Acct #2300-310-N442-6040	\$ 24,724

Centre Plaza FF&E – The Furniture, Fixtures & Equipment Fund (FF&E) is budgeted from the Centre Plaza Contingency Reserves for specific projects or purchases. There are purchases that were not completed or encumbered in Fiscal Year 2005-06 and the remaining funds need to be re-appropriated in FY2006-07 as follows:

From:	Centre Plaza FF&E Reserves Acct #6710-800-8000-8003	\$(26,960)
To:	Centre Plaza FF&E Repair & Mntc. Acct #6710-340-3420-0223	\$ 26,960



## Schedule A

### *City Manager's Office*

Additional Survey Work – The City is currently working with the consulting group, Management Partners, to complete an organizational assessment and business plan for the City. Additional survey work was identified as a need during the initial round of interviews in late July. A budget transfer from the General Fund Reserve Account in the amount of \$5,000 to the City Manager's operating account is needed to pay for the additional survey work as shown below:

From:	General Fund Reserve Acct #0100-800-8000-8003	\$(5,000)
To:	Professional Services Acct #0100-020-0201-0235	\$ 5,000

### *Public Works Department*

Proposition 42 Funding – The City received Prop 42 funds in the amount of \$1,516,292 in July 2006. These funds need to be appropriated as shown below:

To:	Proposition 42 Revenue Acct #0700-480-4612-3230	\$758,146
	Proposition 42 Revenue Acct #0700-430-4380-3230	\$758,146
From:	Streets Mtc/Asphalt Operating Acct #0700-480-4612-5005	\$758,146
	Annual Slurry Seals Operating Acct #0700-430-4380-5006	\$758,146

**MODESTO CITY COUNCIL  
RESOLUTION NO.2006-641**

**A RESOLUTION APPOINTING A NEW WATER BOND COUNSEL TO THE FINANCING TEAM CONSISTING OF SIDLEY AUSTIN, BOND COUNSEL AND PAY JONES HALL FOR PRELIMINARY WORK COMPLETED WITH RESPECT TO THE PROPOSED ISSUANCE OF CERTAIN WATER REVENUE BONDS 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, staff has identified the need to restructure water debt, issue water revenue bonds and prepare for the Modesto Irrigation District to issue bonds which will be considered as parity debt for the City of Modesto, and

WHEREAS, the City desires to appoint certain professionals to assist the City in connection with such proposed issuance, and to authorize such professionals and City staff to take all actions necessary, including the preparation of documents to effect such issuance, 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”) to the City and approves payments to Jones Hall as preliminary work completed in connection with the issuance of water revenue bonds of the City.

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 issuance of the City's water revenue 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 10<sup>th</sup> day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

SUSANA ALCALA WOOD  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-642**

**A RESOLUTION APPROVING AN AGREEMENT FOR BOND COUNSEL SERVICES WITH SIDLEY AUSTIN FOR THE 2006-2007 WATER REVENUE BONDS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT.**

WHEREAS, Public Works and Finance representatives developed a list of needs for new utility studies, and

WHEREAS, the objectives of the rate/fee studies are to ensure that the City's water infrastructure is developed and have a strategy for identifying and financing capital needs, and

WHEREAS, City staff desires the assistance of Sidley Austin regarding the 2006-2007 Water Bond Financing,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves an Agreement For Legal Services with Sidley Austin for bond counsel services for the 2006-2007 Water Bond Financing,

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-643**

**A RESOLUTION APPROVING AN AGREEMENT FOR BOND COUNSEL SERVICES WITH SIDLEY AUSTIN FOR THE 2006-2007 WASTEWATER REVENUE BONDS, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID AGREEMENT.**

WHEREAS, Public Works and Finance representatives developed a list of needs for new utility studies, and

WHEREAS, the objectives of the rate/fee studies are to ensure that the City's wastewater infrastructure is developed and have a strategy for identifying and financing capital needs, and

WHEREAS, City staff desires the assistance of Sidley Austin regard to the 2006-2007 Wastewater Bond Financing,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves an Agreement For Legal Services with Sidley Austin for bond counsel services for the 2006-2007 Wastewater Bond Financing,

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10<sup>th</sup> of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-644**

**A RESOLUTION APPROVING A DISCLOSURE COUNSEL AGREEMENT  
WITH STRADLING YOCCA CARLSON & RAUTH FOR LEGAL SERVICES  
FOR THE 2006-2007 WASTEWATER REVENUE BONDS, AND AUTHORIZING  
THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE SAID  
AGREEMENT.**

WHEREAS, Public Works and Finance representatives developed a list of needs for new utility studies, and

WHEREAS, the objectives of the rate/fee studies are to ensure that the City's wastewater infrastructure is developed and have a strategy for identifying and financing capital needs, and

WHEREAS, City staff desires the assistance of Stradling Yocca Carlson & Rauth in regard to the 2006-2007 Wastewater Bond Financing,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves a Disclosure Counsel Agreement for legal services with Stradling Yocca Carlson & Rauth for the 2006-2007 Wastewater Bond Financing,

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said agreement.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10th of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-645**

**A RESOLUTION APPROVING A GRANT APPLICATION FOR \$1.5 MILLION FOR THE CALIFORNIA RIVER PARKWAYS GRANT PROGRAM UNDER THE WATER SECURITY, CLEAN DRINKING WATER, COASTAL AND BEACH PROTECTION ACT OF 2002 (Proposition 50) AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE APPLICATION**

WHEREAS, the Legislature and Governor of the State of California have provided funds for the California River Parkways Grant Program under the Water, Security, Clean Drinking Water, Coastal and Beach Protection Act of 2002 - Proposition 50, and

WHEREAS, City staff believes the City's development of the Gateway portion of the Tuolumne River Regional Park to be an excellent "fit" for this specific funding project, and

WHEREAS, the State Resources Agency has been delegated the responsibility for the administration of this grant program, including establishing necessary procedures, and

WHEREAS, said procedures established by the State Resources Agency require a resolution certifying the approval of the application by the Council of the City of Modesto before submission of this application to the State, and

WHEREAS, the City of Modesto, if selected, will enter an agreement with the State of California to carry out the Project,

NOW, THEREFORE, BE IT RESOLVED by the City of Modesto that the Council hereby:

1. Approves the filing of an application for the Tuolumne River Regional Park Gateway Project;
2. Certifies that the City of Modesto understands the assurances and certification in the application;
3. Certifies that the City of Modesto will have sufficient funds to operate and maintain the project consistent with the land tenure requirements;

4. Certifies that it will comply with the provisions of Section 1771.8 of the State Labor code regarding payment of prevailing wages on Projects awarded Proposition 50 funds;

5. If applicable, certifies that the Project will comply with any laws and regulations including, but not limited to, 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; and

6. 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, payment requests and so on, 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 10th day of October, 2006 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-646**

**A RESOLUTION APPROVING A SECOND AMENDMENT TO A STANDARD AGREEMENT BETWEEN THE CITY OF MODESTO AND PRECISION INSPECTION COMPANY INC., INCREASING THE NUMBER OF HOURS OF HOUSING REHABILITATION SERVICES TO INCLUDE ADDITIONAL INSPECTIONS, BID PREPARATION, AND REHABILITATION CONTRACT MONITORING SERVICES PROVIDED TO THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT FOR AN AMOUNT NOT TO EXCEED \$15,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO THE AGREEMENT.**

WHEREAS, on January 10, 2006, by Resolution No. 2006-016, the City Council approved a Standard Agreement between the City and Precision Inspection Company, Inc. (Precision) for services that include building permit inspections and plan checking services for the Community and Economic Development Department, in an amount not to exceed \$75,000, and

WHEREAS, staffing changes left the Parks, Recreation and Neighborhoods Department in need of similar technical consulting services available through Precision Inspection Company, Inc., and

WHEREAS, On April 25, 2006, by Resolution No. 2006-240, the Council approved an amendment to the agreement with Precision to increase the Scope of Services to include inspections, bid preparation, and rehabilitation contract monitoring services for the Parks, Recreation and Neighborhoods Department for an amount not to exceed \$50,000, and

WHEREAS, Precision has provided a Senior Housing Rehabilitation Specialist and a Rehabilitation Specialist II to complete inspections, write specifications, oversee procurement of rehabilitation services and monitor rehabilitation contracts for the HUD funded rehabilitation programs, and

WHEREAS, Precision has now billed the amount allowed by the previously amended services agreement, and

WHEREAS, the Neighborhood Services Division would like to extend the Service Agreement with Precision for an additional amount not to exceed \$15,000 to ensure continued services with clients while current City staff provides cross over training of new staff, and

WHEREAS, the Housing Rehabilitation Loan Committee reviewed the proposed Scope of Work at its April 6, 2006, meeting, and recommended that the Precision Agreement be amended to include the work needed by the Parks, Recreation and Neighborhoods Department,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a Second Amendment to the Agreement with Precision Inspection Company, Inc., increasing the contract amount by \$15,000, to increase the number of hours of housing rehabilitation services for inspections, bid preparation, and rehabilitation contract monitoring services to the Parks, Recreation and Neighborhoods Department.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the amendment to the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10<sup>th</sup> day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-647**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF AMMUNITION FOR THE POLICE DEPARTMENT, 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 AMOUNT OF \$75,000.**

WHEREAS, the Modesto Police Department maintains an inventory of Federal brand ammunition for issuance to sworn staff and for training purposes, and

WHEREAS, a one-time purchase is made each fiscal year to replenish the supply for the Department, and

WHEREAS, the FBI established a standardized bullet testing protocol, and

WHEREAS, about six years ago the Modesto Police Department tested several bullet brands using the FBI protocol, and

WHEREAS, at the time the department was using Remington, and

WHEREAS, the best performing bullet was the Speer Gold Dot; however, this brand is very expensive, and

WHEREAS, the next best performing brand was Federal, and

WHEREAS, Federal is competitively priced when compared to Remington and Winchester, and

WHEREAS, for this reason, the department purchases Federal Brand, and

WHEREAS, there are several authorized dealers of Federal Brand ammunition on the West Coast, 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 Request for Bid for the purchase of ammunition for the Police Department conforms to the code requirements, and

WHEREAS, Funds are budgeted and made available in 0100-190-1921-0308 for the purchase of ammunition, in FY 06/07,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of ammunition for the Police Department, 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 amount of \$75,000 as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bids for the purchase of ammunition, 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 shall be 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 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 10<sup>th</sup> day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**CITY OF MODESTO  
RESOLUTION NO. 2006-648**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO RELATING TO WATER REVENUE CERTIFICATES OF PARTICIPATION, 2006 SERIES A; APPROVING THE FORMS OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A 2006 SUPPLEMENTAL INSTALLMENT PURCHASE CONTRACT, A PURCHASE CONTRACT, A CONTINUING DISCLOSURE AGREEMENT, AND AN INSURANCE AND REIMBURSEMENT AGREEMENT; AUTHORIZING THE DISTRIBUTION OF AN OFFICIAL STATEMENT IN CONNECTION THEREWITH; 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"); and

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 Installment Purchase 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; and

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 Installment Purchase Contract, with proceeds of the City's \$25,585,000 in aggregate principal amount of Refunding Revenue Certificates of Participation (1997 Water Utility System Refinancing Project) executed and delivered pursuant to a Trust Agreement, dated as of

November 1, 1997, by and between the Authority and State Street Bank and Trust Company of California, N.A. (which has been succeeded by U.S. Bank National Association), as trustee; and

WHEREAS, pursuant to Article III of the Master Installment Purchase Contract, the City may incur additional obligations payable on a parity thereunder, including by execution of a supplemental installment purchase contract; and

WHEREAS, the City now desires to finance the cost of various additional improvements to its Water Utility System (the "2006 Project"), and in connection therewith the City and the Authority propose to execute and enter into a 2006 Supplemental Installment Purchase Contract (the "2006 Supplemental Installment Purchase Contract"), supplementing the Master Installment Purchase Contract, whereby the City will purchase the 2006 Project from the Authority, and the City will be obligated to make installment payments to the Authority as the purchase price therefor; and

WHEREAS, pursuant to a Trust Agreement (the "2006 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 "2006 Trustee"), the Authority proposes to assign certain of its rights under the 2006 Supplemental Installment Purchase Contract, including its right to receive the payments to be made by the City thereunder; and

WHEREAS, in consideration of such assignment and the execution and entering into of the 2006 Trust Agreement by the 2006 Trustee and the Authority, the 2006 Trustee has agreed to execute and deliver Water Revenue Certificates of Participation, Series 2006 A (the "2006 Certificates"), evidencing and representing proportionate interests of the owners thereof in installment payments to be made by the City; and

WHEREAS, the 2006 Certificates are expected to be initially executed and delivered as auction rate securities; and

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 2006 Certificates for reoffering to the public; and

WHEREAS, the City proposes to deem final for purposes of Rule 15c(2) 12 of the Securities Exchange Act of 1934, as amended, and to execute and deliver an Official Statement (the "Official Statement") relating to the 2006 Certificates and to authorize the distribution of such Official Statement to prospective and actual purchasers of the 2006 Certificates; and

WHEREAS, the City proposes to execute and enter into a Continuing Disclosure Agreement (the "Continuing Disclosure Agreement") with the 2006 Trustee, as dissemination agent (the "Dissemination Agent"), for the benefit of the owners of the 2006 Certificates and to assist the Underwriter in complying with Rule 15c(2)-12 of the Securities Exchange Act of 1934, as amended; and

WHEREAS, the City proposes to execute and deliver an Insurance and Reimbursement Agreement (the "Insurance and Reimbursement Agreement") with the 2006 Trustee and MBIA Insurance Corporation, as insurer of the 2006 Certificates and of certain swap payments to be made by the City under the interest rate swap agreement previously authorized by the City Council to be entered into by the City in connection with the 2006 Certificates (the "Insurer"), in order to secure the obligations of the City to reimburse the Insurer for any payment made by the

Insurer under the municipal bond insurance policy for the 2006 Certificates and the swap insurance policy for the interest rate swap agreement relating to the 2006 Certificates; 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. 2006 Supplemental Installment Purchase Contract. The 2006 Supplemental Installment Purchase 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 2006 Supplemental Installment Purchase Contract in substantially said form, with such changes therein as such officer executing the 2006 Supplemental

Installment Purchase 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 2006 Supplemental Installment Purchase 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 2006 Certificates, the aggregate principal amount of 2006 Certificates to be executed and delivered shall not exceed \$52,000,000, the final principal payment date of the 2006 Certificates shall not be later than 35 years from the initial installment payment, and the 2006 Certificates initially shall be issued as auction rate securities.

Section 3. 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 4. 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 deemed final for purposes of Rule 15c(2)-12 of the Securities Exchange Act of 1934, as amended, and to be distributed to potential and actual purchasers of the 2006 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 5. Continuing Disclosure Agreement. The Continuing Disclosure Agreement, proposed to be executed and entered into by and between the City and the 2006 Trustee, as Dissemination Agent thereunder, 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 2006 Trustee the Continuing Disclosure Agreement in substantially said form, with such changes therein as such officer executing the Continuing Disclosure Agreement may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 6. Insurance and Reimbursement Agreement. The Insurance and Reimbursement Agreement, proposed to be executed and entered into by and among the City, the 2006 Trustee and the Insurer, 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 2006 Trustee and the Insurer the Insurance and Reimbursement Agreement in substantially said form, with such changes therein as such officer executing the Insurance and Reimbursement Agreement 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 2006 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 2006 Certificates and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution, the 2006 Supplemental Installment Purchase Contract, the Purchase Contract, the Continuing Disclosure Agreement, the Insurance and Reimbursement Agreement, the Official Statement, and 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 10th day of October, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS,  
City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD,  
City Attorney



---

2006 SUPPLEMENTAL INSTALLMENT PURCHASE CONTRACT

by and between the

CITY OF MODESTO

and the

MODESTO PUBLIC FINANCING AUTHORITY

Dated as of November 1, 2006

---

## TABLE OF CONTENTS

### ARTICLE I

#### DEFINITIONS

Section 1.01. Definitions .....	5
Section 1.02. Clarification and Definitions in Master Contract and 2006 Trust Agreement. ....	6

### ARTICLE II

#### TERMS OF THE 2006 SUPPLEMENTAL CONTRACT

Section 2.01. Authority for the 2006 Supplemental Contract .....	8
Section 2.02. Purpose of the 2006 Supplemental Contract .....	8
Section 2.03. 2006 Supplemental Contract Payment Account.....	8
Section 2.04. Payment of 2006 Payments .....	8
Section 2.05. Prepayment of 2006 Payments. ....	9
Section 2.06. Establishment of 2006 Funds and Accounts.....	10
Section 2.07. Tax Covenants .....	12
Section 2.08. Continuing Disclosure .....	14
Section 2.09. Provisions Related to the 2006 Certificate Insurance Policy .....	14
Section 2.10. 2006 Interest Rate Swap Agreement .....	14
Section 2.11. Maintaining Liquidity Facility.....	15

### ARTICLE III

#### MISCELLANEOUS

Section 3.01. Amendment of 1997 Supplemental Contract .....	16
Section 3.02. Terms of the 2006 Supplemental Contract Subject to the Master Contract .....	16
Section 3.03. Assignment of the 2006 Supplemental Contract .....	16
Section 3.04. California Law .....	16
EXHIBIT A – Schedule of Principal Installments Relating to 2006 Payments .....	A-1
EXHIBIT B – Description of the 2006 Project.....	B-1

## 2006 SUPPLEMENTAL INSTALLMENT PURCHASE CONTRACT

The 2006 Supplemental Installment Purchase Contract (the "2006 Supplemental Contract"), dated as of November 1, 2006, by and between the City of Modesto, California, 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"), and the Modesto Public Financing Authority, a joint exercise of powers authority duly organized and existing under and by virtue of the laws of the State of California (the "Authority");

### WITNESSETH:

WHEREAS, the City and the Authority have executed and entered into a Master Installment Purchase Contract, dated as of November 1, 1997 (the "Master Contract"), for the acquisition from time to time of various additions, betterments, extensions and improvements to the Water Utility System of the City; and

WHEREAS, the City previously refinanced certain improvements to its Water Utility System (the "1997 Project") pursuant to the 1997 Supplemental Installment Purchase Contract, dated as of November 1, 1997 (the "1997 Supplemental Contract"), by and between the Authority and the City, supplementing the Master Contract, under which the City is obligated to make certain payments (the "1997 Payments") to the Authority as payment of the purchase price for the 1997 Project; and

WHEREAS, pursuant to Article III of the Master Contract, the City may incur additional Parity Obligations, including pursuant to a Supplemental Contract to the Master Contract, subject to the terms and conditions set forth therein; and

WHEREAS, the City now desires to finance the costs of various additional improvements (the "2006 Project") to the Water Utility System, and in connection therewith to enter into this 2006 Supplemental Installment Purchase Contract (the "2006 Supplemental Contract") with the Authority, supplementing the Master Contract, pursuant to which the City will obligate itself to make certain payments (the "2006 Payments") to the Authority as payment of the purchase price of the 2006 Project; and

WHEREAS, pursuant to the 2006 Trust Agreement (as defined herein), the Authority has assigned to The Bank of New York Trust Company, N.A., as trustee (the "Trustee") under the 2006 Trust Agreement, certain of its rights under the 2006 Supplemental Contract, including its right to receive the 2006 Payments to be made by the City under this 2006 Supplemental Contract; and

WHEREAS, in consideration of such assignment and the execution and entering into of the 2006 Trust Agreement by the Trustee and the Authority, the Trustee has agreed to execute and deliver \$\_\_\_\_\_ Water Revenue Certificates of Participation, 2006 Series A (the "2006 Certificates"), evidencing and representing proportionate interests in the 2006 Payments payable hereunder; and

WHEREAS, the City has determined that the foregoing is necessary and proper for the City; and

WHEREAS, the City and the Authority have determined that all acts, conditions and things required by law to exist, to have happened and to have been performed precedent to and in connection with the execution and delivery of the 2006 Supplemental Contract do exist, have happened and have been performed in regular and due time, form and manner as required by law, and the parties hereto are now duly authorized to execute and enter into the 2006 Supplemental Contract;

NOW, THEREFORE, IN CONSIDERATION OF THE PREMISES AND OF THE MUTUAL AGREEMENTS AND COVENANTS CONTAINED HEREIN AND FOR OTHER VALUABLE CONSIDERATION, THE PARTIES HERETO DO HEREBY AGREE AS FOLLOWS:

## ARTICLE I

### DEFINITIONS

Section 1.01. Definitions. Except as provided in Section 1.02 hereof or unless the context otherwise requires, the terms defined in this Section shall for all purposes hereof and of any opinion or report or other document mentioned herein have the meanings defined herein, the following definitions to be equally applicable to both the singular and plural forms of any of the terms defined herein:

“Continuing Disclosure Agreement” means the Continuing Disclosure Agreement, dated November \_\_, 2006, by and between the City and the Trustee, delivered in connection with the execution and delivery of the 2006 Certificates.

“Rebate Requirement” shall have the meaning given such term in Section 2.06(b) hereof.

“Special Counsel” shall have the meaning given such term in the 2006 Trust Agreement.

“2006 Certificate Insurance Policy” means the municipal bond insurance policy issued by the 2006 Certificate Insurer guaranteeing the scheduled payment of principal of and interest evidenced and represented by the 2006 Certificates.

“2006 Certificate Insurer” means MBIA Insurance Corporation, its successors and assigns.

“2006 Certificates” means the City of Modesto Water Revenue Certificates of Participation, 2006 Series A, evidencing and representing proportionate interests of the owners thereof in the 2006 Payments to be made by the City, executed and delivered pursuant to the 2006 Trust Agreement.

“2006 Insurance Agreement” means the Insurance and Reimbursement Agreement, dated as of November 1, 2006, by and among the City, the Authority, the Trustee and the 2006 Certificate Insurer, which 2006 Insurance Agreement shall constitute a Parity Bank Agreement for purposes of the Master Contract and hereof.

“2006 Interest Rate Swap Agreement” means, collectively, the ISDA Master Agreement (Local Currency–Single Jurisdiction 1992), the U.S. Municipal Counterparty Schedule thereto, a Credit Support Annex and a Confirmation, each dated \_\_\_\_\_, 2006, between Bank of America, N.A., as a Qualified Counterparty, and the City.

“2006 Payment Date” means each Interest Payment Date and each day on which payments of principal evidenced and represented by the 2006 Certificates become due (whether at maturity or because of prepayment or acceleration).

“2006 Payments” means the Payments scheduled to be paid by the City under and pursuant to the terms hereof.

“2006 Project” means the improvements to the Water Utility System to be financed with the proceeds of the 2006 Certificates, as shown on Exhibit B hereto.

“2006 Project Account” means the account of the Improvement Fund established pursuant to Section 2.06(a) hereof.

“2006 Rebate Fund” means the City of Modesto Water Utility System 2006 Rebate Fund established pursuant to Section 2.06(b) hereof.

“2006 Supplemental Contract” means this 2006 Supplemental Installment Purchase Contract, dated as of November 1, 2006, by and between the City and the Authority, as originally executed and as it may from time to time be amended or supplemented in accordance herewith.

“2006 Supplemental Contract Payment Account” means the account by that name within the Parity Obligation Payment Fund established pursuant to Section 2.04 hereof.

“2006 Swap Insurance Policy” the interest rate swap insurance policy issued by the 2006 Certificate Insurer guaranteeing certain payments due by the City under the 2006 Interest Rate Swap Agreement.

“2006 Tax Certificate” means the Tax Certificate concerning certain matters pertaining to the use and investment of proceeds of the 2006 Certificates executed and delivered by the City on the date of initial delivery of the 2006 Certificates, including any and all exhibits attached thereto.

“2006 Trust Agreement” means that certain Trust Agreement, dated as of November 1, 2006, by and between the Authority and the Trustee, as originally executed and as it may from time to time be amended or supplemented in accordance with its terms.

Section 1.02. Clarification and Definitions in Master Contract and 2006 Trust Agreement.

(a) To cure a possible ambiguity therein, the definition of “Parity Obligations” contained in Section 1.01 of the Master Contract is hereby clarified to read as follows:

“Parity Obligations” means the payment obligations under the Treatment and Delivery Agreement which constitute debt service, the payment obligations under the CDWR Loan Agreement, and all Supplemental Contracts and all other obligations hereafter incurred by the City the payment of which constitutes a charge and lien on the Gross Revenues equal to and on a parity with the charge and lien upon the Gross Revenues for the payment of the Payments, other than (i) such portion of the payment obligations (including certain payments due upon an early termination thereof) under any Parity Payment Agreement to the extent such obligations are expressly subordinate to Parity Obligations pursuant to the terms of such Parity Payment Agreement and (ii) Parity Bank Agreements; provided that no amounts have been drawn under any such Parity Bank Agreements which have not been reimbursed by the City.

(b) Except as otherwise herein defined or unless the context otherwise requires, the terms defined in the Master Contract or the 2006 Trust Agreement shall for all purposes hereof

and of any amendment hereof or supplement hereto and of any report or other document mentioned herein have the meanings defined therein, such definitions to be equally applicable to both the singular and plural forms of any of the terms defined therein. With respect to any defined term which is given a different meaning under this 2006 Supplemental Contract than under the Master Contract or the 2006 Trust Agreement, as used herein it shall have the meaning given herein.

## ARTICLE II

### TERMS OF THE 2006 SUPPLEMENTAL CONTRACT

Section 2.01. Authority for the 2006 Supplemental Contract. The City has reviewed all proceedings heretofore taken relative to the authorization of this 2006 Supplemental Contract and has found, as a result of such review, and hereby finds and determines that all acts, conditions and things required by law to exist, happen or be performed precedent to and in connection with the execution hereof do exist, have happened and have been performed in due time, form and manner as required by law, and the City is now duly authorized, pursuant to each and every requirement of law, to execute and enter into the 2006 Supplemental Contract in the manner and form provided herein for the financing of the costs of the 2006 Project.

Section 2.02. Purpose of the 2006 Supplemental Contract. In accordance with Section 2.01 of the Master Contract, the Authority hereby agrees to finance the costs of acquisition and construction of the 2006 Project and to sell the 2006 Project to the City. The City agrees to acquire the 2006 Project from the Authority pursuant to the terms hereof, to cause the acquisition and construction of the 2006 Project as agent for the Authority in accordance with Section 2.01 of the Master Contract and in accordance with the terms hereof and of the 2006 Trust Agreement. Immediately upon completion of each separately acquirable component of the 2006 Project, all right, title and interest in and to each such component of the 2006 Project shall transfer to the City from the Authority without any further action by the City or the Authority.

Section 2.03. 2006 Supplemental Contract Payment Account. There is hereby established within the Parity Obligation Payment Fund the 2006 Supplemental Contract Payment Account. On or before the third Business Day immediately preceding each 2006 Payment Date or the date on which any net payment or insured termination payment is due under the 2006 Interest Rate Swap Agreement, the City shall, from the money in the Parity Obligation Payment Fund, deposit in the 2006 Supplemental Contract Payment Account (i) a sum equal to the amount of the interest and principal components of the 2006 Payments becoming due and payable under the 2006 Supplemental Contract on the next succeeding 2006 Payment Date and (ii) the net payments and any insured termination payment, if applicable, due under the 2006 Interest Rate Swap Agreement, except that no such deposit need be made if the amount then on deposit in the 2006 Supplemental Contract Payment Account is at least equal to the amount of the interest and principal components of the 2006 Payments becoming due and payable under the 2006 Supplemental Contract on the next succeeding 2006 Payment Date plus the net payments and any insured termination payment paid by the 2006 Certificate Insurer, if applicable, due under the 2006 Interest Rate Swap Agreements on such next succeeding due date therefor. Moneys on deposit in the 2006 Supplemental Contract Payment Account shall (i) be transferred by the City to the Trustee on the Business Day immediately preceding each 2006 Payment Date to make and satisfy the 2006 Payment due on such 2006 Payment Date and (ii) be transferred by the City on the due date therefor to satisfy the net payment and any insured termination payment paid by the 2006 Certificate Insurer, if applicable, due under the 2006 Interest Rate Swap Agreement, all in accordance with the Master Contract.

Section 2.04. Payment of 2006 Payments. The City shall, subject to any rights of prepayment provided in Section 2.05 hereof, pay the Authority as the purchase price for the 2006



Project the sum of \$ \_\_\_\_\_, without offset or deduction of any kind, by paying the principal installments of the 2006 Payments annually on October 1 in each year in accordance with Exhibit A attached hereto and incorporated herein, together with interest installments of the 2006 Payments, which interest installments shall be payable in accordance with Section 2.03 hereof in the amounts and on the 2006 Payment Dates so as to enable interest evidenced by the 2006 Certificates to be paid on a timely basis, and which interest shall constitute interest paid on the principal amount of the City's obligation hereunder.

The obligation of the City to pay the 2006 Payments is, subject to Section 7.01 of the Master Contract, absolute and unconditional, and until such time as the 2006 Payments shall have been paid in full (or provision for the payment thereof shall have been made pursuant to Article VI of the Master Contract), the City will not discontinue or suspend any 2006 Payments required to be paid by it under this Section 2.04 when due, whether or not the Water Utility System or any part thereof (including the 2006 Project) is operating or operable, or its use is suspended, interfered with, reduced, curtailed or terminated in whole or in part, and such payments shall not be subject to reduction whether by offset, abatement or otherwise and shall not be conditional upon the performance or nonperformance by any party to any agreement for any cause whatsoever.

The City shall receive a credit against its obligation to pay 2006 Payments that constitute Sinking Fund Payments under the 2006 Trust Agreement if, during the 12-month period immediately preceding the Sinking Fund Payment date with respect to such Sinking Fund Payment, the City or the Authority has deposited Term Certificates with the Trustee (together with a request of the Authority or the City to apply such Certificates so deposited to the Sinking Fund Payment due on said Sinking Fund Payment date) and the full principal amount evidenced and represented thereby has been applied to reduce said Sinking Fund Payment in accordance with Section 2.03 of the 2006 Trust Agreement.

In addition to the 2006 Payments, the City shall also pay such amounts ("Additional Payments") as shall be required for the payment of all fees and administrative costs of the Authority and the Trustee under the 2006 Trust Agreement or otherwise relating to the 2006 Certificates, including, without limitation, payments required to satisfy the Rebate Requirement, all expenses, compensation and indemnification of the Authority and the Trustee payable hereunder and under the 2006 Trust Agreement, fees of auction agents, broker-dealers, remarketing agents, auditors, accountants, attorneys or engineers, and all other necessary administrative costs of the Authority or charges required to be paid by it to comply with the terms of this 2006 Supplemental Contract, the 2006 Certificates, the 2006 Certificate Insurance Policy, and the 2006 Trust Agreement.

Section 2.05. Prepayment of 2006 Payments.

(a) The City may optionally prepay 2006 Payments as follows:

(1) The City may prepay all or a portion of the 2006 Payments in accordance with Section 6.01(c) of the Master Contract by depositing cash or Federal Securities with the Trustee subject to the terms and conditions set forth in Article IX of the 2006 Trust

Agreement, sufficient to pay the principal of, premium, if any, and interest evidenced by the 2006 Certificates to be paid or prepaid with such 2006 Payments; or

(2) The City may prepay all or a portion of the 2006 Payments from any source of available funds, on any date on which 2006 Certificates may be optionally prepaid, by paying (A) all or a portion (in an amount equal to an Authorized Denomination under the 2006 Trust Agreement), as elected by the City, of such 2006 Payments, (B) an amount equal to the accrued but unpaid interest on the 2006 Certificates to be prepaid from the proceeds of such prepaid 2006 Payments to the date of such prepayment, and (C) an amount equal to any premium to be paid upon the optional prepayment of the 2006 Certificates to be prepaid from the proceeds of such prepaid 2006 Payments.

(b) The 2006 Payments shall be subject to mandatory prepayment to the extent required to effect the mandatory prepayment of Liquidity Provider Certificates in accordance with Section 2.03(b) of the 2006 Trust Agreement.

(c) If less than all of the 2006 Payments are prepaid pursuant to this Section 2.05 then, as of the date of such prepayment pursuant to this Section, the schedule of 2006 Payments attached as Exhibit B hereto shall be recalculated by the City in order to take such prepayment into account. The City shall deliver a copy of such revised schedule to the Trustee and such revised schedule shall automatically supersede and replace the previous form of Exhibit B.

(d) Before making any prepayment pursuant to this Section, the City shall give written notice to the Authority specifying the date on which the prepayment will be paid and the order thereof, which date shall be not less than 50 days from the date such notice is given; provided, that notwithstanding any such prepayment, the City shall not be relieved of its obligations hereunder, including specifically its obligations under this article, until the 2006 Payments and all amounts due under the 2006 Insurance Agreement shall have been fully paid (or provision for payment thereof shall have been made pursuant to Article VI of the Master Contract).

#### Section 2.06. Establishment of 2006 Funds and Accounts.

(a) 2006 Project Account. There is hereby established the "2006 Project Account" within the Improvement Fund, which account the City agrees to maintain until the completion of the acquisition and construction of the 2006 Project. As provided in the Master Contract, all money in the 2006 Project Account of the Improvement Fund shall be used and withdrawn by the City to pay the costs of the acquisition and construction of the 2006 Project (or to reimburse the City for such costs) upon receipt of a Request of the City. The City shall maintain on file a record of all expenditures from the 2006 Project Account of the Improvement Fund, including appropriate Requests of the City evidencing the person to whom payment is to be made, the amount of money to be paid, the purpose for which the obligation to be paid was incurred and that such payment was a proper charge against the 2006 Project Account of the Improvement Fund and has not been the subject of a previous Request of the City. When the acquisition and construction of the 2006 Project has been completed to the satisfaction of the City, any

remaining balance in the 2006 Project Account allocable to the 2006 Project shall be transferred by the City to the Revenue Fund.

(b) 2006 Rebate Fund. The City hereby agrees to establish and maintain, so long as any 2006 Certificates remain Outstanding, a fund separate from any other fund established and maintained hereunder designated the "City of Modesto Water Utility System 2006 Rebate Fund." All amounts at any time on deposit in the 2006 Rebate Fund shall be held by the City to the extent required to satisfy the requirement to make rebate payments to the United States (the "Rebate Requirement") pursuant to Section 148 of the Code and the Treasury Regulations promulgated thereunder (the "Treasury Regulations"). Such amounts shall be free and clear of any lien under the Master Contract and the 2006 Supplemental Contract and shall be governed by this Section 2.06(b) and by the 2006 Tax Certificate.

(1) Within 60 days of the end of each Certificate Year (as such term is defined in the 2006 Tax Certificate), or such other period ending no later than 60 days after the end of the fifth Certificate Year, (i) the City shall calculate or cause to be calculated with respect to the 2006 Supplemental Contract the amount that would be considered the "rebate amount" within the meaning of Section 1.148-3 of the Treasury Regulations, using as the "computation date" for this purpose the end of such Certificate Year, and (ii) the City shall deposit to the 2006 Rebate Fund from amounts on deposit in the Revenue Fund or other amounts received by the City, if and to the extent required, amounts sufficient to cause the balance in the 2006 Rebate Fund to be equal to the "rebate amount" so calculated.

The City shall not be required to deposit any amount to the 2006 Rebate Fund in accordance with preceding sentence if the amount on deposit in the 2006 Rebate Fund prior to the deposit required to be made under this paragraph (1) equals or exceeds the "rebate amount" calculated in accordance with the preceding sentence. Such excess may be withdrawn from the 2006 Rebate Fund to the extent permitted under paragraph (2) of this Section.

The City shall not be required to calculate the "rebate amount," and shall not be required to deposit any amount to the 2006 Rebate Fund in accordance with this paragraph (1), with respect to all or a portion of the proceeds of the 2006 Certificates (including amounts treated as proceeds of the 2006 Certificates) (i) to the extent such proceeds satisfy the expenditure requirements of Section 148(f)(4)(g) or Section 148(f)(4)(C) of the Code or Section 1.148-7(d) of the Treasury Regulations, whichever is applicable, and otherwise qualify for the exception to the Rebate Requirement pursuant to whichever of said sections is applicable, (ii) to the extent such proceeds are subject to an election by the City under Section 148(f)(4)(C)(vii) of the Code to pay a 11/2% penalty in lieu of arbitrage rebate in the event any of the percentage expenditure requirements of Section 148(f)(4)(C) are not satisfied, or (iii) to the extent such proceeds qualify for the exception to arbitrage rebate under Section 148(f)(4)(A)(ii) of the Code for amounts in a "bona fide debt service fund."

(2) Any funds remaining in the 2006 Rebate Fund after payment of all the 2006 Payments hereunder and any amounts described in clause (ii) of paragraph (3) of

this Section, or provision made therefor, including accrued interest, shall be transferred by the City to the Revenue Fund.

(3) Subject to the exceptions contained in paragraph (1) of this Section to the requirement to calculate the "rebate amount" and make deposits to the 2006 Rebate Fund, the City shall pay to the United States, from amounts on deposit in the 2006 Rebate Fund,

(i) not later than 60 days after the end of (A) the fifth Certificate Year, and (B) each fifth Certificate Year thereafter, an amount that, together with all previous rebate payments, is equal to at least 90% of the "rebate amount" calculated as of the end of such Certificate Year in accordance with Section 1.148-3 of the Treasury Regulations; and

(ii) not later than 60 days after the payment of all 2006 Certificates, an amount equal to 100% of the "rebate amount" calculated as of the date of such payment (and any income attributable to the "rebate amount" determined to be due and payable) in accordance with Section 1.148-3 of the Treasury Regulations.

(4) Each payment required to be made pursuant to paragraph (3) of this Section shall be made to the Internal Revenue Service on or before the date on which such payment is due, and shall be accompanied by Internal Revenue Service Form 8038-T, which shall be completed by or on behalf of the City.

(5) In the event that, prior to the time any payment is required to be made from the 2006 Rebate Fund, the amount in the 2006 Rebate Fund is not sufficient to make such payment when such payment is due, the City shall calculate the amount of such deficiency and deposit an amount equal to such deficiency into the 2006 Rebate Fund prior to the time such payment is due.

(6) In the event that immediately following the calculation required by paragraph (1) of this Section, but prior to any deposit made under said subsection, the amount on deposit in the 2006 Rebate Fund exceeds the "rebate amount" calculated in accordance with said subsection, the City shall transfer the excess from the 2006 Rebate Fund to the Revenue Fund.

(7) The City shall retain records of all determinations made hereunder until six years after the final payment or discharge of all 2006 Certificates.

(8) Notwithstanding anything in the Master Contract or the 2006 Supplemental Contract to the contrary, the Rebate Requirement shall survive the payment in full or discharge of the 2006 Certificates and the 2006 Payments.

Section 2.07. Tax Covenants. The City hereby covenants it shall not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the portion of the 2006 Payments constituting interest under Section 103 of the Code. The City shall not, directly or indirectly, use or permit the use of proceeds of the 2006 Supplemental Contract or any of the property financed or refinanced with proceeds of the 2006 Supplemental Contract, or any portion thereof, by any person other than a

governmental unit (as such term is used in Section 141 of the Code), in such manner or to such extent as would result in the loss of exclusion from gross income for federal income tax purposes of the portion of the 2006 Payments constituting interest.

The City shall not take any action, or fail to take any action, if any such action or failure to take action would cause any obligations delivered in connection with the 2006 Supplemental Contract to be "private activity bonds" within the meaning of Section 141 of the Code, and in furtherance thereof, shall not make any use of the proceeds of the 2006 Supplemental Contract or any of the property financed or refinanced with proceeds of the 2006 Supplemental Contract, or any portion thereof, or any other funds of the City, that would cause any of the 2006 Certificates on other obligations delivered in connection with the 2006 Supplemental Contract to be "private activity bonds" within the meaning of Section 141 of the Code. To that end, so long as any 2006 Payments are unpaid, the City, with respect to such proceeds and property and such other funds, will comply with applicable requirements of the Code and all regulations of the United States Department of the Treasury issued thereunder to the extent such requirements are, at the time, applicable and in effect. The City shall establish reasonable procedures necessary to ensure continued compliance with Section 141 of the Code and the continued qualification of any obligations delivered in connection with the 2006 Supplemental Contract as "governmental bonds."

The City shall not, directly or indirectly, use or permit the use of any proceeds of the 2006 Supplemental Contract, or of any property financed or refinanced thereby, or other funds of the City, or take or omit to take any action, that would cause any obligations delivered in connection with the 2006 Supplemental Contract to be "arbitrage bonds" within the meaning of Section 148 of the Code. To that end, the City shall comply with all requirements of Section 148 of the Code and all regulations of the United States Department of the Treasury issued thereunder to the extent such requirements are, at the time, in effect and applicable to the 2006 Supplemental Contract.

The City shall not make any use of the proceeds of the 2006 Supplemental Contract or any other funds of the City, or take or omit to take any other action, that would cause the 2006 Supplemental Contract to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

In furtherance of the foregoing tax covenants, the City covenants that it will comply with the provisions of the 2006 Tax Certificate, which is incorporated herein as if fully set forth herein. These covenants shall survive payment in full or discharge of the 2006 Certificates and the 2006 Payments.

The Authority and the City covenant that, in the event of any change in the 2006 Trust Agreement, this 2006 Supplemental Contract or other relevant documents relating to the 2006 Certificates, or any other actions taken or omitted by the City or the Authority, upon the advice or with the approving opinion of Special Counsel other than Sidley Austin LLP, Special Counsel in connection with the original execution and delivery of the 2006 Certificates, the Authority and the City will, upon the making of any such change, or the taking or omission of any such other action, cause to be delivered an opinion of Special Counsel (together with a reliance letter thereon addressed to the 2006 Certificate Insurer and the Trustee) nationally recognized in the

area of municipal bonds to the effect that the portion of each 2006 Payment due under this 2006 Supplemental Contract designated as and comprising interest with respect to the 2006 Certificates is excluded from gross income for federal income tax purposes.

Section 2.08. Continuing Disclosure. The City hereby covenants and agrees that it will comply with and carry out all of its obligations under the Continuing Disclosure Agreement delivered in connection with the execution and delivery of the 2006 Certificates. Notwithstanding any other provision of the Master Contract or hereof, failure of the City to comply with the Continuing Disclosure Agreement shall not be considered an Event of Default under the Master Contract or hereunder.

Section 2.09. Provisions Related to the 2006 Certificate Insurance Policy. For so long as, and only during such time as, the 2006 Certificate Insurance Policy is in effect and the 2005 Certificate Insurer is not in default thereunder, the following provisions shall be in effect, and any conflict between the provisions of this Section 2.09 and the provisions of any other Section hereof shall be governed by the provisions of this Section 2.09:

(a) In determining whether a payment default has occurred hereunder, or whether a 2006 Payment has been made hereunder, no effect shall be given to payments made under the 2006 Certificate Insurance Policy.

(b) Any acceleration of the unpaid 2006 Payments pursuant to Section 5.01 of the Contract or any annulment thereof shall be subject to the prior written consent of the 2006 Certificate Insurer.

(c) Neither the City nor the Authority will use the 2006 Certificate Insurer's name in any public document including, without limitation, a press release or presentation, announcement or forum without the 2006 Certificate Insurer's prior consent; provided, however, such prohibition on the use of the 2006 Certificate Insurer's name shall not relate to the use of the 2006 Certificate Insurer's standard approved form of disclosure in public documents issued in connection with the 2006 Certificates to be issued in accordance with the terms of the 2006 Certificate Insurer's commitment letter; and provided further such prohibition shall not apply to the use of the 2006 Certificate Insurer's name in order to comply with public notice, public meeting or public reporting requirements.

(d) The 2006 Certificate Insurer shall be a third-party beneficiary of this 2006 Supplemental Contract.

(e) The Authority and the City shall provide the 2006 Certificate Insurer with a copy of any notice required to be given by such party hereunder, such notice to be delivered at the address for the 2006 Certificate Insurer set forth in the 2006 Trust Agreement.

Section 2.10. 2006 Interest Rate Swap Agreement. The City and the Authority hereby agree and acknowledge that the 2006 Interest Rate Swap Agreement (excluding the obligations thereunder to post collateral under certain circumstances and to make termination payments upon any early termination event or event of default except to the extent such termination payment is insured under the terms of the 2006 Swap Insurance Policy) constitutes a Parity Payment Agreement and a Parity Obligation payable solely from and secured by a pledge of Gross

Revenues on a parity with all other existing and future Parity Obligations. The City and the Authority hereby agree and acknowledge that obligations under the 2006 Interest Rate Swap Agreement to post collateral under certain circumstances or to make termination payments upon an early termination event or event of default under the 2006 Interest Rate Swap Agreement (other than to the extent such termination payment is insured under the terms of the 2006 Swap Insurance Policy) are Subordinate Obligations payable solely from and secured by a pledge of Gross Revenues on a subordinate basis to the Parity Obligations. Amounts payable by the City as a termination payment under the 2006 Interest Rate Swap Agreement upon an event of default with respect to the City thereunder and the designation of an early termination by the 2006 Certificate Insurer pursuant to the terms of the 2006 Interest Rate Swap Agreement (which payments are insured under the terms of the 2006 Swap Insurance Policy constitute a Parity Obligation payable solely from and secured by a pledge of Gross Revenues on a parity with all other existing and future Parity Obligations. In the event any obligation of the City to post collateral or to make payments upon an early termination or event of default under the 2006 Interest Rate Swap Agreement constituting a Subordinate Obligation shall arise, the City shall establish a fund as necessary for the purpose of satisfying such obligation. As provided and on the dates under Section 2.04 of the Master Contract and Section 2.03 hereof, the City shall from the money in the Revenue Fund deposit in the 2006 Supplemental Contract Payment Account of the Parity Obligation Payment Fund a sum equal to the scheduled payments next due on the 2006 Interest Rate Swap Agreement. The City shall not be required to advance any moneys derived from any source of income other than the Gross Revenues for the payments due under the 2006 Interest Rate Swap Agreement or for the performance of any agreements or covenants required to be performed by it contained in the 2006 Interest Rate Swap Agreement. The general fund of the City is not liable, and neither the faith and credit nor the taxing power of the City is pledged, for the payments under the 2006 Interest Rate Swap Agreement.

Section 2.11. Maintaining Liquidity Facility. The City agrees that at any time when the 2006 Certificates bear interest in a Daily Mode, a Weekly Mode, a Flexible Mode or a Term Mode, it will maintain a Liquidity Facility, as required by Section 3.11 of the 2006 Trust Agreement, acceptable to the 2006 Certificate Insurer, in the Required Stated Amount or in such other amount as may be required by the 2006 Certificate Insurer and the Rating Agencies then rating the 2006 Certificates. The City shall replace such Liquidity Facility if the Liquidity Facility's rating is withdrawn, suspended or lowered below a rating that is acceptable to the 2006 Certificate Insurer. The City covenants that it will not voluntarily terminate a Liquidity Facility then in effect without either: (i) providing for an Alternate Liquidity Facility prior to the effective date of the termination; or (ii) converting the Daily Mode, Weekly Mode, Flexible Mode or Term Mode to a Fixed Rate Mode. If 2006 Certificates bearing interest in the Daily Mode, the Weekly Mode, the Flexible Mode or the Term Mode are then Outstanding, the Trustee shall not release the applicable Liquidity Facility until it has received the Alternate Liquidity Facility. The City shall give, or cause to be given pursuant to Section 3.11(c) of the 2006 Trust Agreement, written notice of its intention to terminate a Liquidity Facility and exercise its option to provide an Alternate Liquidity Facility to the Trustee and each of the other Notice Parties thirty (30) days before the proposed termination date of the Liquidity Facility and the effective date of such Alternate Liquidity Facility. The City shall provide notice of any expiration, termination, extension or substitution of the Liquidity Facility to the Rating Agencies.

## ARTICLE III

### MISCELLANEOUS

Section 3.01. Amendment of 1997 Supplemental Contract. Section 2.11(e) of the 1997 Supplemental Contract is hereby amended to read as follows:

“(e) Except for any Supplemental Contract delivered for the purpose of providing for the execution of Parity Obligations in compliance with Article III of the Contract, any amendment of or supplement to the Contract shall be subject to the prior written consent of the 1997 Certificate Insurer as if and to the extent the 1997 Certificate Insurer shall be deemed the sole Owner of the 1997 Certificates for purposes of obtaining the required consent of the Owners of the 1997 Certificates thereto pursuant to Section [4.05] of the 1997 Trust Agreement. Any rating agency rating the Certificates must receive notice of each such amendment or supplement and a copy thereof at least 15 days in advance of its execution or adoption. The 1997 Certificate Insurer shall be provided with a full transcript of all proceedings relating to the execution of any such amendment or supplement.”

Section 3.02. Terms of the 2006 Supplemental Contract Subject to the Master Contract. This 2006 Supplemental Contract constitutes a Parity Obligation and a Supplemental Contract under the Master Contract and, as such, shall be subject to the provisions of the Master Contract and shall have all of the advantages, benefits, interests and security afforded Parity Obligations and Supplemental Contracts pursuant to the Master Contract. Every term and condition contained in the Master Contract shall apply to the 2006 Supplemental Contract with the same force and effect as if the same were herein set forth at length, with such omissions, variations and modifications thereof as may be appropriate to make the same conform to the 2006 Supplemental Contract.

Section 3.03. Assignment of the 2006 Supplemental Contract. The City hereby acknowledges that the Authority, for good and valuable consideration, has transferred, assigned and sent over to the Trustee, pursuant to the provisions of the 2006 Trust Agreement, all of the 2006 Payments and any and all rights and privileges it has under the Master Contract and hereunder. The Trustee shall not assume any responsibilities for any duties or covenants or warranties of the Authority hereunder.

Section 3.04. California Law. This 2006 Supplemental Installment Purchase Contract shall be construed and governed in accordance with the laws of the State of California.



IN WITNESS WHEREOF, the parties hereto have executed and attested the 2006 Supplemental Installment Purchase Contract by their officers thereunto duly authorized as of the day and year first written above.

CITY OF MODESTO

By \_\_\_\_\_  
Director of Finance

Attest:

\_\_\_\_\_  
City Clerk

MODESTO PUBLIC FINANCING AUTHORITY

By \_\_\_\_\_  
Auditor and Treasurer

Attest:

\_\_\_\_\_  
Secretary

CONSENT OF INSURER

BY EXECUTION HEREOF, Financial Guaranty Insurance Company, as 1997 Certificate Insurer of the outstanding 1997 Certificates, pursuant to Section 2.11 of the 1997 Supplemental Installment Purchase Contract hereby consents to the foregoing 2006 Supplemental Installment Purchase Contract and the amendments to the Contracts effected thereby.

FINANCIAL GUARANTY INSURANCE  
COMPANY

By: \_\_\_\_\_  
[TITLE]

TRUSTEE CONSENT

BY EXECUTION HEREOF, \_\_\_\_\_ as Trustee for the outstanding 1997 Certificates and 2006 Certificates hereby consents to the foregoing 2006 Supplemental Installment Purchase Contract and the amendments to the Contracts effected thereby.

[TRUSTEE]

By: \_\_\_\_\_  
Authorized Officer

**EXHIBIT A**

**Schedule of Principal Installments  
Relating to  
2006 Payments**

<u>Principal Payment Date (October 1)</u>	<u>Principal Installment</u>
2007	
2008	
2009	
2010	
2012	
2013	
2014	
2015	
2016	
2017	
2018	
2019	
2020	
2021	
2022	
2023	
2024	
2025	
2026	
2027	
2028	
2029	
2030	
2031	
2032	
2033	
2034	
2035	

Pursuant to Section 2.03 of the 2006 Supplemental Contract, the 2006 Payments should be made no later than three (3) Business Days preceding the due date therefor. In addition to the foregoing principal payments, the 2006 Payments shall include interest payable on each Interest Payment Date under the 2006 Trust Agreement in an amount equal to the interest due on the 2006 Certificates on each Interest Payment Date.

## **EXHIBIT B**

### **Description of the 2006 Project**

The City of Modesto (City) is proposing to fund the costs of improvements required to be made by the City in connection with the expansion of the Modesto Regional Water Treatment Plant (MRWTP), including the construction of several new downstream water facilities, and various water distribution system improvements to the Water System to ensure the reliability of water supply to both existing and future customers. The 2006 Project will include the acquisition of land and right-of-way, and design and construction costs related to the new facilities and improvements. The facilities include the acquisition, construction and installation of three storage tanks and connecting transmission facilities, construction and improvement of transmission/distribution mains and associated pump stations, and installation of motor-operated control valves which will control the flow of treated surface water from the MRWTP to the City system. The 2006 Project facilities and improvements will help replace lost reliable groundwater production capacity, improve the City's ability to maintain desired system operational pressures during high demand periods and meet other operational criteria. These facilities will also improve system distribution capabilities to future customers.

Proceeds of the 2006 Certificates may also be used for other improvements to the Water Utility System approved by the City Council.

**EXHIBIT C**

**FORM OF 2006 PROJECT ACCOUNT REQUEST**

Request of the City  
Requisition From 2006 Project Account of the Improvement Fund

TO: City Treasurer of the City of Modesto

RE: Disbursement from the 2006 Project Account of the Improvement Fund pursuant to Section 2.06(a) of the 2006 Supplemental Installment Purchase Contract, dated as of November 1, 2006 (the "2006 Supplemental Contract"), by and between the City of Modesto (the "City"), and the Modesto Public Financing Authority (the "Authority")

REQUEST NO. \_\_\_\_\_

You are hereby instructed to pay to the parties listed on Schedule A hereto the sum listed opposite such parties names as a payment of the cost of the projects (collectively, the "2006 Project") for the items listed on the Schedule attached hereto and the expenses incidental thereto (which may include reimbursement to the City for certain of such costs or expenses) from the 2006 Project Account of the Improvement Fund as provided in Section 2.06(a) of the 2006 Supplemental Contract. This cost has been properly incurred, is a proper charge under the 2006 Supplemental Contract against payment of the costs of the 2006 Project (as defined in the 2006 Supplemental Contract) and has not been the basis of any previous disbursements. The amount remaining in the 2006 Project Account of the Improvement Fund, together with interest earnings thereon will, after payment of the amount set forth in this requisition, be sufficient to pay all remaining costs of the 2006 Project as presently estimated.

I hereby certify that:

(i) an obligation in the stated amount has been properly incurred under and pursuant to the 2006 Supplemental Contract and each such obligation is a proper charge against the Improvement Fund and has not been subject of any previous Request of the City;

(ii) there has not been filed with or served upon the City or the Authority a stop notice or any other notice of any lien, right to lien or attachment upon, or claim affecting the right to receive payment of, any of the money payable to the person named in this Request of the City which has not been released or will not be released with the payment of such obligation, other than materialmen's or mechanics' liens accruing by mere operation of laws;

(iii) in the case of each payment made under any contract for installation or construction, insofar as such obligation was incurred for work, materials, equipment or supplies, such work was actually performed or such materials, equipment or supplies were actually installed in furtherance of the 2006 Project or delivered at the site for that purpose or delivered for storage or fabrication at a place or places approved by the City;

(iv) in the case of increased costs of the 2006 Project, the amount of such increase has been made available by the City; and

(v) no event of default under the Contract has occurred and is continuing.

Very truly yours,

---

[City Representative]

DISBURSEMENT INSTRUCTIONS

2006 PROJECT ACCOUNT OF IMPROVEMENT FUND


<u>PAYEE</u>	<u>DESCRIPTION</u>	<u>AMOUNT (\$)</u>
--------------	--------------------	--------------------



CONSENT OF INSURER

BY EXECUTION HEREOF, Financial Guaranty Insurance Company, as 1997 Certificate Insurer of the outstanding 1997 Certificates, pursuant to Section 2.11 of the 1997 Supplemental Installment Purchase Contract hereby consents to the foregoing 2006 Supplemental Installment Purchase Contract and the amendments to the Contracts effected thereby.

FINANCIAL GUARANTY  
INSURANCE COMPANY

By:   
Name: Timothy Tattam  
Authorized Representative

§ \_\_\_\_\_  
**CITY OF MODESTO**  
**WATER REVENUE CERTIFICATES OF PARTICIPATION**  
**2006 SERIES A**

**PURCHASE CONTRACT**

\_\_\_\_\_, 2006

Modesto Public Financing Authority  
1010 10th Street  
Modesto, California 95354

City of Modesto  
1010 10th Street  
Modesto, California 95354

Ladies and Gentlemen:

Banc of America Securities LLC (the "Underwriter") offers to enter into this Purchase Contract (the "Purchase Contract") with the Modesto Public Financing Authority (the "Authority") and the City of Modesto (the "City") for the purchase by the Underwriter of the City of Modesto Water Revenue Certificates of Participation 2006 Series A (the "Certificates") that will be executed and delivered pursuant to the Trust Agreement, dated as of November 1, 2006 (the "Trust Agreement"), between the Authority and The Bank of New York Trust Company, N.A., as trustee (the "Trustee").

This offer is made subject to the Authority's and the City's acceptance by execution of this Purchase Contract and delivery of the same to the Underwriter on or before 11:59 p.m. on the date hereof, and, if not so accepted, will be subject to withdrawal by the Underwriter upon notice delivered to the Authority and the City at any time prior to such acceptance. Upon the Authority's and the City's acceptance hereof, the Purchase Contract will be binding upon the Authority, the City and the Underwriter. Capitalized terms used in this Purchase Contract and not otherwise defined herein shall have the respective meanings set forth for such terms in the Trust Agreement.

**Section 1. Purchase, Sale and Delivery.** Upon the terms and conditions and upon the basis of the representations set forth in this Purchase Contract, the Underwriter agrees to purchase, and the Authority and the City agree to cause the sale and delivery to the Underwriter, all (but not less than all) of the Certificates at a purchase price of \$\_\_\_\_\_ (being an amount equal to the principal amount of the Certificates less an underwriter's discount of \$\_\_\_\_\_.)

In connection with the execution and delivery of the Certificates, the Trustee and The Bank of New York Trust Company, N.A., as auction agent (the "Auction Agent") will enter into an Auction Agreement, dated as of November 1, 2006 (the "Auction Agreement") providing, among other things, the auction procedures the Auction Agent will follow for the purposes of determining the Auction Rate applicable to the Certificates and the Authority and the Auction Agent will enter into a Broker-Dealer Agreement, dated as of November 1, 2006 (the "Broker-Dealer Agreement") with Banc of America Securities LLC, as the broker-dealer with respect to the Certificates for the purposes of conducting each Auction. The Auction Agreement and the Broker-Dealer Agreement are referred to collectively as the "Auction Rate Agreements."

**Section 2. Terms; Authorizing Instruments; Purpose.**

(a) The Certificates will be dated their date of delivery and mature on October 1, 2036. The Certificates will initially be executed and delivered as auction rate securities and initially evidence and represent interest for the first Auction Period as shown in Exhibit A attached hereto and thereafter at the rate calculated in accordance with the Trust Agreement. The Certificates will evidence and represent the proportionate interests of the owners thereof in the 2006 Payments to be paid to the Authority by the City pursuant to the Contract.

(b) The proceeds of the sale of the Certificates will be used to (1) finance certain additional additions, betterments, extensions and improvements to the City's water system (the "Water Utility System"), (2) fund a deposit to the Parity Reserve Fund to be maintained under the Contract pursuant to the Trust Agreement, (3) capitalize interest on the Certificates and pay Broker-Dealer fees and Auction Agent fees through October 1, 2007 and (4) pay certain expenses related to the execution and delivery of the Certificates.

(c) The payment of the principal and interest evidenced by the Certificates when due will be guaranteed by a municipal bond insurance policy (the "Insurance Policy") issued by MBIA Insurance Corporation (the "Insurer") simultaneously with the delivery of the Certificates.

**Section 3. Official Statement; Continuing Disclosure.**

(a) The City has delivered the final official statement, dated \_\_\_\_\_, 2006 (as amended and supplemented from time to time pursuant to Section 5(i) or Section 6(i) of this Purchase Contract, the "Official Statement") to the Underwriter pursuant to Section 4 herein.

(b) The City has authorized the use of the Official Statement and the information contained therein by the Underwriter in connection with the public offering and the sale of the Certificates prior to the date hereof.

(c) In connection with issuance of the Certificates, and in order to assist the Underwriter with complying with the provisions of Rule 15c2-12, the City will enter into a continuing disclosure agreement countersigned by The Bank of New York Trust Company, N.A., as dissemination agent (the "Continuing Disclosure Agreement"), under which the City will undertake to provide certain financial and operating data as required by Rule 15c2-12. The form of the Continuing Disclosure Agreement is attached as an appendix to the Official Statement.

**Section 4. Agreement to Notify Underwriter Regarding Official Statement.** The City has supplied or caused to be supplied to the Underwriter the Official Statement in sufficient quantity as requested by the Underwriter to comply with Securities and Exchange Commission Rule 15c2-12(b)(4) and the rules of the Municipal Securities Rulemaking Board (the "MSRB"). The Underwriter hereby agrees that it will not send any confirmation requesting payment for the purchase of any Certificates unless the confirmation is accompanied by or preceded by the delivery of a copy of the Official Statement. The Underwriter agrees to: (i) provide the City with final pricing information on the Certificates on a timely basis prior to the Closing Date (as defined in Section 7 hereof), (ii) promptly file a copy of the Official Statement, including any supplements prepared by the City, with a nationally recognized municipal securities information repository, (iii) promptly notify the City of the end of the underwriting period (as such term is defined in Rule 15c2-12); provided, that the underwriting period will be assumed to have ended on the Closing Date unless the Underwriter shall have notified the City in writing to the contrary; and (iv) take any and all other actions necessary to comply with applicable Securities and Exchange Commission rules and MSRB rules governing the offering, sale and delivery of the Certificates to ultimate purchasers.

**Section 5. Representations, Warranties and Covenants of the City.** The City hereby represents, warrants and agrees with the Underwriter that:

(a) The City is and will be on the Closing Date a charter city and municipal corporation, organized and existing pursuant to the Constitution laws of the State of California (the "State"), with the full power and authority to execute and deliver the Official Statement, and to enter into the 2006 Supplemental Contract, the Continuing Disclosure Agreement and this Purchase Contract (collectively, the "2006 City Agreements" and, together with the Master Contract and the 1997 Supplemental Contract, the "City Agreements").

(b) The city council of the City (the "City Council") has taken official action by resolution (the "1997 City Resolution") adopted by a majority of the members of the City Council at a meeting duly called, noticed and conducted, at which a quorum was present and acting throughout, on October 21, 1997, all action necessary to be taken by it for the execution, delivery and due performance of the Master Contract and 1997 Supplemental Contract and the taking of any and all such action as may be required on the part of the City to carry out, give effect to and consummate the transactions contemplated thereby and by resolution (the "2006 City Resolution" and, together with the 1997 Resolution, the "City Resolutions") adopted by a majority of the members of the City Council at a meeting duly called, noticed and conducted, at which a quorum was present and acting throughout, on [October 10], 2006, all action necessary to be taken by it for the execution, delivery and due performance of the City Agreements and the Official Statement and the taking of any and all such action as may be required on the part of the City to carry out, give effect to and consummate the transactions contemplated thereby.

(c) The execution and delivery of the 2006 City Agreements and the Official Statement, and compliance with the provisions on the City's part contained herein and therein, will not in any material respect conflict with or constitute a breach of or default under any law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the City is a party or is otherwise subject, nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien,

charge or other security interest or encumbrance of any nature whatsoever upon any of the properties or assets of the City under the terms of any such law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument, except as provided in the 2006 City Agreements.

(d) The City is not in any material respect in breach of or default under any applicable law or administrative regulation of the State or the United States of America or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the City is a party or is otherwise subject, and no event has occurred and is continuing which, with the passage of time or the giving of notice or both, would constitute a default or an event of default under any such instrument.

(e) Except as disclosed in the Official Statement, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body pending or, to the best knowledge of the City, threatened against the City in any material respect affecting the existence of the City or the titles of its officers to their respective offices or seeking to prohibit, restrain or enjoin the sale, execution or delivery of the Certificates or the pledge of the Payments under the Contract or in any way contesting or affecting the validity or enforceability of the City Agreements or contesting the powers of the City or its authority to enter into, adopt or perform its obligations under any of the foregoing, or which would have a material adverse effect on the City's ability to perform its obligations under the City Agreements or contesting in any way the completeness or accuracy of the Official Statement, or any amendment or supplement thereto.

(f) The City will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter as the Underwriter may reasonably request in order (i) to qualify the Certificates for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriter may designate, and (ii) to determine the eligibility of the Certificates for investment under the laws of such states and other jurisdictions, and will use its best efforts to continue such qualification in effect so long as required for distribution of the Certificates; provided, however, that in no event shall the City be required to take any action which would subject it to general or unlimited service of process in any jurisdiction in which it is not now so subject.

(g) As of the date hereof, and except for statements regarding the Insurer and DTC and excluding the information contained in the Official Statement under the captions "THE AUTHORITY" and "LITIGATION" (solely as it relates to the Authority), as to which the City does not make any representation or warranty, the Official Statement does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(h) As of the date thereof and at all times subsequent thereto to and including the date which is 25 days following the End of the Underwriting Period (as defined in subparagraph (k) hereof) for the Certificates, and except for statements regarding the Insurer and DTC and excluding the information contained in the Official Statement under the captions "THE AUTHORITY" and "LITIGATION" (solely as it relates to the Authority), as to which the City

does not make any representation or warranty, the Official Statement did not and will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(i) If between the date hereof and the date which is 25 days after the End of the Underwriting Period for the Certificates, and except for statements regarding the Insurer and DTC and excluding the information contained in the Official Statement under the captions "THE AUTHORITY" and "LITIGATION" (solely as it relates to the Authority), as to which the City does not make any representation or warranty, an event occurs which would cause the information contained in the Official Statement, as then supplemented or amended, to contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading, the City will notify the Underwriter, and, if in the opinion of the City, the Underwriter or their respective counsel, such event requires the preparation and publication of a supplement or amendment to the Official Statement, the City will forthwith prepare and furnish to the Underwriter (at the expense of the City) a reasonable number of copies of an amendment of or supplement to the Official Statement (in form and substance satisfactory to the Underwriter) which will amend or supplement the Official Statement so that it will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading. For the purposes of this subsection, between the date hereof and the date which is 25 days after the End of the Underwriting Period for the Certificates, the City will furnish such information with respect to itself as the Underwriter may from time to time reasonably request.

(j) If the information contained in the Official Statement is amended or supplemented pursuant to subparagraph (i) hereof, at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such subparagraph) at all times subsequent thereto up to and including the date which is 25 days after the End of the Underwriting Period for the Certificates, the portions of the Official Statement so supplemented or amended (including any financial and statistical data contained therein), except for statements regarding the Insurer and DTC and excluding the information contained in the Official Statement under the captions "THE AUTHORITY" and "LITIGATION" (solely as it relates to the Authority), as to which the City does not make any representation or warranty, will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(k) As used herein and for the purposes of the foregoing, the term "End of the Underwriting Period" for the Certificates shall mean the earlier of (i) the Closing Date unless the City shall have been notified in writing to the contrary by the Underwriter on or prior to the Closing Date, or (ii) the date on which the End of the Underwriting Period for the Certificates has occurred under Rule 15c2-12; provided, however, that the City may treat as the End of the Underwriting Period for the Certificates the date specified as such in a notice from the Underwriter stating the date which is the End of the Underwriting Period.

(l) The financial statements of, and other financial information regarding, the Water Utility System contained in the Official Statement fairly present the financial position and results of the operations of the Water Utility System as of the dates and for the periods therein set forth, and, to the best of the City's knowledge, (i) the audited financial statements have been prepared in accordance with generally accepted accounting principles consistently applied, and (ii) the other financial information has been determined on a basis substantially consistent with that of the City's audited financial statements included in the Official Statement and except as disclosed in the Official Statement or otherwise disclosed in writing to the Underwriter, there has not been any materially adverse change in the financial condition of the City since June 30, 2005 and there has been no occurrence, circumstance or combination thereof which is reasonably expected to result in any such materially adverse change.

(m) Except as disclosed in the Official Statement or otherwise disclosed in writing to the Underwriter, the City has not previously failed to comply in all material respects with any undertakings under Rule 15c2-12.

**Section 6. Representations, Warranties and Covenants of the Authority.** The Authority hereby represents, warrants and agrees with the Underwriter that:

(a) The Authority is a public body corporate and politic, organized and existing pursuant to the laws of the State of California, including Section 6500 et seq. of the California Government Code, as amended, and the Joint Exercise of Powers Agreement, dated as of December 1, 1989 (the "JPA Agreement"), by and between the Authority and the Industrial Development Authority of the City of Modesto.

(b) The governing board of the Authority (the "Governing Board") has taken official action by resolution (the "1997 Authority Resolution") adopted by a majority of the members of the Governing Board at a meeting duly called, noticed and conducted, at which a quorum was present and acting throughout, on \_\_\_\_\_, 199\_, all action necessary to be taken by it for the execution, delivery and due performance of the Contract, and the taking of any and all such action as may be required on the part of the Authority to carry out, give effect to and consummate the transactions contemplated thereby and by resolution (the "2006 Authority Resolution" and, together with the 1997 Authority Resolution, the "Authority Resolutions" and, together with the City Resolutions, the "Resolutions") adopted by a majority of the members of the Governing Board at a meeting duly called, noticed and conducted, at which a quorum was present and acting throughout, on [October 10], 2006, all action necessary to be taken by it for the execution, delivery and due performance of the Trust Agreement, the Contract, the Auction Rate Agreements and this Purchase Contract (collectively, the "2006 Authority Agreements" and, together with the Master Contract and the 1997 Supplemental Contract, the "Authority Agreements") and the Official Statement and the taking of any and all such action as may be required on the part of the Authority to carry out, give effect to and consummate the transactions contemplated thereby.

(c) The execution and delivery of the 2006 Authority Agreements and the Official Statement, and compliance with the provisions on the Authority's part contained herein and therein, will not in any material respect conflict with or constitute a breach of or default under any law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note,

resolution, agreement or other instrument to which the Authority is a party or is otherwise subject, nor will any such execution, delivery, adoption or compliance result in the creation or imposition of any lien, charge or other security interest or encumbrance of any nature whatsoever upon any of the properties or assets of the Authority under the terms of any such law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement or other instrument, except as provided in the 2006 Authority Agreements.

(d) The Authority is not in any material respect in breach of or default under any applicable law or administrative regulation of the State or the United States of America or any applicable judgment or decree or any loan agreement, indenture, bond, note, resolution, agreement or other instrument to which the Authority is a party or is otherwise subject, and no event has occurred and is continuing which, with the passage of time or the giving of notice or both, would constitute a default or an event of default under any such instrument.

(e) Except as disclosed in the Official Statement, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, governmental agency, public board or body pending or, to the best knowledge of the Authority, threatened against the Authority in any material respect affecting the existence of the Authority or the titles of its officers to their respective offices or seeking to prohibit, restrain or enjoin the sale, execution or delivery of the Certificates or the collection of the Payments under the Contract or in any way contesting or affecting the validity or enforceability of the Authority Agreements or contesting the powers of the Authority or its authority to enter into, adopt or perform its obligations under any of the foregoing, or which would have a material adverse effect on the Authority's ability to perform its obligations under the Authority Agreements or contesting in any way the completeness or accuracy of the Official Statement, or any amendment or supplement thereto.

(f) The Authority will furnish such information, execute such instruments and take such other action in cooperation with the Underwriter as the Underwriter may reasonably request in order (i) to qualify the Certificates for offer and sale under the Blue Sky or other securities laws and regulations of such states and other jurisdictions of the United States as the Underwriter may designate, and (ii) to determine the eligibility of the Certificates for investment under the laws of such states and other jurisdictions, and will use its best efforts to continue such qualification in effect so long as required for distribution of the Certificates; provided, however, that in no event shall the Authority be required to take any action which would subject it to general or unlimited service of process in any jurisdiction in which it is not now so subject.

(g) As of the date hereof, the information contained in the Official Statement under the captions "THE AUTHORITY" and "LITIGATION" (solely as it relates to the Authority) does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(h) As of the date thereof and at all times subsequent thereto to and including the date which is 25 days following the End of the Underwriting Period (as defined in subparagraph (k) hereof) for the Certificates, the information contained in the Official Statement under the captions "THE AUTHORITY" and "LITIGATION" (solely as it relates to the Authority) did not and will not contain any untrue statement of a material fact or omit to state a material fact



necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(i) If between the date hereof and the date which is 25 days after the End of the Underwriting Period for the Certificates, an event occurs which would cause the information contained in the Official Statement under the captions "THE AUTHORITY" or "LITIGATION" (solely as it relates to the Authority), as then supplemented or amended, to contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading, the Authority will notify the Underwriter, and, if in the opinion of the Authority, the Underwriter or their respective counsel, such event requires the preparation and publication of a supplement or amendment to the Official Statement, the Authority will forthwith prepare and furnish to the Underwriter (at the expense of the Authority) a reasonable number of copies of an amendment of or supplement to the Official Statement (in form and substance satisfactory to the Underwriter) which will amend or supplement the Official Statement so that it will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading. For the purposes of this subsection, between the date hereof and the date which is 25 days after the End of the Underwriting Period for the Certificates, the Authority will furnish such information with respect to itself as the Underwriter may from time to time reasonably request.

(j) If the information contained in the Official Statement under the captions "THE AUTHORITY" or "LITIGATION" (solely as it relates to the Authority) is amended or supplemented pursuant to subparagraph (i) hereof, at the time of each supplement or amendment thereto and (unless subsequently again supplemented or amended pursuant to such subparagraph) at all times subsequent thereto up to and including the date which is 25 days after the End of the Underwriting Period for the Certificates, the portions of the Official Statement so supplemented or amended will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(k) As used herein and for the purposes of the foregoing, the term "End of the Underwriting Period" for the Certificates shall mean the earlier of (i) the Closing Date unless the City shall have been notified in writing to the contrary by the Underwriter on or prior to the Closing Date, or (ii) the date on which the End of the Underwriting Period for the Certificates has occurred under Rule 15c2-12; provided, however, that the City may treat as the End of the Underwriting Period for the Certificates the date specified as such in a notice from the Underwriter stating the date which is the End of the Underwriting Period.

## **Section 7. The Closing.**

(a) At 8:00 a.m., San Francisco time, on [November 2], 2006, or on such earlier or later date as we mutually agree upon (the "Closing Date"), the City will deliver or cause to be delivered to the Underwriter, at a location or locations to be designated by the Underwriter in New York, New York, the Certificates (delivered through the Trustee via the F.A.S.T. delivery book-entry system of The Depository Trust Company, New York, New York ("DTC")), duly executed, and at the offices of Sidley Austin LLP ("Special Counsel") in San Francisco,

California, or such other place as we mutually agree upon, the other documents described herein. The Underwriter shall accept such delivery and pay the purchase price of the Certificates as set forth in Section 1 of this Purchase Contract in immediately available funds to the order of the Trustee, less the premium for the Insurance Policy in the aggregate amount of \$\_\_\_\_\_, which the Underwriter will wire directly to the Insurer.

(b) The Certificates shall be issued in fully registered form and shall be prepared and delivered as one certificate for each maturity registered in the name of a nominee of DTC. It is anticipated that CUSIP identification numbers will be inserted on the Certificates, but neither the failure to provide such numbers nor any error with respect thereto shall constitute a cause for failure or refusal by the Underwriter to accept delivery of the Certificates in accordance with the terms of this Purchase Contract.

**Section 8. Conditions to Underwriter's Obligations.** The Underwriter has entered into this Purchase Contract in reliance upon the representations and warranties of the City and the Authority contained herein and to be contained in the documents and instruments to be delivered on the Closing Date, and upon the performance by the City and the Authority of their respective obligations to be performed hereunder and under such documents and instruments to be delivered at or prior to the Closing Date. The Underwriter's obligations under this Purchase Contract are and shall also be subject to the following conditions:

(a) The representations and warranties of the City and the Authority contained in this Purchase Contract shall be true and correct in all material respects on the date of this Purchase Contract and on and as of the Closing Date as if made on the Closing Date;

(b) As of the Closing Date, the Official Statement may not have been amended, modified or supplemented, except in any case as may have been agreed to by the Underwriter;

(c) (i) As of the Closing Date, the Resolutions, the City Agreements and the Authority Agreements shall be in full force and effect, and shall not have been amended, modified or supplemented, except as may have been agreed to by the Underwriter; and (ii) the City and the Authority shall perform or have performed all of their respective obligations required under or specified in the Resolutions, the City Agreements and the Authority Agreements to be performed at or prior to the Closing Date;

(d) As of the Closing Date, all necessary official action of the City and the Authority relating to the City Agreements, the Authority Agreements, the Resolutions, and the Official Statement, shall have been taken and shall be in full force and effect and shall not have been amended, modified or supplemented in any material respect;

(e) Subsequent to the date of this Purchase Contract, up to and including the Closing Date, there shall not have occurred any change in or particularly affecting the City or the Water Utility System, as these matters are described in the Official Statement, which in the reasonable professional judgment of the Underwriter materially impairs the investment quality of the Certificates;

(f) As of or prior to the Closing Date, the Underwriter shall have received each of the following documents:

(1) Certified copies of the 2006 City Resolution and the 2006 Authority Resolution.

(2) The 2006 City Agreements and 2006 Authority Agreements, each duly executed on behalf of the respective parties thereto.

(3) The Insurance Policy, together with such legal opinions and certificates as may be reasonably requested by Special Counsel, executed on behalf of the Insurer by its duly authorized officer.

(4) The Official Statement duly executed on behalf of the City and the Authority.

(5) An approving opinion of Special Counsel, dated the Closing Date, as to the validity of the Certificates and the exclusion of interest with respect to the Certificates from federal gross income and State income taxation, addressed to the City substantially in the form attached as an appendix to the Official Statement, with a reliance letter to the Underwriter.

(6) A supplemental opinion of Special Counsel, addressed to the Underwriter, to the effect that:

(i) The Certificates are not subject to registration pursuant to the registration requirements of the Securities Act of 1933, are municipal securities within the meaning of the Securities Exchange Act of 1934, as amended, and the Trust Agreement is exempt from qualification as an Trust Agreement pursuant to the Trust Indenture Act of 1939.

(ii) The Purchase Contract has been duly authorized, executed and delivered by the City and the Authority, and, assuming due authorization, execution and delivery by the other parties thereto, constitute the legal, valid and binding agreement of the City and the Authority enforceable in accordance with its terms, subject to laws relating to bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally and the application of equitable principles if equitable remedies are sought and to the limitations on legal remedies against public agencies in the State of California; and

(iii) The statements in the Official Statement under the captions "THE 2006 CERTIFICATES" (excluding information under the sub-caption "Special Considerations for Purchasers of Auction Rate Certificates"), "SECURITY FOR THE 2006 CERTIFICATES" and "TAX MATTERS" and in APPENDIX B – "DEFINITIONS AND SUMMARY OF PRINCIPAL LEGAL DOCUMENTS," APPENDIX C – "ARS PROVISIONS" and APPENDIX D – "PROPOSED FORM OF OPINION OF SPECIAL COUNSEL" to the extent they purport to summarize certain provisions of the City Agreements, the Authority Agreements, the Certificates and the opinion of such counsel, present a fair and accurate summary of such provisions and opinion for purposes of use in the Official Statement.

(7) The opinion of the City Attorney, dated the Closing Date and addressed to the Underwriter, to the effect that (i) the City is a charter city and municipal corporation organized and existing pursuant to the Constitution and laws of the State; (ii) the City Resolutions were duly adopted at meetings of the City Council which were called and held pursuant to law and with all public notice required by law and at which a quorum was present and acting throughout; (iii) to the best knowledge of such counsel after reasonable investigation, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened against or affecting the City, challenging the existence of the City or the titles of its officers to their respective offices or seeking to prohibit, restrain or enjoin the sale, execution or delivery of the Certificates or the pledge of the Payments under the Contract or in any way contesting or affecting the validity or enforceability of the City Agreements or contesting the powers of the City or its authority to enter into, adopt or perform its obligations under any of the foregoing, or which would have a material adverse effect on the City's ability to perform its obligations under the City Agreements or contesting in any way the completeness or accuracy of the Official Statement; (iv) the execution and delivery of the 2006 City Agreements and the Official Statement, the adoption of the City Resolutions, and compliance by the City with the provisions of the foregoing, under the circumstances contemplated thereby, do not and will not in any material respect conflict with or constitute, on the part of the City, a breach or default under any agreement or instrument to which the City is a party or by which it is bound or, to the best knowledge of such counsel, any existing law, regulation, court order or consent decree to which the City is subject; (v) the Official Statement has been duly authorized, executed and delivered, and the City Agreements have been duly authorized, executed and delivered by the City and, assuming due authorization, execution and delivery by the other parties thereto, constitute legal, valid and binding agreements of the City enforceable in accordance with their respective terms, subject to laws relating to bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally and the application of equitable principles if equitable remedies are sought and to the limitations on legal remedies against cities in the State of California; (vi) except as described in the Official Statement, no authorization, approval, consent, or other order of the State or any other governmental authority or agency within the State having jurisdiction over the City is required for the valid authorization, execution, delivery and performance by the City of the City Agreements or for the adoption of the City Resolutions which has not been obtained; and (vii) to the best of such counsel's knowledge, the information contained in the Official Statement (except for any financial or statistical data or forecasts, estimates, projections, assumptions or expressions of opinion, and information relating to DTC, the book-entry system, the Insurer, the Insurance Policy as to which no opinion need be expressed), does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading;

(8) The opinion of counsel to the Authority, dated the Closing Date and addressed to the Underwriter, to the effect that (i) the Authority is a joint exercise of powers authority, duly organized and existing pursuant to the JPA Agreement and the laws of the State; (ii) the Authority Resolutions were duly adopted at meetings of the Governing Board which were called and held pursuant to law and with all public notice

required by law and at which a quorum was present and acting throughout; (iii) to the best knowledge of such counsel after reasonable investigation, there is no action, suit, proceeding or investigation at law or in equity before or by any court, public board or body, pending or threatened against or affecting the Authority, challenging the existence of the Authority or the titles of its officers to their respective offices or seeking to prohibit, restrain or enjoin the sale, execution or delivery of the Certificates or the collection of the Payments under the Contract or in any way contesting or affecting the validity or enforceability of the Authority Agreements or contesting the powers of the Authority or its authority to enter into, adopt or perform its obligations under any of the foregoing, or which would have a material adverse effect on the Authority's ability to perform its obligations under the Authority Agreements or contesting in any way the completeness or accuracy of the Official Statement; (iv) the execution and delivery of the 2006 Authority Agreements, the adoption of the Authority Resolutions, and compliance by the Authority with the provisions of the foregoing, under the circumstances contemplated thereby, do not and will not in any material respect conflict with or constitute, on the part of the Authority, a breach or default under the JPA Agreement or any other agreement or other instrument to which the Authority is a party or by which it is bound or, to the best knowledge of such counsel, any existing law, regulation, court order or consent decree to which the Authority is subject; (v) the Authority Agreements have been duly authorized, executed and delivered by the Authority and, assuming due authorization, execution and delivery by the other parties thereto, constitute legal, valid and binding agreements of the Authority enforceable in accordance with their respective terms, subject to laws relating to bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally and the application of equitable principles if equitable remedies are sought and to the limitations on legal remedies against authorities in the State of California; (vi) except as described in the Official Statement, no authorization, approval, consent, or other order of the State or any other governmental authority or agency within the State having jurisdiction over the Authority is required for the valid authorization, execution, delivery and performance by the Authority of the Authority Agreements or for the adoption of the Authority Resolutions which has not been obtained; and (vii) to the best of such counsel's knowledge, the information regarding the Authority contained in the Official Statement (except for any financial or statistical data or forecasts, estimates, projections, assumptions or expressions of opinion, information relating to DTC, the book-entry system, the Insurer, the Insurance Policy as to which no opinion need be expressed) does not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading;

(9) A certificate, dated the Closing Date, signed by a duly authorized representative of the City satisfactory to the Underwriter, in form and substance satisfactory to the Underwriter, to the effect that:

(i) the representations and warranties of the City contained in Section 5 of this Purchase Contract are accurate in all material aspects, as and if made on the Closing Date;

(ii) the City Agreements have been duly executed and delivered and each constitutes a valid and legally binding obligation of the City enforceable in accordance with its terms, subject to laws relating to bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally and the application of equitable principles if equitable remedies are sought;

(iii) the City Resolutions are in full force and effect at the Closing Date and have not been amended, modified or supplemented, except as agreed to by the City and the Underwriter;

(iv) the City has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied on or prior to the Closing Date;

(v) subsequent to the date of the Official Statement and on or prior to the date of such certificate, there has been no material adverse change in the condition (financial or otherwise) of the City or the Water Utility System, whether or not arising in the ordinary course of the operations of the City, as described in the Official Statement; and

(vi) the Official Statement does not contain any untrue or misleading statement of a material fact and does not omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they are made, not misleading.

(10) A certificate, dated the Closing Date, signed by a duly authorized representative of the Authority satisfactory to the Underwriter, in form and substance satisfactory to the Underwriter, to the effect that:

(i) the representations and warranties of the Authority contained in Section 6 of this Purchase Contract are accurate in all material aspects, as and if made on the Closing Date;

(ii) the Authority Agreements have been duly executed and delivered and each constitutes a valid and legally binding obligation of the Authority enforceable in accordance with its terms, subject to laws relating to bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally and the application of equitable principles if equitable remedies are sought;

(iii) the Authority Resolutions are in full force and effect at the Closing Date and have not been amended, modified or supplemented, except as agreed to by the Authority and the Underwriter;

(iv) the Authority has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied on or prior to the Closing Date; and

(v) the information contained in the Official Statement under the captions "THE AUTHORITY" and "LITIGATION" (solely as it relates to the

Authority) does not contain any untrue or misleading statement of a material fact and does not omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they are made, not misleading.

(11) A certificate of an authorized officer of the Insurer, dated the Closing Date to the effect that the information relating to the Insurer, the Insurance Policy contained in the Official Statement, as of its date and as of the Closing Date, is true and correct in all material respects.

(12) The opinion, dated the Closing Date and addressed to the Underwriter and the City, of Stradling Yocca Carlson & Rauth, a Professional Corporation, disclosure counsel ("Disclosure Counsel") to the effect that:

(i) the Certificates are not subject to the registration requirements of the Securities Act of 1933, as amended, and the Trust Agreement is exempt from qualification pursuant to the Trust Indenture Act of 1939, as amended. No opinion is expressed with respect to the Insurance Policy; and

(ii) based on Disclosure Counsel's participation in conferences with representatives of the Underwriter, Orrick, Herrington & Sutcliffe LLP, as Underwriter's counsel ("Underwriter's Counsel"), the City, the City Attorney, the Authority, counsel to the Authority, Public Financial Management, Inc., as financial advisor, Special Counsel and others, during which conferences the contents of the Official Statement and related matters were discussed, and in reliance thereon and on the records, documents, certificates and opinions described therein, Disclosure Counsel advises the Underwriter and the City that, during the course of its engagement as disclosure counsel on this matter, no information came to its attention that caused it to believe that the Official Statement as of its date and as of the date of such opinion (except for any financial or statistical data or forecasts, numbers, charts, estimates, projections, assumptions or expressions of opinion, Appendices A through D and F through H or any information about book-entry, the DTC, the Insurer, the Insurance Policy included therein, as to which no opinion or view need be expressed) contained or contains any untrue statement of a material fact or omitted or omits to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

(13) The opinion of counsel of the Trustee, dated the Closing Date, addressed to the City and the Underwriter to the effect that:

(i) The Trustee is a national banking association duly organized, validly existing and in good standing under the laws of the United States of America, having full powers and authority and being qualified to enter into, accept and administer the trust created under the Trust Agreement and to enter into the Trust Agreement, the Continuing Disclosure Agreement and the Auction Agreement.

(ii) The performance by the Trustee of the duties required under the Trust Agreement, the Continuing Disclosure Agreement and the Auction Agreement has been duly authorized by all necessary corporate action on the part of the Trustee, and under present law do not contravene any law or government regulation or order presently binding on the Trustee or contravene any law or governmental regulation or order presently binding on the Trustee or the articles of association/articles of incorporation/charter, as applicable, or the bylaws of the Trustee or contravene any provision of or constitute a default under any indenture, trust agreement, contract or other instrument to which the Trustee is a party or by which the Trustee is bound.

(iii) The performance by the Trustee of the duties required under the Trust Agreement, the Continuing Disclosure Agreement and the Auction Agreement does not require the consent or approval of, the giving of notice to, the registration with, or the taking of any other action in respect of, any federal, state or other governmental agency or authority.

(iv) The Trust Agreement, the Continuing Disclosure Agreement and the Auction Agreement have been duly authorized, executed and delivered by the Trustee, and, assuming due authorization, execution and delivery by the other parties thereto, the Trust Agreement, the Continuing Disclosure Agreement and the Auction Agreement constitute legal, valid and binding agreements of the Trustee enforceable in accordance with their respective terms, subject to laws relating in bankruptcy, insolvency or other laws affecting the enforcement of creditors' rights generally and the application of equitable principles if equitable remedies are sought.

(v) The Trustee has duly authorized the execution and delivery of the Trust Agreement, the Continuing Disclosure Agreement and the Auction Agreement.

(vi) All approvals, consents and orders of any governmental authority or agency having jurisdiction in the matter which would constitute a condition precedent to the performance by the Trustee of its duties and obligations under the Trust Agreement, the Continuing Disclosure Agreement and the Auction Agreement have been obtained and are in full force and effect.

(14) A certificate or certificates, dated the Closing Date, in form and substance acceptable to the Underwriter, of an authorized officer of the Trustee to the effect that:

(i) The Trustee is a national banking association duly organized and validly existing under the laws of the United States of America.

(ii) The Trustee has full corporate trust powers and authority to serve as Trustee under the Trust Agreement and to perform its obligations and duties under the Trust Agreement, the Continuing Disclosure Agreement and the Auction Agreement, and the Trust Agreement, the Continuing Disclosure



Agreement and the Auction Agreement have been executed by a duly authorized officer of the Trustee.

(iii) The Certificates have been duly executed and delivered by the Trustee.

(iv) The Trustee's action in serving as Trustee under the Trust Agreement is in full compliance with, and does not conflict with, any applicable law or governmental regulation currently in effect, and does not conflict with or violate any contract to which the Trustee is a party or any administrative or judicial decision by which the Trustee is bound.

(15) An arbitrage certificate relating to the Certificates duly signed on behalf of the City.

(16) Evidence of required filings with the California Debt and Investment Advisory Commission.

(17) A copy of the executed Blanket Issuer Letter of Representations by and between the City and DTC relating to the book entry system.

(18) Evidence that insured ratings on the Certificates of "AAA" by Standard & Poor's Ratings Services ("S&P") and "Aaa" by Moody's Investors Service, Inc. ("Moody's") and underlying ratings on the Certificates of "A+" by S&P and "A2" by Moody's are in full force and effect on the Closing Date.

(19) A Certificate of the Auction Agent, dated the Closing Date, executed by an authorized representative of the Auction Agent, to the effect that: (i) the Auction Rate Agreements have been duly authorized, executed and delivered by the Auction Agent; (ii) the Auction Agent has full power and authority to carry out its obligations under the Auction Rate Agreements; and (iii) there is no action, suit, proceeding, inquiry or investigation at law or in equity before or by any court, public board or body pending or known to be threatened against or affecting the Auction Agent where an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Auction Rate Agreements;

(20) Such additional legal opinions, certificates, proceedings, instruments and other documents as the Underwriter or Special Counsel may reasonably request to evidence compliance by the City and the Authority with legal requirements, the truth and accuracy, as of the Closing Date, of the representations of the City and the Authority herein contained and of the Official Statement and the due performance or satisfaction by the City at or prior to such time of all agreements then to be performed and all conditions then to be satisfied by the City.

All of the opinions, letters, certificates, instruments and other documents mentioned in this Purchase Contract shall be deemed to be in compliance with the provisions of this Purchase Contract if, but only if, they are in form and substance satisfactory to the Underwriter. If the City or the Authority is unable to satisfy the conditions to the obligations of the Underwriter to

purchase, to accept delivery of and to pay for the Certificates contained in this Purchase Contract or if the obligations of the Underwriter to purchase, to accept delivery of and to pay for the Certificates shall be terminated for any reason permitted by this Purchase Contract, this Purchase Contract shall terminate and neither the Underwriter, the City nor the Authority shall be under further obligations hereunder, except that the respective obligations of the Authority, the City and the Underwriter set forth in Section 9 of this Purchase Contract shall continue in full force and effect.

**Section 9. Conditions to the Authority's and the City's Obligations.** The performance by the Authority and the City of their respective obligations under this Purchase Contract are conditioned upon: (i) the performance by the Underwriter of its obligations hereunder and (ii) receipt by the Authority and the City of opinions addressed to the Authority and the City, and receipt by the Underwriter of opinions addressed to the Underwriter, and the delivery of certificates being delivered on the Closing Date by persons and entities other than the City and the Authority.

**Section 10. Termination Events.** The Underwriter shall have the right to terminate the Underwriter's obligations under this Purchase Contract to purchase, to accept delivery of and to pay for the Certificates by notifying the City of its election to do so if, after the execution hereof and prior to the Closing: (1) the marketability of the Certificates or the market price thereof, in the reasonable opinion of the Underwriter, has been materially and adversely affected by any decision issued by a court of the United States (including the United States Tax Court) or of the State of California, by any ruling or regulation (final, temporary or proposed) issued by or on behalf of the Department of the Treasury of the United States, the Internal Revenue Service, or other governmental agency of the United States, or any governmental agency of the State of California, or by a tentative decision or announcement by any member of the House Ways and Means Committee, the Senate Finance Committee, or the Conference Committee with respect to contemplated legislation or by legislation enacted by, pending in, or favorably reported to either the House of Representatives or either House of the Legislature of the State of California, or formally proposed to the Congress of the United States by the President of the United States or to the Legislature of the State of California by the Governor of the State of California in an executive communication, affecting the tax status of the City or the Authority, its property or income, its obligations (including the Certificates) or the interest thereon or any tax exemption granted or authorized by the Internal Revenue Code of 1986, as amended; (2) the United States shall have become engaged in new hostilities which have resulted in a declaration of war or a national emergency, or there shall have occurred any other outbreak or escalation or re-escalation of hostilities, or a local, national or international calamity or crisis, financial or otherwise, the effect of such outbreak, calamity or crisis being such as, in the reasonable opinion of the Underwriter, would affect materially and adversely the ability of the Underwriter to market the Certificates; (3) there shall have occurred a general suspension of trading on the New York Stock Exchange or the declaration of a general banking moratorium by the United States, New York State or California State authorities; (4) a stop order, ruling, regulation or official statement by, or on behalf of, the Securities and Exchange Commission shall be issued or made to the effect that the execution and delivery of the Certificates is or would be in violation of any provision of the Securities Act of 1933, as then in effect, or of the Securities Exchange Act of 1934, as then in effect, or of the Trust Indenture Act of 1939, as then in effect; (5) legislation shall be enacted by the House of Representatives or the Senate of the Congress of the United States of America, or a

decision by a court of the United States of America shall be rendered, or a ruling or regulation by or on behalf of the Securities and Exchange Commission or other governmental agency having jurisdiction of the subject matter shall be made or proposed to the effect that the Certificates are not exempt from registration, qualification or other similar requirements of the Securities Act of 1933, as then in effect, or of the Trust Indenture Act of 1939, as then in effect; (6) in the reasonable judgment of the Underwriter, the market price of the Certificates, or the market price generally of obligations of the general character of the Certificates, might be materially and adversely affected because additional material restrictions not in force as of the date hereof shall have been imposed upon trading in securities generally by any governmental authority or by any national securities exchange; (7) the Comptroller of the Currency, The New York Stock Exchange, or other national securities exchange, or any governmental authority, shall impose, as to the Certificates or obligations of the general character of the Certificates, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of, or financial responsibility requirements of the Underwriter; (8) a general banking moratorium shall have been established by federal, New York or State authorities; (9) any legislation, ordinance, rule or regulation shall be introduced in or be enacted by any governmental body, department or agency in the State or a decision of a court of competent jurisdiction within the State shall be rendered, which, in the reasonable opinion of the Underwriter, after consultation with the City, materially adversely affects the market price of the Certificates; (10) any federal or California court, authority or regulatory body shall take action materially and adversely affecting the collection or pledge of the Payments under the Contract; (11) any event occurring, or information becoming known which, in the reasonable opinion of the Underwriter, makes untrue in any material respect any statement or information contained in the Official Statement, or has the effect that the Official Statement contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading; or (12) the withdrawal or downgrading of the rating of the Certificates to less than "Aaa" by Moody's or less than "AAA" by S&P.

#### **Section 11. Payment of Expenses.**

(a) The Underwriter shall be under no obligation to pay, and the City shall pay the following expenses incident to the performance of the City's obligations hereunder:

- (i) the fees and disbursements of Special Counsel and Disclosure Counsel;
- (ii) the cost of printing and delivering the Certificates, the Official Statement (and any amendment or supplement prepared pursuant to Section 5 or 6 of this Purchase Contract);
- (iii) the fees and disbursements of accountants, advisers and of any other experts or consultants retained by the City;
- (iv) the premium for the Insurance Policy; and
- (v) any other expenses and costs of the City incident to the performance of its obligations in connection with the authorization, issuance and sale of the Certificates, including,

but not limited to, out of pocket expenses and regulatory expenses, and any other expenses agreed to by the parties.

(b) The Underwriter shall pay all expenses incurred by them in connection with the public offering and distribution of the Certificates including, but not limited to:

(i) all advertising expenses in connection with the offering of the Certificates;  
and

(ii) the fees and expenses of Underwriter's Counsel;

(iii) all out-of-pocket disbursements and expenses incurred by the Underwriter in connection with the offering and distribution of the Certificates, except as provided in (a) above or as otherwise agreed to by the Underwriter and the City.

**Section 12. Notices.** Any notice or other communication to be given to the City under this Purchase Contract may be given by delivering the same in writing to the City at the address set forth on the first page of this Purchase Contract, and any notice or other communication to be given to the Underwriter under this Purchase Contract may be given by delivering the same in writing to Banc of America Securities LLC, CA5-801-18-36, 600 Montgomery Street, Suite 1800, San Francisco, California 94111-2719, Attention: Scott Nagelson, Principal.

**Section 13. Survival of Representations, Warranties, Agreements.** All of the City's representations, warranties and agreements contained in this Purchase Contract shall remain operative and in full force and effect regardless of: (a) any investigations made by or on behalf of the Underwriter; or (b) delivery of and payment for the Certificates pursuant to this Purchase Contract. The agreements contained in this Section and in Section 9 shall survive any termination of this Purchase Contract.

**Section 14. Benefit; No Assignment.** This Purchase Contract is made solely for the benefit of the City, the Authority and the Underwriter (including its successors and assigns), and no other person shall acquire or have any right hereunder or by virtue hereof. The rights and obligations created by this Purchase Contract are not subject to assignment by the Underwriter, the Authority or the City without the prior written consent of the other party hereto.

**Section 15. Severability.** In the event that any provision of this Purchase Contract is held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Purchase Contract.

**Section 16. Counterparts.** This Purchase Contract may be executed in any number of counterparts, all of which taken together shall constitute one agreement, and any of the parties hereto may execute the Purchase Contract by signing any such counterpart.

**Section 17. Governing Law.** The validity, interpretation and performance of this Purchase Contract shall be governed by the laws of the State of California.

**Section 18. Effectiveness.** This Purchase Contract shall become effective upon the execution of the acceptance hereof by an authorized officer of the City, and shall be valid and enforceable as of the time of such acceptance.

Very truly yours,

BANC OF AMERICA SECURITIES LLC

By: \_\_\_\_\_  
Principal

Accepted:

CITY OF MODESTO

By: \_\_\_\_\_  
Director of Finance/Treasurer

MODESTO PUBLIC FINANCING AUTHORITY

By: \_\_\_\_\_  
Auditor and Treasurer

**EXHIBIT A**

**TERM OF THE CERTIFICATES**

The initial Auction Rate for the Certificates is \_\_\_\_\_%.

NEW ISSUE-FULL BOOK-ENTRY ONLY

RATINGS: (Insured) Moody's: Aaa; S&P: AAA  
(Underlying) Moody's: A2; S&P: A+  
(See "Ratings" herein)

*In the opinion of Sidley Austin LLP, San Francisco, California, Special Counsel, based on existing statutes, regulations, rulings and judicial decisions and assuming compliance with certain covenants in the documents pertaining to the 2006 Certificates and requirements of the Internal Revenue Code of 1986, as amended, as described herein, the portion of each 2006 Payment due under the 2006 Contract designated as and comprising interest with respect to the 2006 Certificates is not includable in the gross income of the owners of the 2006 Certificates for federal income tax purposes. In the further opinion of Special Counsel, the portion of each 2006 Payment due under the 2006 Contract designated as and comprising interest with respect to the 2006 Certificates is not treated as an item of tax preference in calculating the federal alternative minimum taxable income of individuals and corporations. Such portion of each 2006 Payment, however, is included as an adjustment in the calculation of federal corporate alternative minimum taxable income and may therefore affect a corporation's alternative minimum tax liability. In the further opinion of Special Counsel, the portion of each 2006 Payment due under the 2006 Contract designated as and comprising interest with respect to the 2006 Certificates is exempt from personal income taxes imposed by the State of California. See "TAX MATTERS" herein.*

**\$46,200,000**

**CITY OF MODESTO, CALIFORNIA  
WATER REVENUE CERTIFICATES OF PARTICIPATION  
2006 SERIES A**

**Dated: Date of Delivery**

**Price: 100%**

**Due: October 1, 2036**

The 2006 Certificates are being executed and delivered pursuant to the 2006 Trust Agreement, dated as of November 1, 2006, by and between the Modesto Public Financing Authority and The Bank of New York Trust Company, N.A., as trustee, for the principal purpose of financing the acquisition, installation and construction of certain improvements to the City of Modesto's Water Utility System. The 2006 Certificates are payable solely from installment payments to be made by the City of Modesto to the Authority pursuant to the Master Installment Purchase Contract, dated as of November 1, 1997, as supplemented by the 2006 Supplemental Installment Purchase Contract, dated as of November 1, 2006, by and between the City and the Authority. The obligation of the City to make such installment payments is a special obligation of the City payable solely from Gross Revenues of its Water Utility System and certain funds and accounts created under the 2006 Trust Agreement. As described herein, those Gross Revenues are also pledged to the payment of certain other Parity Obligations of the City.

The 2006 Certificates will be initially executed and delivered as Auction Rate Securities in denominations of \$25,000 or any integral multiple thereof. The interest with respect to the 2006 Certificates will initially be evidenced at ARS Rates for generally successive 7-day Auction Periods. Each ARS Rate will, except in certain cases, be equal to the annual interest rate that results from the implementation of the ARS Provisions described in APPENDIX C hereto. At the election of the City, the Auction Period for the 2006 Certificates may be changed or the 2006 Certificates may be converted to other Interest Periods as described herein. The 2006 Certificates will be subject to mandatory tender for purchase upon a conversion to an Interest Period other than the ARS Rate Period in the manner described herein. While the 2006 Certificates evidence interest at the ARS Rate, a beneficial owner of a 2006 Certificate may sell, transfer or dispose of a 2006 Certificate only in accordance with the ARS Provisions. *This Official Statement describes the 2006 Certificates only while they evidence interest at the ARS Rate.*

The 2006 Certificates are being executed and delivered in book-entry form only and when executed and delivered will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York. Purchasers of the 2006 Certificates will not receive certificates representing their beneficial ownership in the 2006 Certificates but will receive credit balances on the books of their respective nominees. The principal of and interest evidenced by the 2006 Certificates are payable by the Trustee to Cede & Co.; and such interest and principal payments are to be disbursed to the beneficial owners of the 2006 Certificates through their nominees.

While in an ARS Rate Period, the 2006 Certificates are subject to optional prepayment and mandatory sinking fund prepayment prior to maturity as described herein. The 2006 Certificates will not be subject to optional tender, nor will they be purchased in the event Sufficient Clearing Bids do not exist in any Auction, although they will be subject to mandatory purchase upon conversion to another Interest Period, as described herein.

The scheduled payments of principal of and interest with respect to the 2006 Certificates when due will be guaranteed under an insurance policy to be issued concurrently with the delivery of the 2006 Certificates by MBIA Insurance Corporation.

[MBIA'S LOGO]

**THE OBLIGATION OF THE CITY TO PAY INSTALLMENTS OF PRINCIPAL AND INTEREST IS A SPECIAL OBLIGATION OF THE CITY PAYABLE SOLELY FROM THE GROSS REVENUES OF ITS WATER UTILITY SYSTEM LESS MAINTENANCE AND OPERATIONS COSTS THEREOF (AS DEFINED IN THE MASTER INSTALLMENT PURCHASE CONTRACT), ALL AS FURTHER DESCRIBED HEREIN. SAID OBLIGATION DOES NOT CONSTITUTE A DEBT OF THE CITY OR THE STATE OF CALIFORNIA, OR ANY POLITICAL SUBDIVISION THEREOF, WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY OR THE STATE, OR ANY POLITICAL SUBDIVISION THEREOF, IS PLEDGED TO THE PAYMENT OF THE INSTALLMENT PAYMENTS OR THE INTEREST THEREON.**

*THIS COVER PAGE CONTAINS CERTAIN INFORMATION FOR GENERAL REFERENCE ONLY. IT IS NOT A SUMMARY OF THIS ISSUE. INVESTORS ARE ADVISED TO READ THE ENTIRE OFFICIAL STATEMENT TO OBTAIN INFORMATION ESSENTIAL TO THE MAKING OF AN INFORMED INVESTMENT DECISION.*

*The 2006 Certificates are offered when, as and if delivered and received by the Underwriter, subject to the approval of legality by Sidley Austin LLP, San Francisco, California, Special Counsel, and certain other conditions. Certain legal matters will be passed upon for the Underwriter by Orrick, Herrington & Sutcliffe LLP; for the City and the Authority by the City Attorney of the City and by Stradling Yocca Carlson & Rauth, a Professional Corporation, Newport Beach, California, Disclosure Counsel; for the Trustee by its General Counsel; and for the 2006 Certificate Insurer by its General Counsel. It is anticipated that the 2006 Certificates will be available for delivery to The Depository Trust Company or its agent on or about November 2, 2006.*

**Banc of America Securities LLC**

Dated: October \_\_, 2006

\$46,200,000  
**CITY OF MODESTO, CALIFORNIA**  
**WATER REVENUE CERTIFICATES OF PARTICIPATION**  
**2006 SERIES A**

<i>Initial Auction Date</i>	<i>Auction Day Generally</i>	<i>Auction Period Generally</i>	<i>Initial Interest Payment Date</i>	<i>Interest Payment Day Generally</i>	<i>CUSIP<sup>†</sup></i>
_____, 2006	_____	7 Day	_____, 2006	[Thursday]	607802 ____

The 2006 Certificates will evidence interest from the date of original delivery through the Initial Auction Date set forth above at the rate established by Banc of America Securities LLC, Underwriter for the 2006 Certificates, prior to the date of delivery. Thereafter, the 2006 Certificates will evidence interest for generally successive 7-day Auction Periods, until the Auction Period is changed or the 2006 Certificates are converted to a different Interest Period as described herein. Interest will be payable on the Initial Interest Payment Date set forth above and thereafter on the day following the end of each Auction Period for the 2006 Certificates unless the Auction Period is changed to a daily Auction Period or a Special Auction Period of more than 182 days or unless a different Interest Period is applicable to the Certificates.

The Bank of New York will act as the Auction Agent and Banc of America Securities LLC will act as the Broker-Dealer for the 2006 Certificates.

---

<sup>†</sup> CUSIP® is a registered trademark of the American Bankers Association. Copyright© 2006 Standard & Poor's, a Division of the McGraw Hill Companies, Inc. CUSIP® data herein is provided by Standard & Poor's CUSIP Service Bureau. This data is not intended to create a database and does not serve in any way as a substitute for the CUSIP Service Bureau. CUSIP® numbers are provided for convenience of reference only. The City, the Authority and the Underwriter take no responsibility for the accuracy of such numbers.



**CITY OF MODESTO, CALIFORNIA**

1010 10th Street

P.O. Box 642

Modesto, California 95353

(209) 577-5369

TDD (209) 526-9211 Hearing and Speech Impaired Only

**CITY COUNCIL**

Jim Ridenour, Mayor

Will O'Bryant, Vice Mayor

Bob Dunbar

Brad Hawn

Janice Keating

Garrad Marsh

Kristen Olsen

**CITY OFFICIALS**

George W. Britton, City Manager

Susana Alcala Wood, City Attorney

Wayne Padilla, Finance Director/Treasurer

Gregory M. Baird, Deputy Director of Finance

Nick Pinhey, Director of Public Works

---

**SPECIAL SERVICES**

**Special Counsel**

Sidley Austin LLP

San Francisco, California

**Trustee**

The Bank of New York Trust Company, N.A.

San Francisco, California

**Financial Advisor**

Public Financial Management, Inc.

San Francisco, California

**Disclosure Counsel**

Stradling Yocca Carlson & Rauth, a Professional Corporation

Newport Beach, California

**Auction Agent**

The Bank of New York

New York, New York

All the information which the City of Modesto intends to present investors regarding the City, the Authority, and the 2006 Certificates is contained in this Official Statement. While the City maintains an internet website for various purposes, none of the information on that website is intended to assist investors in making any investment decision, or to provide any continuing information, with respect to the 2006 Certificates or any other obligations of the City. Moreover, none of the information on the website is incorporated herein by reference. No dealer, broker, salesperson or other person has been authorized by the City, the Authority, the 2006 Certificate Insurer or the Underwriter to give any information or to make any representations other than those contained in this Official Statement in connection with the offering made hereby and, if given or made, such other information or representations must not be relied upon as having been authorized by the City, the Authority, the 2006 Certificate Insurer or the Underwriter. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy nor shall there be any sale of the 2006 Certificates by a person in any jurisdiction in which it is unlawful for such person to make such an offer, solicitation or sale.

This Official Statement is not to be construed as a contract with the purchasers of the 2006 Certificates. Statements contained in this Official Statement which involve estimates, forecasts or matters of opinion, whether or not expressly so described herein, are intended solely as such and are not to be construed as a representation of facts.

The information set forth herein has been obtained from sources which are believed to be reliable, but it is not guaranteed as to accuracy or completeness. The information and expression of opinions herein are subject to change without notice and neither delivery of this Official Statement nor any sale made hereunder shall, under any circumstances, create any implication that there has been no change in the affairs of the City or the 2006 Certificate Insurer since the date hereof. All summaries of documents contained herein are made subject to the provisions of such documents and do not purport to be complete statements of any or all such provisions.

---

The Underwriter has provided the following sentence for inclusion in this Official Statement:

*The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.*

---

**CAUTIONARY INFORMATION REGARDING FORWARD-LOOKING STATEMENTS IN  
THIS OFFICIAL STATEMENT**

Certain statements included or incorporated by reference in this Official Statement constitute "Forward-Looking Statements" within the meaning of the United States Private Securities Litigation Reform Act of 1995, Section 21E of the United States Securities Exchange Act of 1934, as amended, and Section 27A of the United States Securities Act of 1933, as amended. Such statements are generally identifiable by the terminology used, such as "plan," "expect," "estimate," "budget" and other similar words and include, but are not limited to, statements that describe possible future connections to and revenues and expenses of the Water Utility System.

The achievement of certain results or other expectations contained in such forward-looking statements involves known and unknown risks, uncertainties and other factors which may cause actual results, performance or achievements described to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. While the City has agreed to provide certain on-going financial and operating data (see "CONTINUING DISCLOSURE" and APPENDIX E hereto), it does not plan to issue any updates or revisions to those forward-looking statements if or when its expectations or events, conditions or circumstances on which statements are based change.

---

THE 2006 CERTIFICATES HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, IN RELIANCE UPON AN EXEMPTION CONTAINED IN SUCH ACT. THE 2006 CERTIFICATES HAVE NOT BEEN REGISTERED OR QUALIFIED UNDER THE SECURITIES LAWS OF ANY STATE.

TABLE OF CONTENTS

Page

INTRODUCTION..... 1  
    General..... 1  
    The 2006 Certificates..... 1  
    Security for the 2006 Certificates ..... 2  
    Certificate Insurance ..... 3  
    Swap Agreement..... 3  
    The City ..... 4  
    The Water Utility System ..... 4  
    Tax Matters ..... 4  
    Continuing Disclosure ..... 4

THE 2006 PROJECT ..... 5

ESTIMATED SOURCES AND USES OF FUNDS ..... 6

THE 2006 CERTIFICATES ..... 6  
    General..... 6  
    Book-Entry-Only System..... 6  
    Interest Rate Provisions ..... 7  
    ARS Provisions..... 7  
    ARS Rate ..... 7  
    Mandatory Tender for Purchase Upon Conversion ..... 8  
    Special Considerations for Purchasers of Auction Rate Securities..... 8  
    Prepayment ..... 11  
    Purchase in Lieu of Prepayment ..... 13  
    Parity Obligations ..... 13

SECURITY FOR THE 2006 CERTIFICATES..... 13  
    General..... 13  
    2006 Payments..... 13  
    Pledge of Gross Revenues ..... 15  
    Rate Covenant..... 15  
    Parity Reserve Fund..... 16  
    Flow of Funds ..... 18  
    Existing and Future Parity Obligations..... 21

CERTIFICATE INSURANCE ..... 23  
    Certificate Insurance Policy..... 23  
    MBIA Insurance Corporation ..... 24

THE WATER UTILITY SYSTEM ..... 26  
    History of the Water Utility System ..... 26  
    Existing Facilities ..... 27  
    Sources of Water..... 28  
    Treatment and Delivery Agreement..... 29  
    Water Quality..... 32  
    DBCP Settlement Agreement ..... 32  
    PCE Litigation ..... 33  
    Employees..... 34

**TABLE OF CONTENTS**  
(continued)

	<i>Page</i>
Retirement Programs .....	34
Insurance .....	35
Service Area and Customers .....	35
Water Charges and Billing .....	36
Delinquencies .....	40
Historical Operating Results .....	41
Capital Improvement Program .....	41
Summary of Projected Operating Results of the Water Utility System .....	42
Impact of Proposition 218 on Water System Fees and Charges .....	42
Effect of Proposition 218 and of Possible General Limitations on Enforcement Remedies .....	44
Investment Policy .....	44
Financial Statements .....	45
<b>RISK FACTORS</b> .....	<b>45</b>
General .....	46
Earthquakes, Floods and Other Natural Disasters .....	46
Demand for Water .....	47
Water Supply .....	47
Water Utility System Expenses .....	47
Rate Process .....	47
Statutory and Regulatory Impact .....	47
Limitations on Remedies and Bankruptcy .....	48
Limited Obligations .....	48
<b>THE AUTHORITY</b> .....	<b>49</b>
<b>APPROVAL OF LEGAL PROCEEDINGS</b> .....	<b>49</b>
<b>LITIGATION</b> .....	<b>49</b>
<b>TAX MATTERS</b> .....	<b>49</b>
<b>CONTINUING DISCLOSURE</b> .....	<b>51</b>
<b>RATINGS</b> .....	<b>52</b>
<b>FINANCIAL ADVISOR</b> .....	<b>52</b>
<b>CERTAIN RELATIONSHIPS</b> .....	<b>52</b>
<b>UNDERWRITING</b> .....	<b>52</b>
<b>MISCELLANEOUS</b> .....	<b>53</b>
<b>APPENDIX A – EXCERPTS FROM THE CITY’S FINANCIAL STATEMENTS</b> .....	<b>A-1</b>
<b>APPENDIX B – DEFINITIONS AND SUMMARY OF PRINCIPAL LEGAL DOCUMENTS</b> .....	<b>B-1</b>

**TABLE OF CONTENTS**  
*(continued)*

	<i>Page</i>
APPENDIX C – ARS PROVISIONS .....	C-1
APPENDIX D – PROPOSED FORM OF OPINION OF SPECIAL COUNSEL.....	D-1
APPENDIX E – FORM OF CONTINUING DISCLOSURE AGREEMENT .....	E-1
APPENDIX F – INFORMATION CONCERNING DTC.....	F-1
APPENDIX G – SPECIMEN CERTIFICATE INSURANCE POLICY .....	G-1
APPENDIX H– CERTAIN INFORMATION ABOUT THE CITY.....	H-1

**\$46,200,000**  
**CITY OF MODESTO, CALIFORNIA**  
**WATER REVENUE CERTIFICATES OF PARTICIPATION**  
**2006 SERIES A**

**INTRODUCTION**

**General**

This Official Statement, including the cover page and all appendices attached hereto, provides certain information concerning the City of Modesto Water Revenue Certificates of Participation, 2006 Series A (the "2006 Certificates"), evidencing and representing the proportionate interests of the Owners thereof in 2006 Payments to be made by the City of Modesto, California (the "City"). Descriptions and summaries of various documents hereinafter set forth do not purport to be comprehensive or definitive, and reference is made to each document for complete details of all terms and conditions thereof. Capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in APPENDIX B — "DEFINITIONS AND SUMMARY OF PRINCIPAL LEGAL DOCUMENTS" or in APPENDIX C — "ARS PROVISIONS."

The 2006 Certificates are being executed and delivered primarily to finance the acquisition and construction of various additions, betterments, extensions and improvements (collectively, the "2006 Project") to the City's water system (the "Water Utility System") as further described under the caption "THE 2006 PROJECT" below. Proceeds derived from the sale of the 2006 Certificates will also be used to fund the Parity Reserve Fund, to fund interest with respect to the 2006 Certificates in an amount estimated to equal to the interest estimated to accrue through October 1, 2007, and to pay the costs of executing and delivering the 2006 Certificates and the fees of the Broker-Dealer and the Auction Agent through October 1, 2007. See "ESTIMATED SOURCES AND USES OF FUNDS."

**The 2006 Certificates**

The 2006 Certificates represent the proportionate undivided interests of the registered owners thereof (the "Owners") in installment payments (the "2006 Payments") payable by the City under the Master Installment Purchase Contract, dated as of November 1, 1997 (the "Master Contract"), by and between the City and the Modesto Public Financing Authority, a California joint exercise of powers agency (the "Authority"), as supplemented by the 1997 Supplemental Installment Purchase Contract, dated as of November 1, 1997, by and between the City and the Authority (the "1997 Contract") and by the 2006 Supplemental Installment Purchase Contract, dated as of November 1, 2006 by and between the City and the Authority (the "2006 Contract" and, collectively with the Master Contract and the 1997 Contract, the "Contract"). The 2006 Certificates are being executed and delivered pursuant to the Trust Agreement, dated as of November 1, 2006 (the "2006 Trust Agreement"), by and between the Authority and The Bank of New York Trust Company, N.A., as trustee (the "Trustee"). Pursuant to the 2006 Trust Agreement, the Authority has assigned to the Trustee for the benefit of the Owners of the 2006 Certificates substantially all its rights under the Contract, including its right to receive 2006 Payments payable under the Contract and its right to enforce payment by the City of the 2006 Payments when due.

The 2006 Certificates will be dated as of the date on which they are executed and delivered and will mature on October 1, 2036 (the "Maturity Date"). The 2006 Certificates will be initially

issued in denominations of \$25,000 and any integral multiple thereof as Auction Rate Securities ("ARS") and will initially evidence interest at ARS Rates determined in accordance with the ARS Provisions set forth in the 2006 Trust Agreement. When they evidence interest at ARS Rates, the 2006 Certificates are referred to as "ARS Certificates." See APPENDIX C — "ARS PROVISIONS." The 2006 Certificates are subject to mandatory tender for purchase upon conversion to a new Interest Period, and they are also subject to optional and mandatory prepayment prior to the Maturity Date as described herein. See "THE 2006 CERTIFICATES."

### **Security for the 2006 Certificates**

*General.* The 2006 Certificates represent the proportionate, undivided interests of the Owners in the 2006 Payments. The City is required to make the 2006 Payments pursuant to the provisions of the Contract. The 2006 Payments represent the purchase price of the improvements to the Water Utility System (the "2006 Project") which the Authority is selling to the City.

*The Master Contract.* The Master Contract establishes the terms and conditions upon which certain obligations of the City will be incurred and secured. Pursuant to the Master Contract, all Gross Revenues (as defined in the Master Contract) of the Water Utility System are pledged to the payment of the 2006 Payments, all payments required to be made under all other Parity Obligations and Maintenance and Operations Costs; and amounts on deposit in the Parity Reserve Fund are pledged to the payment of the 1997 Payments (defined below), the 2006 Payments and any other obligations hereafter issued in connection with a Supplemental Contract. The City has previously incurred, and may in the future incur, obligations payable from Gross Revenues on a parity with the 2006 Payments ("Parity Obligations") pursuant to the terms and conditions of the Master Contract. See "SECURITY FOR THE 2006 CERTIFICATES — Existing and Future Parity Obligations." To provide additional security for the 2006 Certificates and Parity Obligations, the Master Contract contains a rate covenant which requires the City to fix, prescribe, and collect certain minimum rates, fees and charges for the water service, calculated in accordance with the Master Contract. See "SECURITY FOR THE 2006 CERTIFICATES — Rate Covenant."

*The 1997 Contract.* The City has previously financed and refinanced certain improvements to its Water Utility System pursuant to the 1997 Contract, under which the City is obligated to make certain payments (the "1997 Payments") to the Authority as payment of the purchase price for those improvements. The 1997 Payments are payable from Gross Revenues on a parity with the 2006 Payments.

*The 2006 Contract.* The 2006 Contract is a Parity Obligation executed and delivered under the provisions of the Master Contract. In consideration of the Authority's agreement to finance the 2006 Project pursuant to the provisions of the 2006 Contract, the City agrees to pay to the Authority, solely from Gross Revenues, the 2006 Payments as provided in the 2006 Contract. The obligation of the City to make the 2006 Payments from Gross Revenues is absolute and unconditional; and, until such time as the 2006 Payments have been paid in full (or provision for the payment thereof shall have been made pursuant to the Master Contract), the City will not discontinue or suspend any such payments required to be made by it under the 2006 Contract when due whether or not the Water Utility System or any part thereof is operating or operable, or its use is suspended, interfered with, reduced, curtailed or terminated in whole or in part. See "SECURITY FOR THE 2006 CERTIFICATES — The 2006 Contract."

THE OBLIGATION OF THE CITY TO PAY THE 2006 PAYMENTS IS A SPECIAL OBLIGATION OF THE CITY PAYABLE SOLELY FROM GROSS REVENUES OF THE WATER UTILITY SYSTEM AND DOES NOT CONSTITUTE A DEBT OF THE CITY OR OF THE STATE OF CALIFORNIA OR ANY POLITICAL SUBDIVISION THEREOF IN CONTRAVENTION OF ANY CONSTITUTIONAL OR STATUTORY DEBT LIMITATION OR RESTRICTION. NEITHER THE FAITH AND CREDIT NOR THE TAXING POWER OF THE CITY OR THE STATE OF CALIFORNIA, OR ANY POLITICAL SUBDIVISION, THEREOF IS PLEDGED TO THE PAYMENT OF THE 2006 PAYMENTS.

### **Certificate Insurance**

MBIA Insurance Corporation (“MBIA” or the “2006 Certificate Insurer”) has issued a commitment to issue, simultaneously with the delivery of the 2006 Certificates, a municipal bond insurance policy (the “2006 Certificate Insurance Policy”) relating to the 2006 Certificates, effective as of the date of delivery of the 2006 Certificates. By the terms of the 2006 Certificate Insurance Policy, MBIA agrees to pay the principal and interest represented by the 2006 Certificates which come due for payment but which are unpaid, to the extent that the Trustee has not received sufficient funds from the City with which to make such payment. See “CERTIFICATE INSURANCE” and APPENDIX G — “SPECIMEN CERTIFICATE INSURANCE POLICY.”

In connection with the issuance of the 2006 Certificate Insurance Policy, the City and the Trustee will enter into an agreement with MBIA (the “Insurance and Reimbursement Agreement”), and the City’s obligations thereunder will be Parity Obligations.

### **Swap Agreement**

In connection with the execution and delivery of the 2006 Certificates, the City has entered into an interest rate swap agreement in the form of an ISDA Master Agreement, the U.S. Municipal Counterparty Schedule thereto, a Credit Support Annex and a Confirmation, each dated September 27, 2006 (collectively, the “Swap Agreement”) with Bank of America, N.A. (the “Swap Provider”). The Swap Agreement will become effective on November 2, 2006 and is scheduled to expire on the Maturity Date of the 2006 Certificates; and the notional amount of the Swap Agreement is scheduled to be reduced on the same dates and in the same amounts as the principal evidenced by the 2006 Certificates is scheduled to be reduced. Pursuant to the Swap Agreement, the City will be required to make periodic payments to the Swap Provider calculated on the basis of a fixed rate of interest on an initial notional amount equal to the principal amount represented by the 2006 Certificates. In return, the Swap Provider will be required to make periodic payments to the City calculated on the basis of a variable rate of interest equal to a percentage of LIBOR on the same notional amount. The amounts payable by each party pursuant to the Swap Agreement are netted against the payments to be received by such party thereunder.

Certain of the amounts that may be payable by the City to the Swap Provider will be insured pursuant to a policy of interest rate swap insurance to be issued by MBIA pursuant to the Insurance and Reimbursement Agreement (the “Swap Policy”).

The City’s obligations under the Swap Agreement to make scheduled payments and certain termination payments (but only if such termination payments are insured pursuant to the Swap Policy) are Parity Obligations. No arrangements made in respect of the Swap Agreement will alter the City’s obligation to make the 2006 Payments.



Both the City and the Swap Provider have the right to terminate the Swap Agreement prior to its stated termination date under certain conditions. Any such termination could result in an obligation on the part of the City or the Swap Provider to make termination payments to the other party, and the amount of such termination payments could be substantial. Any obligation on the part of the City to make such a termination payment (other than a termination payment that is insured under the terms of the Swap Policy) will not be a Parity Obligation and will be subordinate to the City's liabilities with respect to Parity Obligations.

Neither the Trustee nor the Owners will have any rights under the Swap Agreement or against the Swap Provider.

The Swap Provider and Banc of America Securities LLC, the Underwriter and Broker-Dealer, are affiliates, both being subsidiaries of the Bank of America Corporation.

### **The City**

The City was incorporated in 1884, is the county seat of Stanislaus County, had an estimated population of approximately 208,107 as of January 1, 2006, and covers approximately 36 square miles. The City operates under a council-manager form of government pursuant to a charter adopted in 1963. It is located in Central California, approximately 93 miles east of San Francisco. See APPENDIX H — "CERTAIN INFORMATION ABOUT THE CITY."

### **The Water Utility System**

The Water Utility System provides potable water service to residential, commercial and industrial consumers located within the incorporated area of the City and in neighboring areas of Stanislaus County. The City owns, operates and maintains the Water Utility System, which is the sole retail provider of water service in the City. See "THE WATER UTILITY SYSTEM."

### **Tax Matters**

For description of the tax status of interest with respect to the 2006 Certificates, see "TAX MATTERS" herein and see the complete copy of the proposed form of opinion of Special Counsel set forth in APPENDIX D — "PROPOSED FORM OF OPINION OF SPECIAL COUNSEL."

### **Continuing Disclosure**

The City has agreed to provide, or cause to be provided, certain annual financial information and operating data to each nationally recognized municipal securities information repository and any public or private repository or entity designated by the State as a state repository for purposes of the Securities and Exchange Commission's Rule 15c2-12(b)(5) by no later than 270 days after the end of each Fiscal Year and, in a timely manner, notice of certain material events to said repositories or to the Municipal Securities Rulemaking Board. The City has agreed to do so in order to assist the Underwriter in complying with Rule 15c2-12(b)(5). See "CONTINUING DISCLOSURE" herein for a further discussion of the City's disclosure obligation and APPENDIX E — "FORM OF CONTINUING DISCLOSURE AGREEMENT" for the form of its Continuing Disclosure Agreement.

## THE 2006 PROJECT

The 2006 Project consists of improvements required to be made by the City in connection with the Modesto Irrigation District's expansion of the Modesto Regional Water Treatment Plant (the "Water Treatment Plant"), including the construction of several new downstream water facilities and various water distribution system improvements to insure the reliability of water supply to both existing and future customers. The 2006 Project includes the acquisition of land and rights of way as well as design and construction costs related to the new facilities and improvements. The facilities include the acquisition, construction and installation of three storage tanks and connecting transmission facilities, construction and improvement of transmission/distribution mains and associated pump stations, and installation of motor-operated control valves which will control the flow of treated surface water from the Water Treatment Plant to the City system. The 2006 Project facilities and improvements will help replace less reliable groundwater production capacity, improve the City's ability to maintain desired system operational pressures during high-demand periods and meet other operational criteria. These facilities will also improve system distribution capabilities to future customers. Proceeds of the 2006 Certificates may also be used for other improvements to the Water Utility System approved by the City Council.

The Water Treatment Plant was constructed and is owned and operated by the Modesto Irrigation District ("MID"). Pursuant to an agreement with the City (the "Treatment and Delivery Agreement"), MID has agreed to an expansion of the Water Treatment Plant, doubling its rated capacity from approximately 30 million gallons per day to approximately 60 million gallons per day. (The Water Treatment Plant has been designed to accommodate a possible further expansion subject to a future agreement between the City and MID.) In order to finance this expansion, MID is expected to issue bonds in the spring of 2007 in an amount that will yield approximately \$53,000,000 to \$60,000,000 in net proceeds.

## ESTIMATED SOURCES AND USES OF FUNDS

The table below sets forth the estimated sources and uses of the proceeds of the 2006 Certificates:

<b>Sources:</b>	
Principal Amount of the 2006 Certificates	\$ _____,000
Less: Underwriter's Discount	( _____ )
Total	<u>\$ _____</u>
<b>Uses:</b>	
Parity Reserve Fund <sup>(1)</sup>	\$ _____
2006 Capitalized Interest and Fees Subaccount <sup>(2)</sup>	_____
2006 Project Account of Improvement Fund <sup>(3)</sup>	_____
Costs of Issuance <sup>(4)</sup>	_____
Total	<u>\$ _____</u>

- <sup>(1)</sup> The Reserve Fund Requirement, which is described herein under the caption "SECURITY FOR THE 2006 CERTIFICATES — Parity Reserve Fund," will be satisfied in connection with the execution and delivery of the 2006 Certificates by the deposit of this amount together with the existing 1997 Certificate Reserve Policy.
- <sup>(2)</sup> Represents estimated interest with respect to the 2006 Certificates and Auction Agent and Broker-Dealer fees due through October 1, 2007.
- <sup>(3)</sup> A portion of the proceeds deposited to the 2006 Project Account will be used to reimburse the City for certain costs of the 2006 Project paid for by the City prior to the execution and delivery of the 2006 Certificates.
- <sup>(4)</sup> Includes the premium for the 2006 Certificate Insurance Policy, fees and expenses of Special Counsel, Disclosure Counsel, Financial Advisor, Trustee, and Auction Agent, and printing and other miscellaneous expenses.

## THE 2006 CERTIFICATES

### General

The 2006 Certificates represent the proportionate, undivided interests of the Owners in the 2006 Payments. The 2006 Certificates initially will be executed and delivered as Auction Rate Securities in the principal amount set forth on the cover page to this Official Statement. The 2006 Certificates will be dated the date of their initial execution and delivery and will mature on the Maturity Date set forth on the cover page of this Official Statement, subject to earlier prepayment. While they are in an ARS Rate Period, the 2006 Certificates will be issuable in fully registered form without coupons in denominations of \$25,000 or any integral multiple thereof. Upon delivery, the 2006 Certificates will be registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC"). DTC will act as securities depository for the 2006 Certificates. Ownership interests in the 2006 Certificates may be purchased in book entry form only. See "Book-Entry-Only System."

### Book-Entry-Only System

The 2006 Certificates will be executed and delivered in book-entry form only. Purchasers of the 2006 Certificates will not receive certificates representing their ownership interests in the 2006 Certificates purchased. All payments with respect to the 2006 Certificates are to be made by the Trustee directly to DTC. DTC is expected to credit such payments to the respective accounts of its Direct Participants which, in turn, are expected to make payment thereof to the purchasers of the 2006 Certificates.

As long as Cede & Co. is the registered owner of the 2006 Certificates, references herein to the Owners of the 2006 Certificates shall refer to Cede & Co. and not to the beneficial owners of the 2006 Certificates (the "Beneficial Owners"). *Neither the Authority nor the City gives any assurance that DTC, its Participants or others will distribute payments with respect to the 2006 Certificates or notices concerning the 2006 Certificates to the Beneficial Owners thereof or that DTC will otherwise serve and act in the manner described in this Official Statement.* See APPENDIX F — "INFORMATION CONCERNING DTC" for a further description of DTC and its book-entry system. The information presented therein is based solely on information provided by DTC.

The Authority may decide to discontinue the use of book-entry transfers through DTC (or a successor Securities Depository). In that event, the 2006 Certificates will be printed and delivered to the Beneficial Owners and will be governed by the provisions of the 2006 Trust Agreement with respect to the payment of principal and interest and rights of exchange and transfer.

### **Interest Rate Provisions**

Initially, the ARS Rate for the 2006 Certificates will be determined in most cases for generally successive 7-day Auction Periods through the implementation of the ARS Provisions summarized in APPENDIX C — "ARS PROVISIONS." Interest with respect to the 2006 Certificates while they are in an ARS Rate Period will be payable on the date specified for such payment on the inside front cover hereof and on the Business Day immediately following each Auction Period (generally a \_\_\_\_\_) unless the Auction Period is a daily Auction Period or a Special Auction Period of longer than 182 days. The Auction Period for the 2006 Certificates may be changed in accordance with the procedures set forth in the ARS Provisions; and, at the election of the Authority, the Interest Period for the 2006 Certificates may be changed to one that is not an ARS Rate Period.

*This Official Statement in general describes the 2006 Certificates only while the 2006 Certificates are in an ARS Rate Period. In the event the 2006 Certificates are converted to another Interest Period, the City will deliver a new offering document. Investors should not rely upon the information in this Official Statement in the event the 2006 Certificates are converted to an Interest Period other than an ARS Rate Period.*

### **ARS Provisions**

While the 2006 Certificates are in an ARS Rate Period, except as specifically otherwise provided in the 2006 Trust Agreement, the provisions of the 2006 Trust Agreement summarized in APPENDIX B — "DEFINITIONS AND SUMMARY OF PRINCIPAL LEGAL DOCUMENTS" and the ARS Provisions summarized in APPENDIX C — "ARS PROVISIONS" will govern the interest rates per annum and the payment terms of the 2006 Certificates. Banc of America Securities LLC will act as the initial broker-dealer with respect to the 2006 Certificates (in that capacity, the "Broker-Dealer"), and The Bank of New York (the "Auction Agent") will act as the initial Auction Agent.

### **ARS Rate**

While the 2006 Certificates are in an ARS Rate Period interest with respect to them will be payable at rates established pursuant to the Auction Procedures described in APPENDIX C — "ARS PROVISIONS." In general, for each Auction Period (i) if Sufficient Clearing Bids exists, the rate

applicable to the 2006 Certificates shall be the Winning Bid Rate, provided that if all of the ARS Certificates are the subject of Submitted Hold Orders, such rate shall be the All Hold Rate and (ii) if Sufficient Clearing Bids do not exist, such rate shall be the Maximum Interest Rate. In no case may the ARS Rate exceed the Maximum Interest Rate.

The Initial Period will commence on the date on which the 2006 Certificates are executed and delivered and will extend to but not include \_\_\_\_\_, 2006. Thereafter, each Auction Period shall be established pursuant to the ARS Provisions.

The first Interest Payment Date with respect to the 2006 Certificates will be the date specified as such on the inside front cover hereof. Thereafter, "Interest Payment Date" with respect to the 2006 Certificates while they are in an ARS Rate Period means (a) when used with respect to any Auction Period other than a daily Auction Period or a Special Auction Period, the Business Day immediately following such Auction Period, (b) when used with respect to a daily Auction Period, the first Business Day of the month immediately succeeding such Auction Period, (c) when used with respect to a Special Auction Period of (i) 7 or more but fewer than 183 days, the Business Day immediately following such Special Auction Period or (ii) more than 182 days, each April 1 and October 1 and the Business Day immediately following such Special Auction Period.

Interest with respect to the 2006 Certificates accruing at an ARS Rate shall be commuted on the basis of a 360-day year for the actual number of days elapsed if the Auction Period is less than 180 days and on the basis of a 360-day year composed of 12 30-day months if the Auction Period is 180 days or more.

#### **Mandatory Tender for Purchase Upon Conversion**

The interest rate applicable to the 2006 Certificates may be converted from the ARS Rate to another rate at the election of the Authority upon the satisfaction of certain conditions as set forth in the 2006 Trust Agreement. In the event of such a conversion, the 2006 Certificates will be subject to mandatory tender for purchase on the first day of a new Interest Period at a Purchase Price equal to the principal amount thereof; and the Trustee is required to give notice of such mandatory tender in the manner set forth in the 2006 Trust Agreement.

#### **Special Considerations for Purchasers of Auction Rate Securities**

Prospective purchasers of the 2006 Certificates should note the following:

During an ARS Rate Period, the 2006 Certificates will not be supported by a liquidity facility of any kind, and the Beneficial Owner of a 2006 Certificate may sell, transfer or dispose of a 2006 Certificate only pursuant to a Bid or Sell Order in accordance with the ARS Provisions or through a Broker-Dealer. The ability of a Beneficial Owner to sell his or her Certificate in any Auction is directly contingent upon the Auction Agent's receipt of sufficient bids to purchase all of the 2006 Certificates at an interest rate not in excess of the Maximum Interest Rate. Thus, if an Existing Owner were to submit a Sell Order or a Bid subject to an interest rate that is determined to be greater than the Maximum Interest Rate and Sufficient Clearing Bids are not obtained on such Auction Date, such Existing Owner may not have its 2006 Certificates purchased through the Auction Procedures on such Auction Date. In such event, no assurance can be given that a broker-dealer will purchase or will otherwise be able to locate a purchaser for such 2006 Certificates or that Sufficient Clearing Bids will be obtained on any succeeding Auction Date. The Broker-Dealer has

advised the City that it intends to make a market in the 2006 Certificates between Auctions. However, the Broker-Dealer is not obligated to make such a market; and no assurance can be given that such a secondary market for the 2006 Certificates will develop. If a Beneficial Owner places a Bid to retain 2006 Certificates at an Auction only at a specified rate and that specified rate exceeds the rate set at the Auction, he or she will not retain his or her 2006 Certificates. Moreover, if a Beneficial Owner submits a Hold Order for 2006 Certificates and the Auction establishes a below-market rate, the Beneficial Owner may receive a below-market rate of return on his or her 2006 Certificates. See APPENDIX C — “ARS PROVISIONS.”

As noted above, if there are more 2006 Certificates offered for sale than there are buyers for those Certificates in any Auction the Auction will fail and the Beneficial Owner of a 2006 Certificate may not be able to sell it at that time. The relative buying and selling interest of market participants in the 2006 Certificates and in the auction rate securities market as a whole vary over time and may be adversely affected by, among other things, news relating to the issuer of such securities, the attractiveness of alternative investments, the perceived risk of owning the security (whether related to credit, liquidity or any other risk), the tax treatment accorded the instruments, the accounting treatment accorded auction rate securities, including recent clarifications of U.S. generally accepted accounting principles relating to the treatment of ARS, reactions to regulatory actions or press reports, financial reporting cycles and market sentiment generally. Shifts of demand in response to any of factors listed above cannot be predicted and may be short-lived or exist for longer periods.

During an Auction Period in which there is no duly appointed Broker-Dealer, it will not be possible to hold Auctions, and the provisions of the 2006 Trust Agreement which are described in the next paragraph will apply. The Broker-Dealer Agreement, dated as of November 1, 2006, among the Auction Agent, the Authority and the Broker-Dealer (the “Broker-Dealer Agreement”) provides that the Auction Agent may terminate the Broker-Dealer Agreement at any time, upon the written direction of the Authority, upon 5 Business Days’ notice to the other parties. The Broker-Dealer Agreement permits the Broker-Dealer to resign at any time upon 30 days’ notice to the Authority, the Auction Agent and the Trustee, but it also permits the Broker-Dealer to suspend its duties thereunder on five Business Days’ notice if the Broker-Dealer determines in its reasonable judgment, that it is not advisable to attempt to auction the 2006 Certificates for any of the following reasons: (i) a pending or proposed change in applicable tax laws, (ii) hostilities involving the United States, (iii) a down-rating of the 2006 Certificates, or (iv) an imposition of material restrictions on the 2006 Certificates or similar obligations.

The 2006 Trust Agreement provides that in the event the Auction Agent fails to calculate or, for any reason (including, but not limited to, the lack of a duly appointed Broker-Dealer), fails to provide the Auction Rate for any Auction Period, then (i) if the preceding Auction Period was a period of 35 days or less, the new Auction Period shall be the same as the preceding Auction Period and the ARS Rate for the new Auction Period shall be the same as the ARS Rate for the preceding Auction Period, and (ii) if the preceding Auction Period was a period of greater than 35 days, the preceding Auction Period will be extended to the next seventh day following the day that would have been the last day of such Auction Period had it not been extended (or if such seventh day is not followed by a Business Day, then to the next succeeding day which is followed by a Business Day) and the ARS Rate in effect for the preceding Auction Period will continue in effect for the Auction Period as so extended. Notwithstanding the foregoing, the 2006 Trust Agreement provides that no ARS Rate shall be extended for more than 35 days and, if at the end of 35 days, the Auction Agent fails to calculate or provide the Auction Rate, the ARS Rate shall be the Maximum Interest Rate.

During an Auction Period in which there is no duly appointed Auction Agent, it will not be possible to hold Auctions, and the Auction Rate for the next Auction Period shall be the Maximum Interest Rate and the Auction Period shall be a seven-day Auction Period. Thereafter, succeeding Auction Periods shall be seven-day Auction Periods until subsequently changed in accordance with the ARS Provisions, and the Auction Rate for succeeding Auction Periods shall be determined in accordance with the ARS Provisions. See APPENDIX C — “ARS PROVISIONS.” The Auction Agreement, dated as of November 1, 2006, between the Trustee and the Auction Agent and acknowledged and agreed to by the Authority (the “Auction Agreement”), provides that the Auction Agent may resign from its duties as Auction Agent by giving (i) at least 90 days’ written notice to the Authority and the Trustee, provided that a successor Auction Agent approved by the 2006 Certificate Insurer has been appointed or (ii) at least 45 days’ notice if the Auction Agent has not been paid its fee, even if a successor Auction Agent has not been appointed. In addition, the Auction Agreement provides that the Trustee shall remove the Auction Agent at any time at the written direction of the Authority.

Ratings assigned to the 2006 Certificates do not address the likelihood that any Auction will be successful or that a Beneficial Owner will be able to sell Certificates in any Auction. However, reduction in ratings may affect the ability of any Beneficial Owner of Certificates to sell such Certificates in any Auction.

The Broker-Dealer routinely submits orders for its own account in auctions involving other auction rate securities and may do so in any particular Auction involving the 2006 Certificates. If the Broker-Dealer submits an Order for its own account in any Auction it will have an advantage over other Bidders in that it would have knowledge of other Orders placed through it in that Auction (but it would not have knowledge of Orders placed through other Broker-Dealers, if there were any). As a result of bidding by the Broker-Dealer in an Auction, the ARS Rate is likely to be higher or lower than the rate that would have prevailed had the Broker-Dealer not bid. The Broker-Dealer may bid in an Auction in order to prevent what would otherwise be a failed Auction or the implementation of an ARS Rate that the Broker-Dealer believes, in its sole judgment, does not reflect a market rate for the 2006 Certificates. However, the Broker-Dealer is not obligated to continue to place such Bids or to place such a Bid in connection with any particular Auction. A Bid by the Broker-Dealer is likely to affect the allocation of the 2006 Certificates being auctioned (including displacing other prospective Bidders); and in certain instances, this is likely to prevent the Auction Rate from becoming the Maximum Interest Rate. The Broker-Dealer may also encourage additional or revised investor bidding in order to prevent an “all-hold” Auction or an Auction clearing at a rate which the Broker-Dealer believes, in its sole judgment at the time of making its Bid, to be too low given prevailing market conditions. The Broker-Dealer may, but is not obligated to, advise Beneficial Owners of the 2006 Certificates that the rate which will apply in an “all-hold” Auction is often a lower rate than would apply if such Beneficial Owners submit Bids; and such advice, if given, may facilitate the submission of Bids by Beneficial Owners that would avoid the occurrence of an “all-hold” Auction. The Broker-Dealer may, but is not obligated to, encourage additional or revised investor bidding in order to prevent an “all-hold” Auction.

In May 2006 the Securities and Exchange Commission (the “SEC”) announced the institution of proceedings (Administrative Proceeding 33-8684) against 15 broker-dealers (including the Broker-Dealer) for engaging in one or more practices in the auction rate securities market between January 2003 and June 2004 that were not adequately disclosed to investors, which constituted violations of the securities laws. Information concerning the proceedings and the alleged violative conduct is set forth in the SEC’s Press Release No. 2006-83. While neither admitting nor denying

the findings in the SEC's order, the Broker-Dealer, along with the other firms named in the order, consented to the entry of the order which censured each firm and required each firm to (i) cease and desist from committing or causing any violations and future violations of Sections 17(a)(2) of the Securities Act; (ii) pay a penalty; (iii) provide certain disclosure of its material and current auction practices and procedures; and (iv) have its chief executive officer or general counsel certify, not later than six months after the date of the order, that it has implemented procedures that are reasonably designed to prevent and detect failures to conduct the auction process in accordance with the auction procedures disclosed in the disclosure documents and other supplemental disclosures and that the firm is in compliance with the order. The Broker-Dealer's penalty of \$750,000 (rather than the \$1,500,000 penalty assessed to other firms with relatively larger shares of the auction rate securities market) was; according to the SEC, based on the quality of the Broker-Dealer's self-monitoring capabilities in the auction rate securities area which it had demonstrated to the SEC. No assurances are given as to how the settlement might affect the market for auction rate securities in general or for the 2006 Certificates in particular.

### **Prepayment**

***Optional Prepayment.*** During an ARS Rate Period, each 2006 Certificate may be prepaid at the option of the Authority at a prepayment price equal to 100% of the principal amount thereof, without premium, on any Interest Payment Date immediately following the end of an Auction Period, provided that, in the event of a partial optional prepayment, the aggregate principal amount of the affected 2006 Certificates that will remain Outstanding after any such optional prepayment shall not be less than \$10,000,000 unless otherwise consented to by the Broker-Dealer.

***Mandatory Sinking Fund Prepayment.*** The 2006 Certificates are subject to mandatory prepayment from Sinking Fund Payments prior to the Maturity Date, in part by lot, on October 1 of each year on and after October 1, 2008, in accordance with the schedule set forth below upon notice hereinafter described, from and in the amount of the principal installment of the 2006 Payments due and payable on such dates, at a prepayment price equal to the sum of the principal amount evidenced and represented thereby plus accrued and unpaid interest evidenced and represented thereby to the Prepayment Date, without a prepayment premium; provided that, during an ARS Rate Period, if such October 1 is not an Interest Payment Date, the Prepayment Date relating to such mandatory sinking fund payment shall occur on the ARS Interest Payment Date immediately preceding such October 1. In addition, if any 2006 Certificates have been optionally prepaid, the amounts of such Sinking Fund Payments shall be reduced as directed by the Authority, or if not so directed, proportionality in increments of Authorized Denominations, by the principal amount evidenced and represented by all such 2006 Certificates so optionally prepaid.



<i>Mandatory Sinking Fund Payment Date (October 1)</i>	<i>Sinking Fund Payment</i>	<i>Mandatory Sinking Fund Payment Date (October 1)</i>	<i>Sinking Fund Payment</i>
2008	\$ 250,000	2023	\$ 2,275,000
2009	250,000	2024	2,375,000
2010	275,000	2025	2,450,000
2011	275,000	2026	2,550,000
2012	275,000	2027	2,650,000
2013	300,000	2028	2,750,000
2014	300,000	2029	2,875,000
2015	300,000	2030	2,975,000
2016	325,000	2031	3,100,000
2017	325,000	2032	3,225,000
2018	350,000	2033	3,350,000
2019	375,000	2034	3,475,000
2020	375,000	2035	3,625,000
2021	375,000	2036 (maturity)	3,775,000
2022	400,000		

**Notice of Prepayment.** When the prepayment of 2006 Certificates is authorized as described above, the Trustee is required to give notice thereof. Such notice must state the date of such notice, the prepayment price, the place of prepayment (including the name and appropriate address of the Trustee), the CUSIP number (if any) of the 2006 Certificates to be prepaid, and, if less than all of the 2006 Certificates are to be prepaid, the distinctive certificate numbers thereof to be prepaid and, in the case of 2006 Certificates to be prepaid in part only, the respective portions of the principal amount evidenced and represented thereby to be prepaid. Each such notice shall also state that on said date there will become due and payable on each of said 2006 Certificates the prepayment price thereof and, in the case of a 2006 Certificate to be prepaid in part only, the specified portion of the principal amount evidenced and represented thereby to be prepaid, together with accrued and unpaid interest evidenced and represented thereby to the prepayment date, and that from and after such prepayment date interest evidenced and represented thereby shall cease to accrue; and such notice shall require that said 2006 Certificates be then surrendered at the address of the Trustee specified in the prepayment notice.

Such notice must be mailed by the Trustee, at least 30 but not more 60 days before the date fixed for prepayment to the respective Owners of the 2006 Certificates designated for prepayment at their addresses appearing on the registration books of the Trustee. Such notice is also required to be provided to Securities Depositories and Information Services. Failure to receive such notice shall not invalidate any of the proceedings taken in connection with such prepayment.

Any prepayment may be cancelled if the notice of such prepayment has not been mailed to the respective Owners of the 2006 Certificates or if such notice expressly conditioned the prepayment upon the occurrence of one or more events. Notice of any such cancellation shall be given in the same manner as the notice of prepayment was given at least 3 Business Days prior to the date scheduled for prepayment.

**Effect of Prepayment.** If notice of prepayment has been duly given as described above and money for the payment of the prepayment price of the 2006 Certificates called for prepayment

together with any accrued interest to the date fixed for prepayment is held by the Trustee, then on the prepayment date designated in such notice, the 2006 Certificates so called for prepayment will become due and payable on the date fixed for prepayment at the prepayment price specified in such notice; and from and after the date so designated, interest evidenced and represented by such 2006 Certificates so called for prepayment shall cease to accrue, such 2006 Certificates shall cease to be entitled to any lien, benefit or security under the 2006 Trust Agreement, and the Owners of such 2006 Certificates shall have no rights in respect thereof except to receive payment of the prepayment price thereof.

### **Purchase in Lieu of Prepayment**

Subject to the provisions of the 2006 Trust Agreement, the Authority has the option to purchase any 2006 Certificate on any date on which it would be subject to optional prepayment at a purchase price equal to the then applicable prepayment price plus accrued interest thereon to the date of purchase.

### **Parity Obligations**

The City has previously incurred obligations payable from Gross Revenues of its Water Utility System on a parity with the 2006 Payments; and, under the terms of the Master Contract, the City may incur additional such obligations in the future. In addition to the 1997 Payments and its obligation to make the scheduled payments required pursuant to the Swap Agreement, its obligation to make termination payments under the Swap Agreement (but only if such payments are insured under the Swap Policy) and its obligations under the Insurance and Reimbursement Agreement, the City currently has outstanding unpaid Parity Obligations with MID and the State of California Department of Water Resources ("CDWR"). See "SECURITY FOR THE 2006 CERTIFICATES — Existing and Future Parity Obligations."

## **SECURITY FOR THE 2006 CERTIFICATES**

### **General**

Each 2006 Certificate represents a proportionate, undivided interest in the 2006 Payments to be made by the City under the 2006 Contract. Pursuant to the 2006 Trust Agreement, the Authority has assigned substantially all of its right, title and interest in the 2006 Contract to the Trustee for the benefit of the Owners of the 2006 Certificates. The rights so assigned include the Authority's right to receive the 2006 Payments and its right to exercise any remedies provided in the 2006 Contract in the event of a default by the City thereunder.

Pursuant to the 2006 Contract, the City will purchase the 2006 Project from the Authority at the purchase price specified in the 2006 Contract, which is equal to the aggregate principal amount evidenced by the 2006 Certificates. The City is obligated to make such purchase by paying the 2006 Payments specified in the 2006 Contract including the interest on such payments.

### **2006 Payments**

Pursuant to the 2006 Trust Agreement, the Authority transfers, assigns and sets over to the Trustee all of the 2006 Payments and any and all rights and privileges it has under the 2006 Contract

with respect to the 2006 Certificates, including, without limitation, the right to collect and receive directly all of the 2006 Payments and the right to hold and enforce any security interest.

The 2006 Payments under the 2006 Contract represent the purchase price of the 2006 Project, which the City is transferring to the Authority and the Authority in turn is selling to the City pursuant to the 2006 Contract for the purpose of financing the 2006 Project. The obligation of the City to pay the 2006 Payments from Gross Revenues is absolute and unconditional; and, until such time as the 2006 Payments shall have been paid in full (or provision for the payment thereof shall have been made pursuant to the Master Contract), the City will not discontinue or suspend any 2006 Payments required to be paid by it under the 2006 Contract when due, whether or not the Water Utility System or any part thereof (including the 2006 Project) is operating or operable, or its use is suspended, interfered with, reduced, curtailed or terminated in whole or in part; and such payments are not subject to reduction whether by offset, abatement or otherwise and are not conditional upon the performance or nonperformance by any party to any agreement for any cause whatsoever. Notwithstanding anything contained in the Contract, however, the City is not required to advance any moneys derived from any source of income other than the Gross Revenues for the payment of the 2006 Payments or for the performance of any agreements or covenants required to be performed by it contained in the Contract.

As more fully described below, under the Contract, Gross Revenues of the Water Utility System are pledged as security for the payment of the 1997 Payments, the 2006 Payments, any other Parity Obligations and the Maintenance and Operation Costs, as defined below.

“Water Utility System” is defined under the Master Contract to mean (i) all property rights, contractual rights and facilities of the City relating to water, including all facilities, properties, structures or works for the treatment, conservation, storage, transmission and distribution of water now owned by the City and (ii) all additions, betterments, extensions or improvements to such facilities, properties, structures or works or any part thereof hereafter acquired and constructed.

“Gross Revenues” is defined under the Master Contract to mean all gross income and revenue received or receivable by the City from the ownership or operation of the Water Utility System, determined in accordance with Generally Accepted Accounting Principles, including all rates, fees and charges (including all Connection Fees, contributions in aid of construction, and charges and standby water availability charges legally available for debt service) received by the City for the Water Service and the other services and facilities of the Water Utility System and all net proceeds of insurance covering business interruption loss relating to the Water Utility System and all other income and revenue howsoever derived by the City from the ownership or operation of the Water Utility System or arising from the Water Utility System, and including all Payment Agreement Receipts, and including all income from the deposit or investment of any money in the Revenue Fund or, to the extent deposited in the Revenue Fund, in the Parity Reserve Fund, but excluding in all cases any proceeds of taxes and any refundable deposits made to establish credit and advances.

“Maintenance and Operation Costs” is defined under the Master Contract to mean the costs paid or incurred by the City for maintaining and operating the Water Utility System, determined in accordance with Generally Accepted Accounting Principles, including, but not limited to, (a) all reasonable expenses of management and repair and other expenses necessary to maintain and preserve the Water Utility System in good repair and working order, (b) all costs of water purchased by the City including all costs under the Treatment and Delivery Agreement by and among the City, the Del Este Water Company and MID (which has since been amended and restated) which do not

constitute debt service thereunder, (c) all administrative costs of the City that are charged directly or apportioned to the operation of the Water Utility System, such as salaries and wages of employees, overhead, taxes (if any) and insurance premiums, payments into pension funds, and (d) all other reasonable and necessary costs of the City or charges required to be paid by it to comply with the terms of the Master Contract or of any resolution authorizing the execution of any Parity Obligation or of such Parity Obligation, such as compensation, reimbursement and indemnification of the trustee or remarketing agent for any such Parity Obligation, letter of credit fees for any such Parity Obligations, and fees and expenses of Independent Certified Public Accountants and Independent Consultants, but excluding in all cases (1) depreciation, replacement and obsolescence charges or reserves therefor and amortization of intangibles, premiums and discounts, (2) interest expense, (3) amounts paid from funds of the City other than Gross Revenues, and (4) in-lieu transfers or recoupment of contributed capital to the City's general fund.

### **Pledge of Gross Revenues**

Pursuant to the Contract, all Gross Revenues of the Water Utility System are irrevocably pledged to the payment of the 1997 Payments, the 2006 Payments, any other Parity Obligations and the Maintenance and Operation Costs; and the Gross Revenues of the Water Utility System may not be used for any other purpose while any of the 1997 Payments or the 2006 Payments remain unpaid; provided, however, that out of Gross Revenues there may be apportioned such sums for such purposes as are expressly permitted by the Contract. Such pledge constitutes a first pledge of and charge and lien upon the Gross Revenues of the Water Utility System for the payment of the amounts due with respect to the Contract, other Parity Obligations and the Maintenance and Operation Costs in accordance with the terms of the Contract.

### **Rate Covenant**

Pursuant to the Master Contract, the City covenants that it will at all times fix, prescribe and collect rates, fees and charges for the Water Service during each Fiscal Year which are reasonably fair and nondiscriminatory and which will be at least sufficient to yield Adjusted Annual Net Revenues for such Fiscal Year equal to at least 125% of Annual Debt Service to be paid during such Fiscal Year (the "Rate Covenant").

"Adjusted Annual Net Revenues" is defined under the Master Contract to mean, for any Fiscal Year or any designated 12-month period in question, the Adjusted Annual Gross Revenues during such Fiscal Year or 12-month period less the Maintenance and Operation Costs during such Fiscal Year or 12-month period.

"Adjusted Annual Gross Revenues" is defined under the Master Contract to mean, for any Fiscal Year or any designated 12-month period in question, the Gross Revenues during such Fiscal Year or 12-month period, plus deposits to the City of Modesto Water Utility System Revenue Fund (the "Revenue Fund") from amounts on deposit in the Rate Stabilization Fund, but only as and to the extent specified in the Master Contract, minus (y) amounts transferred from the Revenue Fund to the Rate Stabilization Fund in accordance with the Master Contract and, (z) for purposes of determining compliance with the rate covenant described above only, earnings from the investments in the Parity Reserve Fund that are deposited in the Revenue Fund in such Fiscal Year or 12-month period.

"Adjusted Annual Debt Service" is defined under the Master Contract to mean, for any Fiscal Year or any designated 12-month period in question, the Annual Debt Service for such Fiscal Year or

12-month period minus the sum of (i) for purposes of the rate covenant described above only, the earnings from the investments in the Parity Reserve Fund that are deposited in the Revenue Fund in such Fiscal Year or 12-month period, and (ii) the amount of the Annual Debt Service paid from the proceeds of Parity Obligations or interest earned thereon (other from the Parity Reserve Fund), all as set forth in a Certificate of the City.

“Annual Debt Service” is generally defined under the Master Contract to mean, for any Fiscal Year or any designated 12-month period in question, the payments required to be made with respect to all Outstanding Parity Obligations in such Fiscal Year or 12-month period; provided, that for purposes of determining compliance with the rate covenant described above, the Reserve Fund Requirement and conditions for the execution of Parity Obligations, certain additional provisions are applicable as described in APPENDIX B — “DEFINITIONS AND SUMMARY OF PRINCIPAL LEGAL DOCUMENTS.”

The City’s ability to comply with the Rate Covenant may be limited by provisions of the California Constitution. See “THE WATER UTILITY SYSTEM — Impact of Proposition 218 on Water Utility System Fees and Charges.” The opinion of Sidley Austin LLP, Special Counsel, with respect to the 2006 Certificates will state that the enforceability of the Contract is subject to the limitations on the imposition by the City of certain fees and charges relating to the Water Utility System under Articles XIII C and XIII D of the California Constitution. See APPENDIX D — “PROPOSED FORM OF OPINION OF SPECIAL COUNSEL.” The City’s ability to comply with the Rate Covenant may also be adversely affected by other factors. See “RISK FACTORS.”

### **Parity Reserve Fund**

The Parity Reserve Fund was initially established pursuant to a trust agreement, dated as of November 1, 1997 (the “1997 Trust Agreement”), which provided for the execution and delivery of the City’s Refunding Revenue Certificates of Participation (1997 Water Utility System Refinancing Project) (the “1997 Certificates”). The 1997 Certificates represent the proportionate, undivided interests in the 1997 Payments pursuant to the 1997 Contract. All amounts on deposit in the Parity Reserve Fund are available to be transferred to pay principal and interest evidenced and represented by both the 1997 Certificates and the 2006 Certificates and any other obligations in connection with a future supplement to the Contract (collectively, the “Parity Certificates”) as described in greater detail below.

In connection with the execution and delivery of the 1997 Certificates, the City caused to be delivered to the then Trustee to be held in the Parity Reserve Fund in satisfaction of the Reserve Fund Requirement a municipal bond debt service reserve fund policy (the “1997 Certificate Reserve Policy”) issued by Financial Guaranty Insurance Company, doing business in California as FGIC Insurance Company (“FGIC”). The 1997 Certificate Reserve Policy unconditionally guarantees the payment of that portion of the principal and interest represented by the Parity Certificates which has become due for payment, but which is unpaid by reason of nonpayment by the City, provided that the aggregate amount paid under the 1997 Certificate Reserve Policy may not exceed the maximum amount then available thereunder (currently, \$1,935,855). FGIC is required to make such payments to the Trustee on the later of the date on which such principal and interest is due or on the business day next following the day on which FGIC shall have received telephonic or telegraphic notice, subsequently confirmed in writing, or written notice by registered or certified mail from the Trustee of the nonpayment of such amount by the City. The term “nonpayment” in this context includes any payment of principal or interest made to an owner of a Parity Certificate which has been recovered

from such owner pursuant to the United States Bankruptcy Code by a trustee in bankruptcy in accordance with a final nonappealable order of a court having competent jurisdiction. The 1997 Certificate Reserve Policy is non-cancellable and covers failure to pay principal represented by the Parity Certificates on their respective stated payment dates or dates on which the same shall have been called for mandatory sinking fund prepayment, and not on any other date on which Parity Certificates may have been accelerated, and also covers the failure to pay an installment of interest on the stated date for its payment. Additional information with respect to the 1997 Certificate Reserve Policy is available in the Official Statement relating to the 1997 Certificates (the "1997 Official Statement").

FGIC, a New York stock insurance corporation, is a direct, wholly owned subsidiary of FGIC Corporation, a Delaware corporation. Information with respect to FGIC is available from the company at 125 Park Avenue, New York, New York 10017, Attention: Corporate Communications Department. FGIC's telephone number is (212) 312-3000.

Pursuant to the 2006 Trust Agreement, the Trustee will maintain the Parity Reserve Fund so long as the Contract has not been discharged or any 2006 Certificates remain Outstanding. A portion of the proceeds of the 2006 Certificates in an amount sufficient to cause the balance on deposit in the Parity Reserve Fund to equal the Reserve Fund Requirement will be deposited in the Parity Reserve Fund.

"Reserve Fund Requirement" is defined under the Master Contract to mean, as of any date of determination and excluding any Parity Obligations which are not Supplemental Contracts and the debt service thereon, the least of (a) 10% of the initial offering price to the public of the Parity Obligations as determined under the Code, or (b) the Maximum Annual Debt Service, or (c) 125% of the Average Annual Debt Service, all as computed and determined by the City and specified in writing to the Trustee; provided, that such requirement (or any portion thereof) may be provided by one or more policies of municipal bond insurance or surety bonds issued by a municipal bond insurer or by a letter of credit issued by a bank or other institution if the obligations insured by such insurer or issued by such bank or other institution, as the case may be, have ratings at the time of issuance of such policy or surety bond or letter of credit equal to "Aa" or higher assigned by Moody's (if Moody's is then rating any of the Parity Obligations) and "AA" or higher assigned by S&P (if S&P is then rating any of the Parity Obligations) and that maintain at all times ratings at least equal to the lowest ratings (without giving effect to municipal bond insurance or other credit enhancement) on any of the Parity Obligations provided by Moody's (if Moody's is then rating any of the Parity Obligations) and by S&P (if S&P is then rating any of the Parity Obligations) (all such instruments collectively, "Reserve Funding Instruments"). If at any time, obligations insured by any such municipal bond insurer issuing a policy of municipal bond insurance or surety bond or a bank or other institution issuing a letter of credit as permitted by the definition of Reserve Fund Requirement shall no longer maintain such ratings as required in accordance with the immediately preceding sentence, the City shall provide or cause to be provided cash or a substitute municipal bond insurance policy or surety bond or a letter of credit meeting such requirements.

Pursuant to the 2006 Trust Agreement, the Trustee is to (i) withdraw and use all cash, if any, on deposit in the Parity Reserve Fund prior to using and withdrawing any amounts derived from payments under any Reserve Funding Instruments and (ii) draw on all Reserve Funding Instruments on a pro rata basis, based on the draw limit of each Reserve Funding Instrument. Amounts received by the Trustee from the City pursuant to the Master Contract as a replenishment of amounts

withdrawn from the Parity Reserve Fund shall be applied first on a pro rata basis to reimburse draws on Reserve Funding Instruments and then to replenish cash withdrawn from the Parity Reserve Fund.

The 1997 Certificate Reserve Policy is scheduled to terminate on October 1, 2022, which is the final payment date with respect to the 1997 Certificates. Subsequent to October 1, 2022, the Annual Debt Service with respect to the 2006 Certificates is scheduled to increase substantially. As a result thereof, in the absence of additional deposits to the Parity Reserve Fund the balance then on deposit in the Parity Reserve Fund will be less than the Reserve Fund Requirement; and the Authority will be required to immediately deposit or cause to be deposited with the Trustee for deposit in the Parity Reserve Fund cash or one or more Reserve Funding Instruments in an aggregate amount equal to the amount necessary to restore the Parity Reserve Fund to an amount equal to the Reserve Fund Requirement.

Moneys on deposit in the Parity Reserve Fund will be transferred by the Trustee to the debt service fund established pursuant to the 1997 Trust Agreement and/or to the 2006 Debt Service Fund established pursuant to the 2006 Trust Agreement to pay principal and interest evidenced and represented by the 1997 Certificates and by the 2006 Certificates, respectively, on any date on which interest is payable with respect thereto in the event amounts on deposit in the applicable debt service fund are insufficient for such purposes. The Trustee will also, from such amounts on deposit in the Parity Reserve Fund, transfer or cause to be transferred to any applicable debt service fund established under any other trust agreement under which any obligations are issued in connection with a Supplemental Contract, without preference or priority between transfers made pursuant to this sentence and the preceding sentence, and in the event of any insufficiency of such moneys ratably without discrimination or preference, that sum or sums, if any, equal to the amount required to be deposited therein pursuant to such trust agreement under which any obligations are issued in connection with a Supplemental Contract. Following the valuation of investments in the Parity Reserve Fund on or before each October 1, all moneys on deposit in the Parity Reserve Fund in excess of the Reserve Fund Requirement will be transferred by the Trustee to the City for deposit in the Revenue Fund. However, prior to the completion of the 2006 Project (which completion shall be evidenced by delivery to the Trustee of a Certificate of the City to such effect), investment earnings on amounts deposited to the Parity Reserve Fund from proceeds of the 2006 Certificates are required to be transferred to the City for deposit in the 2006 Project Account of the Improvement Fund established pursuant to the 2006 Contract.

#### **Flow of Funds**

***Contract Provisions.*** The City agrees and covenants in the Contract that all Gross Revenues it receives will be deposited when and as received in the Revenue Fund, which the City established under the Master Contract and which the City agrees and covenants to maintain separate and apart from other moneys of the City so long as any Parity Obligations remain unpaid, and all money on deposit in the Revenue Fund is to be applied and used as follows. The City will pay at the following times in the following order of priority:

- (1) ***Payment of Maintenance and Operation Costs and Parity Obligation Payment Fund Deposits.*** The City will, from the money in the Revenue Fund, without preference or priority, and in the event of any insufficiency of such moneys, ratably, without preference or priority (i) pay charges for Maintenance and Operation Costs of the Water Utility System (including amounts reasonably required to be set aside in contingency reserves for Maintenance and Operation Costs the payment of which is not then immediately required)

as such charges are due and payable, and (ii) deposit in the City of Modesto Water Utility System Parity Obligation Payment Fund established under the Master Contract, on the last Business Day of each month (1) an amount equal to the interest which has accrued or will accrue under all Parity Obligations during the next succeeding month calculated as if such interest has accrued or will accrue on a daily basis during such period, and (2) an amount equal to the principal which has accrued or will accrue (as a result of maturity, mandatory sinking fund payments or mandatory prepayment or otherwise) under all Parity Obligations during the next succeeding month calculated as if such principal has accrued or will accrue on a daily basis during such period, plus (3) the net payments due or which will be due on all Parity Payment Agreements calculated as if such net payments accrued or will accrue on a daily basis during such period, except that no such deposit need be made if the City then holds money in the Parity Obligation Payment Fund at least equal to the amount of interest and principal due or becoming due and payable under all Parity Obligations on the next succeeding date on which interest or principal becomes due and payable under any Parity Obligation plus the net payments due on all Parity Payment Agreements on such next succeeding due date therefor. Moneys on deposit in the Parity Obligation Payment Fund will be transferred by the City to make and satisfy the payments due on the next applicable date on which interest or principal becomes due and payable under any Parity Obligation or any net payment becomes due and payable by the City under any Parity Payment Agreement at least one Business Day prior to such next applicable due date.

(2) *Parity Reserve Fund Deposits.* On or before the last Business Day of each month, the City will, from the remaining money on deposit in the Revenue Fund after deposits and transfers pursuant to paragraph (1) above, transfer to the Trustee for deposit in the Parity Reserve Fund that sum, if any, necessary to restore the Parity Reserve Fund to an amount equal to the Reserve Fund Requirement. The City will also, from such remaining moneys in the Revenue Fund, transfer or cause to be transferred to the applicable reserve fund or account for any Parity Obligations for which a separate reserve has been funded, without preference or priority between transfers made in accordance with this sentence and the preceding sentence, and in the event of any insufficiency of such moneys ratably without any discrimination or preference, the sum or sums, if any, equal to the amount required to be deposited therein pursuant to such Parity Obligations.

After making the foregoing deposits and transfers, the City may apply any remaining money in the Revenue Fund for any lawful purpose of the City, including for the payment of any Subordinate Obligations in accordance with the instruments authorizing such Subordinate Obligations.

Pursuant to the Master Contract, the City has established the Rate Stabilization Fund, which has a balance of \$3,000,000 on deposit therein. The City may deposit in the Rate Stabilization Fund any Gross Revenues, after providing for the payment of Parity Obligations and Maintenance and Operation Costs, and any other money received and available to be used therefor, provided that deposits from such Gross Revenues for each Fiscal Year may be made until (but not after) 180 days after the end of such Fiscal Year. The City may withdraw amounts from the Rate Stabilization Fund only for inclusion in Adjusted Annual Net Revenues, such withdrawal to be made until (but not after) 180 days after the end of such Fiscal Year. All interest or other earnings upon deposits in the Rate Stabilization Fund will be accounted for as Gross Revenues. Notwithstanding the foregoing, no Gross Revenues will be deposited in the Rate Stabilization Fund to the extent that such amount was included by the City in Adjusted Annual Net Revenues for purposes of determining compliance with the rate covenant set forth in the Master Contract or the conditions for the execution of Parity



Obligations contained in the Master Contract and deduction of the amounts to be deposited in the Rate Stabilization Fund would have caused noncompliance with such rate covenant or conditions.

The City's ability to set rates, fees and charges for the Water Service at levels which would permit the City to make deposits into the Rate Stabilization Fund may be limited by amendments to the California Constitution. See "THE WATER UTILITY SYSTEM — Impact of Proposition 218 on Water Utility System Fees and Charges." See also "THE WATER UTILITY SYSTEM — Summary of Projected Operating Results" for currently anticipated deposits into and withdrawals from the Rate Stabilization Fund.

The 2006 Contract establishes within the Parity Obligation Payment Fund the 2006 Supplemental Contract Payment Account. On or before the third Business Day immediately preceding each 2006 Payment Date or the date on which any net payment or insured termination payment is due under the Swap Agreement, the City shall, from the money in the Parity Obligation Payment Fund, deposit in the 2006 Supplemental Contract Payment Account (i) a sum equal to the amount of the interest and principal components of the 2006 Payments becoming due and payable under the 2006 Supplemental Contract on the next succeeding 2006 Payment Date and (ii) the net payments and any insured termination payment, if applicable, due under the Swap Agreement, except that no such deposit need be made if the amount then on deposit in the 2006 Supplemental Contract Payment Account is at least equal to the amount of the interest and principal components of the 2006 Payments becoming due and payable under the 2006 Contract on the next succeeding 2006 Payment Date plus the net payments and any insured termination payment due under the Swap Agreement on such next succeeding due date therefor. Moneys on deposit in the 2006 Supplemental Contract Payment Account shall (i) be transferred by the City to the Trustee on the Business Day immediately preceding each 2006 Payment Date to make and satisfy the 2006 Payment due on such 2006 Payment Date and (ii) be transferred by the City on the due date therefor to satisfy the net payment and any insured termination payment due under the Swap Agreement, all in accordance with the Master Contract.

**2006 Trust Agreement Provisions.** Pursuant to the 2006 Trust Agreement, the Trustee is required to deposit the 2006 Payments in a separate fund established by it and designated as the 2006 Debt Service Fund. The 2006 Debt Service Fund will contain two accounts: the 2006 Interest Account (with a 2006 Capitalized Interest and Fees Subaccount therein) and the 2006 Principal Account (with a 2006 Prepayment Subaccount and a 2006 Sinking Fund Subaccount therein).

On the Business Day immediately preceding each Interest Payment Date, the Trustee is required to set aside from the 2006 Debt Service Fund and deposit in the 2006 Interest Account an amount equal to the amount of interest evidenced and represented by the 2006 Certificates becoming due and payable on each such Interest Payment Date, except that the Trustee is required to make such transfer from the 2006 Capitalized Interest and Fees Subaccount to the 2006 Interest Account until the 2006 Capitalized Interest and Fees Subaccount is depleted. The Trustee is also required to apply amounts on deposit in the 2006 Capitalized Interest and Fees Subaccount to pay Auction Agent and Broker-Dealer fees as the same shall become due on each due date therefor through October 1, 2007. No deposit is required to be made in the 2006 Interest Account if the amount contained therein is at least equal to the aggregate amount of interest evidenced and represented by the 2006 Certificates becoming due and payable on the applicable Interest Payment Date. All money in the 2006 Interest Account is required to be used and withdrawn by the Trustee solely for the purpose of paying the interest as it shall become due and payable (including accrued interest evidenced and represented by any 2006 Certificates purchased or prepaid prior to their respective Certificate Payment Date).

On the Business Day immediately preceding each October 1, commencing on October 1, 2008, the Trustee is required to set aside from the 2006 Debt Service Fund and deposit in the 2006 Principal Subaccount (i) an amount equal to the principal amount evidenced and represented by the Outstanding Serial Certificates with a Certificate Payment Date of such October 1 (at the time of the execution and delivery of the 2006 Certificates, none of the 2006 Certificates will be Serial Certificates) and (ii) in the 2006 Sinking Fund Subaccount the amount of all Sinking Fund Payments required to be made on such October 1. Amounts to be applied to the optional prepayment of the principal component of the 2006 Certificates are to be deposited in the 2006 Prepayment Subaccount. No deposit need be made in the 2006 Principal Account if the amount contained therein is at least equal to the aggregate amount of the principal evidenced and represented by the Outstanding Serial Certificates with a Certificate Payment Date of such October 1 and the amount contained in the 2006 Sinking Fund Subaccount is at least equal to the aggregate amount of all Sinking Fund Payments required to be made on such October 1.

All money in the 2006 Principal Account is required to be used and withdrawn by the Trustee solely for the purpose of paying the principal evidenced and represented by the Serial Certificates as they shall become due and payable, whether at their respective Certificate Payment Dates or on prior prepayment, and all money in the 2006 Sinking Fund Subaccount is required to be used and withdrawn by the Trustee only to purchase or to prepay or pay Term Certificates, and with respect to the 2006 Sinking Fund Subaccount, on each Sinking Fund Payment Date, the Trustee is required to apply the Sinking Fund Payment required on that date to the prepayment (or payment at the Certificate Payment Date, as the case may be) of the Term Certificates upon the notice and in the manner provided in the 2006 Trust Agreement, provided that at any time prior to giving notice of such prepayment, the Trustee may, upon the Written Request of the Authority and receipt of sufficient moneys therefor, purchase for cancellation Term Certificates in accordance with the 2006 Trust Agreement.

### **Existing and Future Parity Obligations**

Upon the execution and delivery of the 2006 Certificates, the obligation of the City to pay the 2006 Payments will be secured on a parity lien basis with certain existing Parity Obligations. In the Master Contract (as clarified in the 2006 Contract), "Parity Obligations" is specifically defined as the payment obligations under the Treatment and Delivery Agreement which constitute debt service, the payment obligations under the CDWR Loan Agreement, and all Supplemental Contracts and all other obligations hereafter incurred by the City the payment of which constitutes a charge and lien on the Gross Revenues equal to and on a parity with the charge and lien upon the Gross Revenues for the payment of the Payments, other than (i) such portion of the payment obligations (including certain payments due upon an early termination thereof) under any Parity Payment Agreement to the extent such obligations are expressly subordinate to Parity Obligations pursuant to the terms of such Parity Payment Agreement and (ii) Parity Bank Agreements; provided that no amounts have been drawn under any such Parity Bank Agreements which have not been reimbursed by the City. Under the Master Contract "CDWR Loan" means the loan to the City from the State of California Department of Water Resources in the principal amount of \$3,607,343.72 (of which \$2,058,028.02 was outstanding as of October 1, 2006); and "Treatment and Delivery Agreement" means the Treatment and Delivery Agreement by and among the City of Modesto, the Del Este Water Company and MID. The Treatment and Delivery Agreement has since been amended and restated and is now called "Amended and Restated Treatment and Delivery Agreement Between Modesto Irrigation District and City of Modesto." Under the Treatment and Delivery Agreement, the City has agreed to pay all debt service on bonds issued by MID for the construction of the Water Treatment Plant, a raw water

charge, project operation, administrative services and maintenance costs, insurance on the plant and the cost of electrical energy provided to the plant. The outstanding principal amount of bonds issued for the Water Treatment Plant as of September 1, 2006 was \$73,780,000, and MID is expected to issue, or to cause to be issued, bonds yielding net proceeds of approximately \$53,000,000 to \$60,000,000 in the spring of 2007 in order to provide financing for the expansion of the Water Treatment Plan. See "THE WATER UTILITY SYSTEM — Treatment and Delivery Agreement" for a description of the Treatment and Delivery Agreement and "THE WATER UTILITY SYSTEM — Summary of Projected Operating Results" for additional information concerning existing Parity Obligations. See also APPENDIX B — "DEFINITIONS AND SUMMARY OF PRINCIPAL DOCUMENTS." In addition to the Parity Obligations specifically defined as such in the Master Contract, the Swap Agreement (to the extent described above), the 1997 Contract and the Insurance and Reimbursement Agreement also constitute Parity Obligations. The principal amount of the 1997 Payments currently outstanding is \$19,670,000.

In addition to the existing Parity Obligations, the City may at any time execute additional Parity Obligations, but subject to the specific conditions set forth in the Master Contract, including the conditions that there be on file with the Trustee either:

(1) A Certificate of the City demonstrating that during any 12 consecutive calendar months out of the immediately preceding 18 calendar month period, the Adjusted Annual Net Revenues were at least equal to 125% of the Maximum Annual Debt Service for all existing Parity Obligations plus the Parity Obligations proposed to be executed; provided, that for the purpose of providing this Certificate, the City may adjust the foregoing Adjusted Annual Net Revenues to reflect:

(i) An allowance for Gross Revenues that would have been derived from each new connection to the Water Utility System that was made prior to the execution of such Parity Obligations but which, during all or any part of said 12 month period, was not in existence, in an amount equal to the estimated additional Gross Revenues that would have been derived from each such connection if it had been made prior to the beginning of said 12 month period, and

(ii) An allowance for Gross Revenues that would have been derived from any increase in the rates, fees and charges fixed and prescribed for Water Service which became effective prior to the execution of such Parity Obligations but which, during all or any part of said 12 month period, was not in effect, in an amount equal to the estimated additional Gross Revenues that would have been derived from such increase in rates, fees and charges if it had been in effect prior to the beginning of said 12 month period; or

(2) A Consultant's Report showing that the Adjusted Annual Net Revenues for the Fiscal Year next following the end of the period during which interest on the Parity Obligations proposed to be executed is to be capitalized or, if no interest is capitalized, the Fiscal Year in which the Parity Obligations proposed to be executed are executed, will be at least equal to 125% of the Maximum Annual Debt Service; provided, that for the purpose of providing the Consultant's Report, the Independent Consultant may adjust the foregoing Adjusted Annual Net Revenues to reflect:

(i) An allowance for Gross Revenues that would have been derived from any increase in the rates, fees and charges prescribed for Water Service in effect and being charged, or rates, fees and charges for Water Service that are expected to be charged in accordance with a program of specific rates, fees, charges, rate levels or increases in overall Gross Revenue approved by a resolution of the City Council; and

(ii) An allowance for Gross Revenues from customers of the Water Utility System anticipated to be served by the facilities or improvements financed in substantial part by the Parity Obligations proposed to be executed together with any additional Parity Obligations expected to be executed prior to the Fiscal Year of determination.

Notwithstanding the foregoing, the Master Contract specifies that there shall be no limitations on the ability of the City to execute any Parity Obligation at any time to refund any outstanding Parity Obligation.

### CERTIFICATE INSURANCE

*The following information has been provided by MBIA Insurance Corporation. It has not been verified by the Authority or the City, and neither the Authority nor the City guarantees its accuracy or completeness.*

#### **Certificate Insurance Policy**

The following information has been furnished by MBIA Insurance Corporation ("MBIA") for use in this Official Statement. Reference is made to Appendix G for a specimen of MBIA's policy (the "2006 Certificate Insurance Policy").

MBIA does not accept any responsibility for the accuracy or completeness of this Official Statement or any information or disclosure contained herein, or omitted herefrom, other than with respect to the accuracy of the information regarding the 2006 Certificate Insurance Policy and MBIA set forth under the heading "CERTIFICATE INSURANCE." Additionally, MBIA makes no representation regarding the 2006 Certificates or the advisability of investing in the 2006 Certificates.

The 2006 Certificate Insurance Policy unconditionally and irrevocably guarantees the full and complete payment required to be made by or on behalf of the City to the Trustee or its successor of an amount equal to (i) the principal of (either at the stated maturity or by an advancement of maturity pursuant to a mandatory sinking fund payment) and interest evidenced by, the 2006 Certificates as such payments shall become due but shall not be so paid (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional prepayment or acceleration resulting from default or otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed by the 2006 Certificate Insurance Policy shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration, unless MBIA elects in its sole discretion, to pay in whole or in part any principal due by reason of such acceleration); and (ii) the reimbursement of any such payment which is subsequently recovered from any Owner of the 2006 Certificates pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such Owner within the meaning of any applicable bankruptcy law (a "Preference").

The 2006 Certificate Insurance Policy does not insure against loss of any prepayment premium which may at any time be payable with respect to any 2006 Certificates. The 2006 Certificate Insurance Policy does not, under any circumstance, insure against loss relating to: (i) optional or mandatory prepayments (other than mandatory sinking fund prepayments); (ii) any payments to be made on an accelerated basis; (iii) payments of the purchase price of 2006 Certificates upon tender by an owner thereof; or (iv) any Preference relating to (i) through (iii) above. The 2006 Certificate Insurance Policy also does not insure against nonpayment of principal or interest evidenced by the 2006 Certificates resulting from the insolvency, negligence or any other act or omission of the Trustee or any paying agent for the 2006 Certificates.

Upon receipt of telephonic or telegraphic notice, such notice subsequently confirmed in writing by registered or certified mail, or upon receipt of written notice by registered or certified mail, by MBIA from the Trustee or any Owner of a 2006 Certificate the payment of an insured amount for which is then due, that such required payment has not been made, MBIA on the due date of such payment or within one business day after receipt of notice of such nonpayment, whichever is later, will make a deposit of funds, in an account with U.S. Bank Trust National Association, in New York, New York, or its successor, sufficient for the payment of any such insured amounts which are then due. Upon presentment and surrender of such 2006 Certificates or presentment of such other proof of ownership of the 2006 Certificates, together with any appropriate instruments of assignment to evidence the assignment of the insured amounts due on the 2006 Certificates as are paid by MBIA, and appropriate instruments to effect the appointment of MBIA as agent for such Owners of the 2006 Certificates in any legal proceeding related to payment of insured amounts on the 2006 Certificates, such instruments being in a form satisfactory to U.S. Bank Trust National Association, U.S. Bank Trust National Association shall disburse to such owners or the Trustee payment of the insured amounts due on such 2006 Certificates, less any amount held by the Trustee for the payment of such insured amounts and legally available therefor.

### **MBIA Insurance Corporation**

MBIA Insurance Corporation ("MBIA") is the principal operating subsidiary of MBIA Inc., a New York Stock Exchange listed company (the "Company"). The Company is not obligated to pay the debts of or claims against MBIA. MBIA is domiciled in the State of New York and licensed to do business in and subject to regulation under the laws of all 50 states, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands of the United States and the Territory of Guam. MBIA, either directly or through subsidiaries, is licensed to do business in the Republic of France, the United Kingdom and the Kingdom of Spain and is subject to regulation under the laws of those jurisdictions.

The principal executive offices of MBIA are located at 113 King Street, Armonk, New York 10504 and the main telephone number at that address is (914) 273-4545.

**Regulation.** As a financial guaranty insurance company licensed to do business in the State of New York, MBIA is subject to the New York Insurance Law which, among other things, prescribes minimum capital requirements and contingency reserves against liabilities for MBIA, limits the classes and concentrations of investments that are made by MBIA and requires the approval of policy rates and forms that are employed by MBIA. State law also regulates the amount of both the aggregate and individual risks that may be insured by MBIA, the payment of dividends by MBIA, changes in control with respect to MBIA and transactions among MBIA and its affiliates.

The 2006 Certificate Insurance Policy is not covered by the Property/Casualty Insurance Security Fund specified in Article 76 of the New York Insurance Law.

**Financial Strength Ratings of MBIA.** Moody's Investors Service, Inc. rates the financial strength of MBIA "Aaa."

Standard & Poor's, a division of The McGraw-Hill Companies, Inc. rates the financial strength of MBIA "AAA."

Fitch Ratings rates the financial strength of MBIA "AAA."

Each rating of MBIA should be evaluated independently. The ratings reflect the respective rating agency's current assessment of the creditworthiness of MBIA and its ability to pay claims on its policies of insurance. Any further explanation as to the significance of the above ratings may be obtained only from the applicable rating agency.

The above ratings are not recommendations to buy, sell or hold the 2006 Certificates, and such ratings may be subject to revision or withdrawal at any time by the rating agencies. Any downward revision or withdrawal of any of the above ratings may have an adverse effect on the market price of the 2006 Certificates. MBIA does not guaranty the market price of the 2006 Certificates nor does it guaranty that the ratings on the 2006 Certificates will not be revised or withdrawn.

**MBIA Financial Information.** As of December 31, 2005, MBIA had admitted assets of \$11.0 billion (audited), total liabilities of \$7.2 billion (audited), and total capital and surplus of \$3.8 billion (audited), each as determined in accordance with statutory accounting practices prescribed or permitted by insurance regulatory authorities. As of June 30, 2006, MBIA had admitted assets of \$11.3 billion (unaudited), total liabilities of \$6.9 billion (unaudited), and total capital and surplus of \$4.3 billion (unaudited), each as determined in accordance with statutory accounting practices prescribed or permitted by insurance regulatory authorities.

For further information concerning MBIA, see the consolidated financial statements of MBIA and its subsidiaries as of December 31, 2005 and December 31, 2004 and for each of the three years in the period ended December 31, 2005, prepared in accordance with generally accepted accounting principles, included in the Annual Report on Form 10-K of the Company for the year ended December 31, 2005 and the consolidated financial statements of MBIA and its subsidiaries as of June 30, 2006 and for the six month periods ended June 30, 2006 and June 30, 2005 included in the Quarterly Report on Form 10-Q of the Company for the period ended June 30, 2006, which are hereby incorporated by reference into this Official Statement and shall be deemed to be a part hereof.

Copies of the statutory financial statements filed by MBIA with the State of New York Insurance Department are available over the Internet at the Company's web site at <http://www.mbia.com> and at no cost, upon request to MBIA at its principal executive offices.

**Incorporation of Certain Documents by Reference.** The following documents filed by the Company with the Securities and Exchange Commission (the "SEC") are incorporated by reference into this Official Statement:

- (1) The Company's Annual Report on Form 10-K for the year ended December 31, 2005; and
- (2) The Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2006.

Any documents, including any financial statements of MBIA and its subsidiaries that are included therein or attached as exhibits thereto, filed by the Company pursuant to Sections 13(a), 13(c), 14 or 15(d) of the Exchange Act after the date of the Company's most recent Quarterly Report on Form 10-Q or Annual Report on Form 10-K, and prior to the termination of the offering of the 2006 Certificates offered hereby shall be deemed to be incorporated by reference in this Official Statement and to be a part hereof from the respective dates of filing such documents. Any statement contained in a document incorporated or deemed to be incorporated by reference herein, or contained in this Official Statement, shall be deemed to be modified or superseded for purposes of this Official Statement to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Official Statement.

The Company files annual, quarterly and special reports, information statements and other information with the SEC under File No. 1-9583. Copies of the Company's SEC filings (including (1) the Company's Annual Report on Form 10-K for the year ended December 31, 2005, and (2) the Company's Quarterly Reports on Form 10-Q for the quarters ended March 31, 2006 and June 30, 2006 are available (i) over the Internet at the SEC's web site at <http://www.sec.gov>; (ii) at the SEC's public reference room in Washington, D.C. (iii) over the Internet at the Company's web site at <http://www.mbia.com>; and (iv) at no cost, upon request to MBIA at its principal executive offices.

In the event MBIA were to become insolvent, any claims arising under a policy of financial guaranty insurance are excluded from coverage by the California Insurance Guaranty Association, established pursuant to Article 14.2 (commencing with Section 1063) of Chapter 1 of Part 2 of Division 1 of the California Insurance Code.

## **THE WATER UTILITY SYSTEM**

### **History of the Water Utility System**

The origin of the City's municipal water system dates back to 1876 when a privately-owned utility, later known as the Modesto Water Company, was established to provide water service to the village of Modesto. In 1895, the City purchased the Modesto Water Company, and in subsequent years it purchased other local water systems that have been incorporated in the present Water Utility System.

In April 1992, the City entered into the original Treatment and Delivery Agreement with MID and the Del Este Water Company ("Del Este"), providing for a supply of treated water for the City and Del Este from the Water Treatment Plant, which was constructed and is owned and operated by MID. See "Sources of Water" below. In July 1995, the City purchased substantially all of the assets and assumed substantially all of the liabilities of Del Este, the last private water company within City limits. The acquisition included Del Este's other water service areas including the communities of Salida, Waterford, Empire, Hickman, Grayson, and parts of Turlock, Ceres and Del Rio Estates. As a consequence of the varying operating conditions among these communities, the

City initially operated the Water Utility System in three separate zones. However, the three zones were essentially merged into a single zone for rate purposes when the City Council adopted a new rate structure that went into effect on January 1, 2005.

The original Treatment and Delivery Agreement provided the terms and conditions under which the City agreed to provide payments for, and MID agreed to finance, construct, own and operate, the Water Treatment Plant. Pursuant to the terms of the original Treatment and Delivery Agreement, the City was entitled to receive 30 million gallons per day of treated water from the Phase One Water Treatment Plant. The original Treatment and Delivery Agreement was amended and restated in 2005 to provide for the funding and construction of Phase Two of the Water Treatment Plant. Upon completion of Phase Two, the City will be entitled to receive 60 million gallons per day of treated water for use within the portion of the City's service area that is within MID's authorized service area. See "Treatment and Delivery Agreement" below.

In general terms, the City's total water service area consists of one large contiguous area and several outlying, non-contiguous service areas. The contiguous water area includes all of the property currently within the corporate boundaries of the City as well as the property located within its sphere of influence and properties located within the communities of Ceres, Empire and Salida. There are five outlying non-contiguous water service areas. They are the communities of Del Rio, Grayson, Hickman and Waterford, as well as portions of the City of Turlock.

A map showing the City's water service area appears on page \_\_\_\_.

#### **Existing Facilities**

The principal facilities of the existing Water Utility System consist of 125 domestic wells (111 of which are currently active), over 900 miles of mains, seven storage tanks, the MID's Water Treatment Plant and a terminal storage area serving surface water and/or groundwater to its customers through nearly 77,000 water connections. A diagram showing the principal components of the existing Water Utility System appears on page \_\_\_\_.

MID surface water is treated at the Water Treatment Plant and conveyed to the City via transmission mains for direct use in the contiguous portion of the City's water service area. The City's facilities are designed to deliver both surface water and groundwater. The Water Treatment Plant does not provide surface water to the outlying portions of the City's water service areas including those portions that are outside of MID's authorized service boundaries.

Groundwater is pumped directly from the wells into the distribution system, which consists of 900 miles of water mains and pipelines. Most of the larger water mains are 10- and 12-inch diameter pipelines which have been installed by the City. The installation of smaller pipelines in subdivisions is typically the responsibility of the subdivider. Seven ground level tanks and booster pump stations provide storage capacities ranging from 500,000 to 1,300,000 gallons each.

The following table sets forth statistical information relating to the Water Utility System during the periods shown.



**WATER UTILITY SYSTEM STATISTICS**  
**Calendar Years**

	2001	2002	2003	2004	2005
Number of Service Accounts	70,317	71,847	72,907	73,916	74,779
Total Water Production (MG) <sup>(1)</sup>	26,320	27,060	27,000	26,580	25,720
Capacity (MGD) <sup>(2)</sup>	166	166	166	166	166
Peak Daily Distribution (MGD)	124.6	131.2	133.6	124.9	129.8
Average Daily Distribution (MGD)	72.4	75.4	73.7	72.4	70.4

(1) "MG" means million gallons.

(2) "MGD" means million gallons per day. The actual capacity of the Water Utility System during each of the years shown varied slightly from the 166 MGD figure depending upon the number and capacity of the wells going in and out of service in each of said years.

Source: City of Modesto.

During the five year period covered by the table the City's population grew by approximately 7.4% while the aggregate volume of water sold remained essentially flat. Thus, on a per capita basis, consumption of water in the City's service area has been reduced over the course of this period. This reduction has been the result of many variables including water conservation efforts, weather, system repairs, more efficient water consumption by customers and the availability of alternative water sources (onsite private wells).

#### Sources of Water

The City's primary sources of water supply are surface water provided by MID under the Treatment and Delivery Agreement (described below) and its local groundwater sources. During the 1990's, MID, the City, and Del Este partnered to develop a new municipal water supply. This was implemented by the original Treatment and Delivery Agreement, under which the 30 MGD Water Treatment Plant and delivery system came on line in January 1995. The Water Treatment Plant serves as the baseline supply, and seasonal demands are served by the groundwater wells. In general the Water Treatment Plant currently supplies approximately 60% of the City's water requirement during the winter and approximately 35% thereof during the summer season. Groundwater supplies the remainder. MID is expected to commence the expansion of the Water Treatment Plant in 2007, and the expansion is expected to increase the capacity of the Water Treatment Plant to 60 MGD.

The following table sets forth the total water production for the Water Utility System during the last five calendar years.

**WATER UTILITY SYSTEM**  
**Service Area Total Production (Billion Gallons)**

<i>Year Ending December 31</i>	<i>Groundwater</i>	<i>Surface Water</i>	<i>Total</i>
2001	14.94	11.38	26.32
2002	16.01	11.05	27.06
2003	15.49	11.51	27.00
2004	15.15	11.43	26.58
2005	15.13	10.59	25.72

Source: City of Modesto.

Outside of the City corporate limits there are no regulations controlling the number of water wells that are drilled or the quantity of water pumped from such wells. Prior to the availability of surface water from the Water Treatment Plant, the groundwater pumpage had been increasing and water levels had been declining since the early 1950's. As a result thereof, the groundwater resources of the Water Utility System were subject to long-term overdraft, i.e., the depletion of the water table was greater than the replenishment, of an average of 3,000 acre-feet per year. With the introduction of surface water from the Water Treatment Plant, this long-term overdraft was halted, and the City's dependency upon groundwater was reduced. The City expects that the expansion of the Water Treatment Plant and the installation of the various capital projects associated therewith, including the 2006 Project, will further reduce its reliance on groundwater supplies.

**Treatment and Delivery Agreement**

In April 1992, MID entered into the original Treatment and Delivery Agreement with the City and Del Este. Pursuant to the Treatment and Delivery Agreement, MID agreed to finance, construct, own and operate the Water Treatment Plant and certain related facilities, and the City agreed to pay the costs of acquisition, construction and operation of the Water Treatment Plant. Pursuant to the Treatment and Delivery Agreement, the City was initially allocated a 70% share of the Water Treatment Plant, and was likewise responsible for 70% of its costs; Del Este was allocated a 30% share and was likewise responsible for 30% of its cost.

The Modesto Irrigation District Financing Authority ("MIDFA") issued its Series 1992A Water Notes in the aggregate principal amount of \$39,990,000 to provide construction financing for Del Este's 30% of the estimated acquisition and construction costs of the Water Treatment Plant. MIDFA also issued its Series 1992A Water Bonds and Series 1992B Water Bonds in the aggregate principal amount of \$77,385,000 in order to finance the City's 70% share of the estimated acquisition and construction costs of the Water Treatment Plant. In 1995, MIDFA issued its Series 1995C Water Bonds in an aggregate principal amount of \$24,235,000 to repay the Series 1992A Water Notes; and in 1998, MIDFA issued its Series 1998D Water Bonds in an aggregate principal amount of \$94,715,000 to defease all of the outstanding Series 1992B Water Bonds and Series 1995C Water Bonds. (MIDFA's Series 1998D Water Bonds are referred to as the "Domestic Water Bonds.")

In July 1995, the City purchased substantially all of the assets and liabilities of Del Este and in accordance with the provisions of the original Treatment and Delivery Agreement assumed all interests, rights and obligations of Del Este under the original Treatment and Delivery Agreement.

Accordingly, Del Este had no further obligation to make payments under the Treatment and Delivery Agreement or otherwise with respect to the Domestic Water Bonds.

Construction of the Water Treatment Plant began in October 1992, and the Water Treatment Plant was placed into operation in May 1995. It is located directly south of the Modesto Reservoir on an approximately 30-acre site, about 15 miles east of the City. Treated water is pumped from a five million gallon treated water storage reservoir through approximately 14 miles of transmission pipeline to two five million gallon terminal-storage reservoirs. The water is then distributed to distribution mains in the City water system.

The water which MID treats and delivers to the City through the Water Treatment Plant is available to MID through (i) various water rights owned by MID, including a pre-1914 water right, which total approximately 300,000 acre feet of Tuolumne River water every year and (ii) water available to it under a license held by MID and Turlock Irrigation District (License 11058) which authorizes the two districts to store up to 1,046,800 acre feet of water in New Don Pedro Reservoir between November 1 and the succeeding July 31 for irrigation and recreational use. MID petitioned for and received an order from the State Water Resources Control Board (WR Order 2005-0022-DWR) which amended License 11058 and authorized a long-term transfer of up to 67,200 acre feet of water per year to the City and which added municipal and industrial uses to the uses of water permitted under the transfer. This long-term transfer is effective through December 31, 2054. During the period of the long-term transfer, MID is required to comply with all of the terms and conditions required by the Federal Energy Regulatory Commission for the New Don Pedro Project. In addition, pursuant to California Water Code Sections 100 and 275 as well as the common law public trust doctrine, all rights and privileges under the long-term transfer order, including method of diversion, method of use and quantity of water diverted, are subject to the continuing authority of the State Water Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion.

The original Treatment and Delivery Agreement provided that the City would receive 30 million gallons per day of treated water. The terms of the original Treatment and Delivery Agreement were subsequently amended and restated to provide for an expansion of the Water Treatment Plant upon the completion of which the City will be entitled to receive 60 million gallons per day of treated water on an average annual basis.

In accordance with the Treatment and Delivery Agreement, MID owns, operates, and maintains the Water Treatment Plant for the purposes of treatment and delivery of water to the City. MID may not assign its maintenance and operation responsibility for the Water Treatment Plant without the consent of the City. The City is granted a permanent beneficial interest in the Water Treatment Plant output, which may not be transferred or assigned without the consent of MID.

The City has agreed to pay all costs and expenses of all phases of the Water Treatment Plant, including (i) payments of Debt Service in connection with the financing of the Water Treatment Plant (a Parity Obligation), (ii) raw water charges for raw water furnished to the Water Treatment Plant by MID, (iii) payments of operation, maintenance, repair, replacement and modification costs attributable to the operation of the Water Treatment Plant, (iv) costs of administrative services of MID attributable to the operation of the Water Treatment Plant and the administration of the Treatment and Delivery Agreement, (v) costs of insurance required to be maintained by MID pursuant to the Treatment and Delivery Agreement (as described below), (vi) cost of electric energy

provided to the Water Treatment Plant by MID, and (vii) other payments or costs (and deductions from payments or costs from the reserve and contingency fund and the certain reserve funds relating to the Domestic Water Bonds) and other amounts as specified by the Treatment and Delivery Agreement.

Some of the key provisions of the Treatment and Delivery Agreement, as amended and restated, are:

The City will continue to receive raw water at the same unit cost as MID's agricultural users.

The City will reimburse MID for all capital and operating costs associated with the treatment of the water.

Reductions in water deliveries required as a result of a drought will be borne proportionately by the City and MID's agricultural customers.

MID's commitments to its agricultural customers and to the City must be met before MID may transfer any water for delivery outside of its boundaries.

The Policy Committee, which advises the Board of Directors of MID and City Council of the City on matters related to the project, consists of two members of the City Council and two members of the MID Board.

*Delivery of Treated Water.* MID currently makes available 33,602 acre feet of treated water from the Water Treatment Plant to the City annually, subject to a lesser allocation of treated water in the event of drought or other contingencies as provided in the Treatment and Delivery Agreement. As noted above, upon completion of the expansion of the Water Treatment Plant, the amount of treated water to which the City will be entitled will be approximately doubled. The City may exchange groundwater for use by MID's irrigation system for treated water in the event of a reduced allocation. The City will bear all costs, including the costs of additional capital facilities, if any are necessary, associated with delivering the groundwater supply to MID's irrigation system. MID may not sell any treated water from the Water Treatment Plant without first offering such water to the City. Treated water delivered by MID to the City must be utilized by the City within MID's irrigation service area. MID will consult with the City regularly with respect to the scheduling of delivery of treated water from the Water Treatment Plant, MID shall be excused from its obligation to deliver treated water in the event that MID is rendered unable, wholly or in part, by force majeure to carry out its obligations under the Treatment and Delivery Agreement. Upon the occurrence of any event of force majeure which impacts MID's ability to deliver treated water, the provisions of the Treatment and Delivery Agreement shall be determinative as to whether the City is excused from its obligation to pay debt service and fixed costs pursuant to the Treatment and Delivery Agreement.

Pursuant to the Treatment and Delivery Agreement two advisory committees are formed for the purposes of the Water Treatment Plant, the Policy Committee and the Technical Committee. Each of these Committees include representatives from MID and the City.

The Board of Directors of MID has the authority to make final decisions with respect to the Water Treatment Plant, subject to the rights of the City to review and advise MID with respect to certain budgetary matters as provided in the Treatment and Delivery Agreement.

**Conservation Program.** The City has an ongoing water conservation program which includes limitations on watering hours and certain water uses. In the event of drought, the City will likely expand its water conservation program to include additional water use restrictions, such as imposing limitations on the landscaping of new developments.

## **Water Quality**

Land use in the vicinity of the City is a mixture of rural, residential, agricultural, commercial and industrial uses. Potential sanitary hazards include the percolation of agricultural chemicals and fertilizers in adjacent fields and underground storage of fuels in single contained tanks. All wells are adequately located away from sewer lines and sewage disposal facilities. Above-ground on-site fuel storage tanks are or will be provided with a containment system.

Historically, the overall well system has not required major treatment facilities to deliver potable water supplies to date. However, over the past ten years, the number of natural and man-made contaminants which the City is required to monitor has increased from 22 to 96 and there have been significant changes in the maximum contaminant levels permitted under regulations adopted by federal and State regulatory agencies. As a result, concerns over water quality have necessitated the closure of wells with poor water quality and has led to the requirement for treatment of several groundwater wells. The City has commenced litigation to protect, and/or to recover damages to, its groundwater supplies. See "DBCP Settlement Agreement" and "PCE Litigation" below.

The operation of the wells is performed automatically in response to system pressure and reservoir water level. All wells are monitored in accordance with State water quality monitoring regulations. Samples are collected for general physical, general mineral, inorganic chemical, radioactivity and organic chemical analysis. Additional monitoring is conducted for bacteriological and general mineral analysis on a routine basis. Bacteriological quality of the groundwater sources is generally good. Follow-up samples on positive total coliform test results are generally negative,

In addition to water wells as a domestic supply source, the City manages approximately 9,500 rock wells for the drainage of stormwater. Stormwater runoff occurs when rainfall intensity exceeds the infiltration rate of the soil. Suspended solids, heavy metals, and oil and grease are the major types of pollutants conveyed by runoff water to drainage facilities. The pollutant loading in runoff typically increases with increased urbanization. About 70 percent of the City service area employs rock wells which vary in depth from 25 to 50 feet. As a precaution to any risk of pollutants from stormwater and other wastewater entering the rock wells and percolating into the usable groundwater aquifer, the City seals its water wells at appropriate depths in relation to rock wells. After 40 years of operation of rock wells, no pollutants attributable to urban drainage have been detected in the drinking water supply. Recent studies of the federal Environmental Protection Agency conclude that properly operated rock wells provide significant treatment and removal of pollutants from percolating water.

## **DBCP Settlement Agreement**

In January 1997, the City came to a settlement in litigation with certain defendants who are the manufacturers and distributors of dibromochloropropane ("DBCP"), which was impacting the drinking water quality throughout the combined City and former Del Este water systems. The settlement agreement (the "Settlement Agreement") compensated the City for past expenses related to complying with drinking water standards and providing well-head treatment. The Settlement

Agreement and the damage recovery covers the City's entire current and projected service area over the 40 years following the execution of the Settlement Agreement. The Settlement Agreement provides a formula by which the majority of future capital and operating expenses for DBCP mitigation will be compensated by the defendants. The Settlement Agreement includes cost escalation indexes and requires that these payments be used in the area where the damage occurs, as a protection for the defendants against possible Del Este ratepayer actions. The Settlement Agreement puts a variety of operating obligations on the City to ensure that the contamination is managed economically and in compliance with applicable regulations.

The annual proceeds from Settlement Agreement are included in the Historical Operating Results and the Projected Operating Results of the Water Utility System described below. For operating costs, the City receives a specified amount for each well which is receiving well head treatment for DBCP, escalated annually by the Producer Price Index ("PPI"). For each additional or new well requiring GAC equipment, 90% of the capital costs, escalated by the PPI, will be compensated. The actual amount will depend on the type of GAC unit needed for the specific well. The process for compensation provides that the City file an annual claim with the trustee, for operation and maintenance and capital costs for the preceding year. The defendants are required to maintain a certain balance in the trustee account, the balance declining over the 40 year life of the Settlement Agreement. The City is responsible for any difference between actual operating and capital expense and the stipulated compensation formula. Any shortfall would then be covered by the City through appropriate action, including without limitation a rate adjustment to assure compliance with the covenants in the Settlement Agreement.

Water supplied by the City has and continues to meet all federal and State requirements for quality standards. The City has in place a program to monitor and evaluate proposed regulatory water quality standards. The City anticipates that it will be able to meet increasingly stringent water standards.

### **PCE Litigation**

The City of Modesto Redevelopment Agency brought an action in 1998 against numerous defendants, alleging causes of action for strict liability, negligence, negligence per se, continuing trespass, private and public nuisance, private and public nuisance per se, response costs and declaratory relief under the Carpenter-Presley-Tanner Hazardous Substance Account Act (Health & Safety Code Section 25300 *et seq.*), ultrahazardous activity, and cost recovery under the Polanco Redevelopment Act (Health & Safety Code Section 33459 *et seq.*) (San Francisco County Superior Court Case No. 999345). Simultaneously with the filing of that action, the City, along with the City of Modesto Sewer District No. 1, brought another action against a nearly identical group of defendants seeking damages for solvent contamination under many of the same legal theories; but this action did not include a Polanco Redevelopment Act cause of action (San Francisco County Superior Court Case No. 999643). The defendants included chlorinated solvent manufacturers, distributors of solvents and dry cleaning equipment, chlorinated solvent equipment manufacturers, and dry cleaning retailers.

The complaints alleged that two cleaning solvents, perchloroethylene ("PERC" or "PCE") and trichloroethylene, cause risks to health and the environment, that dry cleaners customarily dumped solvent wastewater into the public sewer systems, and that dry cleaners experienced a habitual problem of chlorinated solvents leaking into the environment. According to the complaints, the defendants who manufactured and supplied solvents and equipment instructed dry cleaners that

chlorinated solvents could be discharged into sewers and/or failed to issue recalls or warnings regarding the equipment and solvents.

The plaintiffs tried five "bellweather" suits before a jury from February to June of 2006, and won a verdict for compensatory damages of \$3.1 million and a verdict for punitive damages of \$175 million, later lowered to \$12 million. This result has stalled settlement negotiations while both sides appeal various liability and damage issues. In any event, previous settlements and insurance payments have rendered the litigation essentially cost neutral to the City's Water and Sewer Enterprise Funds, which have funded the litigation to date on a roughly equal basis. It is not anticipated that the cost/settlement ratio will change dramatically in the 15 months following the execution and delivery of the 2006 Certificates, which is as far as the City believes reasonable forecasting may be done on the cost issue.

### **Employees**

The Public Works Director has primary responsibility for the management of the Water Utility System, as well as for the sewer system, solid waste system, streets and storm drains. The Water Utility System currently has 75 full-time employees. Employees are represented by the Modesto City Employees Association whose current Memorandum of Understanding expires in July, 2007. The City has never experienced a labor strike.

### **Retirement Programs**

All permanent employees of the City are covered under the Public Employees' Retirement System (PERS) of the State of California, a defined benefit plan. Pension costs are funded by monthly contributions from the City. Required contributions by the City during fiscal year 2005-06 were \$11,748,699 of which \$566,188 was allocated to the Water Utility System. The City's net assets available for benefits as of June 30, 2004 (the latest data available) were \$44,341,594 less than pension benefit obligations.

As of June 30, 2006, most employee contributions (9 percent for fire and police and 7 percent for miscellaneous employees, including Water Utility System employees) are paid by the City on behalf of the employees. The City is also required to contribute all remaining amounts necessary to fund the benefits for its members, using the actuarial basis recommended by the PERS actuaries and actuarial consultants and adopted by the Board of Administration.

In addition to the defined benefit plan described above, the City also maintains a program providing "other post-employment benefits" ("OPEB") for its employees. The City has created an internal service fund to track the OPEB liability, annual expenses and revenues and has been disclosing its liability for OPEB in its Comprehensive Annual Financial Statements for over ten years.

As of October 4, 2004 the Entry Age Actuarial Accrued Liability was \$55,726,958. The City has been funding the current cost of annual benefits and a portion of the long-term cost in each of the years that the liability has been disclosed in its financial statements.

A recent review performed by the City's external auditors of the OPEB plan design, actuarial assumptions and prior reporting has provided the City with a list of options to consider as the City moves to fully implement Government Accounting Standards Board Pronouncement 45 during the

2007-08 fiscal year. Among the options that will be considered by the City Council during the current fiscal year will be the use of an irrevocable trust to hold the assets that will be used to pay both the current and long-term portion of the OPEB liability.

### **Insurance**

The City is exposed to various risks of loss including those related to torts as well as the theft of, damage to and destruction of its assets. The City maintains an Insurance Internal Service Fund to account for and finance its risks of loss. Under this program, the City is self-insured for the following risks up to the maximum amount per claim as follows: workers' compensation \$750,000, liability \$1,000,000, employee disability \$216,000 and dental care \$1,200. The City purchases commercial insurance for property loss, airport liability and claims in excess of the preceding self-insured coverage amounts. For liability claims, the City is one of twelve members of the Authority for California Cities Excess Liability risk pool. This pool covers City claims between \$1 million and \$4 million. Commercial insurance covers claims over \$4 million up to an additional \$30 million per claim.

The City currently maintains insurance against damage to the Water Utility System. Coverage thereunder is currently \$10,000,000, but damage resulting from earthquakes is not covered.

### **Service Area and Customers**

The water service area of the Water Utility System is within the metropolitan area of the City, located in the central portion of Stanislaus County, consisting of approximately 36 square miles as well as the communities of Salida, Waterford, Empire, Hickman, Grayson, and portions of Turlock, Ceres and Del Rio Estates.

The following tables set forth the revenues for the periods indicated and the ten largest water customers of the Water Utility System in terms of total water sales and total billings for the fiscal year ended June 30, 2005. During calendar year 2005, the Water Utility System delivered approximately 25.72 billion gallons of water to an average of approximately 75,000 customers. Residential accounts (single family as well as multi-family accounts) represent approximately 75% of the City's water consumption and water sales revenues. Commercial, industrial and municipal accounts represent approximately 25% of the City's water consumption and water sales revenues. The City's ten largest customers represented approximately 6.9% of total water sales in fiscal year 2005-06.



**WATER UTILITY SYSTEM  
Sale of Water**

*Fiscal Year Ended June 30*

	2001	2002	2003	2004	2005	2006 <sup>(1)</sup>
Revenues (\$000)						
Residential (Flat Rates)	\$16,206	\$16,419	\$16,682	\$16,849	\$19,117	\$26,591
Commercial, Industrial and Municipal (Metered)	<u>9,928</u>	<u>10,233</u>	<u>10,075</u>	<u>10,524</u>	<u>10,847</u>	<u>14,516</u>
Total	\$26,134	\$26,652	\$26,757	\$27,323	\$29,964	\$41,107

<sup>(1)</sup> Reflects estimated, unaudited amounts.  
Source: City of Modesto.

**WATER UTILITY SYSTEM  
Ten Largest Customers  
(Fiscal Year ended June 30, 2006)**

<i>Customer</i>	<i>Business Type</i>	<i>Usage (ccf)<sup>(1)</sup></i>	<i>Water Sales Revenues</i>	<i>% of Total Water Sales Revenue</i>
Modesto City School District	School District	411,000	\$ 568,550	1.38%
Signature Fruit	Cannery	500,854	526,371	1.28
Stanislaus Food Products	Cannery	405,504	484,140	1.18
Foster Farms	Dairy Processor	354,358	328,126	0.80
Modesto Irrigation District	Government	192,520	211,782	0.52
E&J Gallo Winery	Winery	135,862	159,492	0.39
Yosemite Community College	Community College	119,235	158,231	0.38
Sylvan Unified School District	School District	123,987	154,324	0.38
Del Monte Foods	Cannery	109,911	117,906	0.29
Memorial Hospital	Hospital	<u>98,364</u>	<u>110,139</u>	<u>0.29</u>
Top Ten Total		2,451,595	\$ 2,819,061	6.86%
Total Flat/Metered Revenues			\$41,107,000	

<sup>(1)</sup> "ccf" means hundred cubic feet  
Source: City of Modesto.

**Water Charges and Billing**

**Water Service Rates.** Water rates are fixed by the City Council and are not subject to regulation by the California Public Utility Commission or any other State or federal agency. Customer service charges for single family residential accounts were historically generally based on a flat monthly service charge, which varied only based on the size of the lot and in which of three zones the lot was located. However, under a new rate structure which went into effect on January 1, 2005, a uniform rate for each applicable lot size has been established for all three zones. See "Rate Setting Process" below for a discussion of the process followed by the City in implementing the new rate structure.

Historically, the City has not metered water use by its single family residential customers; however, since 1992 all new construction has been equipped with a meter; and those single family residential properties that are equipped with water meters that are read for billing purposes are charged the metered water rate. Pursuant to State legislation, the City will be required to install meters and to read and bill for water service based on metered rates by 2025. The City Council has

adopted a metering plan schedule pursuant to which those requirements would be satisfied by 2019; and, in connection therewith, the City Council recently approved contracts with Automatic Meter Reading in order to provide the most cost efficient and manner of implementing its plan.

Multifamily residential units are currently metered. Each commercial account pays a monthly service charge and a volume charge per hundred cubic feet of water delivered. All regular customers are liable for service charges unless service is permanently discontinued. In addition, all new regular water service connections, increases in meter sizes, and the connection of additional dwelling units to existing services require the payment of a connection fee.

As noted above, the City Council established a new rate structure that went into effect on January 1, 2005. The new rate structure established a single service area, combining all three prior water zones into a single zone. The new rates include a uniform volume-based charge reflecting the volume of water consumed. Residential metered and flat rates are designed so that monthly bills for these types of customers will be comparable were water consumption is estimated to be comparable. Residential flat rates are standardized by lot size (previously, the size ranges varied between water zones) based upon the number of parcels in each range and patterns of water use.

The rate increases and individual customer bills in fiscal year 2004-05 varied by customer class and zone with the majority of the Zone 1 customers experiencing a 35% increase (the actual increase ranged from 14% to 43%). The Zone 2 adjustments ranged from a decrease of 19% to an increase of 15%, and the Zone 3 increases ranged from 28% to 81%. The adjustments to volume-based charges for metered customers in Zone 1 represented an increase of 2.7%. In Zone 2 such adjustments resulted in a 16% decrease, while in Zone 3 they represented a 40% increase.

**WATER UTILITY SYSTEM**  
**Comparison of Selected Pre January 1, 2005 Water Rates**  
**With Water Rates Effective January 1, 2005**

<i>Customer Classes</i>	<i>Pre 1/1/05 Rates</i>			<i>1/1/05 Rates &amp; % Change</i>			
	<i>Zone 1</i>	<i>Zone 2</i>	<i>Zone 3</i>	<i>Uniform</i>	<i>Zone 1</i>	<i>Zone 2</i>	<i>Zone 3</i>
<u>Flat Rate Residential</u>							
5,001 – 7,000 sq. ft. lot	\$ 20.60	\$ 24.61	\$ 15.63	\$ 27.81	35%	13%	78%
7,001 – 11,000 sq. ft. lot	\$ 23.08	\$ 28.58	\$ 18.20	\$ 33.00	43%	15%	81%
<u>Metered Charges</u>							
Uniform Vol. Charge (\$/hcf)	\$ 0.82	\$ 1.005	\$ 0.601	\$ 0.84	3%	-16%	40%
<u>Fixed Meter Charges</u>							
5/8"-3/4"	\$ 13.63	\$ 8.12	\$ 11.12	\$ 9.01	-34%	11%	-19%
1"	\$ 18.14	\$ 10.17	\$ 13.94	\$ 12.78	-30%	26%	-8%
1-1/2"	\$ 22.54	\$ 15.53	\$ 21.09	\$ 22.13	-2%	42%	5%
2"	\$ 27.20	\$ 21.09	\$ 28.54	\$ 33.38	23%	58%	17%

Source: City of Modesto.

In addition to the rate increases described above, the rate structure adopted by the City Council also provided for uniform increases of 20% effective July 1, 2005, 15% effective July 1, 2006, 5% effective July 1, 2007 and 5% effective July 1, 2008. On each July 1, commencing July 1, 2009 rates are expected to be adjusted to reflect increases in the Consumer Price Index.

The following table sets forth the volume charges for commercial accounts, effective as of July 1, 2006.

**WATER UTILITY SYSTEM  
Current Water Rates and Charges  
Commercial Accounts  
(Effective July 1, 2006)**

<i>Meter Size</i>	<i>Per Meter</i>
3/4"	\$12.44
1"	17.64
1-1/2"	30.53
2"	46.06
3"	87.53
4"	134.13
6"	263.51
8"	418.82
10"	600.07
12"	1,117.74

---

Source: City of Modesto.

In addition, each commercial account pays a volume charge of \$1.16 per hundred cubic feet of water delivered.

The following table sets forth connection fees for all users except multi-family units by meter size for fiscal year 2006-07.

**WATER UTILITY SYSTEM  
Connection Fees for All Users  
Except Multiple Family Units  
(Fiscal Year 2006-07)**

<i>Meter Size</i>	<i>Connection Fees</i>
5/8"	\$1,960
1"	4,900
1-1/2"	9,800
2"	15,680
3"	31,360
4"	49,000
6"	98,000
8"	156,800
10"	225,400
12" or larger	421,400

---

Source: City of Modesto.

**Comparison of Rates and Charges.** The following table lists certain water suppliers in the Modesto region and their average monthly residential water service charges.

**WATER UTILITY SYSTEM  
Comparison of  
Average Monthly Water Rates  
Flat Rate (1" Service)  
As of July 1, 2006**

<i>City</i>	<i>Flat Rate Typical Home</i>
Modesto	\$38.38
Tracy	33.00
Stockton	30.00
Turlock	24.40
Sacramento	24.00
Merced	22.05
Atwater	15.65
Ceres	15.30

Source: City of Modesto.

The City's water rates reflect the steps the City has taken to assure a long-term water supply by entering into the regional water management partnership with MID. The rates of the other nearby cities reflect the particular circumstances of each city's water system, such as the degree to which it relies on ground water or surface water. The rates also reflect their specific circumstances with regard to the cost of current and prospective water supplies.

**Rate Setting Process.** In connection with its consideration of the new water rate structure which took effect on January 1, 2005, the City Council followed a process which it believes satisfies the requirements of Article XIII D of the California Constitution. See "Impact of Proposition 218 on Water System Fees and Charges" below. Specifically, by October 8, 2004, nearly 75,000 notices of the proposed increase in water rates had been mailed to the owners of record of the parcels within the City's water service area. The notices advised property owners of their right to file written protests to the proposed increase and of a public hearing, set for November 23, 2004, at which such protests would be considered. The number of protests received prior to the completion of the November 23, 2004 public hearing was 8,856, far less than the majority required in order to prevent the implementation of the proposed rate increase. Following the completion of the public hearing, the City Council proceeded to adopt the rate increase as described above. See "Water Charges and Billing" above.

**Rate Study.** Prior to adopting the new water rate structure which took effect on January 1, 2005, the City Council engaged an outside consultant to prepare a water rate study that was ultimately presented to the City Council. In early 2005, the City's staff noted differences between the amount of revenue actually realized from the initial water rate increases adopted by the City Council and the revenue projections contained in the rate study. In light of those differences, the Water Utility System budgets for fiscal years 2005-06 and 2006-07 use revenue estimates based on actual levels of income received from Water Utility System rates and charges and not on projections

included in the rate study. Similarly, the projected operating results of the Water Utility System set forth below under the caption "Summary of Projected Operating Results of the Water Utility System" are also based on the actual amount of income that is being received by the Water Utility System and not on the forecast thereof shown in the rate study.

The errors in the revenue forecast which have been thus far identified in the rate study have been traced to one table in the rate study which contains a series of errors unrelated to the formulas underlying the current water rate structure, and the City believes that there is nothing at this time indicating that the rate structure itself is flawed.

*Challenges to Rates.* The 2005/2006 Stanislaus County Civil Grand Jury received complaints from Del Rio, an outlying community that receives its water from the City's Water Utility System Modesto. Del Rio is a wealthy area which includes homes on large lots that had previously received flat rate water. Part of the City's new rate structure (see "Water Charges and Billing – Water Service Rates" above) required metering rates for Del Rio, which had the effect of accentuating the accompanying rate hikes. However, the Civil Grand Jury found no evidence to support Del Rio's contention that the City's Proposition 218 notice informing the public of the new rate schedule was inadequate. Del Rio also charged that the City's water rate policy violated a Proposition 218 requirement that a parcel be charged only its proportional costs. The Civil Grand Jury concluded there is no difference in the rate structure between Del Rio and the rest of the City's water customers that are billed a metered rate; and the Civil Grand Jury made no recommendation regarding the proportionality issues. Del Rio further charged that there was a misuse of funds by using water collections for purposes other than water. While it did make study recommendations, the Civil Grand Jury ultimately determined that the City is accounting for water costs and revenues separately from non-water related accounts. Del Rio's last charge was that unfairness in the rate process led to Del Rio paying more than other water customers. The Civil Grand Jury could not substantiate this charge, but rather made study recommendations regarding actual customer costs between metered and flat rates, and a further recommendation that conversion from flat to metered rates occur as quickly as possible.

### **Delinquencies**

The City's municipal water department has historically accounted for water system revenues on a full accrual basis. The City has developed procedures for handling delinquent accounts, There has not generally been a significant delinquency problem. The threatened suspension of water delivery is normally sufficient incentive to induce customers to make payment on their billings. In addition, the City customers may have tax liens placed on their property when water bills are delinquent. Uncollectible accounts have historically been less than 1% of revenues.

## Historical Operating Results

The following table summarizes operating revenues, operating expenses and net income of the Water Utility System for the five fiscal years 2001-02 through 2005-2006, The information for the four fiscal years ended June 30, 2005 was prepared by the City on the basis of its audited financial statements.

### WATER UTILITY SYSTEM Historical Debt Service Coverage

	<i>Fiscal Year 2002</i>	<i>Fiscal Year 2003</i>	<i>Fiscal Year 2004</i>	<i>Fiscal Year 2005</i>	<i>Fiscal Year 2006<sup>(1)</sup></i>
<b>GROSS OPERATING REVENUES</b>					
Charges for services	\$ 27,376,240	\$ 27,986,082	\$ 31,353,046	\$ 31,315,920	\$ 42,670,821
DBCP Settlement	230,241	214,803	210,834	2,960,781	1,259,010
Connection charges <sup>(2)</sup>	1,248,689	1,169,995	1,159,296	1,371,958	1,728,973
Interest and Rental Income	929,353	964,817	316,688	279,616	532,794
Draw from Rate Stab. Fund	<u>0</u>	<u>153,200</u>	<u>0</u>	<u>0</u>	<u>(153,200)</u>
<b>GROSS OPERATING REVENUES</b>	<b><u>\$ 29,784,523</u></b>	<b><u>\$ 30,488,897</u></b>	<b><u>\$ 33,039,864</u></b>	<b><u>\$ 35,928,275</u></b>	<b><u>\$ 46,038,398</u></b>
<b>OPERATING EXPENSES:</b>					
Total operating expenses	\$ 25,968,732	\$ 27,815,253	\$ 26,757,108	\$ 29,227,465	\$ 25,884,448
Less: Depreciation	(2,297,851)	(1,884,768)	(2,173,845)	(2,305,953)	N/A
T&DA debt service component paid to MID <sup>(2)</sup>	(6,715,638)	(6,713,244)	(6,700,881)	(6,705,344)	(6,690,994)
Property taxes	71,579	77,676	89,921	82,673	84,556
Plus: Operating Transfers	<u>0</u>	<u>0</u>	<u>0</u>	<u>218,902</u>	<u>95,385</u>
<b>TOTAL OPERATING EXPENSES</b>	<b><u>17,026,822</u></b>	<b><u>\$ 19,294,917</u></b>	<b><u>\$ 17,972,303</u></b>	<b><u>20,517,743</u></b>	<b><u>19,373,395</u></b>
<b>NET OPERATING REVENUES</b>	<b><u>\$ 12,757,701</u></b>	<b><u>\$ 11,193,980</u></b>	<b><u>\$ 15,067,561</u></b>	<b><u>\$ 15,410,532</u></b>	<b><u>\$ 26,665,003</u></b>
<b>TOTAL DEBT SERVICE:</b>					
Revenue bonds:					
1997 Certificates of Participation	\$ 1,771,768	\$ 1,774,093	\$ 1,780,288	\$ 1,784,908	\$ 1,790,658
Treatment & Delivery Agreement	6,715,638	6,713,244	6,700,881	6,705,344	6,690,994
CDWR Loan	<u>264,654</u>	<u>264,656</u>	<u>264,656</u>	<u>264,654</u>	<u>264,454</u>
<b>TOTAL DEBT SERVICE</b>	<b><u>\$ 8,752,060</u></b>	<b><u>\$ 8,751,993</u></b>	<b><u>\$ 8,745,825</u></b>	<b><u>\$ 8,754,906</u></b>	<b><u>\$ 8,746,306</u></b>
<b>DEBT SERVICE COVERAGE</b>					
(Net Operating Revenues/Total Debt Service)	1.46	1.27	1.72	1.76	3.05

(1) Reflects estimated, unaudited amounts.

(2) Based on debt service paid pursuant to the Treatment and Delivery Agreement.

Source: City of Modesto.

## Capital Improvement Program

The capital improvement program of the City for the Water Utility System for fiscal years 2006-07 through 2014-15 includes budgeted or planned programs and projects expected to be funded by the City from annual revenues. Among the projects planned are new wells, well head treatment, Turlock Irrigation District Water Treatment Plant design work, water main extensions and pump replacements. Total expenditures for fiscal year 2006-07 are estimated to be approximately \$15.7 million. Improvements associated with the expansion of the Water Treatment Plant (in addition to the 2006 Project) are planned for fiscal years 2007-08 and are expected to be financed through additional Parity Obligations.

The City's capital improvement program is a 10-year plan revised annually. Consequently, projects planned for future years may be cancelled, and new projects not presently anticipated may be undertaken. To the extent that total funds required exceed cash available, the City expects that the projects will either be funded by bond proceeds or deferred or terminated.

## Summary of Projected Operating Results of the Water Utility System

The City has prepared the following table of projections of operating results of the Water Utility System for the fiscal years ending June 30, 2007 through 2011. The projected amounts set forth below are based on certain assumptions made by the City. To the extent that actual future conditions vary from those assumed in preparing the projections, the actual results will vary from those set forth herein.

### WATER UTILITY SYSTEM Projected Operating Results

	<i>Fiscal Year 2007</i>	<i>Fiscal Year 2008</i>	<i>Fiscal Year 2009</i>	<i>Fiscal Year 2010</i>	<i>Fiscal Year 2011</i>
<b>GROSS OPERATING REVENUES</b>					
Charges for services <sup>(1)</sup>	\$ 48,105,000	\$ 49,257,000	\$ 50,233,000	\$ 51,472,000	\$ 52,743,000
DBCP Settlement	--	--	--	--	--
Connection charges	2,677,000	2,995,000	2,995,000	3,495,000	3,495,000
Interest and Rental Income	431,000	431,000	431,000	331,000	231,000
Draw from Rate Stab. Fund	--	--	--	--	--
<b>GROSS OPERATING REVENUES</b>	<b>\$ 51,213,000</b>	<b>\$ 52,683,000</b>	<b>\$ 53,659,000</b>	<b>\$ 55,298,000</b>	<b>\$ 56,469,000</b>
<b>OPERATING EXPENSES:</b>					
Total operating expenses	\$ 31,283,000	\$ 34,173,000	\$ 36,458,000	\$ 43,851,000	\$ 44,253,000
Less: Depreciation	--	--	--	--	--
T&DA debt service component paid to MID	(6,687,000)	(6,682,000)	(6,672,000)	(10,601,000) <sup>(2)</sup>	(10,586,000) <sup>(2)</sup>
Property taxes	--	--	--	--	--
Plus: Operating Transfers	--	--	--	--	--
Expenditure Adjustment	500,000	500,000	500,000	500,000	500,000
<b>TOTAL OPERATING EXPENSES</b>	<b>\$ 25,096,000</b>	<b>\$ 27,991,000</b>	<b>\$ 30,286,000</b>	<b>\$ 33,750,000</b>	<b>\$ 34,167,000</b>
<b>NET OPERATING REVENUES</b>	<b>\$ 26,118,000</b>	<b>\$ 24,692,000</b>	<b>\$ 23,373,000</b>	<b>\$ 21,548,000</b>	<b>\$ 22,302,000</b>
<b>TOTAL DEBT SERVICE:</b>					
Revenue bonds:					
1997 Certificates of Participation	\$ 1,794,000	\$ 1,792,000	\$ 1,792,000	\$ 1,795,000	\$ 1,794,000
Treatment & Delivery Agreement	6,687,000	6,682,000	6,672,000	10,601,000 <sup>(2)</sup>	10,586,000 <sup>(2)</sup>
CDWR Loan	265,000	265,000	265,000	265,000	265,000
2006 Certificates	--	1,255,000	2,028,000	1,959,000	1,959,000
City Bond Tier 2	--	--	627,000	1,254,000	1,254,000
<b>TOTAL DEBT SERVICE</b>	<b>\$ 8,746,000</b>	<b>\$ 9,993,000</b>	<b>\$ 11,384,000</b>	<b>\$ 15,873,000</b>	<b>\$ 15,858,008</b>
<b>DEBT SERVICE COVERAGE</b>					
(Net Operating Revenues/Total Debt Service)	2.99	2.47	2.05	1.36	1.41

<sup>(1)</sup> Estimated based on projected increase in rates of 5% on each of July 1, 2007 and July 1, 2008 and of 2.5% on each subsequent July 1.

<sup>(2)</sup> Assumes additional MID debt in an aggregate amount which yields net spendable proceeds of \$52.7 million.

Source: City of Modesto.

### Impact of Proposition 218 on Water System Fees and Charges

**General.** An initiative measure entitled the "Right to Vote on Taxes Act" (the "Initiative") was approved by the voters of the State of California at the November 5, 1996 general election. The Initiative added Article XIII C and Article XIII D to the California Constitution. According to the "Title and Summary" of the Initiative prepared by the California Attorney General, the Initiative limits "the authority of local governments to impose taxes and property-related assessments, fees and charges."

**Article XIII D.** Article XIII D defines the terms "fee" and "charge" to mean "any levy other than an ad valorem tax, a special tax or an assessment, imposed by an agency upon a parcel or upon a

person as an incident of property ownership, including user fees or charges for a property-related service.” A “property-related service” is defined as “a public service having a direct relationship to property ownership.” Article XIID further provides that reliance by an agency on any parcel map (including an assessor’s parcel map) may be considered a significant factor in determining whether a fee or charge is imposed as an incident of property ownership.

Article XIID requires that any agency imposing or increasing any property-related fee or charge must provide written notice thereof to the record owner of each identified parcel upon which such fee or charge is to be imposed and must conduct a public hearing with respect thereto. The proposed fee or charge may not be imposed or increased if a majority of owners of the identified parcels file written protests against it. As a result, if and to the extent that a fee or charge imposed by a local government for water service is ultimately determined to be a “fee” or “charge” as defined in Article XIID, the local government’s ability to increase such fee or charge may be limited by a majority protest.

In *Richmond et al. v. Shasta Community Services District*, 32 Cal. 4th 409 (2004) the California Supreme Court ruled that water connection fees are not property related fees or charges subject to Article XIID while at the same time stating in *dicta* that fees for ongoing water service through an existing connection were property related fees and charges. On July 24, 2006, in *Bighorn-Desert View Water Agency v. Verjil*, 39 Cal. 4th 205 (2006), in what is technically *dicta*, the California Supreme Court cited its decision in *Richmond, supra* in support of its conclusion that a public water agency’s charges for ongoing water delivery are fees and charges within the meaning of Article XIID. Despite the fact that the statement is *dicta*, it does represent the unanimous view of the California Supreme Court. The City believes that it has complied with the requirements of Article XIID, as said article has been construed by the California Supreme Court, in establishing its current rate structure for the Water Service.

In addition, Article XIID includes a number of limitations applicable to pre-existing fees and charges including provisions to the effect that (i) revenues derived from the fee or charge shall not exceed the funds required to provide the property-related service, (ii) such revenues shall not be used for any purpose other than that for which the fee or charge was imposed, (iii) the amount of a fee or charge imposed upon any parcel or person as an incident of property ownership shall not exceed the proportional cost of the service attributable to the parcel and (iv) no such fee or charge may be imposed for a service unless that service is actually used by, or immediately available to, the owner of the property in question. Property-related fees or charges based on potential or future use of a service are not permitted. It is unclear whether, under the foregoing standards, fees and charges may be established at levels that permit deposits to a rate stabilization fund or maintenance of uncommitted cash reserves.

**Article XIIC.** Article XIIC provides that the initiative power shall not be prohibited or otherwise limited in matters of reducing or repealing any local tax, assessment, fee or charge and that the power of initiative to affect local taxes, assessments, fees and charges shall be applicable to all local governments. Article XIIC does not define the terms “local tax,” “assessment,” “fee” or “charge.” However, in *dicta* in its decision in *Bighorn-Desert View Water Agency, supra*, the California Supreme Court concluded that a public water agency’s charges for ongoing water delivery (which, as noted above, it had concluded were fees and charges within the meaning of Article XIID) are also fees within the meaning of Article XIIC and are therefore subject to initiative measures. However, the Court did note that, in doing so:



... [W]e are not holding that the authorized initiative power is free of all limitations. In particular, we are not determining whether the electorate's initiative power is subject to the statutory provision [applicable to Bighorn-Desert View Water Agency] requiring that water service charges be set at a level that "will pay the operating expenses of the agency, ... provide for repairs and depreciation of works, provide a reasonable surplus for improvements, extensions, and enlargements, pay the interest on any bonded debt, and provide a sinking or other fund for the payment of the principal of such debt as it may become due." ... That issue is not currently before us.

Again, while the court's conclusion set forth above is *dicta*, it does represent the unanimous view of the justices.

While the City does not believe that Article XIIC grants to the voters within the City the power to repeal or reduce rates and charges for the Water Service in a manner which would impair its ability to meet its contractual obligations, there can be no assurance as to the availability of particular remedies adequate to protect the Beneficial Owners of the 2006 Certificates. Remedies available to Beneficial Owners of the 2006 Certificates in the event of a default by the City are dependent upon judicial actions which are often subject to discretion and delay and could prove both expensive and time-consuming to obtain.

#### **Effect of Proposition 218 and of Possible General Limitations on Enforcement Remedies**

The ability of the City to comply with its covenants under the Contract and to generate Gross Revenues sufficient to pay the 1997 Payments, the 2006 Payments and any other Parity Obligations may be adversely affected by actions and events outside of the control of the City and by actions taken (or not taken) under Article XIIC or Article XIID by voters, property owners, taxpayers or payers of assessments, fees and charges. Furthermore, any remedies available to the Owners and Beneficial Owners of the 2006 Certificates upon the occurrence of an Event of Default under the 2006 Trust Agreement are in many respects dependent upon judicial actions which are often subject to discretion and delay and could prove both expensive and time consuming to obtain. In addition to the possible limitations on the ability of the City to comply with its covenants under the Contract, the rights and obligations of the City and the Authority under the 2006 Trust Agreement and the Contract may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to limitations on legal remedies against cities in the State of California,

Based on the foregoing, in the event the City fails to comply with its covenants under the Contract, including its covenants to generate sufficient Gross Revenues to pay the 1997 Payments, the 2006 Payments and any other Parity Obligations, there can be no assurance that available remedies will be adequate to fully protect the interests of the Owners or Beneficial Owners of the 2006 Certificates.

#### **Investment Policy**

The cash attributable to the Water Utility System must be invested in accordance with the City's Investment Policy, adopted by the City Council during 1984 and most recently revised during

[2006]. In accordance with Sections 53601 and following of the California Government Code, idle cash management and investment transactions are the responsibility of the City Finance Director/Treasurer and permitted investments include the following:

- Securities of the U.S. Government, or its agencies,
- Certificates of deposit (or time deposits) and negotiable certificates of deposit placed with commercial banks,
- Banker's acceptances,
- Commercial paper of "prime" quality,
- Local Agency Investment Fund (State Pool) Demand Deposits, and
- Repurchase agreements.

Criteria for selecting investments and the order of priority are:

- Safety of Principal- Preservation of principal and interest,
- Liquidity - Ability to readily convert investment to cash at any moment in time, and
- Yield - Potential dollar earnings on an investment.

The City's cash management system is designed to accurately monitor and forecast expenditures and revenues, thus enabling the City to invest funds to the fullest extent possible. The City attempts to obtain the highest yield when selecting an investment, provided the criteria for safety and liquidity are met.

### **Financial Statements**

The City's annual financial report is audited in accordance with generally accepted auditing standards, and contains opinions that the financial statements present fairly, in all material respects, the financial position of the City. The reports include certain notes to the financial statements. Such notes constitute an integral part of the audited financial statements. The annual financial reports of the City have received the Government Finance Officers Association Certificate of Achievement for each of the past 22 years.

The basic financial statements of the City as of June 30, 2005, which are incorporated by reference in and portions of which are included in APPENDIX A to this Official Statement, have been audited by Maze & Associates (the "Auditor"), independent certified public accountants, as set forth in their report. In connection with the incorporation of the financial statements and the report of the Auditor thereon in APPENDIX A to this Official Statement, the City did not request the Auditor to, and the Auditor has not undertaken to, update its report or to take any action intended or likely to elicit information concerning the accuracy, completeness or fairness of the statements made in this Official Statement; and no opinion is expressed by the Auditor with respect to any event subsequent to the date of its report. The Auditor has not been engaged to perform, and has not performed, since the date of its report included herein any procedures on the financial statements addressed in that report.

### **RISK FACTORS**

Some of the factors which could impair the ability of the City to pay the 2006 Payments as they become due under the 2006 Contract are summarized below. This discussion is not meant to be an exhaustive list of the risks associated with the purchase of the 2006 Certificates and does not

necessarily reflect the relative importance of the various factors discussed. Potential investors are advised to consider the following factors, along with all other information in this Official Statement, in evaluating the 2006 Certificates. There can be no assurance that other risk factors will not become material in the future.

## **General**

The payment of principal and interest on the 2006 Certificates is secured solely by a pledge of the Gross Revenues of the Water Utility System and money on deposit in certain funds under the 2006 Trust Agreement. Under the terms of the Master Contract, Gross Revenues are to be deposited in the Revenue Fund and used by the City, ratably, without preference or priority, to (i) pay charges for Maintenance and Operation Costs of the Water Utility System (including amounts reasonably required to be set aside in contingency reserves for Maintenance and Operation Costs the payment of which is not immediately required) as such charges are due and payable and (ii) deposit in the Parity Obligation Payment Fund the amount described in the Master Contract (in general terms, debt service which has accrued or will accrue during the next succeeding month on all Parity Obligations and net payments due or which will be due on all Parity Payment Agreements). See "SECURITY FOR THE 2006 CERTIFICATES — Flow of Funds." The realization of revenues sufficient in amount to meet both of said obligations is subject to, among other things, the capabilities of management of the City, the ability of the City to provide water service to its users, and the ability of the City to establish and maintain water fees and charges sufficient to provide the required debt service coverage as well as pay for Maintenance and Operation Costs.

If Gross Revenues are insufficient to meet both of the requirements described above, the amounts available to pay Maintenance and Operation Costs will be reduced ratably along with the money to be deposited in the Parity Obligation Payment Fund. This could result in an inability on the part of the City to pay Maintenance and Operation Costs as the same become due which, in turn, could adversely affect the ability of the City to operate the Water Utility System thereby further reducing Gross Revenues.

Among other matters, drought, general and local economic conditions and changes in law and government regulations (including initiatives and moratoriums on growth) could adversely affect the amount of Gross Revenues realized by the City.

## **Earthquakes, Floods and Other Natural Disasters**

Earthquakes, floods or other natural disasters could interrupt operation of the Water Utility System and cause increased costs thereby impairing the ability of the City to realize Gross Revenues. The Master Contract requires the City to "procure and maintain such insurance relating to the Water Utility System which it shall deem advisable or necessary to protect its interests and the interests of the Authority, which insurance shall afford protection in such amounts and against such risks as are usually covered in connection with water systems similar to the Water Utility System." Such insurance is permitted to be maintained under a program of self-insurance so long as such program is maintained in the amounts and manner as is, in the opinion of an accredited actuary, actuarially sound. While City currently maintains insurance against damages to its Water Utility System in amounts up to \$10,000,000, damages resulting from earthquakes are not covered. MID does not currently maintain insurance for damages to the Water Treatment Plant resulting from either floods or earthquakes.

Natural disasters could also adversely affect the service area of the Water Utility System, leading to reduced demand for water service and could also result in a loss or contamination of groundwater supplies and/or surface water supplies otherwise available to the City.

### **Demand for Water**

There can be no assurance that the demand for water service will occur as described in this Official Statement. Not only is it possible that future increases in demand for water service will not occur at the rate described herein, it is also possible that current levels of demand could be reduced. A reduction in the level of demand could require an increase in rates or charges in order to comply with the Rate Covenant. See "SECURITY FOR THE 2006 CERTIFICATES — Rate Covenant."

### **Water Supply**

There can be no assurance that the supply of water available to the City to meet potential system-wide demand will be consistent with the assumptions described in this Official Statement. Adequacy of supply could be adversely affected by factors such as prolonged drought or increases in water quality standards which restrict the ability of the City to use existing groundwater supplies to meet demand. See "THE WATER UTILITY SYSTEM — Water Quality." While the expansion of the Water Treatment Plant and the construction of the 2006 Project and subsequent improvements to the Water Utility System are intended to reduce the City's dependence upon groundwater supplies, there is no assurance that any of such improvements will be completed or that they will be completed within a time frame and at a cost consistent with the various projections set forth in this Official Statement.

In addition to the potential problems of insufficient water to meet system-wide demand discussed above, it is possible that the supply of water to meet the demands of particular portions of the City's water service area will be inadequate for such purposes. Some portions of the service area lack the wells necessary to supply them with groundwater, and other portions lack the infrastructure which would be required in order to deliver water from other portions of the service area.

### **Water Utility System Expenses**

There can be no assurance that the Maintenance and Operation Costs will be consistent with the descriptions in this Official Statement. Increases in such costs could require a significant increase in rates or charges in order to pay for existing and future improvements to the Water Utility System and comply with the Rate Covenant.

### **Rate Process**

The passage of Proposition 218 by the California electorate affects the City's ability to impose future rate increases, and no assurance can be given that future rate increases will not encounter majority protest opposition under Proposition 218. See "THE WATER UTILITY SYSTEM — Impact of Proposition 218 on Water System Fees and Charges" and " — Effect of Proposition 218 and of Possible General Limitations on Enforcement Remedies."

### **Statutory and Regulatory Impact**

Laws and regulations governing the treatment and delivery of water are enacted and promulgated by governmental agencies on the federal, state and local levels. Compliance with these

laws and regulations may prove costly; and, as more stringent statutory and regulatory standards are developed to protect both the health of consumers and environment, these costs will likely continue to increase. Claims against the City with respect to the Water Utility System could be significant, and such claims will be payable from Gross Revenues. No assurance can be given that the cost of compliance with applicable laws and regulations will not materially adversely affect the ability of the City to comply with the Rate Covenant.

### **Limitations on Remedies and Bankruptcy**

The ability of the City to increase fees and charges for water service and to comply with the Rate Covenant may be adversely affected by actions and events outside of the control of the City and may be adversely affected by actions taken (or not taken) by voters, property owners, taxpayers or payers of fees and charges. See "THE WATER UTILITY SYSTEM — Impact of Proposition 218 on Water System Fees and Charges" and " — Effect of Proposition 218 and of Possible General Limitations on Enforcement Remedies." Furthermore, any remedies available to the Owners of the 2006 Certificates upon the occurrence of an event of default under the Contract are in many respects dependent upon judicial actions which are often subject to discretion and delay and could prove both expensive and time consuming to obtain.

In addition to the limitations on remedies contained in the Contract, the rights and obligations under the 2006 Certificates and the Contract may be subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting creditors' rights, to the application of equitable principles, to the exercise of judicial discretion in appropriate cases and to limitations on legal remedies against cities in the State of California. Various legal opinions to be delivered concurrently with the issuance of the 2006 Certificates will be so qualified. In addition, the opinion to be delivered by Sidley Austin LLP; Special Counsel, concurrently with the execution and delivery of the 2006 Certificates, will also state that the enforceability of the Contract is subject to the limitations on the imposition of fees and charges by the City relating to the Water Utility System under Articles XIIC and XIID of the California Constitution. A copy of the proposed form of opinion of Special Counsel is set forth in APPENDIX D hereto. In the event the City fails to comply with its covenants under the Contract or to pay principal or interest evidenced by the 2006 Certificates, there can be no assurance that available remedies will be adequate to fully protect the interests of the Owners of the 2006 Certificates.

The enforcement of the remedies provided in the Contract could prove both expensive and time consuming. In addition, the rights and remedies provided in the Contract may be limited by and are subject to provisions of the federal bankruptcy laws, as now or hereafter enacted, and to other laws or equitable principles that may affect creditors' rights.

### **Limited Obligations**

The 2006 Certificates are limited obligations of the City are not secured by a legal or equitable pledge or charge or lien upon any property of the City or any of its income or receipts, except the Gross Revenues of the Water Utility System. The obligation of the City to make the 2006 Payments does not constitute an obligation of the City to levy or pledge any form of taxation or for which the City has levied or pledged any form of taxation.

## THE AUTHORITY

The Authority was established pursuant to the provisions of Sections 6500 *et seq.* of the California Government Code and a Joint Exercise of Powers Agreement, dated as of December 1, 1989, by and between the City and the Industrial Development Authority of the City of Modesto. The Authority was established for the purpose of financing the acquisition, construction, improvement and equipping of public capital improvements. The governing board of the Authority consists of the City Council of the City.

## APPROVAL OF LEGAL PROCEEDINGS

The legality and enforceability of the 2006 Contract and certain other legal matters are subject to the approval of Sidley Austin LLP, San Francisco, California, acting as Special Counsel. The proposed form of said firm's legal opinion with respect to the 2006 Contract and the 2006 Certificates is attached hereto as APPENDIX D, and such legal opinion will be attached to each 2006 Certificate. Special Counsel undertakes no responsibility for the accuracy, completeness or fairness of this Official Statement. Certain legal matters will be passed upon for the City and the Authority by the City Attorney and by Stradling Yocca Carlson & Rauth, a Professional Corporation, Newport Beach, California, Disclosure Counsel; for the Underwriter by its counsel, Orrick, Herrington & Sutcliff LLP; for the Trustee by its General Counsel; and for the 2006 Certificate Insurer by its General Counsel. Both Sidley Austin LLP and Stradling Yocca Carlson & Rauth, a Professional Corporation have represented the Underwriter in transactions not involving the City or the Authority. The payment of the fees of Special Counsel, Disclosure Counsel, Counsel to the Underwriter and the Trustee is contingent upon the execution and delivery of the 2006 Certificates.

## LITIGATION

There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, regulatory agency, public board or body, pending or, to the knowledge of the City or the Authority, threatened against the City or the Authority affecting the existence of the City or the Authority or the titles of their respective directors or officers to their respective offices or seeking to restrain or to enjoin the sale or delivery of the 2006 Certificates, the application of the proceeds thereof in accordance with the 2006 Trust Agreement, or in any way contesting or affecting the validity or enforceability of the 2006 Certificates, the 2006 Trust Agreement, the Contract, or any action of the City or the Authority contemplated by any of said documents, or in any way contesting the completeness or accuracy of this Official Statement or any amendment or supplement thereto, or contesting the powers of the City or the Authority or their respective authority with respect to the 2006 Certificates or any action of the City or the Authority contemplated by any of said documents, nor to the knowledge of the City, is there any basis therefor.

## TAX MATTERS

In the opinion of Sidley Austin LLP, San Francisco, California, Special Counsel, based on existing statutes, regulations, rulings and judicial decisions and assuming compliance with certain covenants in the 2006 Trust Agreement and the 2006 Contract and requirements of the Internal Revenue Code of 1986, as amended (the "Code"), regarding the use, expenditure and investment of proceeds of the 2006 Certificates and the timely payment of certain investment earnings to the United States, the portion of each 2006 Payment due under the 2006 Contract designated as and comprising interest with respect to the 2006 Certificates is not includable in the gross income of the Beneficial

Owners of the 2006 Certificates for federal income tax purposes. Failure to comply with such covenants and requirements may cause the portion of each 2006 Payment due under the 2006 Contract designated as and comprising interest with respect to the 2006 Certificates to be included in gross income retroactively to the date of execution and delivery of the 2006 Certificates.

In the further opinion of Special Counsel, the portion of each 2006 Payment due under the 2006 Contract designated as and comprising interest with respect to the 2006 Certificates is not treated as an item of tax preference in calculating the federal alternative minimum taxable income of individuals and corporations. Such portion of each 2006 Payment, however, is included as an adjustment in the calculation of federal corporate alternative minimum taxable income and may therefore affect a corporation's alternative minimum tax liability.

Ownership of, or the receipt of interest on or with respect to, tax-exempt obligations may result in collateral tax consequences to certain taxpayers, including, without limitation, financial institutions, property and casualty insurance companies, certain foreign corporations doing business in the United States, certain S corporations with excess passive income, individual recipients of Social Security or Railroad Retirement benefits, taxpayers that may be deemed to have incurred or continued indebtedness to purchase or carry tax-exempt obligations and taxpayers who may be eligible for the earned income tax credit. Special Counsel expresses no opinion with respect to any collateral tax consequences and, accordingly, prospective purchasers of the 2006 Certificates should consult their tax advisors as to the applicability of any collateral tax consequences.

Certain requirements and procedures contained or referred to in the 2006 Trust Agreement and the 2006 Contract and other relevant documents may be changed, and certain actions may be taken or omitted under the circumstances and subject to the terms and conditions set forth in such documents, upon the advice or with the approving opinion of counsel nationally recognized in the area of tax-exempt obligations. Special Counsel expresses no opinion as to the exclusion from gross income for federal income tax purposes of the portion of each 2006 Payment due under the 2006 Contract designated as and comprising interest with respect to the 2006 Certificates on and after the date on which any such change occurs or action is taken or omitted upon the advice or approval of counsel other than Sidley Austin LLP. The Authority and the City have covenanted in the 2006 Trust Agreement and the 2006 Contract that, in the event of any such change in the 2006 Trust Agreement, the 2006 Contract or any other relevant documents relating to the 2006 Certificates, or any other actions taken or omitted by the City or the Authority upon the advice or with the approving opinion of counsel other than Sidley Austin LLP, the Authority and the City will, upon the making of any such change, or the taking or omission of any such other action, cause to be delivered an opinion of counsel nationally recognized in the area of municipal bonds to the effect that the portion of each 2006 Payment due under the 2006 Contract designated as and comprising interest with respect to the 2006 Certificates is excluded from gross income for federal income tax purposes.

Legislation affecting municipal obligations is continually being considered by the United States Congress. There can be no assurance that legislation enacted after the date of execution and delivery of the 2006 Certificates will not have an adverse effect on the tax-exempt status of the 2006 Certificates. Legislation or regulatory actions and proposals may also affect the economic value of tax exemption or the market price of the 2006 Certificates.

In the further opinion of Special Counsel, the portion of each 2006 Payment due under the 2006 Contract designated as and comprising interest with respect to the 2006 Certificates is exempt from personal income taxes imposed by the State of California.

A copy of the proposed form of opinion of Special Counsel is attached hereto as APPENDIX D.

### CONTINUING DISCLOSURE

The City has covenanted for the benefit of the Owners of the 2006 Certificates to provide certain financial information and operating data relating to the 2006 Certificates and the City by not later than 270 days after the end of the City's Fiscal Year (presently June 30) commencing with the report for the City's 2005-06 fiscal year (the "Annual Reports") and to provide notices of the occurrence of certain enumerated events, if deemed by the City to be material. The Annual Reports will be filed by the Trustee, as Dissemination Agent on behalf of the City, with each Nationally Recognized Municipal Securities Information Repository and with any State Repository which may be designated by the State of California (collectively, the "Repositories") and with the Underwriter and the Broker-Dealer. The notices of material events will be filed by the Trustee, as Dissemination Agent on behalf of the City, with the Repositories with copies to the City, the Underwriter and the Broker-Dealer. The specific nature of the information to be contained in the Annual Reports or the notices of material events is set forth in APPENDIX E — "FORM OF CONTINUING DISCLOSURE AGREEMENT." These covenants have been made in order to assist the Underwriter in complying with Rule 15c2 12(b)(5) of the Securities and Exchange Commission (the "Rule").

The City believes that it has never failed in any material respect to comply with an undertaking pursuant to the Rule. However, on October \_\_, 2006, the City caused to be filed supplements to each of the five most recent Annual Reports that had been filed for it pursuant to the Continuing Disclosure Agreement (the "1997 Continuing Disclosure Agreement") executed by the City in connection with the Refunding Revenue Certificates of Participation (1997) Water Utility System Refinancing Project (the "1997 Certificates"). The 1997 Continuing Disclosure Agreement contains language identical to the language in paragraph 4 of Section 4 of the Form of Continuing Disclosure Agreement included in APPENDIX E. That language requires the City to include in its Annual Report, among other things, "Updated information *similar to* that contained in the tables entitled . . . WATER UTILITY SYSTEM – Ten Largest Customers, appearing under the caption 'WATER UTILITY SYSTEM – Service Area and Customer' of the [1997] Official Statement." (Emphasis added.) In the 1997 Official Statement, that table included (a) the name of the customer, (b) its type of business, (c) its water usage, (d) its percentage of total water usage (e) its water sales revenue and (f) its percentage of total water sales revenue. The Annual Reports filed for the City had included items (a), (b) and (f) as well as the total water sales revenue from which item (e) could be calculated and data with respect to costs of water from which reasonable estimates of item (c) could be established. However, those Annual Reports did not include the customer's percentage of total water usage. The City does not believe that the omitted data represented a material failure to comply with the terms of the 1997 Continuing Disclosure Agreement. However, in the supplements to the Annual Reports referred to above, the City reported those data, and the City intends to include such data in future Annual Reports filed pursuant to the 1997 Continuing Disclosure Agreement. In addition, in the process of preparing the aforesaid supplements, the City rechecked the data set forth in the Annual Reports and made certain revisions to such data. Those revisions show that the top ten customers of the Water Utility System represented a smaller percentage of total water sales revenues than had previously been reported.



## RATINGS

Moody's Investors Service, Inc. ("Moody's") and Standard & Poor's Ratings Services ("S&P") are expected to assign their ratings of "Aaa" and "AAA", respectively, to the 2006 Certificates with the understanding that upon delivery of the 2006 Certificates, the 2006 Certificate Insurance Policy will be issued by the 2006 Certificate Insurer. In addition, Moody's has assigned an underlying rating of "A2" to the 2006 Certificates, and S&P has assigned them an underlying rating of "A+." Generally, rating agencies base their ratings on information and material furnished directly to them and on investigations, studies and assumptions made by them. The ratings reflect only the views of such organizations and an explanation of the significance of such ratings may be obtained from Moody's Investors Service, 99 Church Street, New York, New York 10017 and Standard & Poor's Ratings Services, 55 Water Street, New York, New York 10041. There is no assurance that the ratings will continue for any given period of time or that they will not be revised downward or withdrawn entirely by such rating agencies, if, in the judgment of such rating agencies, circumstances so warrant. Any such downward revision or withdrawal of such ratings may have an adverse effect on the market price of the 2006 Certificates.

## FINANCIAL ADVISOR

The City has retained Public Financial Management, Inc., of San Francisco, California, as Financial Advisor (the "Financial Advisor") in connection with the execution and delivery of the 2006 Certificates. The Financial Advisor is not obligated to undertake, and has not undertaken to make, an independent verification or assume responsibility for the accuracy, completeness, or fairness of the information contained in this Official Statement. Public Financial Management, Inc., is an independent financial advisory firm and is not engaged in the business of underwriting, trading or distributing municipal securities or other public securities.

## CERTAIN RELATIONSHIPS

Banc of America Securities LLC, the Underwriter and Broker-Dealer, and Bank of America, N.A., the Swap Provider, are affiliates, both being subsidiaries of Bank of America Corporation.

## UNDERWRITING

The 2006 Certificates will be purchased by Banc of America Securities LLC (the "Underwriter"), under a Certificate Purchase Agreement, dated \_\_\_\_\_, 2006, pursuant to which the Underwriter has agreed to purchase all, but not less than all, of the 2006 Certificates for an aggregate purchase price of \$ \_\_\_\_\_ (representing the principal evidenced thereby less Underwriter's discount of \$ \_\_\_\_\_).

**MISCELLANEOUS**

Insofar as any statements made in this Official Statement involve matters of opinion or of estimates, whether or not expressly stated, they are set forth as such and not as representations of fact. No representation is made that any of such statements made will be realized. Neither this Official Statement nor any statement which may have been made verbally or in writing is to be construed as a contract with the Owners of the 2006 Certificates.

The execution and delivery of this Official Statement have been duly authorized by the City and the Authority.

**CITY OF MODESTO, CALIFORNIA**

By: \_\_\_\_\_

**MODESTO PUBLIC FINANCING  
AUTHORITY**

By: \_\_\_\_\_

## APPENDIX A

### EXCERPTS FROM THE CITY'S FINANCIAL STATEMENTS

The City has filed its Comprehensive Annual Financial Report ("CAFR") for Fiscal Year 2004-05 with the Nationally Recognized Municipal Securities Information Repositories. Such CAFR is incorporated herein by reference. The following are excerpts from the CAFR relating to the Water Utility System.

**CITY OF MODESTO**  
**STATEMENT OF NET ASSETS - PROPRIETARY FUNDS**  
June 30, 2005

	Water	Sewer	Enterprise Other Enterprise	Total Enterprise	Internal Service
<b>ASSETS</b>					
Current assets:					
Cash and cash equivalents	\$ 11,392,092	\$ 18,567,796	\$ 6,616,346	\$ 36,576,234	\$ 42,889,298
Cash and cash equivalents with fiscal agent	263,978	4,010,327	606,895	4,881,200	
Receivables:					
Accounts		167,761	216,481	384,242	346,802
Interest	82,656	174,258	66,590	323,504	149,157
Utilities, net	4,289,320	2,367,136	548,874	7,205,330	
Taxes	3,371		202	3,573	
Due from governments		127,064	1,433,934	1,560,998	
Prepaid expenses	941,175			941,175	
Inventories					375,519
Property held for resale			630,000	630,000	
Advances to other funds					2,000,000
Total current assets	<u>16,972,592</u>	<u>25,414,342</u>	<u>10,119,322</u>	<u>52,506,256</u>	<u>45,760,776</u>
Noncurrent assets:					
Notes receivable, net					3,096
Restricted assets-cash and cash equivalents	501,259	315,232		816,491	
Unamortized costs of issuance	254,452	634,777		889,229	
Land and construction in progress	5,811,741	24,575,635	16,764,678	47,152,054	821,033
Other capital assets, net of accumulated depreciation	<u>66,585,561</u>	<u>106,970,689</u>	<u>61,044,600</u>	<u>234,600,850</u>	<u>17,530,499</u>
Total assets	<u>90,125,605</u>	<u>157,910,675</u>	<u>87,928,600</u>	<u>335,964,880</u>	<u>64,115,404</u>
<b>LIABILITIES</b>					
Current liabilities:					
Accounts payable	585,923	599,228	828,926	2,014,077	1,194,871
Accrued salaries and benefits	51,096	69,020	39,062	159,178	52,562
Due to other funds					125,000
Interest payable	285,989	344,200	52,568	682,757	
Current portion - compensated absences					2,218,476
Current portion - claims liability					4,831,901
Current portion - long-term debt	931,562	1,057,899	195,000	2,184,461	45,587
Current portion - developer advances	97,533			97,533	
Deferred revenues			<u>2,214,408</u>	<u>2,214,408</u>	
Total current liabilities	<u>1,952,103</u>	<u>2,070,347</u>	<u>3,329,964</u>	<u>7,352,414</u>	<u>8,468,397</u>
Noncurrent liabilities:					
Payable from restricted assets -refundable deposits	501,259	315,232		816,491	
Compensated absences					60,221,829
Claims liability					9,129,900
Long-term debt:					
Revenue bonds payable		36,697,428		36,697,428	
Loan payable	2,156,040			2,156,040	
Notes payable					171,034
Obligations under capital leases		222,588		222,588	
Certificates of participation	18,668,167		5,855,000	24,523,167	
Developer advances	<u>2,182,336</u>			<u>2,182,336</u>	
Total liabilities	<u>25,459,905</u>	<u>39,305,595</u>	<u>9,184,964</u>	<u>73,950,464</u>	<u>77,991,160</u>
<b>NET ASSETS</b>					
Invested in capital assets, net of related debt	50,641,533	93,568,409	72,348,208	216,558,150	18,134,911
Restricted for capital projects					
Unrestricted	<u>14,024,167</u>	<u>25,036,671</u>	<u>6,395,428</u>	<u>45,456,266</u>	<u>(32,010,667)</u>
Total net assets	<u>\$ 64,665,700</u>	<u>\$118,605,080</u>	<u>\$ 78,743,636</u>	<u>262,014,416</u>	<u>\$(13,875,756)</u>
Adjustment to reflect the consolidation of internal service fund activities related to enterprise funds.				<u>92,547</u>	
Net assets of business-type activities				<u>\$262,106,963</u>	

The notes to basic financial statements are an integral part of this statement.

**CITY OF MODESTO**  
**STATEMENT OF REVENUES, EXPENSES AND CHANGES**  
**IN FUND NET ASSETS - PROPRIETARY FUNDS**  
**Year Ended June 30, 2005**

	<u>Water</u>	<u>Sewer</u>	<u>Enterprise Other Enterprise</u>	<u>Total Enterprise</u>	<u>Internal Service</u>
<b>OPERATING REVENUES:</b>					
Charges for services	\$ 31,315,920	\$ 24,419,607	\$ 11,233,197	\$ 66,968,724	\$ 67,256,696
Sales					3,034,646
Cost of sales					(2,768,263)
Miscellaneous			<u>281,711</u>	<u>281,711</u>	
Total operating revenues	<u>31,315,920</u>	<u>24,419,607</u>	<u>11,514,908</u>	<u>67,250,435</u>	<u>67,523,079</u>
<b>OPERATING EXPENSES:</b>					
Salaries and wages	3,881,015	5,040,630	3,274,602	12,196,247	7,405,247
Contractual services	1,728,962	2,263,834	10,114,453	14,107,24	1,357,225
Utilities	1,599,480	1,022,165	450,616	3,072,261	458,504
Maintenance and supplies	3,400,721	3,673,065	3,077,930	10,151,716	3,728,462
Water purchases	11,751,150			11,751,150	
Insurance	118,168	298,075	172,803	589,046	10,636,951
Claims expense					2,874,266
Employee benefits	1,149,167	1,553,764	890,905	3,593,836	36,793,595
Administration services	2,177,564	1,527,098	1,446,026	5,150,688	1,396,936
Allocated indirect administrative costs	1,049,489	760,932	684,216	2,494,637	264,010
Other	65,796	115,567	172,237	353,600	155,570
Depreciation	<u>2,305,953</u>	<u>5,092,264</u>	<u>3,532,687</u>	<u>10,930,904</u>	<u>2,578,355</u>
Total operating expenses	<u>29,227,465</u>	<u>21,347,394</u>	<u>23,816,475</u>	<u>74,391,334</u>	<u>67,649,121</u>
<b>OPERATING INCOME (LOSS)</b>	<u>2,088,455</u>	<u>3,072,213</u>	<u>(12,301,567)</u>	<u>(7,140,899)</u>	<u>(126,042)</u>
<b>NONOPERATING REVENUES (EXPENSES)</b>					
Operating grants			7,525,367	7,525,367	
Gain (Loss) on disposition of capital assets	(402,627)	(198,137)	(202,180)	(802,944)	(168,96)
Tax revenue			260,064	260,064	
Tax expense	(82,673)	(90,117)	(20,942)	(193,732)	
Interest income	247,831	545,734	221,798	1,015,363	577,126
Net decrease in fair value of investments	24,553	29,961	15,473	69,987	56,239
Rental income	31,785	24,158	678,577	734,520	
Settlements and recoveries	2,960,781	4,435,846		7,396,627	
Interest expense	(1,251,395)	(1,182,467)	(318,612)	(2,752,474)	(15,672)
Amortization of costs of issuance	<u>(13,839)</u>			<u>(13,839)</u>	
Total nonoperating revenues (expenses)	<u>1,514,416</u>	<u>3,564,978</u>	<u>8,159,545</u>	<u>13,238,939</u>	<u>448,728</u>
<b>INCOME (LOSS) BEFORE CAPITAL CONTRIBUTIONS AND TRANSFERS</b>	3,602,871	6,637,191	(4,142,022)	6,098,040	322,686
Capital contributions	2,378,331	1,643,416	4,476,661	8,498,408	706,694
Transfers in	528,000	327,119	846,136	1,701,255	475,000
Transfers out	(229,027)	(134,795)	(30,519)	(394,341)	(99,419)
Special item	<u>(898,505)</u>	<u>(1,040,101)</u>		<u>(1,938,606)</u>	
<b>CHANGE IN NET ASSETS</b>	5,381,670	7,432,830	1,150,256	13,964,756	1,404,961
<b>NET ASSETS, July 1</b>	<u>59,284,030</u>	<u>111,172,250</u>	<u>77,593,380</u>		<u>(15,280,717)</u>
<b>NET ASSETS, June 30</b>	<u>\$ 64,665,700</u>	<u>\$118,605,080</u>	<u>\$ 78,743,636</u>		<u>\$ (13,875,756)</u>
Adjustment to reflect the consolidation of internal service fund activities related to enterprise funds.				<u>882,187</u>	
Change in net assets of business-type activities				<u>\$ 14,846,943</u>	

The notes to basic financial statements are an integral part of this statement.

**CITY OF MODESTO**  
**STATEMENT OF CASH FLOWS - PROPRIETARY FUNDS**  
Year Ended June 30, 2005

	<u>Water</u>	<u>Sewer</u>	<u>Enterprise Other Enterprise</u>	<u>Total Enterprise</u>	<u>Internal Service</u>
<b>CASH FLOWS FROM OPERATING ACTIVITIES:</b>					
Receipts from customers and users	\$ 29,713,475	\$24,682,311	\$ 12,152,712	\$ 66,548,498	\$ 261,741
Receipts from interfund services provided	608,112	111,231	23,607	742,950	67,227,001
Payments to suppliers	(18,484,455)	(6,917,285)	(12,768,257)	(38,169,997)	(16,134,081)
Payment of insurance claims					(5,001,771)
Payments to employees	(5,011,327)	(6,568,579)	(4,150,754)	(15,730,660)	(38,390,175)
Payments for interfund services used	<u>(5,212,937)</u>	<u>(4,221,944)</u>	<u>(3,477,582)</u>	<u>(12,912,463)</u>	<u>(2,164,113)</u>
Net cash provided (used) by operating activities	<u>1,612,868</u>	<u>7,085,734</u>	<u>(8,220,274)</u>	<u>478,328</u>	<u>5,798,602</u>
<b>CASH FLOWS FROM NONCAPITAL FINANCING ACTIVITIES:</b>					
Operating grants received			6,564,032	6,564,032	
Taxes received			260,064	260,064	
Settlements and recoveries	2,960,781	4,435,846		7,396,627	
Transfers in	528,000	327,119	846,136	1,701,255	475,000
Transfers out	<u>(229,027)</u>	<u>(134,795)</u>	<u>(30,519)</u>	<u>(394,341)</u>	<u>(99,419)</u>
Net cash provided (used) by noncapital financing activities	<u>3,259,754</u>	<u>4,628,170</u>	<u>7,639,713</u>	<u>15,527,637</u>	<u>375,581</u>
<b>CASH FLOWS FROM CAPITAL AND RELATED FINANCING ACTIVITIES:</b>					
Acquisition and construction of capital assets	(5,231,056)	(2,669,890)	(2,168,965)	(10,069,911)	(1,527,579)
Proceeds of refunding revenue bonds		39,235,000		39,235,000	
Bond premium		2,300,405		2,300,405	
Payment to refunded bond escrow account		(42,988,215)		(42,988,215)	
Costs of issuance		(559,409)		(559,409)	
Proceeds of capital lease		290,487		290,487	
Principal repayments	(994,636)	(1,265,000)	(185,000)	(2,444,636)	(48,458)
Interest paid	(1,163,784)	(1,157,873)	(320,215)	(2,641,872)	(15,672)
Capital grants received			850,082	850,082	
Connection fees for capital purposes	<u>1,379,725</u>	<u>711,801</u>		<u>2,091,526</u>	
Net cash used by capital and related financing activities	<u>(6,009,751)</u>	<u>(6,102,694)</u>	<u>(1,824,098)</u>	<u>(13,936,543)</u>	<u>(1,591,709)</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES:</b>					
Interest received	216,322	495,955	196,088	908,365	527,026
Net increase in the fair value of investments	<u>24,553</u>	<u>29,961</u>	<u>15,474</u>	<u>69,988</u>	<u>56,239</u>
Net cash provided by investing activities	<u>240,875</u>	<u>525,916</u>	<u>211,562</u>	<u>978,353</u>	<u>583,265</u>
Net increase (decrease) in cash and cash equivalents	(896,254)	6,137,126	(2,193,097)	3,047,775	5,145,739
CASH AND CASH EQUIVALENTS, JULY 1	<u>13,053,583</u>	<u>16,756,22</u>	<u>9,416,338</u>	<u>39,226,15</u>	<u>37,743,559</u>
CASH AND CASH EQUIVALENTS, JUNE 30	<u>\$ 12,157,329</u>	<u>\$ 22,893,355</u>	<u>\$ 7,223,241</u>	<u>\$ 42,273,925</u>	<u>\$ 42,889,298</u>
<b>RECONCILIATION TO STATEMENT OF NET ASSETS:</b>					
Cash and cash equivalents	\$ 11,392,092	\$ 18,567,796	\$ 6,616,346	\$ 36,576,234	\$ 42,889,298
Cash and cash equivalents with fiscal agent	263,978	4,010,327	606,895	4,881,200	
Restricted assets-cash and cash equivalents	<u>501,259</u>	<u>315,232</u>		<u>816,491</u>	
TOTAL CASH AND CASH EQUIVALENTS	<u>\$ 12,157,329</u>	<u>\$ 22,893,355</u>	<u>\$ 7,223,241</u>	<u>\$ 42,273,925</u>	<u>\$ 42,889,298</u>

(continued)

	<u>Water</u>	<u>Sewer</u>	<u>Enterprise Other Enterprise</u>	<u>Total Enterprise</u>	<u>Internal Serv</u>
<b>RECONCILIATION OF OPERATING INCOME (LOSS) TO NET CASH PROVIDED (USED) BY OPERATING ACTIVITIES:</b>					
Operating income (loss)	\$ 2,088,455	\$ 3,072,213	\$ (12,301,567)	\$ (7,140,899)	\$ (126,042)
Adjustments to reconcile operating income (loss) to net cash provided (used) by operating activities:					
Depreciation	2,305,953	5,092,264	3,532,687	10,930,904	2,578,355
Rental income	31,785	24,158	678,577	734,520	
Taxes paid	(82,673)	(90,117)	(19,252)	(192,042)	
Special item	(898,505)	(1,040,101)		(1,938,606)	
Change in assets and liabilities:					
(Increase) in accounts receivable	963	403,291	(75,154)	329,100	(34,495)
(Increase) in utilities receivable	(1,024,978)	(63,690)	(71,992)	(1,160,660)	
(Increase) in taxes receivable	(1,391)			(1,391)	
Decrease in notes receivable					28,863
(Increase) in prepaid expenses	(544,385)			(544,385)	
(Increase) in inventories					(44,404)
(Decrease) in accounts payable and accrued expenses	(280,499)	(348,275)	(106,616)	(735,390)	(255,974)
Increase in accrued salaries and benefits	18,855	25,815	14,753	59,423	19,221
Increase in compensated absences					5,760,583
(Decrease) in claims liability					(2,127,505)
Increase in deferred revenues			128,290	128,290	
Increase (decrease) in refundable deposits	(712)	10,176		9,464	
Total adjustments	<u>(475,587)</u>	<u>4,013,521</u>	<u>4,081,293</u>	<u>7,619,227</u>	<u>5,924,644</u>
Net cash provided (used) by operating activities	\$ <u>1,612,868</u>	\$ <u>7,085,734</u>	\$ <u>(8,220,274)</u>	\$ <u>478,328</u>	\$ <u>5,798,602</u>
<b>NONCASH INVESTING, CAPITAL AND FINANCING ACTIVITIES:</b>					
Capital asset additions accrued at year end	\$ 20,700		\$ 5,521	\$ 26,221	
Capital assets transferred in		\$ 39,851	3,140,901	3,180,752	\$ 706,674
Developer infrastructure contributions	998,606	891,764	673,936	2,564,306	

The notes to basic financial statements are an integral part of this statement.

**APPENDIX B**

**DEFINITIONS AND SUMMARY OF PRINCIPAL LEGAL DOCUMENTS**

[TO COME FROM SPECIAL COUNSEL]



**APPENDIX C**  
**ARS PROVISIONS**

---

**ARTICLE I**  
**DEFINITIONS**

In addition to the words and terms elsewhere in the 2006 Trust Agreement (the "Trust Agreement") the following words and terms have the following meanings with respect to the 2006 Certificates in an ARS Mode, unless the context or use indicates another or different meaning or intent:

**Agent Member** means a member of, or participant in, the Securities Depository who shall act on behalf of a Bidder.

**All Hold Rate** means, as of any Auction Date, 55% of the ARS Index in effect on such Auction Date.

**ARS** means Auction Rate Securities.

**ARS Certificates** means the 2006 Certificates while the 2006 Certificates evidence interest at the ARS Rate.

**ARS Index** shall have the meaning specified in Section 2.06 of this Appendix.

**ARS Rate** means for the 2006 Certificates, the rate of interest to be evidenced by the 2006 Certificates during each Auction Period determined in accordance with Section 2.03 of this Appendix; provided, however, that in no event may the ARS Rate exceed the Maximum Interest Rate.

**ARS Rate Conversion Date** means the date on which ARS Certificates convert from a Mode other than an ARS Mode to the ARS Mode for an ARS Rate Period and begin to evidence interest at an ARS Rate.

**ARS Rate Period** means (i) any period of time commencing on the day following the Initial Period to but not including a Conversion Date for the ARS Certificates and (ii) the period from and including an ARS Rate Conversion Date for the 2006 Certificates to but excluding the next Conversion Date for the 2006 Certificates.

**Auction** means each periodic implementation of the Auction Procedures.

**Auction Agent** means the auctioneer appointed in accordance with Section 3.01 or 3.02 of this Appendix. The initial Auction Agent shall be The Bank of New York.

**Auction Agreement** means an agreement between an Auction Agent and the Trustee approved by the 2006 Certificate Insurer pursuant to which an Auction Agent agrees to follow the

procedures specified in this Appendix with respect to ARS Certificates, as such agreement may from time to time be amended or supplemented.

**Auction Date** means, with respect to ARS Certificates, (a) if the ARS Certificates are in a daily Auction Period, each Business Day, (b) if the ARS Certificates are in a Special Auction Period, the last Business Day of the Special Auction Period, and (c) if the ARS Certificates are in any other Auction Period, the Business Day next preceding each Interest Payment Date for the ARS Certificates (whether or not an Auction shall be conducted on such date); provided, however, that the last Auction Date with respect to the ARS Certificates in an Auction Period other than a daily Auction Period or a Special Auction Period shall be the earlier of (i) the Business Day next preceding the Interest Payment Date next preceding the Conversion Date for the ARS Certificates and (ii) the Business Day next preceding the Interest Payment Date next preceding the final Maturity Date; and provided, further, that if the ARS Certificates are in a daily Auction Period, the last Auction Date shall be the earlier of (x) the Business Day next preceding the Conversion Date for the ARS Certificates and (y) the Business Day next preceding the final Maturity Date. The last Business Day of a Special Auction Period shall be the Auction Date for the Auction Period which begins on the next succeeding Business Day, if any. On the Business Day preceding the conversion from a daily Auction Period to another Auction Period, there shall be two Auctions, one for the last daily Auction Period and one for the first Auction Period following the conversion. The first Auction Date for the ARS Certificates is \_\_\_\_\_, 2006.

**Auction Period** means with respect to the ARS Certificates:

- (a) a Special Auction Period;
- (b) with respect to the ARS Certificates in a daily Auction Period, a period beginning on each Business Day and extending to but not including the next succeeding Business Day;
- (c) with respect to the ARS Certificates in a seven day Auction Period and with Auctions generally conducted on (i) Fridays, a period of generally seven days beginning on a Monday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Sunday) and ending on the Sunday thereafter (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) Mondays, a period of generally seven days beginning on a Tuesday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Monday) and ending on the Monday thereafter (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iii) Tuesdays, a period of generally seven days beginning on a Wednesday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Tuesday) and ending on the Tuesday thereafter (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iv) Wednesdays, a period of generally seven days beginning on a Thursday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Wednesday) and ending on the Wednesday thereafter (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), and (v) Thursdays, a period of generally seven days beginning on a Friday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Thursday) and ending on the Thursday thereafter (unless such

Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day);

(d) with respect to the ARS Certificates in a 28-day Auction Period and with Auctions generally conducted on (i) Fridays, a period of generally 28 days beginning on a Monday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Sunday) and ending on the fourth Sunday thereafter (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) Mondays, a period of generally 28 days beginning on a Tuesday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Monday) and ending on the fourth Monday thereafter (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iii) Tuesdays, a period of generally 28 days beginning on a Wednesday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Tuesday) and ending on the fourth Tuesday thereafter (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iv) Wednesdays, a period of generally 28 days beginning on a Thursday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Wednesday) and ending on the fourth Wednesday thereafter (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), and (v) Thursdays, a period of generally 28 days beginning on a Friday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on a Thursday) and ending on the fourth Thursday thereafter (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day);

(e) with respect to the ARS Certificates in a 35-day Auction Period and with Auctions generally conducted on (i) Fridays, a period of generally 35 days beginning on a Monday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on Sunday) and ending on the fifth Sunday thereafter (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) Mondays, a period of generally 35 days beginning on a Tuesday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on Monday) and ending on the fifth Monday thereafter (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iii) Tuesdays, a period of generally 35 days beginning on a Wednesday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on Tuesday) and ending on the fifth Tuesday thereafter (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (iv) Wednesdays, a period of generally 35 days beginning on a Thursday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on Wednesday) and ending on the fifth Wednesday thereafter (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), and (v) Thursdays, a period of generally 35 days beginning on a Friday (or the day following the last day of the prior Auction Period if the prior Auction Period does not end on Thursday) and ending on the fifth Thursday thereafter (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day);

(f) with respect to the ARS Certificates in a three-month Auction Period, a period of generally three months (or shorter period upon a conversion from another Auction Period) beginning on the day following the last day of the prior Auction Period and ending on the first day of the month that is the third calendar month following the beginning date of such Auction Period (unless such first day of the month is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day); and

(g) with respect to the ARS Certificates in a six-month Auction Period, a period of generally six months (or shorter period upon a conversion from another Auction Period) beginning on the day following the last day of the prior Auction Period and ending on the [next succeeding March 31 or September 30/last day of the month which is the sixth calendar month following the beginning date of such Auction Period (such six month period to include the month when the six-month Auction Period commenced) and ending on the last day of every sixth month thereafter; provided that no six-month Auction Period for the ARS Certificates may extend beyond the Maturity Date];

provided, however, that:

(a) if there is a conversion of the ARS Certificates with Auctions generally conducted on Fridays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on the next succeeding Sunday (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on the Sunday (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on Sunday (unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion;

(b) if there is a conversion of the ARS Certificates with Auctions generally conducted on Mondays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on the next succeeding Monday (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on the Monday (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on Monday (unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion;

(c) if there is a conversion of the ARS Certificates with Auctions generally conducted on Tuesdays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on the next succeeding Tuesday (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on the Tuesday (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on Tuesday (unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion;

(d) if there is a conversion of the ARS Certificates with Auctions generally conducted on Wednesdays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on the next succeeding Wednesday (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on the Wednesday (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on Wednesday (unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion; and

(e) if there is a conversion of the ARS Certificates with Auctions generally conducted on Thursdays (i) from a daily Auction Period to a seven-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on the next succeeding Thursday (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day), (ii) from a daily Auction Period to a 28-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on the Thursday (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 21 days but not more than 28 days from such date of conversion, and (iii) from a daily Auction Period to a 35-day Auction Period, the next Auction Period shall begin on the date of the conversion (i.e. the Interest Payment Date for the prior Auction Period) and shall end on Thursday (unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day) which is more than 28 days but no more than 35 days from such date of conversion.

Notwithstanding the foregoing, if an Auction is for an Auction Period of more than seven days and the Auction Rate on such Auction Date is the Maximum Interest Rate because Sufficient Clearing Bids do not exist, the Auction Period shall automatically change to a seven-day Auction Period.

**Auction Procedures** means the procedures for conducting Auctions for the ARS Certificates during an ARS Rate Period set forth in this Appendix.

**Auction Rate** means for the ARS Certificates, the rate of interest to be borne by the ARS Certificates during each Auction Period determined in accordance with Section 2.03 of this Appendix, which: (i) if Sufficient Clearing Bids exist, shall be the Winning Bid Rate, provided, however, if all of the ARS Certificates are the subject of Submitted Hold Orders, such rate shall be the All Hold Rate with respect to the ARS Certificates; and (ii) if Sufficient Clearing Bids do not exist, such rate shall be the Maximum Interest Rate with respect to the ARS Certificates.

**Available Certificates** means for the ARS Certificates on each Auction Date, the aggregate principal amount of ARS Certificates that are not the subject of Submitted Hold Orders.

**Bid** has the meaning specified in subsection (a) of Section 2.01 of this Appendix.

**Bidder** means each Existing Owner and Potential Owner who places an Order.

**Broker-Dealer** means any entity that is permitted by law to perform the function required of a Broker-Dealer described in this Appendix that is a member of, or a direct participant in, the Securities Depository, that has been selected by the Authority and that is a party to a Broker-Dealer Agreement with the Auction Agent.

**Broker-Dealer Agreement** means an agreement approved by the 2006 Certificate Insurer among the Auction Agent, the Authority and a Broker-Dealer pursuant to which such Broker-Dealer agrees to follow the procedures described in this Appendix, as such agreement may from time to time be amended or supplemented.

**Broker-Dealer Deadline** means the internal deadline established by each Broker-Dealer after which it will not accept Orders or any change in any Order previously placed with such Broker-Dealer.

**Conversion Date** means the date on which ARS Certificates are converted from an ARS Mode to a Mode other than an ARS Mode and begin to bear interest at a Daily Rate, a Weekly Rate, a Flexible Rate, a Term Rate or a Fixed Rate.

**Existing Owner** means a Person who is listed as the beneficial owner of ARS Certificates in the records of the Auction Agent; provided, however, that for purposes of conducting an Auction, the Auction Agent may consider a Broker-Dealer acting on behalf of its customer as an Existing Owner.

**Hold Order** has the meaning specified in subsection (a) of Section 2.01 of this Appendix.

**Initial Period** means the period from the issue date to but not including \_\_\_\_\_, 2006 for the ARS Certificates.

**Interest Payment Date** with respect to the ARS Certificates means \_\_\_\_\_, 2006 with respect to the Initial Period for the ARS Certificates, and thereafter (a) when used with respect to any Auction Period other than a daily Auction Period or a Special Auction Period, the Business Day immediately following such Auction Period, (b) when used with respect to a daily Auction Period, the first Business Day of the month immediately succeeding such Auction Period, (c) when used with respect to a Special Auction Period of (i) seven or more but fewer than one hundred eighty-three (183) days, the Business Day immediately following such Special Auction Period, or (ii) more than one hundred eighty-two (182) days, each April 1 and October 1 and on the Business Day immediately following such Special Auction Period.

**LIBOR** means, with respect to ARS Certificates, on any date of determination for an Auction Period for ARS Certificates, the offered rate (rounded up to the next highest one one-thousandth of one percent (0.001%)) for deposits in U.S. dollars for a one-month period which appears on the Telerate Page 3750 at approximately 11:00 a.m., London time, on such date, or if such date is not a date on which dealings in U.S. dollars are transacted in the London interbank market, then on the next preceding day on which such dealings were transacted in such market.

**Maximum Interest Rate** means the lesser of 12% or the maximum rate permitted by applicable law.

**Order** means a Hold Order, Bid or Sell Order.

**Potential Owner** means any Person, including any Existing Owner, who may be interested in acquiring a beneficial interest in ARS Certificates in addition to ARS Certificates currently owned by such Person, if any.

**Principal Office** means, with respect to the Auction Agent, the office thereof designated in writing to the Authority, the Trustee and each Broker-Dealer.

**Sell Order** has the meaning specified in subsection (a) of Section 2.01 of this Appendix.

**Special Auction Period** means, with respect to ARS Certificates, (a) any period of one hundred eighty-two (182) days or less which is divisible by seven and which begins on an Interest Payment Date and ends (i) in the case of ARS Certificates with Auctions generally conducted on Fridays, on a Sunday unless such Sunday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day, (ii) in the case of ARS Certificates with Auctions generally conducted on Mondays, on a Monday unless such Monday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day, (iii) in the case of ARS Certificates with Auctions generally conducted on Tuesdays, on a Tuesday unless such Tuesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day, (iv) in the case of ARS Certificates with Auctions generally conducted on Wednesdays, on a Wednesday unless such Wednesday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day, and (v) in the case of ARS Certificates with Auctions generally conducted on Thursdays, on a Thursday unless such Thursday is not followed by a Business Day, in which case on the next succeeding day which is followed by a Business Day, or (b) any period which is longer than one hundred eighty-two (182) days, which begins on an Interest Payment Date and ends not later than the final scheduled Maturity Date and, in either case, is not otherwise within the definition of an Auction Period.

**Submission Deadline** means 1:00 p.m. New York City time on each Auction Date for ARS Certificates not in a daily Auction Period, and 11:00 a.m., New York City time, on each Auction Date for ARS Certificates in a daily Auction Period, or such other time on such date as shall be specified from time to time by the Auction Agent pursuant to the Auction Agreement as the time by which Broker-Dealers are required to submit Orders to the Auction Agent.

**Submission Processing Deadline** means the earlier of (i) forty (40) minutes after the Submission Deadline and (ii) the time when the Auction Agent begins to disseminate the results of the Auction to the Broker-Dealers.

**Submitted Bid** has the meaning specified in subsection (b) of Section 2.03 of this Appendix.

**Submitted Hold Order** has the meaning specified in subsection (b) of Section 2.03 of this Appendix.

**Submitted Order** has the meaning specified in subsection (b) of Section 2.03 of this Appendix.

**Submitted Sell Order** has the meaning specified in subsection (b) of Section 2.03 of this Appendix.

**Sufficient Clearing Bids** means with respect to ARS Certificates, an Auction for which the aggregate principal amount of ARS Certificates that are the subject of Submitted Bids by Potential Owners specifying one or more rates not higher than the Maximum Interest Rate is not less than the aggregate principal amount of ARS Certificates that are the subject of Submitted Sell Orders and of Submitted Bids by Existing Owners specifying rates higher than the Maximum Interest Rate.

**Winning Bid Rate** means with respect to ARS Certificates, the lowest rate specified in any Submitted Bid for ARS Certificates which if selected by the Auction Agent as the ARS Rate for ARS Certificates would cause the aggregate principal amount of ARS Certificates that are the subject of Submitted Bids specifying a rate not greater than such rate to be not less than the aggregate principal amount of Available Certificates.

## ARTICLE II

### AUCTION PROCEDURES

#### Section 2.01. Orders by Existing Owners and Potential Owners.

(a) Prior to the Submission Deadline on each Auction Date:

(i) each Existing Owner may submit to a Broker-Dealer, in writing or by such other method as shall be reasonably acceptable to such Broker-Dealer, information as to:

(A) the principal amount of the ARS Certificates, if any, held by such Existing Owner, which such Existing Owner commits to continue to hold for the next succeeding Auction Period without regard to the rate determined by the Auction Procedures for such Auction Period;



(B) the principal amount of the affected ARS Certificates, if any, held by such Existing Owner, which such Existing Owner commits to continue to hold for the next succeeding Auction Period if the rate determined by the Auction Procedures for such Auction Period shall not be less than the rate per annum then specified by such Existing Owner (and which such Existing Owner offers to sell on the next succeeding Interest Payment Date (or the same day in the case of a daily Auction Period) if the rate determined by the Auction Procedures for the next succeeding Auction Period shall be less than the rate per annum then specified by such Existing Owner); and/or

(C) the principal amount of the ARS Certificates, if any, held by such Existing Owner which such Existing Owner offers to sell on the next succeeding Interest Payment Date (or on the same day in the case of a daily Auction Period) without regard to the rate determined by the Auction Procedures for the next succeeding Auction Period.

(ii) for the purpose of implementing the Auctions and thereby to achieve the lowest possible interest rate on the ARS Certificates, the Broker-Dealers shall contact Potential Owners, including Persons that are Existing Owners, to determine the principal amount of the ARS Certificates, if any, which each such Potential Owner irrevocably offers to purchase if the rate determined by the Auction Procedures for the next succeeding Auction Period is not less than the rate per annum then specified by such Potential Owner.

For the purposes hereof, an Order containing the information referred to in clause (i)(A) above is herein referred to as a "Hold Order," an Order containing the information referred to in clause (i)(B) or (ii) above is herein referred to as a "Bid," and an Order containing the information referred to in clause (i)(C) above is herein referred to as a "Sell Order."

(b)(i) A Bid by an Existing Owner shall constitute an irrevocable offer to sell:

(A) the principal amount of the ARS Certificates specified in such Bid if the rate determined by the Auction Procedures on such Auction Date shall be less than the rate specified therein; or

(B) such principal amount or a lesser principal amount of the ARS Certificates to be determined as described in subsection (a)(v) of Section 2.04 hereof if the rate determined by the Auction Procedures on such Auction Date shall be equal to such specified rate; or

(C) a lesser principal amount of the ARS Certificates to be determined as described in subsection (b)(iv) of Section 2.04 of this Appendix if such specified rate shall be higher than the Maximum Interest Rate and Sufficient Clearing Bids do not exist.

(ii) A Sell Order by an Existing Owner shall constitute an irrevocable offer to sell:

(A) the principal amount of the ARS Certificates specified in such Sell Order; or

(B) such principal amount or a lesser principal amount of the ARS Certificates as described in subsection (b)(iv) of Section 2.04 of this Appendix if Sufficient Clearing Bids do not exist.

(iii) A Bid by a Potential Owner shall constitute an irrevocable offer to purchase:

(A) the principal amount of the ARS Certificates specified in such Bid if the rate determined by the Auction Procedures on such Auction Date shall be higher than the rate specified therein; or

(B) such principal amount or a lesser principal amount of the ARS Certificates as described in subsection (a)(vi) of Section 2.04 of this Appendix if the rate determined by the Auction Procedures on such Auction Date shall be equal to such specified rate.

(c) Anything herein to the contrary notwithstanding:

(i) for purposes of any Auction, any Order which specifies the ARS Certificates to be held, purchased or sold in a principal amount which is not \$25,000 or an integral multiple thereof shall be rounded down to the nearest \$25,000, and the Auction Agent shall conduct the Auction Procedures as if such Order had been submitted in such lower amount;

(ii) for purposes of any Auction other than during a daily Auction Period, any portion of an Order of an Existing Owner which relates to the ARS Certificates that has been called for prepayment on or prior to the Interest Payment Date next succeeding such Auction shall be invalid with respect to such portion and the Auction Agent shall conduct the Auction Procedures as if such portion of such Order had not been submitted; and

(iii) for purposes of any Auction other than during a daily Auction Period, no portion of ARS Certificates that has been called for prepayment on or prior to the Interest Payment Date next succeeding such Auction shall be included in the calculation of Available Certificates for such Auction.

(iv) for purposes of any Auction, any Order by an Existing Owner or Potential Owner is revocable until the Broker-Dealer Deadline, and after the Broker-Dealer Deadline all Orders are irrevocable.

**Section 2.02. Submission of Orders by Broker-Dealers to Auction Agent.**

(a) Each Broker-Dealer shall submit to the Auction Agent in writing or by such other method as shall be reasonably acceptable to the Auction Agent, including such electronic communication acceptable to the parties, prior to the Submission Deadline (but subject to the Submission Processing Deadline) on each Auction Date, all Orders obtained by such Broker-Dealer and, if requested, specifying with respect to each Order:

(i) the name of the Bidder placing such Order;

(ii) the aggregate principal amount of the ARS Certificates, if any, that are the subject of such Order;

(iii) to the extent that such Bidder is an Existing Owner:

(A) the principal amount of the ARS Certificates, if any, subject to any Hold Order placed by such Existing Owner;

(B) the principal amount of the ARS Certificates, if any, subject to any Bid placed by such Existing Owner and the rate specified in such Bid; and

(C) the principal amount of the ARS Certificates, if any, subject to any Sell Order placed by such Existing Owner.

(iv) the extent such Bidder is a Potential Owner, the rate specified in such Bid.

Notwithstanding the foregoing, Broker-Dealers may submit an Order after the Submission Deadline and prior to the Submission Processing Deadline if the Order was (i) received by the Broker-Dealer from Existing Owners or Potential Owners prior to the Submission Deadline or (ii) initiated internally by the Broker-Dealer for its own account prior to the Submission Deadline. Each Order submitted to the Auction Agent after the Submission Deadline and prior to the Submission Processing Deadline shall constitute a representation by the Broker-Dealer that such Order was (i) received from an Existing Owner or Potential Owner prior to the Submission Deadline or (ii) initiated internally by the Broker-Dealer for its own account prior to the Submission Deadline.

(b) If any rate specified in any Bid contains more than three figures to the right of the decimal point, the Auction Agent shall round such rate up to the next highest one thousandth of one percent (0.001%).

(c) If an Order or Orders covering all of the ARS Certificates held by an Existing Owner is not submitted to the Auction Agent prior to the Submission Deadline, the Auction Agent shall deem a Hold Order to have been submitted on behalf of such Existing Owner covering the principal amount of such ARS Certificates held by such Existing Owner and not subject to Orders submitted to the Auction Agent; provided, however, that if there is a conversion of such ARS Certificates from one Auction Period to another Auction Period and Orders have not been submitted to the Auction Agent prior to the Submission Deadline covering the aggregate principal amount of such ARS Certificates to be converted held by such Existing Owner, the Auction Agent shall deem a Sell Order to have been submitted on behalf of such Existing Owner covering the principal amount of such ARS Certificates to be converted held by such Existing Owner not subject to Orders submitted to the Auction Agent.

(d) If one or more Orders covering in the aggregate more than the principal amount of the ARS Certificates held by any Existing Owner are submitted to the Auction Agent, such Orders shall be considered valid as follows:

(i) all Hold Orders shall be considered Hold Orders, but only up to and including in the aggregate the principal amount of such ARS Certificates held by such Existing Owner;

(ii) (A) any Bid of an Existing Owner shall be considered valid as a Bid of an Existing Owner up to and including the excess of the principal amount of such ARS Certificates held by such Existing Owner over the principal amount of the such ARS Certificates subject to Hold Orders referred to in paragraph (i) above;

(B) subject to clause (A) above, all Bids of an Existing Owner with the same rate shall be aggregated and considered a single Bid of an Existing Owner up to and including the excess of the principal amount of such ARS Certificates held by such Existing Owner over the principal amount of such ARS Certificates held by such Existing Owner subject to Hold Orders referred to in paragraph (i) above;

(C) subject to clause (A) above, if more than one Bid with different rates is submitted on behalf of such Existing Owner, such Bids shall be considered Bids of an Existing Owner in the ascending order of their respective rates up to the amount of the excess of the principal amount of such ARS Certificates held by such Existing Owner over the principal amount of such ARS Certificates held by such Existing Owner subject to Hold Orders referred to in paragraph (i) above; and

(D) the principal amount, if any, of such ARS Certificates subject to Bids not considered to be Bids of an Existing Owner under this paragraph (ii) shall be treated as the subject of a Bid by a Potential Owner.

(iii) all Sell Orders shall be considered Sell Orders, but only up to and including a principal amount of the ARS Certificates equal to the excess of the principal amount of such ARS Certificates held by such Existing Owner over the sum of the principal amount of such ARS Certificates considered to be subject to Hold Orders pursuant to paragraph (i) above and the principal amount of such ARS Certificates considered to be subject to Bids of such Existing Owner pursuant to paragraph (ii) above.

(e) If more than one Bid is submitted on behalf of any Potential Owner, each Bid submitted with the same rate shall be aggregated and considered a single Bid and each Bid submitted with a different rate shall be considered a separate Bid with the rate and the principal amount of the ARS Certificates specified therein.

(f) Anything herein to the contrary notwithstanding, for purposes of any Auction, any Order by a Broker-Dealer for its own account is revocable until the Submission Processing Deadline.

(g) Neither the Authority, the Trustee nor the Auction Agent shall be responsible for the failure of any Broker-Dealer to submit an Order to the Auction Agent on behalf of any Existing Owner or Potential Owner.

### **Section 2.03. Determination of ARS Rate.**

(a) Not later than 9:30 a.m., New York City time, on each Auction Date with respect to ARS Certificates, the Auction Agent shall advise the Broker-Dealers and the Trustee by telephone or other electronic communication acceptable to the parties of the All Hold Rate, the Maximum Interest Rate and the ARS Index for ARS Certificates.

(b) Promptly after the Submission Deadline, but subject to the Submission Processing Deadline, on each Auction Date with respect to ARS Certificates, the Auction Agent shall assemble all Orders submitted or deemed submitted to it by the Broker-Dealers (each such Order as submitted or deemed submitted by a Broker-Dealer being hereinafter referred to as a "Submitted Hold Order," a "Submitted Bid" or a "Submitted Sell Order," as the case may be, and collectively as a "Submitted Order") and shall determine (i) the Available Certificates, (ii) whether there are Sufficient Clearing Bids, and (iii) the Auction Rate.

(c) Promptly after the Auction Agent has made the determinations pursuant to subsection (b) above, the Auction Agent shall advise the Trustee by telephone (promptly confirmed in writing), telex or facsimile transmission or other electronic communication acceptable to the

parties of the Auction Rate for the next succeeding Auction Period and the Trustee shall promptly notify the Securities Depository of such Auction Rate.

(d) In the event the Auction Agent shall fail to calculate or, for any reason (including, but not limited to, the lack of a duly appointed Broker-Dealer), fails to provide the Auction Rate for any Auction Period, (i) if the preceding Auction Period was a period of thirty-five (35) days or less, the new Auction Period shall be the same as the preceding Auction Period and the ARS Rate for the new Auction Period shall be the same as the ARS Rate for the preceding Auction Period, and (ii) if the preceding Auction Period was a period of greater than thirty-five (35) days, the preceding Auction Period shall be extended to the next seventh day following the day that would have been the last day of such Auction Period had it not been extended (or if such seventh day is not followed by a Business Day then to the next succeeding day which is followed by a Business Day) and the ARS Rate in effect for the preceding Auction Period will continue in effect for the Auction Period as so extended. In the event an Auction Period is extended as set forth in clause (ii) of the preceding sentence, an Auction shall be held on the last Business Day of the Auction Period as so extended to take effect for an Auction Period beginning on the Business Day immediately following the last day of the Auction Period as extended which Auction Period will end on the date it would otherwise have ended on had the prior Auction Period not been extended. Notwithstanding the foregoing, no ARS Rate shall be extended for more than thirty-five (35) days. If at the end of thirty-five (35) days the Auction Agent fails to calculate or provide the Auction Rate, the ARS Rate shall be the Maximum Interest Rate.

(e) In the event of a failed conversion to another Mode Period with respect to ARS Certificates, or in the event of a failure to change the length of the current Auction Period with respect to ARS Certificates due to the lack of Sufficient Clearing Bids at the Auction on the Auction Date for the first new Auction Period for ARS Certificates, or in the event there shall be no Auction Agent for the ARS Certificates as a result of the termination of the Auction Agreement pursuant to its terms, the Auction Rate for the next Auction Period for the ARS Certificates shall be the Maximum Interest Rate and the Auction Period for the ARS Certificates shall be a seven-day Auction Period. Succeeding Auction Periods shall be seven-day Auction Periods until subsequently changed in accordance with the provisions set forth in this Appendix and the Auction Rate for succeeding Auction Periods shall be determined in accordance with the provisions set forth in this Appendix.

(f) If the ARS Certificates are no longer maintained in Book-Entry-System by the Securities Depository on any Auction Date, then the ARS Rate for the ARS Certificates for the related Auction Period shall be the Maximum Interest Rate and the Auction Period for the ARS Certificates shall be a seven-day Auction Period.

#### **Section 2.04. Allocation of the ARS Certificates.**

(a) In the event of Sufficient Clearing Bids for the ARS Certificates, subject to the further provisions of subsections (c) and (d) below, Submitted Orders for the ARS Certificates shall be accepted or rejected as follows in the following order of priority:

(i) the Submitted Hold Order of each Existing Owner shall be accepted, thus requiring each such Existing Owner to continue to hold the ARS Certificates that are the subject of such Submitted Hold Order;

(ii) the Submitted Sell Order of each Existing Owner shall be accepted and the Submitted Bid of each Existing Owner specifying any rate that is higher than the Winning

Bid Rate shall be rejected, thus requiring each such Existing Owner to sell the ARS Certificates that are the subject of such Submitted Sell Order or Submitted Bid;

(iii) the Submitted Bid of each Existing Owner specifying any rate that is lower than the Winning Bid Rate shall be accepted, thus requiring each such Existing Owner to continue to hold the ARS Certificates that are the subject of such Submitted Bid;

(iv) the Submitted Bid of each Potential Owner specifying any rate that is lower than the Winning Bid Rate shall be accepted, thus requiring each such Potential Owner to purchase the ARS Certificates that are the subject of such Submitted Bid;

(v) the Submitted Bid of each Existing Owner specifying a rate that is equal to the Winning Bid Rate shall be accepted, thus requiring each such Existing Owner to continue to hold the ARS Certificates that are the subject of such Submitted Bid, but only up to and including the principal amount of the ARS Certificates obtained by multiplying (A) the aggregate principal amount of Outstanding ARS Certificates that are not the subject of Submitted Hold Orders described in paragraph (i) above or of Submitted Bids described in paragraphs (iii) or (iv) above by (B) a fraction the numerator of which shall be the principal amount of Outstanding ARS Certificates held by such Existing Owner subject to such Submitted Bid and the denominator of which shall be the aggregate principal amount of the Outstanding ARS Certificates subject to such Submitted Bids made by all such Existing Owners that specified a rate equal to the Winning Bid Rate, and the remainder, if any, of such Submitted Bid shall be rejected, thus requiring each such Existing Owner to sell any excess amount of such ARS Certificates;

(vi) the Submitted Bid of each Potential Owner specifying a rate that is equal to the Winning Bid Rate shall be accepted, thus requiring each such Potential Owner to purchase the ARS Certificates that are the subject of such Submitted Bid, but only in an amount equal to the principal amount of the ARS Certificates obtained by multiplying (A) the aggregate principal amount of Outstanding ARS Certificates that are not the subject of Submitted Hold Orders described in paragraph (i) above or of Submitted Bids described in paragraphs (iii), (iv) or (v) above by (B) a fraction the numerator of which shall be the principal amount of Outstanding ARS Certificates subject to such Submitted Bid and the denominator of which shall be the sum of the aggregate principal amount of Outstanding ARS Certificates subject to such Submitted Bids made by all such Potential Owners that specified a rate equal to the Winning Bid Rate, and the remainder of such Submitted Bid shall be rejected; and

(vii) the Submitted Bid of each Potential Owner specifying any rate that is higher than the Winning Bid Rate shall be rejected.

(b) In the event there are not Sufficient Clearing Bids for the ARS Certificates, subject to the further provisions of subsections (c) and (d) below, Submitted Orders, for the ARS Certificates shall be accepted or rejected as follows in the following order of priority:

(i) the Submitted Hold Order of each Existing Owner shall be accepted, thus requiring each such Existing Owner to continue to hold the ARS Certificates that are the subject of such Submitted Hold Order;

(ii) the Submitted Bid of each Existing Owner specifying any rate that is not higher than the Maximum Interest Rate, shall be accepted, thus requiring each such Existing Owner to continue to hold the ARS Certificates that are the subject of such Submitted Bid;

(iii) the Submitted Bid of each Potential Owner specifying any rate that is not higher than the Maximum Interest Rate, shall be accepted, thus requiring each such Potential Owner to purchase the ARS Certificates that are the subject of such Submitted Bid;

(iv) the Submitted Sell Orders of each Existing Owner shall be accepted as Submitted Sell Orders and the Submitted Bids of each Existing Owner specifying any rate that is higher than the Maximum Interest Rate, shall be deemed to be and shall be accepted as Submitted Sell Orders, in both cases only up to and including the principal amount of the ARS Certificates obtained by multiplying (A) the aggregate principal amount of the ARS Certificates subject to Submitted Bids described in paragraph (iii) of this subsection (b) by (B) a fraction the numerator of which shall be the principal amount of Outstanding ARS Certificates held by such Existing Owner subject to such Submitted Sell Order or such Submitted Bid deemed to be a Submitted Sell Order and the denominator of which shall be the principal amount of Outstanding ARS Certificates subject to all such Submitted Sell Orders and such Submitted Bids deemed to be Submitted Sell Orders, and the remainder of each such Submitted Sell Order or Submitted Bid shall be deemed to be and shall be accepted as a Hold Order and each such Existing Owner shall be required to continue to hold such excess amount of the ARS Certificates; and

(v) the Submitted Bid of each Potential Owner specifying any rate that is higher than the Maximum Interest Rate shall be rejected.

(c) If, as a result of the procedures described in subsection (a) or (b) above, any Existing Owner or Potential Owner would be required to purchase or sell an aggregate principal amount of the ARS Certificates that is not an integral multiple of \$25,000 on any Auction Date, the Auction Agent shall by lot, in such manner as it shall determine in its sole discretion, round up or down the principal amount of such ARS Certificates to be purchased or sold by any Existing Owner or Potential Owner on such Auction Date so that the aggregate principal amount of such ARS Certificates purchased or sold by each Existing Owner or Potential Owner on such Auction Date shall be an integral multiple of \$25,000, even if such allocation results in one or more of such Existing Owners or Potential Owners not purchasing or selling any such ARS Certificates on such Auction Date.

(d) If, as a result of the procedures described in subsection (a) above, any Potential Owner would be required to purchase less than \$25,000 in principal amount of the ARS Certificates on any Auction Date, the Auction Agent shall by lot, in such manner as it shall determine in its sole discretion, allocate such ARS Certificates for purchase among Potential Owners so that the principal amount of ARS Certificates purchased on such Auction Date by any Potential Owner shall be an integral multiple of \$25,000, even if such allocation results in one or more of such Potential Owners not purchasing such ARS Certificates

#### **Section 2.05. Notice of ARS Rate.**

(a) On each Auction Date, the Auction Agent shall notify by telephone or other telecommunication device or other electronic communication acceptable to the parties or in writing

each Broker-Dealer that participated in the Auction held on such Auction Date of the following with respect to the ARS Certificates for which an Auction was held on such Auction Date:

(i) the ARS Rate determined on such Auction Date for the succeeding Auction Period or, in the case of the ARS Certificates in a daily Auction Period, the Auction Rate on the ARS Certificates fixed for the current Auction Period;

(ii) whether Sufficient Clearing Bids existed for the determination of the Winning Bid Rate;

(iii) if such Broker-Dealer submitted a Bid or a Sell Order on behalf of an Existing Owner with respect to the ARS Certificates, whether such Bid or Sell Order was accepted or rejected, in whole or in part, and the principal amount of the ARS Certificates, if any, to be sold by such Existing Owner;

(iv) if such Broker-Dealer submitted a Bid on behalf of a Potential Owner, whether such Bid was accepted or rejected, in whole or in part, and the principal amount of the ARS Certificates, if any, to be purchased by such Potential Owner;

(v) if the aggregate principal amount of the ARS Certificates to be sold by all Existing Owners on whose behalf such Broker-Dealer submitted Bids or Sell Orders is different from the aggregate principal amount of the ARS Certificates to be purchased by all Potential Owners on whose behalf such Broker-Dealer submitted a Bid, the name or names of one or more Broker-Dealers (and the Agent Member, if any, of each such other Broker-Dealer) and the principal amount of the ARS Certificates to be (A) purchased from one or more Existing Owners on whose behalf such other Broker-Dealers submitted Bids or Sell Orders or (B) sold to one or more Potential Owners on whose behalf such Broker-Dealer submitted Bids; and

(vi) the immediately succeeding Auction Date.

(b) On each Auction Date, each Broker-Dealer that submitted an Order on behalf of any Existing Owner or Potential Owner shall: (i) advise each Existing Owner and Potential Owner on whose behalf such Broker-Dealer submitted an Order as to (A) the ARS Rate determined on such Auction Date, (B) whether any Bid or Sell Order submitted on behalf of each such Existing Owner or Potential Owner was accepted or rejected, in whole or in part, and (C) the immediately succeeding Auction Date; (ii) instruct each Potential Owner on whose behalf such Broker-Dealer submitted a Bid that was accepted, in whole or in part, to instruct such Existing Owner's Agent Member to pay to such Broker-Dealer (or its Agent Member) through the Securities Depository the amount necessary to purchase the principal amount of such ARS Certificates to be purchased pursuant to such Bid (including, with respect to such ARS Certificates in a daily Auction Period, accrued interest if the purchase date is not an Interest Payment Date for such ARS Certificate) against receipt of such ARS Certificates; and (iii) instruct each Existing Owner on whose behalf such Broker-Dealer submitted a Sell Order that was accepted or a Bid that was rejected, in whole or in part, to instruct such Existing Owner's Agent Member to deliver to such Broker-Dealer (or its Agent Member) through the Securities Depository the principal amount of such ARS Certificates to be sold pursuant to such Bid or Sell Order against payment therefor.

#### **Section 2.06. ARS Index.**



(a) For ARS Certificates in an Auction Period of thirty-five (35) days or less, the ARS Index is LIBOR. For ARS Certificate in an Auction Period of more than thirty-five (35) days, the ARS Index is equal to the yield on the United States Treasury security on the date the Auction Period began which has a maturity which most closely matches the last day of the Auction Period.

(b) If for any reason on any Auction Date the ARS Index shall not be determined as hereinabove provided, the ARS Index shall be the ARS Index for the Auction Period ending on such Auction Date.

(c) The determination of the ARS Index as provided herein shall be conclusive and binding upon the Authority, the Trustee, the Broker-Dealers, the Auction Agent and the Owners of the ARS Certificates.

#### **Section 2.07. Miscellaneous Provisions Regarding Auctions.**

(a) In this Appendix, each reference to the purchase, sale or holding of "ARS Certificates" shall refer to beneficial interests in such ARS Certificates, unless the context clearly requires otherwise.

(b) During an ARS Rate Period with respect to the ARS Certificates, the provisions of the Trust Agreement and the definitions contained therein and described in this Appendix, including without limitation the definitions of Maximum Interest Rate, All Hold Rate, ARS Index, Interest Payment Date, and the ARS Rate, may be amended pursuant to the Trust Agreement, subject to the prior written consent of the 2006 Certificate Insurer, by obtaining the consent of the Owners of all of the ARS Certificates then outstanding as follows.

If on the first Auction Date occurring at least twenty (20) days after the date on which notice of such proposed amendment was given by the Trustee to the Owners of the ARS Certificates Outstanding, such notice to be given by mail to each Owner at its address as it appears on the registration books of the Trustee, (i) the ARS Rate which is determined on such date is the Winning Bid Rate and (ii) there is delivered to the Trustee a Favorable Opinion of Special Counsel the proposed amendment shall be deemed to have been consented to by the Owners of all of the ARS Certificates outstanding bearing interest at an ARS Rate.

(c) If the Securities Depository notifies the Authority that it is unwilling or unable to continue as registered owner of the ARS Certificates or if at any time the Securities Depository shall no longer be registered or in good standing under the Securities Exchange Act of 1934, as amended, or other applicable statute or regulation and a successor to the Securities Depository is not appointed by the Authority within ninety (90) days after the Authority receives notice or becomes aware of such condition, as the case may be, the Authority shall execute and the Trustee shall authenticate and deliver certificates representing the ARS Certificates. Such ARS Certificates shall be registered in such names and Authorized Denominations as the Securities Depository, pursuant to instructions from the Agent Members or otherwise, shall instruct the Authority and the Trustee.

(d) During an ARS Period, so long as the ownership of ARS Certificates is maintained in book-entry form by the Securities Depository, an Existing Owner or a beneficial owner may sell, transfer or otherwise dispose of an ARS Certificate only pursuant to a Bid or Sell Order in accordance with the Auction Procedures or to or through a Broker-Dealer, provided that (i) in the case of all transfers other than pursuant to Auctions, such Existing Owner or its Broker-Dealer or its

Agent Member advises the Auction Agent of such transfer and (ii) a sale, transfer or other disposition of ARS Certificates from a customer of a Broker- Dealer who is listed on the records of that Broker-Dealer as the Owner of such ARS Certificates to that Broker-Dealer or another customer of that Broker-Dealer shall not be deemed to be a sale, transfer or other disposition for purposes of this paragraph if such Broker-Dealer remains the Existing Owner of the ARS Certificates so sold, transferred or disposed of immediately after such sale, transfer or disposition.

**Section 2.08. Changes in Auction Period or Auction Date.**

(a) Changes in Auction Period. (i) During any ARS Rate Period, the Authority may, from time to time on any Interest Payment Date, change the length of the current Auction Period with respect to all of ARS Certificates among daily, seven-days, 28-days, 35-days, three months, six months and a Special Auction Period in order to accommodate economic and financial factors that may affect or be relevant to the length of the Auction Period and the interest rate borne by the ARS Certificates; provided, however, in the case of a change from a Special Auction Period, the date of such change shall be the Interest Payment Date immediately following the last day of such Special Auction Period. The Authority shall initiate the change in the length of the Auction Period by giving written notice to the Trustee, the 2006 Certificates Insurer, the applicable Auction Agent, the applicable Broker-Dealers and the Securities Depository that the Auction Period shall change if the conditions described herein are satisfied and the proposed effective date of the change, such notice to be provided at least ten (10) Business Days prior to the Auction Date for such Auction Period. Any change in the length of an Auction Period to an Auction Period longer than 35 days shall be subject to the prior written consent of the 2006 Certificate Insurer.

(ii) Any such changed Auction Period shall be for a period of one day, seven-days, 28-days, 35-days, three months, six months or a Special Auction Period and shall apply to all ARS Certificates.

(iii) The change in the length of the Auction Period for any ARS Certificates shall not be allowed unless Sufficient Clearing Bids existed at the Auction immediately preceding the proposed change.

(iv) The change in length of the Auction Period for the ARS Certificates subject to change shall take effect only if Sufficient Clearing Bids exist at the Auction on the Auction Date for such first Auction Period. For purposes of the Auction for such first Auction Period of the new length only, each Existing Owner of an ARS Certificate subject to change shall be deemed to have submitted Sell Orders with respect to all such ARS Certificates owned by it except to the extent such Existing Owner submits an Order with respect to such ARS Certificates. If the condition referred to above is not met, the Auction Rate for the next Auction Period shall be the Maximum Interest Rate, and the Auction Period shall be a seven-day Auction Period.

(v) On the date selected for a change in the length of the Auction Period for the ARS Certificates, any ARS Certificates that are not the subject of a specific Hold Order or Bid shall be deemed to be subject to a Sell Order.

(b) Changes in Auction Date. During any ARS Rate Period, the Auction Agent, with the written consent of the Authority, may specify an earlier Auction Date for the ARS Certificates (but in no event shall such date be more than five (5) Business Days earlier) than the Auction Date that would otherwise be determined in accordance with the definition of "Auction Date" in order to

conform with then current market practice with respect to similar securities or to accommodate economic and financial factors that may affect or be relevant to the day of the week constituting an Auction Date and the interest rate borne on the ARS Certificates. The Auction Agent shall provide notice of its determination to specify an earlier Auction Date for an Auction Period by means of a written notice delivered at least five (5) Business Days prior to the Auction Date preceding the proposed changed Auction Date to the Trustee, the Authority, the Broker-Dealers and the Securities Depository. In the event the Auction Agent specifies an earlier Auction Date, the days of the week on which an Auction Period begins and ends, the day of the week on which a Special Auction Period ends and the Interest Payment Date relating to a Special Auction Period shall be adjusted accordingly.

### ARTICLE III

#### AUCTION AGENT

##### **Section 3.01. Auction Agent.**

(a) The Auction Agent for the ARS Certificates shall be appointed by the Trustee, at the written direction of the Authority, and shall perform the functions specified herein. The Auction Agent shall designate its Principal Office and signify its acceptance of the duties and obligations imposed upon it hereunder by a written instrument, delivered to the Authority, the Trustee and each Broker-Dealer, which written instrument may be in the form of an Auction Agreement. Notwithstanding that the Auction Agent may be the agent of the Trustee, the Trustee shall not be liable in any way for any action taken, suffered or omitted, or for any error of judgment made by the Auction Agent, whether in the performance of its duties under the Auction Agreement or otherwise.

(b) Subject to any applicable governmental restrictions, the Auction Agent may be or become the owner of or trade in ARS Certificates with the same rights as if such entity were not the Auction Agent.

**Section 3.02. Qualifications of Auction Agent; Resignation; Removal.** The Auction Agent shall be (a) a bank or trust company organized under the laws of the United States or any state or territory thereof having a combined capital stock, surplus and undivided profits of at least \$50,000,000, or (b) a member of NASD having a capitalization of at least \$50,000,000 and, in either case, authorized by law to perform all the duties imposed upon it by the Trust Agreement and a member of, or a participant in, the Securities Depository. The Auction Agent may at any time resign and be discharged of the duties and obligations created by the Trust Agreement by giving at least ninety (90) days notice to the Authority, the Trustee, the Insurer and the Broker-Dealers. The Auction Agent may be removed at any time by written notice, delivered by the Trustee, upon the written direction of the Authority, to the Auction Agent and the 2006 Certificate Insurer. Upon any such resignation or removal, the Trustee, upon the written direction of the Authority, shall appoint a successor Auction Agent approved by the 2006 Certificate Insurer meeting the requirements of this section. In the event of the resignation or removal of the Auction Agent, the Auction Agent shall pay over, assign and deliver any moneys and any ARS Certificates held by it in such capacity to its successor. The Auction Agent shall continue to perform its duties hereunder until its successor has been appointed by the Trustee. In the event that the Auction Agent has not been compensated for its services, the Auction Agent may terminate the Auction Agreement by giving at least forty-five (45) days notice to the Authority, the Trustee, the Insurer and the Broker-Dealers, and if it has not

received such compensation by the expiration of such forty-five (45) days, the Auction Agent may resign even if a successor Auction Agent has not been appointed.

APPENDIX D

PROPOSED FORM OF OPINION OF SPECIAL COUNSEL

[Closing Date]

City Council  
City of Modesto  
Modesto, California

\$ \_\_\_\_\_  
Water Revenue Certificates of Participation  
2006 Series A  
Evidencing and Representing Proportionate Interests  
of the Owners Thereof in 2006 Payments to be made by the  
CITY OF MODESTO  
to the  
Modesto Public Financing Authority

Ladies and Gentlemen:

We have acted as special counsel to the City of Modesto (the "City") in connection with the execution and delivery of \$ \_\_\_\_\_ principal amount of Water Revenue Certificates of Participation, 2006 Series A (the "Certificates"), evidencing and representing proportionate interests of the owners thereof in 2006 Payments (as that term is defined in the Trust Agreement referred to below) to be made by the City under and pursuant to that certain Master Installment Purchase Contract, dated as of November 1, 1997 (the "Master Installment Purchase Contract"), by and between the City and the Modesto Public Financing Authority (the "Authority"), as previously supplemented and as amended and supplemented by that certain 2006 Supplemental Installment Purchase Contract, dated as of November 1, 2006 (the "2006 Supplemental Installment Purchase Contract"), by and between the City and the Authority. The Master Installment Purchase Contract, as previously supplemented and as amended and supplemented by the 2006 Supplemental Installment Purchase Contract, is referred to herein as the "Installment Purchase Contract." All of the Authority's rights to receive such 2006 Payments have been assigned by the Authority to \_\_\_\_\_, as trustee (the "Trustee"), pursuant to that certain Trust Agreement, dated as of November 1, 2006 (the "Trust Agreement"), by and between the Authority and the Trustee. The Certificates have been executed by the Trustee pursuant to the terms of the Trust Agreement.

In our capacity as special counsel, we have reviewed relevant laws of the State of California, including the City Charter; executed copies of the Installment Purchase Contract and the Trust Agreement; certifications and resolutions of the City, the Authority, the Trustee, and others; opinions of counsel to the City, the Authority and the Trustee; and such other documents, opinions and instruments as we deemed necessary to render the opinions set forth herein. Our services as special counsel were limited to such examination and to rendering the opinions set forth below. We have assumed the genuineness of all documents and signatures presented to us. We have not undertaken to verify independently, and have assumed, the accuracy of the factual matters represented, warranted or certified in the documents. Furthermore, we have assumed compliance with all covenants and agreements contained in the Installment Purchase Contract and the Trust Agreement,

including (without limitation) covenants and agreements compliance with which is necessary to assure that future actions, omissions or events will not cause interest represented by the Certificates to be included in gross income for federal income tax purposes.

Certain requirements and procedures contained or referred to in the Installment Purchase Contract and the Trust Agreement or other relevant documents relating to the Certificates may be changed, and certain actions may be taken (including, without limitation, defeasance of the Certificates), under the circumstances and subject to the terms and conditions set forth in such documents, upon the advice or with the approving opinion of counsel nationally recognized in the area of municipal bonds. We express no opinion as to the exclusion of the interest represented by the Certificates from gross income for federal income tax purposes on and after the date on which any such change occurs or action is taken upon the advice or approval of counsel other than this firm.

With respect to the opinions expressed herein, the enforceability of the Installment Purchase Contract is subject to the limitations on the imposition of certain fees and charges by the City relating to the Water Utility System under Articles XIII C and XIII D of the California Constitution. In addition, the rights and obligations under the Certificates, the Installment Purchase Contract and the Trust Agreement are subject to bankruptcy, insolvency, reorganization, arrangement, fraudulent conveyance, moratorium and other laws relating to or affecting the enforcement of creditors' rights generally, to the application of equitable principles (regardless of whether such enforceability is considered in equity or at law), to the exercise of judicial discretion in appropriate cases and to the limitations on legal remedies against cities in the State of California. Furthermore, we express no opinion with respect to any indemnification, contribution, penalty, choice of forum or waiver provisions contained in the foregoing documents.

Based on and subject to the foregoing, and in reliance thereon, as of the date hereof, we are of the following opinions:

1. The Master Installment Purchase Contract, the 2006 Supplemental Installment Purchase Contract and the Trust Agreement have been duly authorized, executed and delivered by the Authority; the Master Installment Purchase Contract and the 2006 Supplemental Installment Purchase Contract have been duly authorized, executed and delivered by the City; and, assuming (in the case of the Trust Agreement) due authorization, execution and delivery by the Trustee, such agreements are valid and binding obligations of the Authority and the City (as the case may be), enforceable against the Authority and the City (as the case may be) in accordance with their respective terms.

2. The Certificates, assuming due execution and delivery by the Trustee, are entitled to the benefits of the Trust Agreement.

3. The obligation of the City to make the 2006 Payments under the Installment Purchase Contract is a special obligation of the City payable solely from Gross Revenues (as such term is defined in the Installment Purchase Agreement). The general fund of the City is not liable, and neither the credit nor taxing power of the City is pledged, for the payment of the 2006 Payments under the Installment Purchase Contract.

4. Based on existing statutes, regulations, rulings and judicial decisions and assuming compliance by the City and the Authority with certain covenants in the Trust Agreement and the Installment Purchase Contract and with requirements of the Internal Revenue Code of 1986, as

amended (the "Code"), regarding the use, expenditure and investment of Certificate proceeds and the compliance with certain requirements regarding the rebate of certain investment earnings to the United States Treasury, interest represented by the Certificates is not includable in the gross income of the owners of the Certificates for purposes of federal income taxation. Failure by the Authority or the City to comply with the above covenants and requirements may cause interest represented by the Certificates to be included in gross income retroactive to the date of execution and delivery of the Certificates.

Interest represented by the Certificates will not be treated as an item of tax preference in calculating the federal alternative minimum taxable income of individuals or corporations; however, interest represented by the Certificates will be included as an adjustment in the calculation of the alternative minimum taxable income of corporations and may therefore affect the federal alternative minimum tax liability of corporations. We express no opinion regarding other tax consequences caused by ownership of, or the receipt of interest represented by, the Certificates.

5. Interest represented by the Certificates is exempt from present State of California personal income taxes.

The opinions expressed herein are based on an analysis of existing laws, regulations, rulings and court decisions. Such opinions may be adversely affected by actions taken or events occurring, including a change in law, regulation or ruling (or in the application or official interpretation of any law, regulation or ruling) after the date hereof. We have not undertaken to determine, or to inform any person, whether such actions are taken or such events occur, and we have no obligation to update this opinion in light of such actions or events.

This opinion is limited to the laws of the State of California and the federal laws of the United States. The opinions in this letter are expressed solely as of the date hereof for your benefit and may not be relied upon in any manner for any purposes by any other person.

Respectfully submitted,

## APPENDIX E

### FORM OF CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the "Disclosure Agreement") is executed and delivered by the City of Modesto (the "City") and The Bank of New York Trust Company, N.A., as dissemination agent (the "Dissemination Agent") in connection with the execution and delivery of the City of Modesto Water Revenue Certificates of Participation Series 2006 A (the "2006 Certificates") evidencing and representing proportionate interests of the owners thereof in certain installment payments to be made by the City. The 2006 Certificates are being executed and delivered pursuant to a 2006 Trust Agreement, dated as of November 1, 2006 (the "2006 Trust Agreement"), by and between the Modesto Public Financing Authority (the "Authority") and The Bank of New York Trust Company, N.A., as trustee thereunder (the "Trustee").

The City and the Dissemination Agent covenant and agree as follows:

**SECTION 1. Purpose of this Disclosure Agreement.** This Disclosure Agreement is being executed and delivered by the City and the Dissemination Agent for the benefit of the Owners and Beneficial Owners of the 2006 Certificates and in order to assist the Participating Underwriter in complying with the Rule.

**SECTION 2. Definitions.** In addition to the definitions set forth in the 2006 Trust Agreement, which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"Annual Report" shall mean any Annual Report provided by the City pursuant to, and as described in, Sections 3 and 4 of this Disclosure Agreement.

"Beneficial Owner" shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any 2006 Certificate (including a person holding a 2006 Certificate through a nominee, depository or other intermediary), or (b) is treated as the owner of any 2006 Certificate for federal income tax purposes.

"Broker-Dealer" shall mean any entity which is permitted by law to perform the functions required of a broker-dealer as described in Appendix C to the Official Statement, which is a member of, or a direct participant in, the Depository Trust Company, which has been selected to serve as a broker-dealer with respect to the 2006 Certificates and which is a party to a Broker-Dealer Agreement with a Auction Agent for the 2006 Certificates.

"Central Post Office" shall mean the Disclosure USA website maintained by the Municipal Advisory Council of Texas, or any successor thereto, or any other organization or method approved by the staff or members of the Securities and Exchange Commission as an intermediary through which issuers may, in compliance with the Rule, make filings required by this Disclosure Agreement.

"Disclosure Representative" shall mean the City Manager or Finance Director of the City, or their designee, or such other officer or employee as the City shall designate in writing to the Trustee and the Dissemination Agent from time to time.



“Dissemination Agent” shall mean The Bank of New York Trust Company, N.A., acting in the capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the City and which has filed with the Trustee a written acceptance of such designation.

“Fiscal Year” shall mean the one-year period ending on June 30 of each year, or such other one-year period as shall be designated as the City’s fiscal year from time to time.

“Installment Purchase Contract” shall mean that certain Master Installment Purchase Contract, dated as of November 1, 1997, by and between the City and the Authority, as supplemented by that certain 2006 Supplemental Installment Purchase Contract, dated as of November 1, 2006, by and between the City and the Authority.

“Listed Events” shall mean any of the events listed in Section 5(a) of this Disclosure Agreement.

“National Repository” shall mean any Nationally Recognized Municipal Securities Information Repository for purposes of the Rule. The Nationally Recognized Municipal Securities Information Repositories for purposes of the Rule are identified in the Securities and Exchange Commission website located at [www.sec.gov/consumer/nrmsir.htm](http://www.sec.gov/consumer/nrmsir.htm).

“Official Statement” means the Official Statement, dated \_\_\_\_\_, 2006, related to the 2006 Certificates.

“Owner” means a registered owner of the 2006 Certificates.

“Participating Underwriter” shall mean any of the original underwriters of the 2006 Certificates required to comply with the Rule in connection with offering of the 2006 Certificates.

“Repository” shall mean each National Repository and each State Repository.

“Rule” shall mean Rule 15c2-12(b)(5) adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“State” shall mean the State of California.

“State Repository” shall mean any public or private repository or entity designated by the State as a state repository for the purpose of the Rule and recognized as such by the Securities and Exchange Commission. As of the date of this Disclosure Agreement, there is no State Repository.

### SECTION 3. Provision of Annual Reports.

(a) Not later than 270 days after the end of City’s Fiscal Year (commencing with the Fiscal Year ended June 30, 2006) the City shall, or shall cause the Dissemination Agent to, provide to each Repository each Participating Underwriter and each Broker-Dealer an Annual Report relating to such Fiscal Year which is consistent with the requirements of Section 4 of this Disclosure Agreement. The Annual Report may be submitted as a single document or as separate documents comprising a package and may include by reference other information as provided in Section 4 of this Disclosure Agreement; provided that the audited financial statements of the City may be submitted separately from the balance of the Annual Report and later than the date required above for

the filing of the Annual Report if not available by that date. If the City's Fiscal Year changes, the City shall give notice of such change in the same manner as for a Listed Event under Section 5(f).

(b) Not later than fifteen (15) Business Days prior to the date specified in subsection (a) for providing the Annual Report to Repositories, the City shall provide the Annual Report to the Dissemination Agent (if other than the City) and the Trustee. The City shall provide a written certification in the form of Exhibit A hereto with each Annual Report furnished to the Dissemination Agent and the Trustee to the effect that such Annual Report constitutes the Annual Report required to be furnished by it hereunder. The Dissemination Agent and Trustee may conclusively rely upon such certification of the City and shall have no duty or obligation to review such Annual Report.

(c) The Dissemination Agent shall:

1. determine each year prior to the date for providing the Annual Report the name and address of each Repository;
2. provide any Annual Report received by it from the City to each Repository;
3. file a report with the City and (if the Dissemination Agent is not the Trustee) the Trustee certifying that the Annual Report has been provided pursuant to this Disclosure Agreement, stating the date it was provided and listing all the Repositories to which it was provided; and
4. if the Dissemination Agent is unable to verify that an Annual Report has been provided to the Repositories by the date required in subsection (a), the Dissemination Agent shall send a notice to each Repository in substantially the form attached as Exhibit B.

(d) Notwithstanding any other provision of this Disclosure Agreement, the City and the Dissemination Agent may make any of the filings of reports required to be filed with Repositories pursuant to this Disclosure Agreement through the Central Post Office.

SECTION 4. Content of Annual Reports. The Annual Report shall contain or incorporate by reference the City's audited financial statements for the most recent fiscal year of the City and the following:

1. Principal amount of the 2006 Certificates outstanding as of the end of the Fiscal Year to which the Annual Report pertains.
2. Balance in the Parity Reserve Fund and a statement of the Reserve Fund Requirement (as those terms are defined in the Master Contract) as of the end of the Fiscal Year to which the Annual Report pertains.
3. Balance in the Rate Stabilization Fund as of the end of the Fiscal Year to which the Annual Report pertains.
4. Updated information similar to that contained in the tables entitled "WATER UTILITY SYSTEM — Sale of Water" and "WATER UTILITY SYSTEM — Ten Largest Customers," appearing under the caption "WATER UTILITY SYSTEM — Service Area and Customers" of the Official Statement.

5. The City's then current rates and charges for water service.

6. Updated information similar to that contained in the table entitled "WATER UTILITY SYSTEM — Historical Debt Service Coverage" appearing under the caption "WATER UTILITY SYSTEM — Historical Operating Results" of the Official Statement.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the Authority or the City or related public entities, which have been submitted to each of the Repositories; provided, that if any document included by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board; and provided further, that the City shall clearly identify each such document so included by reference.

SECTION 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, the City shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the 2006 Certificates, if material:

1. principal and interest payment delinquencies,
2. non-payment related defaults,
3. modifications to rights of Beneficial Owners,
4. optional, contingent or unscheduled prepayments of 2006 Certificates,
5. defeasances,
6. rating changes,
7. adverse tax opinions or events affecting the tax-exempt status of the 2006 Certificates,
8. unscheduled draws on the debt service reserves reflecting financial difficulties,
9. unscheduled draws on the credit enhancements reflecting financial difficulties,
10. substitution of the credit or liquidity providers or their failure to perform, and
11. release, substitution or sale of property securing repayment of the 2006 Certificates.

(b) The City shall, within one (1) business day of obtaining actual knowledge of the occurrence of any of the Listed Events contact the Dissemination Agent, inform such the Dissemination Agent of the event and promptly direct the Dissemination Agent in writing whether or not to report the event pursuant to subsection (f).

(c) Whenever the City obtains knowledge of the occurrence of one of the foregoing events, it shall as soon as possible, determine if such event would be material under applicable federal securities laws.

(d) If the City determines that such event would be material under applicable federal securities laws, the City shall promptly notify the Dissemination Agent in writing. Such notice shall instruct the Dissemination Agent to report the occurrence pursuant to subsection (f).

(e) If in response to a request under subsection (b), the City determines that the listed event would not be material under applicable federal securities laws, the City shall so notify the Dissemination Agent in writing and instruct the Dissemination Agent not to report the occurrence pursuant to subsection (f).

(f) If the Dissemination Agent has been instructed by the City to report the occurrence of a listed event, the Dissemination Agent shall file a notice of such occurrence with the Repositories (and may do so through the Central Post Office) with a copy to the City and to each Participating Underwriter and each Broker-Dealer. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(4) and (5) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to the Owners of affected Certificates pursuant to the 2006 Trust Agreement.

**SECTION 6. Termination of Obligation.** The obligation of the City under this Disclosure Agreement shall terminate upon the legal defeasance, prior prepayment or payment in full of all of the 2006 Certificates. If such termination occurs prior to the final maturity of the 2006 Certificates, the City shall give notice of such termination in the same manner as for a Listed Event under Section 5.

**SECTION 7. Dissemination Agent.** The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any manner for the content of any notice or report prepared by the City pursuant to this Disclosure Agreement. If at any time there is not any other designated Dissemination Agent, the Trustee shall be the Dissemination Agent. The Dissemination Agent shall be entitled to compensation for its services as Dissemination Agent and reimbursement for its out-of-pocket expenses, attorney's fees, costs and advances made or incurred in the performance of its duties under this Disclosure Agreement in accordance with its written fee schedule provided to the City, as such fee schedule may be amended from time to time in writing.

**SECTION 8. Amendment; Waiver.** Notwithstanding any other provision of this Disclosure Agreement, the City and the Dissemination Agent may amend this Disclosure Agreement (and the Dissemination Agent shall agree to any amendment so requested by the City that does not adversely affect the Dissemination Agent's rights and obligations) and any provision of this Disclosure Agreement may be waived, provided that the following conditions are satisfied:

1. If the amendment or waiver relates to the provisions of Sections 3(a), 4, or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of an obligated person with respect to the 2006 Certificates or the type of business conducted thereby;

2. The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the execution and delivery of the 2006 Certificates, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

3. The amendment or waiver either (i) is approved by the Owners of the 2006 Certificates in the same manner as provided in the 2006 Trust Agreement for amendments to the 2006 Trust Agreement with the consent of Owners, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Owners or Beneficial Owners of the 2006 Certificates.

In the event of any amendment or waiver of a provision of this Disclosure Agreement, the City shall describe such amendment in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or, in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the City. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for a Listed Event under Section 5, and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

SECTION 9. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed Event, in addition to that which is required by this Disclosure Agreement. If the City chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Agreement, the City shall not have any obligation under this Disclosure Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 10. Default. In the event of a failure of the City or the Dissemination Agent to comply with any provision of this Disclosure Agreement, the Dissemination Agent may (and, at the request of any Participating Underwriter or the Owners of at least 25% aggregate principal amount of Outstanding Certificates, shall (to the extent indemnified to its satisfaction)), or any Owner or Beneficial Owner of the 2006 Certificates may, take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City or the Dissemination Agent, as the case may be, to comply with its obligations under this Disclosure Agreement. A default under this Disclosure Agreement shall not be deemed an Event of Default under the 2006 Trust Agreement or the Installment Purchase Contract, and the sole remedy under this Disclosure Agreement in the event of any failure of the City or the Dissemination Agent to comply with this Disclosure Agreement shall be an action to compel performance.

In accepting the appointment under this Disclosure Agreement, the Dissemination Agent is not acting in a fiduciary capacity to the Owners or Beneficial Owners of the 2006 Certificates, the City, the Participating Underwriter or any other party or person.

No provision of this Disclosure Agreement shall require the Dissemination Agent to risk or advance or expend its own funds or incur any financial liability.

SECTION 11. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement, and the City agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The Dissemination Agent shall have the right to resign from its duties as Dissemination Agent upon thirty (30) days notice to the City and the Trustee. The obligations of the City under this Section shall survive resignation or removal of the Dissemination Agent and payment of the 2006 Certificates.

SECTION 12. Notices. Any notices or communications to or among any of the parties to this Disclosure Agreement may be given as follows:

To the City: City of Modesto  
1010 Tenth Street, Suite 5200  
Modesto, California 95353  
Attention: Finance Director  
Fax: (209) 571-5880  
Telephone: (209) 577-5370

To the Dissemination Agent: The Bank of New York Trust Company  
555 Kearney Street, Suite 600  
San Francisco, California 94108  
Attention: Corporate Trust  
Fax: (415) 399-1647  
Telephone: (415) 263-2000

Any person may, by written notice to the other persons listed above, designate a different address or telephone number(s) to which subsequent notices or communications should be sent.

SECTION 13. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of the City, the Dissemination Agent, the Participating Underwriter and Holders and Beneficial Owners from time to time of the 2006 Certificates; and it shall create no rights in any other person or entity.

SECTION 14. Signature. This Disclosure Agreement has been executed by the undersigned on the date hereof, and such signature binds the City and the Dissemination Agent to the undertaking herein provided.

Date: November \_\_, 2006

CITY OF MODESTO

By : \_\_\_\_\_  
Title: \_\_\_\_\_

THE BANK OF NEW YORK TRUST COMPANY,  
N.A.

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

**WRITTEN CERTIFICATION REGARDING ANNUAL REPORT**

To: THE BANK OF NEW YORK TRUST COMPANY, N.A.

Re: CITY OF MODESTO WATER REVENUE CERTIFICATES OF PARTICIPATION  
SERIES 2006 A

Pursuant to Section 3(b) of that certain Continuing Disclosure Agreement, dated November \_\_, 2006, between the City of Modesto (the "City") and The Bank of New York Trust Company, N.A. (the "Dissemination Agent"), the City hereby certifies that the Annual Report attached hereto, which Annual Report has been prepared with respect to the Fiscal Year of the City ended June 30, \_\_\_\_, constitutes the Annual Report required to be furnished by it under the Continuing Disclosure Agreement.

Dated: \_\_\_\_\_

CITY OF MODESTO

By: \_\_\_\_\_  
Disclosure Representative



**EXHIBIT B**

**NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT**

Name of Obligated Party: CITY OF MODESTO

Name of Issue: CITY OF MODESTO REVENUE CERTIFICATES OF PARTICIPATION SERIES 2006 A

Date of Delivery: November \_\_, 2006

NOTICE IS HEREBY GIVEN that the City of Modesto has not provided an Annual Report with respect to the above-named Certificates as required by the Continuing Disclosure Agreement dated November \_\_, 2006 related to the 2006 Certificates and by Section \_\_ of the 2006 Supplemental Installment Purchase Contract, dated as of November 1, 2006, by and between the City of Modesto and the Modesto Public Financing Authority. [The City anticipates that the Annual Report will be filed by \_\_\_\_\_.]

Dated: \_\_\_\_\_

The Bank of New York Trust Company, N.A.

By: \_\_\_\_\_

## APPENDIX F

### INFORMATION CONCERNING DTC

*The information in this Appendix concerning DTC and DTC's book entry only system has been obtained from sources that the Authority and the City believe to be reliable, but neither the Authority nor the City takes any responsibility for the completeness or accuracy thereof. The following description of the procedures and recordkeeping with respect to beneficial ownership in the 2006 Certificates, payment of principal, premium, if any, and interest with respect to the 2006 Certificates to all DTC Participants or to Beneficial Owners, confirmation and transfers of Beneficial Ownership interests in the 2006 Certificates and other related transactions by and between DTC, DTC Participants and Beneficial Owners is based solely on information provided by DTC.*

The Depository Trust Company ("DTC"), New York, NY, will act as securities depository for the 2006 Certificates. The 2006 Certificates will be issued as fully-registered securities registered in the name of Cede & Co. (DTC's partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered security certificate will be issued for each maturity of the 2006 Certificates, each in the aggregate principal amount of such maturity, and will be deposited with DTC.

DTC, the world's largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 2.2 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments from over 100 countries that DTC's participants ("Direct Participants") deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants' accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation ("DTCC"). DTCC, in turn, is owned by a number of Direct Participants of DTC and Members of the National Securities Clearing Corporation, Fixed Income Clearing Corporation, and Emerging Markets Clearing Corporation, (NSCC, FICC, and EMCC, also subsidiaries of DTCC), as well as by the New York Stock Exchange, Inc., the American Stock Exchange LLC, and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly ("Indirect Participants"). DTC has Standard & Poor's highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission.

Purchases of 2006 Certificates under the DTC system must be made by or through Direct Participants, which will receive credit for the 2006 Certificates on DTC's records. The ownership interest of each actual purchaser of each 2006 Certificate (a "Beneficial Owner") is in turn to be recorded on the Direct and Indirect Participants' records. Beneficial Owners will not receive written confirmation from DTC of their purchases. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the 2006 Certificates are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Certificates, except in the event that use of the book-entry system for the 2006 Certificates is discontinued.

To facilitate subsequent transfers, all 2006 Certificates deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co, or such other name as may be requested by an authorized representative of DTC. The deposit of 2006 Certificates with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the 2006 Certificates; DTC's records reflect only the identity of the Direct Participants to whose accounts such 2006 Certificates are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of 2006 Certificates may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the 2006 Certificates, such as redemptions, tenders, defaults, and proposed amendments to the Bond documents. For example, Beneficial Owners of 2006 Certificates may wish to ascertain that the nominee holding the 2006 Certificates for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Prepayment notices shall be sent to DTC. If less than all of the 2006 Certificates within a maturity are being prepaid, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such maturity to be prepaid.

Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to 2006 Certificates unless authorized by a Direct Participant in accordance with DTC's procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the City as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts 2006 Certificates are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Prepayment proceeds, principal and interest payments on the 2006 Certificates will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the City or the Trustee, on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Trustee or the City, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of prepayment proceeds, principal and interest payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the City or the Trustee, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

DTC may discontinue providing its services as securities depository with respect to the 2006 Certificates at any time by giving reasonable notice to the City or the Trustee. Under such circumstances, in the event that a successor securities depository is not obtained, 2006 Certificates are required to be printed and delivered.

The Authority may decide to discontinue use of the system of book-entry transfers through DTC (or a successor securities depository). In that event, 2006 Certificates will be printed and delivered.

APPENDIX G

SPECIMEN CERTIFICATE INSURANCE POLICY

FINANCIAL GUARANTY INSURANCE POLICY

MBIA Insurance Corporation

Armonk, New York 10504

Policy No. [NUMBER]

MBIA Insurance Corporation (the "Insurer"), in consideration of the payment of the premium and subject to the terms of this policy, hereby unconditionally and irrevocably guarantees to any owner, as hereinafter defined, of the following described obligations, the full and complete payment required to be made by or on behalf of the Issuer to [PAYING AGENT/TRUSTEE] or its successor (the "Paying Agent") of an amount equal to (i) the principal of (either at the stated maturity or by any advancement of maturity pursuant to a mandatory sinking fund payment) and interest on, the Obligations (as that term is defined below) as such payments shall become due but shall not be so paid (except that in the event of any acceleration of the due date of such principal by reason of mandatory or optional redemption or acceleration resulting from default or otherwise, other than any advancement of maturity pursuant to a mandatory sinking fund payment, the payments guaranteed hereby shall be made in such amounts and at such times as such payments of principal would have been due had there not been any such acceleration, unless the Insurer elects in its sole discretion, to pay in whole or in part any principal due by reason of such acceleration); and (ii) the reimbursement of a such payment which is subsequently recovered from any owner pursuant to a final judgment by a court of competent jurisdiction that such payment constitutes an avoidable preference to such owner within the meaning of any applicable bankruptcy law. The amounts referred to in clauses (i) and (ii) of the preceding sentence shall be referred to herein collectively as the "Insured Amounts." "Obligations" shall mean:

[PAR]

[LEGAL NAME OF ISSUE]

Upon receipt of telephonic or telegraphic notice, such notice subsequently confirmed in writing by registered or certified mail, or upon receipt of written notice by registered or certified mail, by the Insurer from the Paying Agent or any owner of an Obligation the payment of an Insured Amount for which is then due, that such required payment has not been made, the Insurer on the due date of such payment or within one business day after receipt of notice of such nonpayment, whichever is later, will make a deposit of funds, in an account with U.S. Bank Trust National Association, in New York, New York, or its successor, sufficient for the payment of any such Insured Amounts which are then due. Upon presentment and surrender of such Obligations or presentment of such other proof of ownership of the Obligations, together with any appropriate instruments of assignment to evidence the assignment of the Insured Amounts due on the Obligations as are paid by the Insurer, and appropriate instruments to effect the appointment of the Insurer as agent for such owners of the Obligations in any legal proceeding related to payment of Insured Amounts on the Obligations, such instruments being in a form satisfactory to U.S. Bank Trust National Association, U.S. Bank Trust National Association shall disburse to such owners, or the Paying Agent payment of the Insured Amounts due on such Obligations, less any amount held by the Paying Agent for the payment of such Insured Amounts and legally available therefor. This policy does not insure against loss of any prepayment premium which may at any time be payable with respect to any Obligation.

As used herein, the term "owner" shall mean the registered owner of any Obligation as indicated in the books maintained by the Paying Agent, the Issuer, or any designee of the Issuer for such purpose. The term owner shall not include the Issuer or any party whose agreement with the Issuer constitutes the underlying security for the Obligations.

Any service of process on the Insurer may be made to the Insurer at its offices located at 113 King Street, Armonk, New York 10504 and such service of process shall be valid and binding.

This policy is non-cancellable for any reason. The premium on this policy is not refundable for any reason including the payment prior to maturity of the Obligations.

In the event the Insurer were to become insolvent, any claims arising under a policy of financial guaranty insurance are excluded from coverage by the California Insurance Guaranty Association, established pursuant to Article 14.2 (commencing with Section 1063) of Chapter 1 of Part 2 of Division 1 of the California Insurance Code.

IN WITNESS WHEREOF, the Insurer has caused this policy to be executed in facsimile on its behalf by its duly authorized officers, this [DAY] day of [MONTH, YEAR].

MBIA Insurance Corporation

\_\_\_\_\_  
President

Attest:

\_\_\_\_\_  
Assistant Secretary

**SPECIMEN**

STD-R-CA-7  
01/05

## APPENDIX H

### CERTAIN INFORMATION REGARDING THE CITY OF MODESTO

The following information with respect to the City is presented for information purposes only. The 2006 Certificates do not constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter limitations and the City is not obligated to levy any ad valorem taxes therefor or to use any other funds of the City to pay the 2006 Payments or the interest thereon (other than Gross Revenues of the Water Utility System).

#### General Description

The City, which is the county seat of Stanislaus County, was incorporated in 1884. It covers approximately 36 square miles. The City operates under a council-manager form of government pursuant to a charter adopted in 1963. The City is located in central California approximately 93 miles east of the City and County of San Francisco.

The City Council (the "Council") appoints the City Clerk and Auditor, the City Attorney, and the City Manager. The City Manager heads the executive branch of government, implements Council directives and policies, and manages the administrative and operational functions through the various department heads who are appointed by the City Manager.

The City provides the full range of services normally associated with a municipality, including public safety (police and fire), highways and streets, sanitation, health and social services, culture-recreation, public improvements, planning and zoning and general administrative services. The City also provides parking and airport facilities and water, sewer and bus service. The school districts in the City are separate governmental entities which receive no funding from the City.

#### Population

The following table represents historical population statistics for the City, the County and the State.

#### CITY OF MODESTO Population Estimates<sup>(1)</sup>

<i>Calendar Year</i>	<i>City of Modesto</i>	<i>Stanislaus County</i>	<i>State of California</i>
2006	208,107	514,370	37,172,015
2005	207,987	510,858	36,728,196
2004	207,543	490,127	36,144,000
2003	204,185	479,000	35,612,000
2002	199,623	479,193	35,049,000
2001	193,691	466,442	34,431,000

<sup>(1)</sup> As of January 1.

Source: California State Department of Finance, for Historical City, County and State Population Estimates, 2001-2004 and for Population Estimates for Cities, Counties and State, 2005-2006.

## Employment

The following table summarizes the civilian labor force, employment and unemployment in the County for the calendar years 2001 through 2005. These figures are county-wide statistics and may not necessarily accurately reflect employment trends in the City.

### MODESTO METROPOLITAN STATISTICAL AREA Industry Employment and Labor Force (Annual Averages)

	2005	2004	2003	2002	2001
<u>Civilian Labor Force</u>					
Employment	210,800	204,600	201,500	198,900	196,500
Unemployment	19,000	20,700	22,000	21,200	17,900
Unemployment Rate	8.3%	9.2%	9.8%	9.6%	8.3%
<u>Wage and Salary Employment:</u>					
Total Farm	14,100	13,800	14,000	13,900	14,100
Natural Resources, Mining and Construction	13,300	12,300	11,400	10,700	11,000
Manufacturing	22,300	22,700	23,100	22,500	23,000
Wholesale Trade	6,200	6,000	5,700	5,600	5,400
Retail Trade	22,700	21,500	21,800	21,700	21,100
Transport., Warehousing, Utilities	5,200	4,700	4,600	4,500	4,300
Information	2,500	2,500	2,200	2,100	2,200
Financial Activities	6,200	6,100	6,000	5,600	5,400
Professional and Business Services	14,900	14,200	13,800	15,000	16,800
Educational and Health Services	19,500	19,200	18,900	18,100	17,100
Leisure and Hospitality	14,800	14,200	13,700	13,600	13,000
Other Services	6,100	6,200	6,200	6,200	5,900
Federal Government	1,200	1,200	1,200	1,200	1,200
State Government	1,700	1,700	1,900	1,900	1,800
Local Government	<u>22,700</u>	<u>22,100</u>	<u>21,900</u>	<u>22,200</u>	<u>21,600</u>
Total All Industries	173,300	168,500	166,300	164,600	163,800

(1) Latest available information.

Note: Totals may not add up because of rounding.

Source: Labor Division of the California State Employment Development Department.

## Effective Buying Income

“Effective Buying Income” is defined as money income less personal tax and non-tax payments, a number often referred to as “disposable” or “after-tax” income. Money income is the aggregate of wages and salaries, net farm and non-farm self-employment income, interest, dividends, net rental and royalty income, Social Security and railroad retirement income, other retirement and disability income, public assistance income, unemployment compensation, Veterans Administration payments, alimony and child support, military family allotments, net winnings from gambling and other periodic income. Deducted from this total money income are personal income taxes (federal,

state and local), personal contributions to social insurance (Social Security and federal retirement payroll deductions), and taxes on owner-occupied non-business real estate.

The following table summarizes the total effective buying income for the County and the State for the period from 2000 through 2004.

**CITY OF MODESTO, STANISLAUS COUNTY AND THE STATE OF CALIFORNIA  
Total Effective Buying Income and Median Household Effective Buying Income  
2000 through 2004**

<i>Year</i>	<i>Area</i>	<i>Total Effective Buying Income (000's Omitted)</i>	<i>Median Household Effective Buying Income</i>
2004	City of Modesto	\$3,274,173	\$37,874
	Stanislaus County	7,416,705	37,815
	California	705,108,410	43,915
2003	City of Modesto	3,165,245	36,774
	Stanislaus County	7,078,408	36,670
	California	647,879,427	42,484
2002	City of Modesto	2,957,668	36,573
	Stanislaus County	6,679,400	36,331
	California	650,521,407	43,532
2001	City of Modesto	2,903,037	37,705
	Stanislaus County	6,517,967	36,180
	California	652,190,282	44,464
2000	City of Modesto	2,845,198	37,597
	Stanislaus County	6,611,580	36,022
	California	590,376,663	39,492

Source: Survey of Buying Power, Sales & Marketing Management Magazine, dated 2000, 2001, 2002, 2003 and 2004.

## Major Employers

The following table summarizes the largest employers in the County of Stanislaus.

### COUNTY OF STANISLAUS Twenty Largest Employers

<i>No.</i>	<i>Company Name</i>	<i>No. Employees</i>	<i>No.</i>	<i>Company Name</i>	<i>No. Employees</i>
1.	County of Stanislaus	4,747	11.	Foster Poultry Farms	1,813
2.	Signature Fruit Company	4,100	12.	City of Modesto	1,691
3.	Modesto City Schools	4,000	13.	ConAgra	1,400
4.	E&J Gallo Winery	3,425	14.	Emanuel Medical Center	1,329
5.	Memorial Medical Center	2,600	15.	Wal-Mart	1,173
6.	Del Monte Foods	2,600	16.	Save Mart	1,167
7.	Doctors Medical Center	2,300	17.	Ceres Unified School District	1,000
8.	Stanislaus Food Products	2,000	18.	Calif. State Univ. Stanislaus	971
9.	Modesto Junior College	1,866	19.	Sutter Gould Medical Found.	819
10.	Turlock School District	1,851	20.	Patterson Frozen Foods	725

Source: Stanislaus Economic Development and Workforce Alliance.

## Commercial Activity

The following two tables show the dollar volume of taxable transactions in the City of Modesto and County of Stanislaus from 1999 through 2004.

### CITY OF MODESTO Taxable Transactions Calendar Years 2000 through 2004 (in Thousands of Dollars)

<b>Retail Outlets</b>	<b>2004</b>	<b>2003</b>	<b>2002</b>	<b>2001</b>	<b>2000</b>
Apparel stores	\$148,097	\$126,372	\$129,773	\$112,847	\$101,835
General merchandise stores	538,323	518,024	507,438	499,333	475,171
Food stores	133,058	136,462	119,423	115,743	111,684
Eating and drinking places	258,357	245,609	235,337	219,205	198,766
Home furnishing and appliances	258,357	130,089	131,234	109,395	105,010
Bldg. materials and farm implements	233,124	204,427	188,388	188,459	162,696
Auto dealers and supplies	253,170	259,395	247,861	230,912	212,069
Service stations	131,695	115,317	101,551	106,229	110,618
Other retail stores	418,822	392,650	381,371	364,468	343,021
<b>Subtotal</b>	<b>\$2,250,789</b>	<b>2,128,345</b>	<b>2,042,376</b>	<b>1,946,591</b>	<b>1,820,870</b>
All Other Outlets	414,841	433,387	372,899	367,760	356,567
<b>All Outlets</b>	<b>\$2,665,630</b>	<b>\$2,561,732</b>	<b>\$2,415,275</b>	<b>\$2,314,351</b>	<b>\$2,177,437</b>

Source: State of California, Board of Equalization.



**COUNTY OF STANISLAUS**  
**Taxable Transactions**  
**Calendar Years 2000 through 2004**  
**(in Thousands of Dollars)**

<b>Retail Outlets</b>	<b>2004</b>	<b>2003</b>	<b>2002</b>	<b>2001</b>	<b>2000</b>
Apparel stores	\$192,858	\$154,867	\$154,083	\$127,711	\$115,339
General merchandise stores	846,742	803,255	784,431	754,247	702,326
Specialty stores	501,694	465,562	432,777	411,996	390,154
Food stores	291,867	282,781	260,781	255,923	237,565
Eating and drinking places	452,120	421,793	403,421	378,985	342,807
Household	198,691	187,214	181,384	153,417	146,043
Building materials	508,825	416,983	368,472	360,337	303,139
Automotive	1,396,277	1,305,986	1,248,936	1,244,939	1,102,803
Other retail stores	331,376	297,729	273,693	249,876	243,819
<b>Subtotal</b>	<b>4,720,450</b>	<b>4,336,170</b>	<b>4,107,978</b>	<b>3,937,431</b>	<b>3,583,995</b>
Business and Personal Services	240,245	224,429	233,862	214,161	208,118
All Other Outlets	\$1,804,973	\$1,614,893	\$1,494,025	\$1,421,077	\$1,402,941
<b>All Outlets</b>	<b>\$6,765,668</b>	<b>\$6,175,492</b>	<b>\$5,825,865</b>	<b>\$5,572,669</b>	<b>\$5,195,054</b>

Source: State of California, Board of Equalization.

### Construction Trends

“Single Family Housing,” includes detached, semi-detached, rowhouse and townhouse units. Rowhouses and townhouses are included when each unit is separated from the adjacent unit by an unbroken ground-to-roof party or fire wall. Condominiums are included in single-family when they are of zero-lot-line or zero-property-line construction; when units are separated by an air space; or, when units are separated by an unbroken ground-to-roof party or fire wall. “Multi-Family Housing,” includes duplexes, 3-4-unit structures and apartment-type structures with five units or more. Multi-family housing also includes condominium units in structures of more than one living unit that do not meet the above single-family housing definition. “Residential Alterations and Additions,” means alterations, additions, and conversions to residential structures, excluding special installation permits for electrical, plumbing, heating, air-conditioning, or similar mechanical work, or installation of fire escapes, elevators, signs, etc.

“New Commercial,” includes new hotels and motels, office and bank buildings, stores and other mercantile buildings, parking garages, service stations, and amusement and recreational buildings. “New Industrial,” includes manufacturing plants and affiliated buildings. “Other New Nonresidential,” includes churches and religious buildings, hospitals and institutional buildings, schools and educational buildings, residential garages, public works and utilities buildings, and miscellaneous nonresidential structures. “Nonresidential Alterations and Additions,” means alterations, additions, and conversions to nonresidential structures, excluding special installation permits for electrical, plumbing, heating, air-conditioning, or similar mechanical work, or installation of fire escapes, elevators and signs, etc.

Provided below are the building permits and valuations for the City of Modesto for calendar years 2001 through 2005.

**CITY OF MODESTO**  
**Residential and Nonresidential Building Permit Valuations**  
**and Total Residential Building Permits**

	2001	2002	2003	2004	2005
<b>Permit Valuation</b>					
New Single-family	\$246,315,272	\$216,245,472	\$169,003,473	\$69,473,535	\$165,909,336
New Multi-family	3,276,142	1,719,426	6,087,705	20,721,736	1,719,478
Res. Alterations & Additions	7,410,525	9,062,856	9,793,040	15,707,552	17,947,953
<b>Total Residential</b>	<b>\$257,001,939</b>	<b>\$227,027,754</b>	<b>\$184,884,218</b>	<b>\$105,902,823</b>	<b>\$185,576,767</b>
New Commercial	29,067,329	20,306,197	30,255,734	35,298,696	62,592,553
New Industrial	2,967,560	6,580,320	1,183,692	2,003,992	0
New Other	23,022,963	19,899,918	26,649,779	61,628,516	32,919,890
Non-Res. Alterations & Additions	30,662,702	32,507,506	24,933,722	25,524,261	19,914,523
<b>Total Nonresidential</b>	<b>85,720,554</b>	<b>79,293,941</b>	<b>83,022,927</b>	<b>124,455,465</b>	<b>115,426,966</b>
<b>Total All Building</b>	<b>\$342,722,493</b>	<b>\$306,321,695</b>	<b>\$267,907,145</b>	<b>\$230,358,288</b>	<b>\$301,003,773</b>
<b>New Dwelling Units</b>					
Single Family	1,232	1,067	1,105	348	872
Multiple Family	30	21	78	297	9
<b>Total</b>	<b>1,262</b>	<b>1,088</b>	<b>1,183</b>	<b>645</b>	<b>881</b>

Note: Totals may not add up because of rounding.

Source: Building Permit Summary, Construction Industry Research Board and City of Modesto.

**Agriculture**

The following table summarizes historical agricultural production within the County for calendar years 2001 through 2005.

**STANISLAUS COUNTY**  
**Agricultural Production**  
**2001-2005**

Commodity	2001	2002	2003	2004	2005
Fruit and Nut Crops	\$311,735,000	\$393,520,000	\$431,642,000	616,452,000	686,897,000
Vegetable Crops	100,153,000	105,508,000	105,667,000	125,903,000	91,454,000
Field Crops	139,898,000	132,418,000	127,329,000	137,871,000	147,744,000
Seed Crops	797,000	561,000	533,000	401,000	810,000
Apiary	7,389,000	7,323,000	7,565,000	8,865,000	12,045,000
Nursery Crops	68,960,000	85,889,000	99,164,000	111,272,000	71,240,000
Livestock & Poultry	233,237,000	242,677,000	239,990,000	403,205,000	401,244,000
Livestock & Poultry Products	491,131,000	400,075,000	443,042,000	574,465,000	566,161,000
<b>TOTALS</b>	<b>\$1,353,300,000</b>	<b>\$1,367,971,000</b>	<b>\$1,454,932,000</b>	<b>1,978,434,000</b>	<b>1,977,595,000</b>

Source: Stanislaus County Department of Agriculture.

## APPENDIX E

### FORM OF CONTINUING DISCLOSURE AGREEMENT

This Continuing Disclosure Agreement (the "Disclosure Agreement") is executed and delivered by the City of Modesto (the "City") and The Bank of New York Trust Company, N.A., as dissemination agent (the "Dissemination Agent") in connection with the execution and delivery of the City of Modesto Water Revenue Certificates of Participation Series 2006 A (the "2006 Certificates") evidencing and representing proportionate interests of the owners thereof in certain installment payments to be made by the City. The 2006 Certificates are being executed and delivered pursuant to a 2006 Trust Agreement, dated as of November 1, 2006 (the "2006 Trust Agreement"), by and between the Modesto Public Financing Authority (the "Authority") and The Bank of New York Trust Company, N.A., as trustee thereunder (the "Trustee").

The City and the Dissemination Agent covenant and agree as follows:

**SECTION 1. Purpose of this Disclosure Agreement.** This Disclosure Agreement is being executed and delivered by the City and the Dissemination Agent for the benefit of the Owners and Beneficial Owners of the 2006 Certificates and in order to assist the Participating Underwriter in complying with the Rule.

**SECTION 2. Definitions.** In addition to the definitions set forth in the 2006 Trust Agreement, which apply to any capitalized term used in this Disclosure Agreement unless otherwise defined in this Section, the following capitalized terms shall have the following meanings:

"Annual Report" shall mean any Annual Report provided by the City pursuant to, and as described in, Sections 3 and 4 of this Disclosure Agreement.

"Beneficial Owner" shall mean any person which (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any 2006 Certificate (including a person holding a 2006 Certificate through a nominee, depository or other intermediary), or (b) is treated as the owner of any 2006 Certificate for federal income tax purposes.

"Broker-Dealer" shall mean any entity which is permitted by law to perform the functions required of a broker-dealer as described in Appendix C to the Official Statement, which is a member of, or a direct participant in, the Depository Trust Company, which has been selected to serve as a broker-dealer with respect to the 2006 Certificates and which is a party to a Broker-Dealer Agreement with a Auction Agent for the 2006 Certificates.

"Central Post Office" shall mean the Disclosure USA website maintained by the Municipal Advisory Council of Texas, or any successor thereto, or any other organization or method approved by the staff or members of the Securities and Exchange Commission as an intermediary through which issuers may, in compliance with the rule, make filings required by this Disclosure Agreement.

“Disclosure Representative” shall mean the City Manager or Finance Director of the City, or their designee, or such other officer or employee as the City shall designate in writing to the Trustee and the Dissemination Agent from time to time.

“Dissemination Agent” shall mean The Bank of New York Trust Company, N.A., acting in the capacity as Dissemination Agent hereunder, or any successor Dissemination Agent designated in writing by the City and which has filed with the Trustee a written acceptance of such designation.

“Fiscal Year” shall mean the one-year period ending on June 30 of each year, or such other one-year period as shall be designated as the City’s fiscal year from time to time.

“Installment Purchase Contract” shall mean that certain Master Installment Purchase Contract, dated as of November 1, 1997, by and between the City and the Authority, as supplemented by that certain 2006 Supplemental Installment Purchase Contract, dated as of \_\_\_\_\_ 1, 2006, by and between the City and the Authority.

“Listed Events” shall mean any of the events listed in Section 5(a) of this Disclosure Certificate.

“National Repository” shall mean any Nationally Recognized Municipal Securities Information Repository for purposes of the Rule. The Nationally Recognized Municipal Securities Information Repositories for purposes of the Rule are identified in the Securities and Exchange Commission website located at [www.sec.gov/consumer/nrmsir.htm](http://www.sec.gov/consumer/nrmsir.htm).

“Official Statement” means the Official Statement, dated \_\_\_\_\_, 2006, related to the 2006 Certificates.

“Owner” means a registered owner of the 2006 Certificates.

“Participating Underwriter” shall mean any of the original underwriters of the 2006 Certificates required to comply with the Rule in connection with offering of the 2006 Certificates.

“Repository” shall mean each National Repository and each State Repository.

“Rule” shall mean Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time.

“State” shall mean the State of California.

“State Repository” shall mean any public or private repository or entity designated by the State as a state repository for the purpose of the Rule and recognized as such by the Securities and Exchange Commission. As of the date of this Disclosure Agreement, there is no State Repository.

### SECTION 3. Provision of Annual Reports.

(a) Not later than 270 days after the end of City's Fiscal Year (commencing with the Fiscal Year ended June 30, 2006) the City shall, or shall cause the Dissemination Agent to, provide to each Repository each Participating Underwriter and each Broker-Dealer an Annual Report relating to such Fiscal Year which is consistent with the requirements of Section 4 of this Disclosure Agreement. The Annual Report may be submitted as a single document or as separate documents comprising a package and may include by reference other information as provided in Section 4 of this Disclosure Agreement; provided that the audited financial statements of the City may be submitted separately from the balance of the Annual Report and later than the date required above for the filing of the Annual Report if not available by that date. If the City's fiscal year changes, the City shall give notice of such change in the same manner as for a Listed Event under Section 5(f).

(b) Not later than fifteen (15) Business Days prior to the date specified in subsection (a) for providing the Annual Report to Repositories, the City shall provide the Annual Report to the Dissemination Agent (if other than the City) and the Trustee. The City shall provide a written certification in the form of Exhibit A hereto with each Annual Report furnished to the Dissemination Agent and the Trustee to the effect that such Annual Report constitutes the Annual Report required to be furnished by it hereunder. The Dissemination Agent and Trustee may conclusively rely upon such certification of the City and shall have no duty or obligation to review such Annual Report.

(c) The Dissemination Agent shall:

1. determine each year prior to the date for providing the Annual Report the name and address of each Repository;
2. provide any Annual Report received by it from the City to each Repository;
3. file a report with the City and (if the Dissemination Agent is not the Trustee) the Trustee certifying that the Annual Report has been provided pursuant to this Disclosure Agreement, stating the date it was provided and listing all the Repositories to which it was provided; and
4. if the Dissemination Agent is unable to verify that an Annual Report has been provided to the Repositories by the date required in subsection (a), the Dissemination Agent shall send a notice to each Repository in substantially the form attached as Exhibit B.

(d) Notwithstanding any other provision of this Disclosure Agreement, the City and the Dissemination Agent may make any of the filings of reports required to be filed with Repositories pursuant to this Disclosure Agreement through the Central Post Office.

SECTION 4. Content of Annual Reports. The Annual Report shall contain or incorporate by reference the City's audited financial statements for the most recent fiscal year of the City and the following:

1. Principal amount of the 2006 Certificates outstanding as of the end of the Fiscal Year to which the Annual Report pertains.

2. Balance in the Parity Reserve Fund and a statement of the Reserve Fund Requirement (as those terms are defined in the Master Contract) as of the end of the Fiscal Year to which the Annual Report pertains.

3. Balance in the Rate Stabilization Fund as of the end of the Fiscal Year to which the Annual Report pertains.

4. Updated information similar to that contained in the tables entitled "WATER UTILITY SYSTEM — Sale of Water" and "WATER UTILITY SYSTEM — Ten Largest Customers," appearing under the caption "WATER UTILITY SYSTEM — Service Area and Customers" of the Official Statement.

5. The City's then current rates and charges for water service.

6. Updated information similar to that contained in the table entitled "WATER UTILITY SYSTEM — Historical Debt Service Coverage" appearing under the caption "WATER UTILITY SYSTEM — Historical Operating Results" of the Official Statement.

Any or all of the items listed above may be included by specific reference to other documents, including official statements of debt issues of the Authority or the City or related public entities, which have been submitted to each of the Repositories; provided, that if any document included by reference is a final official statement, it must be available from the Municipal Securities Rulemaking Board; and provided further, that the City shall clearly identify each such document so included by reference.

#### SECTION 5. Reporting of Significant Events.

(a) Pursuant to the provisions of this Section 5, the City shall give, or cause to be given, notice of the occurrence of any of the following events with respect to the 2006 Certificates, if material:

1. principal and interest payment delinquencies,
2. non-payment related defaults,
3. modifications to rights of Beneficial Owners,
4. optional, contingent or unscheduled prepayments of 2006 Certificates,
5. defeasances,
6. rating changes,
7. adverse tax opinions or events affecting the tax-exempt status of the 2006 Certificates,

8. unscheduled draws on the debt service reserves reflecting financial difficulties,
9. unscheduled draws on the credit enhancements reflecting financial difficulties,
10. substitution of the credit or liquidity providers or their failure to perform, and
11. release, substitution or sale of property securing repayment of the 2006 Certificates.

(b) The City shall, within one (1) business day of obtaining actual knowledge of the occurrence of any of the Listed Events contact the Dissemination Agent, inform such the Dissemination Agent of the event and promptly direct the Dissemination Agent in writing whether or not to report the event pursuant to subsection (f).

(c) Whenever the City obtains knowledge of the occurrence of one of the foregoing events, it shall as soon as possible, determine if such event would be material under applicable federal securities laws.

(d) If the City determines that such event would be material under applicable federal securities laws, the City shall promptly notify the Dissemination Agent in writing. Such notice shall instruct the Dissemination Agent to report the occurrence pursuant to subsection (f).

(e) If in response to a request under subsection (b), the City determines that the listed event would not be material under applicable federal securities laws, the City shall so notify the Dissemination Agent in writing and instruct the Dissemination Agent not to report the occurrence pursuant to subsection (f).

(f) If the Dissemination Agent has been instructed by the City to report the occurrence of a listed event, the Dissemination Agent shall file a notice of such occurrence with the Repositories (and may do so through the Central Post Office) with a copy to the City and to each Participating Underwriter and each Broker-Dealer. Notwithstanding the foregoing, notice of Listed Events described in subsections (a)(4) and (5) need not be given under this subsection any earlier than the notice (if any) of the underlying event is given to the Owners of affected Certificates pursuant to the 2006 Trust Agreement.

SECTION 6. Termination of Obligation. The obligation of the City under this Disclosure Agreement shall terminate upon the legal defeasance, prior prepayment or payment in full of all of the 2006 Certificates. If such termination occurs prior to the final maturity of the 2006 Certificates, the City shall give notice of such termination in the same manner as for a Listed Event under Section 5.

SECTION 7. Dissemination Agent. The City may, from time to time, appoint or engage a Dissemination Agent to assist it in carrying out its obligations under this Disclosure Agreement, and may discharge any such Dissemination Agent, with or without appointing a successor Dissemination Agent. The Dissemination Agent shall not be responsible in any

manner for the content of any notice or report prepared by the City pursuant to this Disclosure Agreement. If at any time there is not any other designated Dissemination Agent, the Trustee shall be the Dissemination Agent. The Dissemination Agent shall be entitled to compensation for its services as Dissemination Agent and reimbursement for its out-of-pocket expenses, attorney's fees, costs and advances made or incurred in the performance of its duties under this Disclosure Agreement in accordance with its written fee schedule provided to the City, as such fee schedule may be amended from time to time in writing.

SECTION 8. Amendment; Waiver. Notwithstanding any other provision of this Disclosure Agreement, the City and the Dissemination Agent may amend this Disclosure Agreement (and the Dissemination Agent shall agree to any amendment so requested by the City that does not adversely affect the Dissemination Agent's rights and obligations) and any provision of this Disclosure Agreement may be waived, provided that the following conditions are satisfied:

1. If the amendment or waiver relates to the provisions of Sections 3(a), 4, or 5(a), it may only be made in connection with a change in circumstances that arises from a change in legal requirements, change in law, or change in the identity, nature or status of an obligated person with respect to the 2006 Certificates or the type of business conducted thereby;

2. The undertaking, as amended or taking into account such waiver, would, in the opinion of nationally recognized bond counsel, have complied with the requirements of the Rule at the time of the execution and delivery of the 2006 Certificates, after taking into account any amendments or interpretations of the Rule, as well as any change in circumstances; and

3. The amendment or waiver either (i) is approved by the Owners of the 2006 Certificates in the same manner as provided in the 2006 Trust Agreement for amendments to the 2006 Trust Agreement with the consent of Owners, or (ii) does not, in the opinion of nationally recognized bond counsel, materially impair the interests of the Owners or Beneficial Owners of the 2006 Certificates.

In the event of any amendment or waiver of a provision of this Disclosure Agreement, the City shall describe such amendment in the next Annual Report, and shall include, as applicable, a narrative explanation of the reason for the amendment or waiver and its impact on the type (or, in the case of a change of accounting principles, on the presentation) of financial information or operating data being presented by the City. In addition, if the amendment relates to the accounting principles to be followed in preparing financial statements, (i) notice of such change shall be given in the same manner as for a Listed Event under Section 5, and (ii) the Annual Report for the year in which the change is made should present a comparison (in narrative form and also, if feasible, in quantitative form) between the financial statements as prepared on the basis of the new accounting principles and those prepared on the basis of the former accounting principles.

SECTION 9. Additional Information. Nothing in this Disclosure Agreement shall be deemed to prevent the City from disseminating any other information, using the means of dissemination set forth in this Disclosure Agreement or any other means of communication, or including any other information in any Annual Report or notice of occurrence of a Listed



Event, in addition to that which is required by this Disclosure Agreement. If the City chooses to include any information in any Annual Report or notice of occurrence of a Listed Event in addition to that which is specifically required by this Disclosure Agreement, the City shall not have any obligation under this Disclosure Agreement to update such information or include it in any future Annual Report or notice of occurrence of a Listed Event.

SECTION 10. Default. In the event of a failure of the City or the Dissemination Agent to comply with any provision of this Disclosure Agreement, the Dissemination Agent may (and, at the request of any Participating Underwriter or the Owners of at least 25% aggregate principal amount of Outstanding Certificates, shall (to the extent indemnified to its satisfaction)), or any Owner or Beneficial Owner of the 2006 Certificates may, take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the City or the Dissemination Agent, as the case may be, to comply with its obligations under this Disclosure Agreement. A default under this Disclosure Agreement shall not be deemed an Event of Default under the 2006 Trust Agreement or the Installment Purchase Contract, and the sole remedy under this Disclosure Agreement in the event of any failure of the City or the Dissemination Agent to comply with this Disclosure Agreement shall be an action to compel performance.

In accepting the appointment under this Disclosure Agreement, the Dissemination Agent is not acting in a fiduciary capacity to the Owners or Beneficial Owners of the 2006 Certificates, the City, the Participating Underwriter or any other party or person.

No provision of this Disclosure Agreement shall require the Dissemination Agent to risk or advance or expend its own funds or incur any financial liability.

SECTION 11. Duties, Immunities and Liabilities of Dissemination Agent. The Dissemination Agent shall have only such duties as are specifically set forth in this Disclosure Agreement, and the City agrees to indemnify and save the Dissemination Agent, its officers, directors, employees and agents, harmless against any loss, expense and liabilities which it may incur arising out of or in the exercise or performance of its powers and duties hereunder, including the costs and expenses (including attorneys fees) of defending against any claim of liability, but excluding liabilities due to the Dissemination Agent's negligence or willful misconduct. The Dissemination Agent shall have the right to resign from its duties as Dissemination Agent upon thirty (30) days notice to the City and the Trustee. The obligations of the City under this Section shall survive resignation or removal of the Dissemination Agent and payment of the 2006 Certificates.

SECTION 12. Notices. Any notices or communications to or among any of the parties to this Disclosure Agreement may be given as follows:

To the City:

City of Modesto  
1012 "I" Street, 2nd Floor  
Modesto, California 95353  
Attention: Finance Director  
Fax: (209) 521-4801  
Telephone: (209) 577-5370

To the Dissemination Agent:

The Bank of New York Trust Company

555 Kearney Street, Suite 600  
San Francisco, California 94108  
Attention: Corporate Trust  
Fax: (415) 399-1647  
Telephone: (415) 263-2000

Any person may, by written notice to the other persons listed above, designate a different address or telephone number(s) to which subsequent notices or communications should be sent.

SECTION 13. Beneficiaries. This Disclosure Agreement shall inure solely to the benefit of the City, the Dissemination Agent, the Participating Underwriter and Holders and Beneficial Owners from time to time of the 2006 Certificates; and it shall create no rights in any other person or entity.

SECTION 14. Signature. This Disclosure Agreement has been executed by the undersigned on the date hereof, and such signature binds the City and the Dissemination Agent to the undertaking herein provided.

Date: November \_\_, 2006

CITY OF MODESTO

By : \_\_\_\_\_  
Title: \_\_\_\_\_

THE BANK OF NEW YORK TRUST  
COMPANY, N.A.

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT A**

**WRITTEN CERTIFICATION REGARDING ANNUAL REPORT**

To: THE BANK OF NEW YORK TRUST COMPANY, N.A.

Re: CITY OF MODESTO WATER REVENUE CERTIFICATES OF PARTICIPATION  
SERIES 2006 A

Pursuant to Section 3(b) of that certain Continuing Disclosure Agreement, dated November \_\_, 2006, between the City of Modesto (the "City") and The Bank of New York Trust Company, N.A. (the "Dissemination Agent"), the City hereby certifies that the Annual Report attached hereto, which Annual Report has been prepared with respect to the Fiscal Year of the City ended June 30, \_\_\_\_, constitutes the Annual Report required to be furnished by it under the Continuing Disclosure Agreement.

Dated: \_\_\_\_\_

CITY OF MODESTO

By: \_\_\_\_\_  
Disclosure Representative

**EXHIBIT B**

**NOTICE TO REPOSITORIES OF FAILURE TO FILE ANNUAL REPORT**

Name of Obligated Party: CITY OF MODESTO  
Name of Issue: CITY OF MODESTO REVENUE CERTIFICATES OF PARTICIPATION SERIES 2006 A  
Date of Delivery: November \_\_, 2006

NOTICE IS HEREBY GIVEN that the City of Modesto has not provided an Annual Report with respect to the above-named Certificates as required by the Continuing Disclosure Agreement dated November \_\_, 2006 related to the 2006 Certificates and by Section \_\_\_ of the 2006 Supplemental Installment Purchase Contract, dated as of November 1, 2006, by and between the City of Modesto and the Modesto Public Financing Authority. [The City anticipates that the Annual Report will be filed by \_\_\_\_\_.]

Dated: \_\_\_\_\_

The Bank of New York Trust Company, N.A.

By: \_\_\_\_\_

**INSURANCE AND REIMBURSEMENT AGREEMENT**

among

**THE CITY OF MODESTO, CALIFORNIA**

**THE BANK OF NEW YORK TRUST COMPANY, N.A.,**

and

**MBIA INSURANCE CORPORATION**

regarding

\$\_[\_\_\_\_\_]

City of Modesto, California

Water Revenue Certificates of Participation

2006 Series A

Evidencing and Representing a Proportionate Interest of the Owners Thereof  
in 2006 Payments to be made by the City of Modesto  
to the Modesto Public Financing Authority

AND

[Confirmation] bearing [Ref. No.: \_\_\_\_\_]

Dated September \_\_\_\_, 2006, governed by the

Master Agreement and the Schedule thereto dated

As of September \_\_\_\_, 2006, by and between

Bank of America, N.A. and City of Modesto, California

Dated as of November [1], 2006

---

TABLE OF CONTENTS

Page

ARTICLE I

DEFINITIONS .....2

ARTICLE II

REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE THE CITY AND THE TRUSTEE

Section 2.01. Representations, Warranties and Covenants of the City .....4  
Section 2.02. Representations, Warranties and Covenants of the Trustee .....6

ARTICLE III

[AGREEMENT TO INDEMNIFY .....7

ARTICLE IV

PAYMENT, REIMBURSEMENT AND OTHER RIGHTS OF MBIA

Section 4.01. Payment and Reimbursement Rights of MBIA .....8  
Section 4.02. Optional Deposits by MBIA .....9

ARTICLE V

SUBROGATION RIGHTS AND SECURITY OF MBIA

Section 5.01. Subrogation Rights .....9  
Section 5.02. Security .....10

ARTICLE VI

EVENTS OF DEFAULT

Section 6.01. Events of Default Described .....10  
Section 6.02. Remedies .....11  
Section 6.03. No Remedy Exclusive .....11

ARTICLE VII

SETTLEMENT .....12

ARTICLE VIII

OBLIGATIONS OF THE CITY ABSOLUTE .....12

ARTICLE IX

MISCELLANEOUS PROVISIONS

Section 9.01. Amendments, Changes and Modifications .....12  
Section 9.02. Governing Law .....13  
Section 9.03. Notices .....13

Section 9.04.	Third-party Beneficiary .....	13
Section 9.05.	Severability .....	14
Section 9.06.	Counterparts.....	14
Section 9.07.	Primary Obligation .....	14
Section 9.08.	Further Assurances and Corrective Instruments.....	14
Section 9.09.	No Rights Conferred on Others .....	14
Section 9.10.	Term.....	14
Section 9.11.	Payment Procedure .....	14
Section 9.12.	Successor Trustees.....	14

## INSURANCE AND REIMBURSEMENT AGREEMENT

**THIS INSURANCE AND REIMBURSEMENT AGREEMENT** (this "Agreement") dated as of November [1], 2006 is entered into by and among the **THE CITY OF MODESTO, CALIFORNIA** (the "City"), **THE BANK OF NEW YORK TRUST COMPANY, N.A.**, as trustee (the "Trustee"), and **MBIA INSURANCE CORPORATION**, a stock insurance corporation, duly organized and existing under the laws of the State of New York ("MBIA"). Capitalized terms not otherwise defined shall have the meanings ascribed thereto in Article I of this Agreement.

### RECITALS:

1. The Authority is a joint exercise of powers authority duly organized and existing under and pursuant to the Joint Exercise of Powers Act (being Sections 6500 et seq. of the Government Code of the State of California (the "Act") and a Joint Exercise of Powers Agreement dated as of December 1, 1989, by and between the City of Modesto and the Industrial Development Authority of the City of Modesto;

2. The Authority is has entered into a Master Installment Purchase Contract, dated as of November 1, 1997 (the "Master Contract"), as supplemented by the 1997 Supplemental Installment Purchase Contract, dated as of November 1, 1997, and as supplemented by a 2006 Supplemental Installment Purchase Contract, dated as of November 1, 2006 (the "2006 Supplemental Contract"), each by and between the Authority and the City, for the purpose of assisting the City by financing certain additions, betterments, extensions and improvements to the water utility system of the City (the "2006 Prjoect");

3. In order to assist the City in financing the 2006 Project, the Authority has entered into the Trust Agreement, dated as of November 1, 2006 ("Trust Agreement"), with the Trustee, pursuant to which the Authority has assigned to the Trustee certain rights under the 2006 Supplemental Contract, including the right to receive 2006 payments made by the City thereunder certificates of participation evidencing and representing a proportionate interest of the Owners Thereof in 2006 payments to be made by the City to the Authority (the "2006 Certificates");

4. The 2006 Certificates will be delivered by the Trustee as variable rate certificates under the Trust Agreement and MBIA has issued a Commitment to provide a financial guaranty insurance policy (the "Policy") insuring certain payments of principal and interest due with respect to the 2006 Certificates without regard to any acceleration of the time of payment of the 2006 Certificates;

5. The City wishes to hedge a portion of its Certificates and has determined that the Swap Agreement and related arrangements are designed to enhance the relationship between risk and return with respect to its program of investment and to that end has asked the Swap Provider to execute the Swap Agreement;

6. The Swap Provider, as a condition of providing the Swap Agreement required that MBIA issue an interest rate swap insurance policy (the "Swap Policy") contemporaneously with



the delivery of the 2006 Certificates, insuring certain of the amounts which may be due from the City to the Swap Provider under the Swap Agreement;

7. MBIA has agreed to issue the Swap Policy contemporaneously with the delivery of the Certificates, insuring certain of the amounts which may be due from the City to the Swap Provider under the Swap Agreement;

8. MBIA has agreed, pursuant to the terms of the MBIA Commitment, to deliver the Swap Policy to the Swap Provider and the Policy to the Trustee, but has required that the City undertake certain obligations hereunder in connection therewith; and

9. This Agreement is entered into in order to set forth certain representations, warranties, covenants and other agreements of the City and the Trustee and to evidence and secure the City's obligation (a) to reimburse MBIA for any payment made by MBIA under the Policy and the Swap Policy and as provided herein and (b) to indemnify or reimburse MBIA for certain amounts as more fully set forth herein.

In consideration of the premises and the mutual promises set forth below, MBIA, the Trustee, the City agree as follows:

## ARTICLE I

### DEFINITIONS

Unless the context otherwise requires, the terms defined in this Article I shall, for all purposes of this Agreement, have the meanings herein specified, to be equally applicable to both the singular and plural forms of any of the terms herein defined. Capitalized terms not otherwise defined herein shall have the meanings ascribed thereto in the Trust Agreement.

"*Agreement*" means this Insurance and Reimbursement Agreement dated as of November [ 1 ], 2006, including any amendments or any supplements hereto as herein permitted.

"*Auction Agreement*" means the Auction Agreement dated as of November 1, 2006 between the Trustee and The Bank of New York, as Auction Agent.

"*Authority*" means the Modesto Public Financing Authority.

"*Authorized Officer*," with respect to the City, means the [ \_\_\_\_\_ ], the [ \_\_\_\_\_ ], the [ \_\_\_\_\_ ], and any other individual authorized by [the City's organizational documents] to perform the act or sign the document in question.

"*Broker Dealer Agreement*" means the Broker-Dealer Agreement dated as of November 1, 2006 among the Auction Agent, Banc of America Securities LLC and the Authority.

"*Business Day*" means any day other than (a) a Saturday or Sunday, (b) a State legal holiday or (c) any day which shall be in the city in which the Trustee or MBIA is located, a legal holiday or a day on which banks in any of such cities are required or authorized by law or other government action to close.

“2006 Certificates” means the \$[\_\_\_\_\_] City of Modesto, California Water Revenue Certificates of Participation, 2006 Series A, Evidencing and Representing a Proportionate Interest of the Owners Thereof in 2006 Payments to be made by the City to the Authority.

“Certificate Purchase Agreement” means [\_\_\_\_\_].

“Counsel” means nationally recognized municipal bond counsel acceptable to MBIA.

“Financial Statements” means the audit report, including the financial statements and other documents required to be filed by the City with the Trustee pursuant to the Master Contract.

“Issuance Date” means the date upon which the Policy is issued.

“MBIA” means MBIA Insurance Corporation, a New York stock insurance corporation.

“MBIA Commitment” means the MBIA Insurance Corporation Commitment dated September 11, 2006, relating to the delivery of the Policy and the Swap Policy.

“Official Statement” means the Official Statement dated as of October [\_\_\_], 2006.

“Parity Obligations” shall have the meaning ascribed thereto in the Master Contract.

“Policy” means the Financial Guaranty Insurance Policy No. [\_\_\_\_], including any endorsements thereto, issued by MBIA in connection with the 2006 Certificates.

“Prime Rate” means for any date of determination, the rate of interest as it is publicly announced by Citibank, N.A. at its principal office in New York, New York as its prime lending rate for unsecured commercial loans within the United States (any change in such prime rate of interest to be effective on the date such change is announced by Citibank, N.A.); provided, however, that if Citibank, N.A. ceases to announce a prime lending rate for unsecured commercial loans within the United States, then “Prime Rate” shall mean the average of the prime lending rates for unsecured commercial loans within the United States as announced by three leading commercial banks selected by MBIA from time-to-time.

“Reimbursement Rate” means for any date of determination, the Prime Rate plus 3%. The Reimbursement Rate shall be computed on the basis of a year of 365 days calculating the actual number of days elapsed. In no event shall the Reimbursement Rate exceed the maximum rate permissible under any applicable law limiting interest rates.

“Related Documents” means the Certificates, the Trust Agreement, each Supplemental Trust Agreement, including without limitation the Supplemental Trust Agreement relating to the 2006 Certificates, The Master Contract, the Auction Agent Agreement, the Broker Dealer Agreement, the Standby Bond Purchase Agreement, the Swap Agreement, any liquidity facility and any other transaction document or agreement contemplated by the 2006 Certificates or this Agreement.

“State” means the State of California.

“*Swap Agreement*” means the Master Agreement dated as of [\_\_\_\_], 2006 between the Borrower and the Swap Provider, the Schedule thereto, and the Insured Transaction bearing Admin No: [\_\_\_\_] dated [\_\_\_\_], 2006, which is the subject of the Swap Policy.

“*Swap Policy*” means the Interest Rate Swap Insurance Policy No. [\_\_\_\_] issued by MBIA, including any endorsements thereto.

“*Swap Provider*” means the Bank of America N.A.

“*Trust Agreement*” means the Trust Agreement dated as of November 1, 2006, between the Authority and the Trustee, including any Supplemental Trust Agreements.

## ARTICLE II

### REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE THE CITY AND THE TRUSTEE

**Section 2.01. Representations, Warranties and Covenants of the City.** The City represents and warrants to, and covenants with, MBIA that:

(a) The City is organized and is duly established and existing under the laws of the State.

(b) The City has the full power and authority under its Charter and Constitution to execute and deliver this Agreement and to enter into the transactions contemplated by this Agreement and the Related Documents. The execution and delivery of this Agreement and each of the Related Documents to which it is a party has been duly authorized by the City, and all necessary approvals for the execution, delivery and performance by the City of this Agreement and the Related Documents have been obtained.

(c) The execution and delivery of this Agreement and each of the Related Documents, the consummation of the transactions contemplated hereby and thereby and the fulfillment of or compliance with the terms and conditions of this Agreement and each Related Document by the City do not conflict with or result in any material breach or violation of any of the terms, conditions or provisions of any applicable laws, including regulations, or any material agreement or instrument to which the City is now a party or by which it is bound, or constitute a default under any of the foregoing which default would materially and adversely affect the consummation of the transactions contemplated hereby and by the terms of the Related Documents.

(d) This Agreement and each Related Document to which the City is a party, when executed and delivered by the City, assuming the due authorization, execution and delivery by the other parties thereto, will constitute the legal, valid and binding obligations of the City, enforceable against the City in accordance with their terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization,

moratorium or other similar laws affecting creditors' rights generally and general equitable principles.

(e) The 2006 Supplemental Contract and the payment obligations of the City under this Agreement constitute Parity Obligations within the meaning of the Master Contract.

(f) The City shall provide or cause to be provided to MBIA at or prior to the disbursement of the proceeds of the Certificates (i) conformed copies of this Agreement and the Related Documents and (ii) such opinions of legal counsel and certified resolutions of the City evidencing necessary or appropriate corporate action by the City, and other documents as may reasonably be requested by MBIA, including documents evidencing any required approvals of the transactions contemplated to be undertaken by the City under this Agreement and the Related Documents.

(g) The City hereby makes to MBIA the same representations, warranties and the same covenants made by the City, as are set forth in each of the Related Documents which representations, warranties and covenants, as well as the related defined terms contained therein, are incorporated herein by this reference with the same effect as if each and every such representation, warranty and covenant and defined term were set forth herein in its entirety. Any amendment to such representations, warranties and covenants or defined terms in any of the Related Documents and any termination, defeasance, discharge or replacement of any of the Related Documents shall be effective to amend, terminate, replace or discharge such representations, warranties, covenants and defined terms of the specified documents if adopted in accordance with their respective requirements, but shall not be effective to amend this Agreement without the prior written consent of MBIA if such amendment, termination, replacement or discharge shall materially adversely affect the rights of MBIA hereunder.

(h) The City will deliver to MBIA:

(i) simultaneously upon execution thereof, copies of the Master Contract and all amendments relating to the Related Documents; and

(i) The City agrees to permit MBIA to examine and inspect, at any reasonable time, upon reasonable notice, the books of record and account of the City relating to its transactions pursuant to the Master Contract, and all other records relating to its transactions pursuant to the Trust Agreement and the Master Contract, the 2006 Certificates and Parity Obligations relating to the 2006 Certificates. The City further agrees to promptly notify MBIA in writing of the happening of any event resulting in the loss of the tax-exempt status of the 2006 Certificates or placing the same in jeopardy with respect to the 2006 Certificates.

(j) Notwithstanding anything to the contrary in the Master Contract or any other Related Document, the City hereby agrees that there shall be no acceleration of the 2006 Payments without the prior written consent of MBIA.

(k) The City hereby agrees not to use MBIA's name in any public document (other than the Official Statement) including, without limitation, a press release or presentation, announcement or forum without MBIA's prior consent. In the event that the City is advised by counsel that the City has a legal obligation to disclose MBIA's name in any press release, public announcement or other public document, the City shall provide MBIA with at least three business days prior written notice of the City's intent to use MBIA's name together with a copy of the proposed use of MBIA's name and of any description of a transaction with MBIA and shall obtain MBIA's prior consent as to the form and substance of the proposed use of MBIA's name and any such description.

(l) The City shall not enter into any agreement nor shall it consent to or participate in any arrangement pursuant to which Certificates are tendered or purchased for any purpose other than the redemption and cancellation or legal defeasance of such Certificates without the prior written consent of MBIA.

**Section 2.02. Representations, Warranties and Covenants of the Trustee.** The Trustee represents and warrants to, and covenants with, MBIA that:

(a) The Trustee is a [ ] and has been duly organized, and is validly existing in good standing under the laws of the State of New York. The Trustee is duly authorized to do business, is in good standing and has obtained all licenses, permits, charters, registrations and approvals (together, "approvals") necessary for the conduct of its business as currently conducted and the performance of its obligations under this Agreement and each Related Document to which it is a party.

(b) The execution, delivery and performance by the Trustee of this Agreement and the Related Documents to which it is a party have been duly authorized by all necessary corporate action and do not require any additional approvals or consents, or other action by or any notice to or filing with any Person, including, without limitation, any governmental entity.

(c) Neither the execution and delivery by the Trustee of this Agreement or the Related Documents to which it is a party nor the consummation of the transactions contemplated hereby or thereby conflicts with or results in any breach or violation of any provision of the [organizational documents] of the Trustee or any law, rule, regulation or order currently in effect having applicability to the banking or trust powers of the Trustee, including regulations issued by an administrative agency or other governmental authority having supervisory powers over the Trustee.

(d) This Agreement and each Related Document to which the Trustee is a party, when executed and delivered by the Trustee, assuming the due authorization, execution and delivery by the other parties thereto, will constitute the legal, valid and binding obligations of the Trustee, enforceable against the Trustee in accordance with their terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting creditors' rights generally and general equitable principles.

(e) The Trustee hereby remakes for the benefit of MBIA all of its representations and warranties and covenants set forth in each of the Related Documents.

(f) The Trustee acknowledges that both the Certificates and all amounts which may become due under this Agreement will be secured by the Revenues on a parity with the 2006 Certificates and other Parity Obligations. All amounts which may become due under this Agreement shall constitute Parity Obligations of the Authority under the Trust Agreement.

(g) The Trustee shall comply in all material respects with the terms and conditions of the Related Documents to which it is a party.

(h) The Trustee acknowledges that, notwithstanding anything to the contrary in the Trust Agreement or any other Related Document, there shall be no acceleration of the Certificates without the prior written consent of MBIA; provided however, MBIA may provide funds to the Trustee with respect to any payment date in accordance with Section 4.02 hereof.

(i) The Trustee hereby agrees not to use MBIA's name in any public document (other than the Official Statement) including, without limitation, a press release or presentation, announcement or forum without MBIA's prior consent. In the event that the Trustee is advised by counsel that the Trustee has a legal obligation to disclose MBIA's name in any press release, public announcement or other public document, the Trustee shall provide MBIA with at least three business days prior written notice of the Trustee's intent to use MBIA's name together with a copy of the proposed use of MBIA's name and of any description of a transaction with MBIA and shall obtain MBIA's prior consent as to the form and substance of the proposed use of MBIA's name and any such description.

### ARTICLE III

#### [AGREEMENT TO INDEMNIFY

To the extent not prohibited by law, the City shall indemnify MBIA against any and all liability, claims, loss, costs, damages, fees of attorneys and other expenses which MBIA may sustain or incur by reason of or in consequence of:

(a) the failure of the Authority or the City to perform or comply with the covenants or conditions of this Agreement or any of the Related Documents;

(b) enforcing any covenants, conditions or legal obligations with respect to the Certificates or the transactions contemplated thereby, or under the Related Documents or this Agreement that are required to be complied with by the Trustee, or the City;

(c) any action, proceeding (administrative, regulatory or legal) or suit threatened or brought in connection with the 2006 Certificates, the Related Documents, this Agreement or with respect to the Authority's rights or obligations under the Trust Agreement, including all litigation or potential litigation, costs of defense and/or

settlement by MBIA of any such threatened or pending action, proceeding, suit or judgment; or

(d) recovering or attempting to recover losses or expenses paid or incurred in connection with the 2006 Certificates, the Related Documents, the Policy, the Swap Policy, this Agreement or the transactions contemplated hereby and thereby.

Costs and expenses shall include a reasonable allocation of compensation and overhead attributable to the time of employees of MBIA spent in connection with the actions described in clauses (b), (c) and (d) above. The City agrees to reimburse MBIA immediately and unconditionally upon demand, to the extent permitted by law, for all reasonable expenses, including attorneys' fees and expenses, incurred by MBIA in connection with (i) the enforcement by MBIA of the City's obligations, or the preservation or defense of any rights of MBIA, under the Related Documents and any other document executed in connection with the issuance of the 2006 Certificates and (ii) any consent, amendment, waiver or other action with respect to any Related Document, whether or not granted or approved, together with interest on all such expenses from and including the date incurred to the date of payment at the Reimbursement Rate. In addition, MBIA reserves the right to charge a fee in connection with its review of any such consent, amendment or waiver, whether or not granted or approved.

An itemized statement of costs incurred by MBIA for any of the purposes specified in this Article III shall be prima facie evidence of the liability of the City and, the City fails to reimburse MBIA within ten business days of receipt of such statement of payments, interest shall be computed on such amount from the date of the payment made by MBIA at the Reimbursement Rate.]

## ARTICLE IV

### PAYMENT, REIMBURSEMENT AND OTHER RIGHTS OF MBIA

**Section 4.01. Payment and Reimbursement Rights of MBIA.** The City agrees to make the following payments to MBIA:

(a) On or prior to the Issuance Date, the premium, as required to be paid pursuant to paragraph [1] of the MBIA Commitment. Such premium shall be nonrefundable without regard to (i) whether MBIA makes any payment under either the Policy, or the Swap Policy, (ii) any other circumstances relating to the 2006 Certificates or (iii) provision being made for payment of the 2006 Certificates prior to maturity;

(b) The reimbursement of all payments made by MBIA under the terms of the Policy, the Swap Policy or this Agreement;

(c) All other amounts required to be paid to MBIA by the City pursuant to the terms of this Agreement or in connection with the transactions contemplated by the 2006 Certificates, the Related Documents, this Agreement, the Policy and the Swap Policy upon written notice from MBIA of the amounts so owed;

(d) Any and all charges, fees, costs and expenses which MBIA may pay or incur in connection with (i) the administration, enforcement, defense or preservation of any rights or security in this Agreement or any of the Related Documents, (ii) the pursuit of any remedies thereunder or otherwise afforded by law or equity, (iii) any amendment, waiver or other action with respect thereto, or related thereto, whether or not executed or completed, (iv) the violation by the Authority of any law, rule or regulation, or any judgment, order or decree applicable to it in connection with, or affecting, this Agreement, any of the Related Documents or any of the obligations hereunder or thereunder or (v) any litigation or other dispute in connection with this Agreement or any of the Related Documents or the transactions contemplated hereby or thereby upon written notice from MBIA of the amounts so owed; and

(e) Interest on the amounts owed in clauses (a), (b), (c) or (d) of this Article IV from the date of any payment due or paid as described in clauses (a), (b) or (c), and from the date of receipt of written notice from MBIA, as provided in clauses (d), in each case at the Reimbursement Rate. If the interest provisions of this clause (i) shall result in an effective rate of interest which, for any period, exceeds the limit of the usury or any other laws applicable to the indebtedness created herein, then all sums in excess of those lawfully collectible as interest for the period in question shall, without further agreement or notice between or by any party hereto, be applied as additional interest for any later periods of time when amounts are outstanding hereunder to the extent that interest otherwise due hereunder for such periods plus such additional interest would not exceed the limit of the usury or such other laws, and any excess shall be applied upon principal immediately upon receipt of such moneys by MBIA, with the same force and effect as if the Authority had specifically designated such extra sums to be so applied and MBIA had agreed to accept such extra payment(s) as additional interest for such later periods. In no event shall any agreed-to or actual exaction as consideration for the indebtedness created herein exceed the limits imposed or provided by the law applicable to this transaction for the use or detention of money or for forbearance in seeking its collection.

**Section 4.02. Optional Deposits by MBIA.** MBIA shall at any time, and from time to time, with respect to a payment date on the Certificates, have the option to deliver amounts to the Trustee for deposit into the bond payment account for either of the following purposes: (i) to provide funds in respect of the payment of fees or expenses of any provider of services to the Trustee or (ii) to provide monies with respect to any payment date on the 2006 Certificates to the extent that without such provision of funds, a claim would be required to be made on the Policy or the Swap Policy. Any such amounts provided by MBIA shall be reimbursable amounts as due hereunder.

## ARTICLE V

### SUBROGATION RIGHTS AND SECURITY OF MBIA

**Section 5.01. Subrogation Rights.** To the extent of payments made and expenses incurred by MBIA in connection with the Policy, the Swap Policy and this Agreement, MBIA shall be fully subrogated to the 2006 Certificateholders rights under the Trust Agreement and the



Swap Provider's rights under the Swap Agreement to seek payment of amounts owed by the Authority or the City, as the case may be. The City acknowledges and agrees, that upon payment of a claim under the Policy, or the Swap Policy, MBIA will be subrogated to the rights of the 2006 Certificateholders or the Swap Provider, as the case may be. The City will at any time, and from time to time, at the request of MBIA execute any instrument, document or agreement, and take any other action, that MBIA may consider necessary or desirable to effect these rights of subrogation.

**Section 5.02. Security.** The Authority hereby grants MBIA a security interest in the Gross Revenues of the Water Utility System to secure all amounts which may become due under this Agreement which security interest shall be on a parity with that granted any Parity Obligations. The City and the Trustee severally agree that each will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, any and all financing statements, if applicable, and all other further instruments as may be required by law or as shall reasonably be requested by MBIA for the perfection of the security interest granted under this Article V and for the preservation and protection of all rights of MBIA under this Article V. The parties hereto agree that the pledge and covenants contained herein shall survive the payment of the 2006 Certificates and the defeasance of the Trust Agreement.

## ARTICLE VI

### EVENTS OF DEFAULT

**Section 6.01. Events of Default Described.** The happening of any one or more of the following events shall constitute an "Event of Default" and, upon the occurrence of any such Event of Default, MBIA may exercise the remedies specified herein:

(a) Failure by the City to make any payment required by Article III or IV hereof;

(b) The dissolution or liquidation of the City, or the voluntary initiation by the City of any proceeding under any federal or state law relating to bankruptcy, insolvency, arrangement, reorganization, readjustment of debt or any other form of debtor relief, or the initiation against the Authority of any such proceeding, which remains undismissed or unstayed for 90 days, or failure by the City to promptly have discharged any execution, garnishment or attachment of such consequence as would materially impair the ability of the Authority to carry on its operations, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors or the failure generally by the City to pay its debts as they become due;

(c) Any representation of or warranty by the City made in this Agreement or the Related Documents is untrue in any material respect;

(d) Except as otherwise provided in Section 6.01(a) above, the failure of the City to observe or perform in any material respect any covenant, condition or provision of this Agreement, if such failure shall not have been remedied or cured within 30 days after the City's receipt of written notice thereof by MBIA;

(e) The occurrence and continuation of an event of default (however defined but excluding any event described in subparagraphs (a), (b), (c), (f) or (g) of this Section 6.01) under any of the Related Documents, if such event of default shall not have been cured or otherwise remedied within any related cure period set forth in the applicable Related Document;

(f) Any acceleration of the 2006 Payments or any Parity Obligation without the prior written consent of MBIA or the occurrence of any event which causes a termination payment to be due by the City with respect to any Parity Obligation;

(g) Any material provision of this Agreement or the Related Documents to which the Authority is a party shall at any time for any reason cease to be valid and binding, unless by their terms they cease to be valid and binding, on the Authority or shall be declared to be null and void by a final, nonappealable order of a court having competent jurisdiction, or the validity or enforceability of any thereof shall be contested by the Authority or any governmental agency or authority, or if the City shall deny that it has any further liability or obligation under this Agreement or the Related Documents to which it is a party; or

**Section 6.02. Remedies.** Whenever an Event of Default referred to in Section 6.01 hereof shall have happened and be continuing, MBIA may take any one or more of the following remedial steps:

(a) Exercise its rights of subrogation pursuant to the Trust Agreement;

(b) Exercise any rights of subrogation it may have under the Policy or the Swap Policy;

(c) Take whatever other action at law or in equity as may appear necessary or desirable to collect the amounts then due and thereafter to become due under this Agreement or to enforce performance and observance of any obligation, agreement or covenant of the Authority or the City under this Agreement or under any Related Document;

(d) Accelerate any or all amounts due under this Agreement to the extent acceleration is a permitted remedy with respect to the 2006 Certificates or any other Parity Obligation; or

(e) Pursue any remedy it may have under any of the Related Documents or the Trust Agreement.

**Section 6.03. No Remedy Exclusive.** Unless otherwise expressly provided, no remedy herein conferred or reserved is intended to be exclusive of any other available remedy, but each remedy shall be cumulative and shall be in addition to other remedies given under this Agreement or under any Related Document or existing at law or in equity. No delay or omission to exercise any right or power accruing under this Agreement or under any Related Document upon the happening of any Event of Default set forth in Section 6.01 hereof shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be

exercised from time to time and as often as may be deemed expedient. In order to entitle MBIA to exercise any remedy reserved to it in this Article VI, it shall not be necessary to give any notice, other than such notice as may be required in this Article VI.

## **ARTICLE VII**

### **SETTLEMENT**

MBIA shall have the exclusive right to decide and determine whether any claim, liability, suit or judgment made or brought on the Policy or the SWAP Policy shall or shall not be paid, compromised, resisted, defended, tried or appealed, and MBIA's decision thereon, if made in good faith, shall be final and binding upon the Authority and the City.

## **ARTICLE VIII**

### **OBLIGATIONS OF THE CITY ABSOLUTE**

The obligations of the City to make payments under this Agreement shall be absolute, unconditional and irrevocable and shall be paid strictly in accordance with the terms of this Agreement under all circumstances whatsoever, including, without limitation, the following circumstances:

- (a) any lack of validity or enforceability of any of the Related Documents;
- (b) any amendment or waiver of or any consent to departure from all or any of the Related Documents;
- (c) the existence of any claim, setoff, defense or other right which the Authority or the City may have at any time against the Trustee or any other person or entity other than MBIA, whether in connection with this Agreement, the transactions contemplated herein or in the Related Documents or any unrelated transactions;
- (d) any statement or any other document presented under or in connection with the Policy, the Swap Policy or the MBIA Commitment proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect whatsoever; or
- (e) payment by MBIA under the Policy or the Swap Policy under circumstances which do not comply with the terms of the Policy or the Swap Policy, provided, however, that such payments shall not have resulted from gross negligence or willful misconduct on the part of MBIA.

## ARTICLE IX

### MISCELLANEOUS PROVISIONS

**Section 9.01. Amendments, Changes and Modifications.** This Agreement may be amended, changed, modified, altered or terminated only with the prior written approval of MBIA, the Trustee and the City.

**Section 9.02. Governing Law.** This Agreement shall be construed in accordance with the substantive laws of the State of California, and the obligations, rights and remedies of the parties hereunder shall be determined in accordance with such laws.

**Section 9.03. Notices.** All notices hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by certified or registered mail, postage prepaid, return receipt requested, addressed as follows:

MBIA: MBIA Insurance Corporation  
113 King Street  
Armonk, NY 10504  
Attention: Insured Portfolio Management-[\_\_\_\_\_] ]  
Telephone: (914) 273-4545  
Facsimile: (914) 765-3799

Authority: Modesto Public Financing Authority  
c/o City of Modesto, California  
City Hall, Suite 5200  
1010 Tenth Street  
Modesto, CA 95353  
Attention: Wayne Padilla, Director of Finance  
Telephone: (209) 577-5371  
Facsimile: (209) 571-5880

City: City of Modesto, California  
City Hall  
1010 Tenth Street  
Suite 5200  
Modesto, CA 95353  
Attention: [\_\_\_\_\_] ]  
Telephone: [\_\_\_\_\_] ]  
Facsimile: [\_\_\_\_\_] ]

Trustee: The Bank of New York Trust Company, N.A.  
[ ]  
[ ]  
[ ]  
Attention: [ ]  
Telephone: [ ]  
Facsimile: [ ]

Any party may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent

**Section 9.04. Third-party Beneficiary.** MBIA shall be deemed a third-party beneficiary of each of the Related Documents and entitled to enforce the terms thereof as if a signatory thereto.

**Section 9.05. Severability.** In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**Section 9.06. Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which together shall constitute but one and the same instrument.

**Section 9.07. Primary Obligation.** Payment of amounts due by the Authority under this Agreement is a primary obligation of the City and such obligation is absolute and unconditional, irrespective of any illegality, invalidity or unenforceability of or defect in any provision of the 2006 Certificates or of any obligations of the City.

**Section 9.08. Further Assurances and Corrective Instruments.** To the extent permitted by law, the Trustee and the City agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the intention of or facilitating the performance of this Agreement.

**Section 9.09. No Rights Conferred on Others.** Nothing in this Agreement shall confer any right upon any person other than MBIA, the Trustee and the City.

**Section 9.10. Term.** The term of this Agreement shall commence on the date hereof and shall end on the date the 2006 Certificates and the interest thereon, and all amounts due and owing to MBIA under this Agreement and all Related Documents and pursuant to any rights of subrogation MBIA may have under this Agreement, the Policy, the Swap Policy and the Trust Agreement, are paid in full.

**Section 9.11. Payment Procedure.** All payments to be made to MBIA under this Agreement shall be made to MBIA in lawful currency of the United States of America in immediately available funds at the notice address for MBIA as set forth in this Agreement on the date when due.

**Section 9.12. Successor Trustees.** All provisions of this Agreement relating to the Trustee shall apply to any successor Trustee without the execution or filing of any paper or the performance of any further act.

[The remainder of this page is intentionally left blank]

IN WITNESS WHEREOF, each of the parties hereto has caused this Insurance and Reimbursement Agreement to be executed in its respective name by its duly authorized officer, all as of the date first above written.

MBIA INSURANCE CORPORATION

By \_\_\_\_\_  
Title \_\_\_\_\_

CITY OF MODESTO, as City

By \_\_\_\_\_  
Title \_\_\_\_\_

THE BANK OF NEW YORK TRUST COMPANY, N.A., as Trustee

By \_\_\_\_\_  
Title \_\_\_\_\_

Signature Page  
Insurance and Reimbursement Agreement  
City of Modesto 2006A  
Evidencing and Representing a  
Proportionate Interest of the Owners Thereof  
in 2006 Payments to be made by the  
City of Modesto to the  
Modesto Public Financing Authority

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-649**

**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): OMNIBUS ZONING CODE TEXT AMENDMENT 2006-1**

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, the City proposes to amend certain portions of the text of its Planning and Zoning Code, 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 2006-45 (“Initial Study”) reviewed the proposed Zoning Code Text Amendment 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 31, 2006 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 October 10, 2006, 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 Omnibus Zoning Code Text Amendment, 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 10<sup>th</sup> day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

EXHIBIT A

Initial Study

EA/C&ED 2006-45

**City of Modesto**

**Finding of Conformance to  
General Plan Master EIR:**

**Initial Study C&ED No. 2006-45**

**For the proposed:**

**Omnibus Zoning Code Text Amendment 2006-1**

**Prepared by:  
City of Modesto  
Community & Economic Development Department  
Planning Division**

**August 2, 2006**

# 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 Omnibus Zoning Code Text Amendment 2006-1 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: Omnibus Zoning Code Text Amendment 2006-1
- B. Address or Location: City of Modesto
- C. Applicant: City of Modesto
- D. City Contact Person: Patrick Kelly

Project Manager: Patrick Kelly  
Department: Community & Economic Development Department  
Phone Number: (209) 577-5268  
E-mail address: [pkelly@modestogov.com](mailto:pkelly@modestogov.com)

- E. Current General Plan Designation(s): N/A
- F. Current Zoning Classification(s): N/A
- G. Surrounding Land Uses: N/A

- 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 project consists of a set of minor amendments to Title 10 of the Modesto Municipal Code (the Zoning Code), to implement goals of the Housing Element and accomplish the following:

1. Second units. The City's provisions for second units are based on a section of state law that has been amended. Amendment of the City's provisions is needed to bring the code into conformance. In addition, this update is specified in the Housing Element.
2. Density bonus. The City's provisions for density bonuses are based on a section of state law that has been amended. Amendment of the City's provisions is needed to bring the code into conformance. In addition, this update is specified in the Housing Element.
3. Parking requirements for small units and mixed-use projects incorporating housing. The Housing Element specifies review of these requirements.
4. Residential Care Facilities. Better definition in the code is needed for these facilities. The proposed amendment would tie the City's code to state law provisions.
5. Model Homes. The Municipal Code currently has no definition of model homes. The proposed amendment would provide a definition and would specify the way in which the Subdivision Map Act provision for models is to be used where models are to be constructed prior to recordation of a map.
6. Satellite antennas. The current Code includes extensive provisions for this outdated technology (large, 6'-7' diameter dishes). A clean-up to remove these provisions is suggested. Further amendments to address modern communication technologies are under consideration for future presentation

- I. Other Public Agencies Whose Approval is Required:

None

**III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)**

1.  **Within the Scope** - The project is within the scope of the Master EIR and no new environmental document or Public Resources Code Section 21081 findings are required. 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.

For Michael J. Kelly  
Patrick Kelly, Project Manager

Principal Planner  
Title

August 2, 2006  
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.  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (2) City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (3) Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (5) The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (6) Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Discussion: N/A

#### 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.  | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| (2) This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings: . | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

- (3) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.
- (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.

Discussion:

- (2) The project is a minor amendment to the Zoning Code. The Zoning Code is implicit in the General Plan and none of the topics of the proposed amendment will alter the Code in such a fashion as to create new environmental issues.

#### IV. ENVIRONMENTAL ANALYSIS

This Initial Study, in accordance with Section 21157.1(b) of the Public Resources Code, 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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

**c. Project-Specific Effects**

Section V-1.B of the MEIR provides analysis of Traffic and Circulation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Significance Criteria: A subsequent development project will have a new significant effect on the environment if it would exceed the following criteria:

	YES	NO
(1) The project exceeds the Master 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.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) Result in inadequate emergency access.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4) Result in inadequate parking capacity.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

1-4. The project is a minor amendment to the Zoning Code and will have no effect on traffic and transportation issues.

**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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

**c. Project-Specific Effects**

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4) The project would expose sensitive receptors to substantial pollutant concentrations.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(5) The project would create objectionable odors affecting a substantial number of people.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

1-5. The project is a minor amendment to the Zoning Code and will have no effect on air quality issues.

### 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: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

#### c. Project-Specific Effects

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- |  | YES                      | NO                                  |
|--|--------------------------|-------------------------------------|
| (1) The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (3) The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?             | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (4) The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- 1-4. The project is a minor amendment to the Zoning Code and will have no effect on noise issues.

**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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

**c. Project-Specific Effects**

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- |  | YES                      | NO                                  |
|--|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The project will directly result in the development of land outside the March 2003 planning area boundaries. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

- (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 project is a minor amendment to the Zoning Code and will have no effect on 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 over drafting. In addition, the UWMP requires that new urban development would proceed in conjunction with the availability of water supplies and distribution facilities. It is assumed that increased entitlement of surface water supplies such as a water transfer from another water purveyor would undergo independent environmental review pursuant to CEQA. This is a less-than-significant impact.

Effect: Development to the future projected City population would require expansion of the MRWTP to its full 60 mgd capacity, development of additional groundwater wells, and construction of additional water distribution and treatment facilities. Construction of some of the required facilities would most likely require site-specific environmental impact assessments to be conducted under CEQA. Consequently, the potential environmental impacts of the Urban Area General Plan are considered less than significant.

Effect: During drought years, despite available options, significant water shortages are forecast for the San Joaquin River basin by the year 2020. Modesto would make a cumulatively considerable contribution to the cumulative impact on water supply under drought conditions. This is a significant and unavoidable cumulative impact.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Water Supply mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-5-7 through V-5-8 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.



### c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

#### Discussion:

- 1-2. The project is a minor amendment to the Zoning Code and will have no effect on water supply issues.

## 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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

**c. Project-Specific Effects**

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- |   | YES                      | NO                                  |
|---|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (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. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

1-2. The project is a minor amendment to the Zoning Code and will have no effect on wastewater issues.

**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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

**c. Project-Specific Effects**

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2)	Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3)	Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

1-3. The project is a minor amendment to the Zoning Code and will have no effect on wildlife or plant habitat.

**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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

## **c. Project-Specific Effects**

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- |   | YES                      | NO                                  |
|---|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

### Discussion:

- 1-2. The project is a minor amendment to the Zoning Code and will have no effect on cultural resources.

## 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: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

### c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

YES NO

- |     |  |                          |                                     |
|-----|--|--------------------------|-------------------------------------|
| (1) | The project is inconsistent with the Modesto Urban Area General Plan.  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) | The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (3) | Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- 1-3. The project is a minor amendment to the Zoning Code and will have no effect on storm water 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 appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

## c. Project-Specific Effects

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4) The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

### Discussion:

1-4. The project is a minor amendment to the Zoning Code and will have no effect on flooding and water quality issues.

## 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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

**c. Project-Specific Effects**

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- |   | YES                      | NO                                  |
|---|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

1. The project is a minor amendment to the Zoning Code and will have no effect on parks and open space issues.



## 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 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

#### Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

### c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

YES NO

- (1) The project is inconsistent with the Modesto Urban Area General Plan.  YES  NO
- (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.  YES  NO

Discussion:

1-2. The project is a minor amendment to the Zoning Code and 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-13-3 and V-13-4 of the MEIR. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

**c. Project-Specific Effects**

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- (1) The project is inconsistent with the Modesto Urban Area General Plan.  YES  NO
- (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.  YES  NO

Discussion:

1-2. The project is a minor amendment to the Zoning Code and will have no effect on police services issues.

**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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

**c. Project-Specific Effects**

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- |  | YES                      | NO                                  |
|--|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- 1-2. The project is a minor amendment to the Zoning Code and will have no effect on fire services issues.

**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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

### c. Project-Specific Effects

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- |   | YES                      | NO                                  |
|---|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

#### Discussion:

- 1-2. The project is a minor amendment to the Zoning Code and will have no effect on solid waste issues.

## 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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

### c. Project-Specific Effects

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- |   | YES                      | NO                                  |
|---|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.                                | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (3) The project contains a contaminated site not identified as of March 2003.   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (4) The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (5) The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

#### Discussion:

- 1-5. The project is a minor amendment to the Zoning Code and will have no effect on hazardous materials issues.

## 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:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

**c. Project-Specific Effects**

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

1-5. The project is a minor amendment to the Zoning Code and will have no effect on seismic issues.

**18. ENERGY**

**a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less than significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less than significant.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

Discussion:

The appropriate mitigation to be applied to this project includes: None from the MEIR, and no new or additional mitigation measures or alternatives are required.

**c. Project-Specific Effects**

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- |   | YES                      | NO                                  |
|---|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- 1-5. The project is a minor amendment to the Zoning Code and will have no effect on seismic issues.

**19. PLANNING AND LAND USE**

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.



**a. Project-Specific Effects**

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

- |  | YES                      | NO                                  |
|--|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.                | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The project includes a substantive amendment to the Modesto Urban Area General Plan. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (3) The project would physically divide an established community                         | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- 1-3. The project is a minor amendment to the Zoning Code and will not divide any 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.  | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (2) The project would have a substantial adverse effect on a scenic vista.   | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (3) The project would substantially degrade the existing visual character or quality of the project site and its surroundings.             | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| (4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Discussion:

- 1-4. The project is a minor amendment to the Zoning Code and will not affect any aesthetic issues.

## 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).

### 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.

A Mitigated Negative Declaration/EIR shall be prepared for the project and the following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

#### Traffic and Circulation Measures:

N/A

#### Air Quality Measures:

N/A

#### Noise Measures:

N/A

#### 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:**

N/A

**Flooding and Water Quality Measures:**

N/A

**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

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 650**

**A RESOLUTION APPROVING THE EXPENDITURE OF THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND (SLESF) GRANT FOR 2006/2007, IN THE AMOUNT OF \$405,053, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM GRANT DOCUMENTS.**

WHEREAS, in 1996, the State Legislature passed, and the Governor signed, Assembly Bill 3229, the Supplemental Law Enforcement Services Act, and

WHEREAS, the legislation has continued to be funded each subsequent year at \$100 million, statewide, from sales and use taxes, for exclusive funding of municipal police services, in accordance with written requests submitted by the Chief of Police of a city to his or her governing body, convened in public hearing, and

WHEREAS, the purpose of the law is to ensure public safety, and

WHEREAS, the funding for each county and city is based upon proportionate population, and

WHEREAS, the allocation to the City of Modesto for fiscal year 2006/2007 is \$405,053, and

WHEREAS, the program requires a public hearing by local governmental Chiefs of Police or Sheriffs regarding spending plans, and

WHEREAS, these funds must be held in an interest-bearing Supplemental Law Enforcement Services Fund and must not be used to supplant existing budget funds, and

WHEREAS, the Modesto Police Department plans to budget these funds for technology, additional memory for data storage, field equipment, and storage for property and evidence, which is needed but was not included in the budget due to budget reductions,

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 2006/2007 State Supplemental Law Enforcement Services Fund allocation of \$405,053 for memory for data storage, communication equipment, field equipment, and storage of property and evidence, which was not included in the 2006/2007 budget.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary program grant documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 10<sup>th</sup> day of October, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-651**

**A RESOLUTION AMENDING THE 2006/2007 FISCAL YEAR OPERATING BUDGET TO APPROPRIATE REVENUES AND EXPENDITURES FOR THE STATE SUPPLEMENTAL LAW ENFORCEMENT SERVICES FUND (SLESF) GRANT.**

WHEREAS, in 1996, the State Legislature passed, and the Governor signed, Assembly Bill 3229, the Supplemental Law Enforcement Services Act, and

WHEREAS, the legislation has continued to be funded each subsequent year at \$100 million, statewide, from sales and use taxes, for exclusive funding of municipal police services, in accordance with written requests submitted by the Chief of Police of a city to his or her governing body, convened in public hearing, and

WHEREAS, the purpose of the law is to ensure public safety, and

WHEREAS, the funding for each county and city is based upon proportionate population, and

WHEREAS, the allocation to the City of Modesto for fiscal year 2006/2007 is \$405,053, and

WHEREAS, the Modesto Police Department plans to budget these funds for technology, additional memory for data storage, field equipment, and storage for property and evidence, which is needed but was not included in the budget due to budget reductions, and

WHEREAS, the adopted 2006/2007 Police 06-07 SLESF Grant monies in the amount of \$405,053 will be applied to account number 0400-190-2923-5008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, that after holding a public hearing, it hereby amends the 2006/2007 operating

budget to appropriate revenues and expenses to 0400-190-2923-5008 for technology, additional memory for data storage, field equipment, and storage for property and evidence, which is needed but was not included in the budget due to budget reductions.

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 10<sup>th</sup> day of October, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-652**

**A RESOLUTION SPONSORING THE STANISLAUS COUNTY AG CENTER FOUNDATION'S APPLICATION TO SECURE \$217,500 IN GRANT FUNDING FROM THE ECONOMIC DEVELOPMENT BANK FOR THE INSTALLATION OF WATER, SEWER, AND STORM DRAINAGE INFRASTRUCTURE FOR THE AG SCIENCE CENTER.**

WHEREAS, the Stanislaus County Ag Center Foundation (Foundation) desires to apply for grant funding through the Economic Development Bank that was formed by the Stanislaus County Board of Supervisors on February 13, 2001, and

WHEREAS, the Foundation desires to obtain \$217,500 in grants to fund the installation of water, sewer, and storm drainage infrastructure that will serve the future Ag Science Center that will be built on the West Campus of the Modesto Junior College, and

WHEREAS, in order to apply for these funds the Foundation must first have its funding request approved and sponsored by the county or city,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves and sponsors the Foundation's request to submit an application to secure \$217,500 in grant funding from the Economic Development Bank for the installation of water, sewer, and storm drainage infrastructure for the Ag Science Center.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of October 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-653**

**A RESOLUTION APPROVING A CAPITAL FACILITIES FEE REIMBURSEMENT AGREEMENT BETWEEN THE CITY OF MODESTO AND WARNER SOELLING WITH A MAXIMUM REIMBURSEMENT AMOUNT OF \$326,966.77 FOR STREET IMPROVEMENTS ON THE SOUTHWEST CORNER OF BRIGGSMORE AVENUE AND OAKDALE ROAD, AUTHORIZING THE CITY MANAGER 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, WARNER SOELLING, (“Developer”) has an interest in property located at the southwest corner of Briggsmore Avenue and Oakdale Road in Modesto, California, commonly known as Eastgate Plaza (“Property), and

WHEREAS, in connection with the development of said Property, Developer is required to construct street improvements (“Improvements”) on the southwest corner of Briggsmore Avenue and Oakdale Road, along the frontage of the Property, as more particularly described on **Exhibit “A”** attached hereto, and

WHEREAS, a portion of the Improvements have been designated for funding through the City’s Capital Facilities Fees (“CFF”) Program, and

WHEREAS, Developer has requested, and City has agreed that Developer be reimbursed for the actual cost of construction of the Improvements after said Improvements have been completed by Developer and accepted by City, and

WHEREAS, said Agreement has a maximum reimbursement amount of \$326,966.77 which will be allocated from the Streets 1410 CFF fund, and

WHEREAS, the City Council has received and considered the Written Checklist, Environmental Assessment No. EA/C&ED 2003-91, which concludes that the Eastgate Plaza, including the improvements for which the Developer will be reimbursed under the proposed CFF Reimbursement Agreement, is within the scope of the previously

certified Modesto Urban Area General Plan Master EIR (SCH No. 1999082041), 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 finds and determines that:

1. The proposed CFF Right of Way Reimbursement Agreement between the City of Modesto and Warner Soelling (“Project”) is consistent with the Modesto Urban Area General Plan.
2. The reimbursement for the proposed right of way is included in the 2003 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 Modesto Urban General Plan Master EIR (SCH No. 1999082041) (“Program EIR”) and no new environmental documents 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 the 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 no 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 considerable 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.

7. The Written Checklist, Environmental Assessment EA/C&ED 2003-91 provides the substantial evidence to support findings 4-7 above.

BE IT FURTHER RESOLVED by the City Council that the CFF Right of Way Reimbursement Agreement between City of Modesto and Warner Soelling is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS  
City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD  
City Attorney

## CFF REIMBURSEMENT AGREEMENT

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of October, 2006, by and between the City of Modesto, a municipal corporation ("City"), and Warner Soelling, an individual ("Developer").

WHEREAS, Developer has an interest in property located at the southwest corner of Briggsmore Avenue and Oakdale Road in Modesto, California, commonly known as Eastgate Center ("Property"); and,

WHEREAS, in connection with the development of said Property, Developer is required to construct street improvements on Briggsmore Avenue and Oakdale Road, along the frontage of the Property, as more particularly described on Exhibit A attached hereto ("Improvements"); and,

WHEREAS, all or a portion of the Improvements have been designated for funding through the City's Capital Facilities Fee program; and,

WHEREAS, the Improvements will benefit other properties in addition to the Property, and the other properties will pay Capital Facilities Fees to the City as they develop; and,

WHEREAS, City will oversee the inspection of said Improvements and eventually accept said Improvements as public improvements; and

WHEREAS, Developer has requested, and City has agreed that Developer be reimbursed for the actual costs of constructing the Improvements after said Improvements have been completed by Developer and accepted by City.

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements herein contained, the parties hereto mutually agree as follows:

10/4/2006

1. IMPROVEMENTS: Developer agrees to cause the Improvements to be made and constructed to fully comply with the requirements of the Modesto Municipal Code, in accordance with the City of Modesto Standard Drawings and Standard Specifications, and as shown on the engineered and approved Improvement plans submitted by Dr. Warren Soelling, dated April 11, 2006, and accepted by the City's Engineer, which improvement plans are on file in the office of City's Engineer. Work on the Improvements shall in no event commence prior to receipt by Developer of a written Notice To Proceed from the City's CFF Administrator.

2. TIME FOR COMPLETION OF IMPROVEMENTS: Developer agrees that this Agreement is for the benefit of the Developer and, therefore, Developer represents that it will complete the construction of the Improvements and request final reimbursement therefore under this Agreement on or before March 7, 2007. If during the performance of this Agreement, the City determines that Developer is not proceeding with such diligence as to complete the Improvements within such period of time, Developer agrees to meet and confer with the City as to options available to the City to assure the timely completion of such Improvements. Such options, any of which may be taken in the sole discretion of the City, may include, but are not limited to, the termination of this Agreement, or its assignment by Developer, subject to the approval of the City, to others and, in any event, the payment of liquidated damages by Developer pursuant to Standard Specification procedures in the amount of FIVE HUNDRED AND 00/100 (\$500.00) DOLLARS per day commencing on March 8, 2007.

3. CONTRACTOR LICENSES: Developer shall insure that all contractors and subcontractors are licensed in accordance with Sections 7000 through 7145 inclusive, of the

4/11/2006



California Business and Professions Code and that they maintain adequate insurance for any work or services performed.

4. REIMBURSEMENTS TO DEVELOPER:

Notwithstanding anything in this Agreement to the contrary, persons or entities advancing funds or constructing or furnishing facilities contemplated in the City's CFF program may receive reimbursement from CFF collected by the City only after occurrence of the following conditions:

a. Conditions Precedent to Reimbursement.

Prior to issuance of any reimbursement or payment to Developer, the following conditions must be fully satisfied:

- i. A valid CFF Reimbursement Agreement exists between the City and Developer,
- ii. The Improvements have been completed,
- iii. A Notice of Completion for the Improvements has been issued to Developer,
- iv. Developer has submitted all bills, invoices, and other documentation the City's CFF Administrator deems necessary to substantiate Developer's actual and reasonable costs for installing the Improvements,
- v. The Improvements are identified by the City's CFF Administrator as being eligible for funding from the next available CFF collected,

4/11/2006

as more fully set forth in subparagraph 5.c. below; and

- vi. City has collected sufficient CFF monies to pay the amount to be reimbursed under this Agreement.

Until the aforementioned conditions are met, Developer shall be denied any reimbursement.

b. Amount of Reimbursement. The engineering estimate for the items and amounts eligible for reimbursement is attached as Exhibit "B" hereto and incorporated herein by this reference ("Engineer's Estimate"). City will reimburse Developer for the Improvements based on Developer's actual and reasonable costs for constructing the Improvements, including design and construction administration, in an amount up to but not to exceed, the lesser of (i) the actual and reasonable documented costs of constructing the Improvements or (ii) the Engineer's Estimate as set forth in Exhibit "B".

c. Timing of Reimbursement. Reimbursements for Improvements will be given as follows:

(1) The City shall effect such reimbursement within thirty (30) days after completion and acceptance of the Improvements; provided, however, City shall not be required to effect any reimbursement until and unless Developer submits all documentation required pursuant to subparagraph 5.c. above.

d. Payment Only From CFF Proceeds. The parties understand and agree that the payment obligations set forth herein are payable solely from City's Capital Facilities Fees program, and from no other source, that the City shall not be obligated to make any payment

4/11/2006

hereunder except out of revenue from the City's Capital Facilities Fees program, and that the City is not liable to maintain this special fund out of its General Fund or by tax levies. City has used, and will continue to use best efforts to utilize CFF revenue to ensure that the terms and conditions of this Agreement are met.

5. REQUESTS FOR REIMBURSEMENT:

Requests for payment by Developer shall be substantially in the form attached hereto as Exhibit "C" or otherwise acceptable to City's CFF Administrator, and shall include such supporting documentation to substantiate the request as City's CFF Administrator may require. For requests for payment, the following shall apply:

a. Final Inspection and Acceptance. No reimbursement shall be made by the City to the Developer for any Improvements until they have been inspected by and are acceptable to the City. For those Improvements to be accepted by the City, the Developer shall request final inspection using applicable procedures.

b. Improvements are Complete. The City shall not make any reimbursements to the Developer for Improvements until they are completed in accordance with approved plans and specifications and approved contracts and change orders. Any Improvement to be accepted by the City must be in such condition that it is ready for use by the City as determined by the City's Engineer, based on current, applicable City standards.

c. Substantiation of Costs. The Developer shall provide any documentation substantiating the construction and completion of, and the Developer's cost for constructing the Improvements, as reasonably requested by the City's CFF Administrator or

4/11/2006

designee.

d. Payment of Claims. The Developer shall provide, in a form satisfactory to the City's CFF Administrator, evidence that all of the costs of the Improvements have been fully paid, including all lien claims, or that lien releases have been obtained. If required by the City's CFF Administrator, the Developer shall provide unconditional lien releases under California Civil Code Section 3262(d) to assure that payment of outstanding claims of the Developer's contractors, subcontractors and suppliers has been made. Said unconditional lien releases shall be provided on forms acceptable to the City's CFF Administrator.

e. As-built Drawings. Developer shall provide as-built drawings or equivalent plans and specifications in a form acceptable to the Engineering & Transportation Department, Development Services Division of City. Developer shall also provide a warranty security in accordance with Paragraph 7, below.

6. **INSPECTIONS:** The City Engineer shall oversee the inspection of the Improvements, and all improvements related thereto, to see that they comply with City regulations.

7. **IMPROVEMENT SECURITIES:** Prior to execution of this Agreement, Developer has or will record a parcel map on the Property, execute a Parcel Map Agreement and provide adequate improvement securities to secure faithful performance of this Agreement and the Parcel Map Agreement, and payment for labor and materials. Developer shall maintain said improvement securities until all Improvements have been completed and accepted by the City. Prior to acceptance of the Improvements, Developer shall also file with the City a Guarantee and Warranty Security as set forth in Section 66499.3(d) of the Government Code of the State of California and as required by the Parcel Map Agreement.

4/11/2006

8. INSURANCE REQUIREMENTS: Developer shall provide at its own expense and maintain at all times the following insurance with insurance companies licensed in the State of California and shall provide evidence of such insurance to the City as may be required by the Risk Manager of the City. The policies or certificates thereof shall provide that, thirty (30) days prior to cancellation or material change in the policy, notices of same shall be given to the Risk Manager of the City by certified mail, return receipt requested, for all of the following stated insurance policies.

(a) Worker's Compensation - in compliance with the statutes of the State of California, plus employer's liability with a minimum limit of liability of \$500,000.

(b) General Liability insurance with a minimum limit of liability per occurrence of \$1,000,000 for bodily injury and \$100,000 for property damage or \$3,000,000 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.

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 Developer 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 Developer 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 Developer to obtain and/or maintain any required insurance shall not relieve the Developer from any liability under this Agreement, nor shall the insurance requirements be construed to conflict

4/11/2006

with or otherwise limit the obligations of the Developer concerning indemnification. The City, its agents, officers, employees, and volunteers shall be named as an additional insured on all insurance policies required herein, except Workers' Compensation. The Workers' Compensation insurer shall agree to waive all rights of subrogation against the City, its agents, officers, employees, and volunteers for losses arising from work performed by Developer for the City. The Developer'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 Developer 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.

9. CHANGES: Developer shall perform any changes or alterations in the construction and installation of the Improvements required or approved by City, in writing, provided that the combined total of such changes nor alterations do not exceed 10% of the Engineer's Estimate for all improvements.

10. SUCCESSORS AND ASSIGNS: Developer hereby binds itself, its executors, administrators, successors in interest, and assigns to the provision of this Agreement and agrees to accept the amount set forth in this Agreement as full reimbursement for all costs and expenses associated with installation and construction of the Improvements.

11. DEVIATION FROM STANDARDS: If Developer deviates from the approved improvement drawings, specifications or standards, or constructs any Improvements in such a manner so as to, in the opinion of the City Engineer, endanger the public safety, the City Engineer may give Developer written notice of such deviations, and Developer shall correct the deviation in the time prescribed by the City Engineer. In the event of the failure of Developer to

4/11/2006

make corrections of deviations, whether or not the public safety is affected, City may cause the necessary corrections to be made and shall be reimbursed by Developer at cost plus 25%. Said amount shall be at City's discretion, deducted from the reimbursement by City to Developer, paid for by Developer prior to the acceptance of the Improvements, or collected from the Improvement security.

12. INDEMNITY: Developer further agrees to defend and indemnify City, its officers and employees, from any and all claims demands, causes of action, liability or loss of any sort, arising out of acts or omissions of Developer, its agents or employees, related to this Agreement. Such obligation to defend and indemnify shall extend to damages to adjacent or downstream properties or the taking of property from owners of such adjacent or downstream properties as a result of the construction of the Improvements.

It shall also extend to damages resulting from diversion of waters, change in the volume of flow, modification of the velocity of the water, erosion or siltation, or the modification of the point of discharge as the result of the construction and maintenance of the drainage systems.

The approval of plans providing for any or all of these conditions shall not constitute the assumption by City of any responsibility for such damage or taking, nor shall City, by said approval, be an insurer or surety for the construction of the Improvements pursuant to said approved Improvement plans. The provisions of these "indemnity" issues shall become effective upon the execution of this Agreement and shall remain in full force and effect for one year following the acceptance by City of the Improvements. In accordance with the provisions of Civil Code Section 2782(b) the indemnification provided by this paragraph to indemnitee City by Developer shall not extend to injury, damage, or other liability or loss, arising out of or

4/11/2006

occasioned by the active negligence of City or any officer or employee thereof.

Upon demand by City, Developer shall at its own expense, defend City, its officers, agents and employees, against all such liabilities, claims, demands, actions, losses, damages or costs.

13. GENERAL PROVISIONS:

a. Relationship of Parties. Nothing contained in this Agreement shall be interpreted or understood by any of the parties, or by any third person, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between City and Developer or its agents, employees or contractors. Except as City may specify in writing, Developer shall have no authority to act as an agent of City or to bind City to any obligation.

b. Amendments. This Agreement, including any exhibits hereto, shall not be amended except in writing, signed by the parties. Any amendment or addendum to this Agreement shall expressly refer to this Agreement.

c. Waiver. Any waiver by either party of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by either party to take action on any breach or default or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time given to perform any obligation under this Agreement shall not operate as a waiver or release from any obligations. Consent to any act or omission shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for written consent to future waivers.

d. Entire Agreement. This Agreement and all exhibits hereto constitute the entire agreement and understanding between the parties relating to the subject matter hereof. All

4/11/2006



prior or contemporaneous negotiations, agreements, and understandings, oral or written, are revoked, cancelled, and rescinded, and are all merged herein and superseded hereby. No amendment, modification, or supplement to this Agreement will be binding on either party unless it is in writing and signed by the parties in interest at that time.

e. Severability. If any term or provision of this Agreement is determined to be illegal, unenforceable, or invalid in whole or in part for any reason, such illegal, unenforceable, or invalid provisions or part thereof will be stricken from this Agreement, and such provisions will not affect the legality, enforceability, or validity of the remainder of this Agreement.

f. Headings Not Controlling. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

g. Language Construction. The language of each and all paragraphs, terms and/or provisions of this Agreement shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.

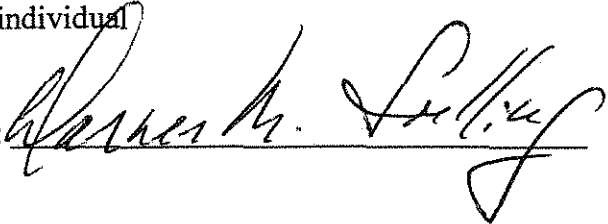
h. Discretion of City. City's execution of this Agreement in no way limits the discretion of City in the permit and approval process in connection with construction or development of the Property, except as expressly provided for in this Agreement.

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. \_\_\_\_\_, adopted by the Council of the City of Modesto on the \_\_\_\_\_ day of \_\_\_\_\_, 2006, and \_\_\_\_\_ has caused this Agreement to be duly executed.

CITY OF MODESTO, a municipal corporation

WARREN SOELLING, \_\_\_\_\_,  
an individual

By: \_\_\_\_\_  
GEORGE BRITTON, City Manager

By:  \_\_\_\_\_

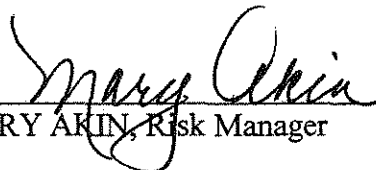
ATTEST:

By: \_\_\_\_\_  
JEAN MORRIS, City Clerk

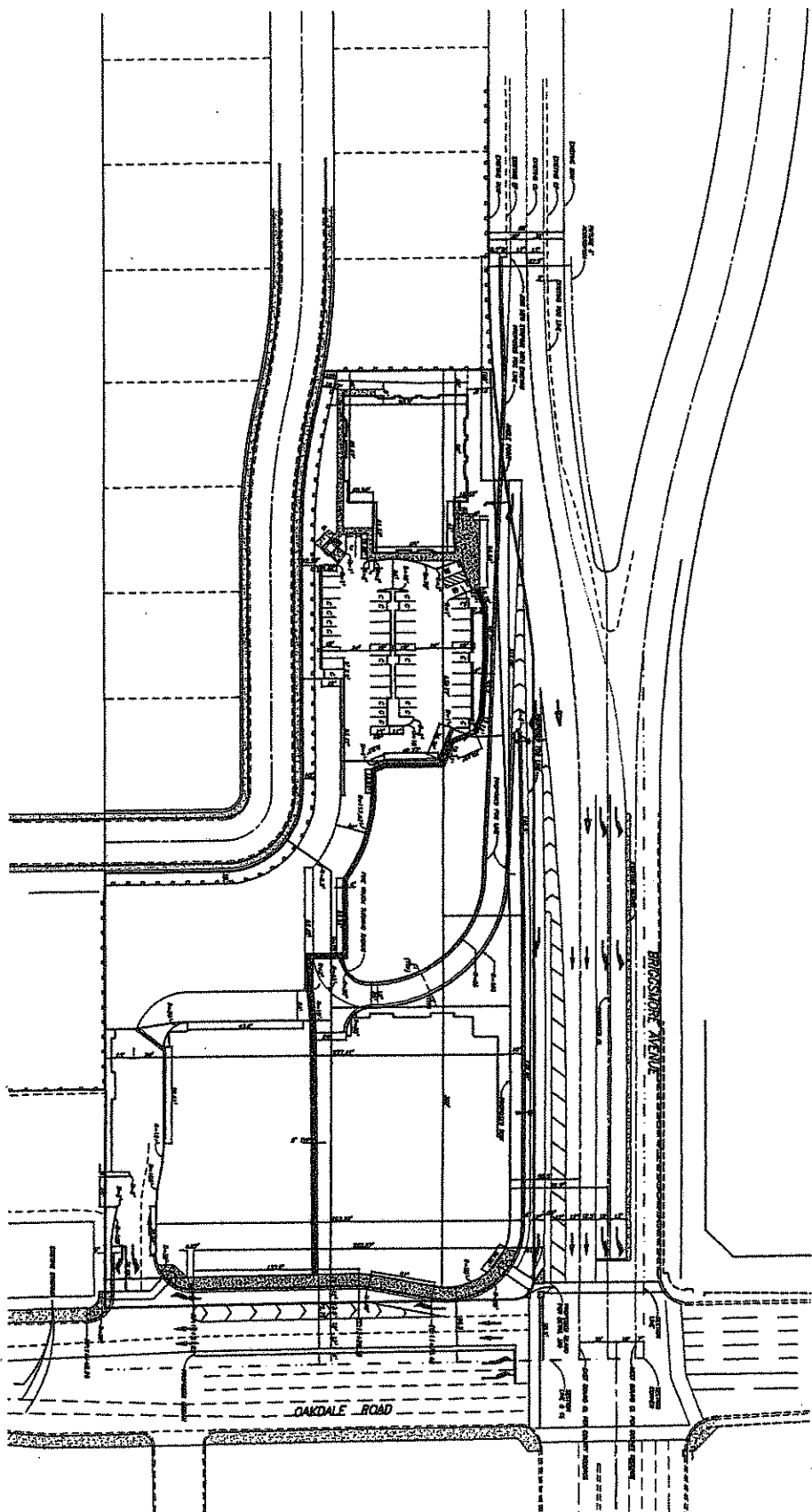
APPROVED AS TO FORM:  
RICHARD RUDNANSKY, Interim City Attorney

By: \_\_\_\_\_  
ALISON A. BARRATT-GREEN,  
Senior Deputy City Attorney

APPROVED AS TO FORM:

By:  \_\_\_\_\_  
MARY AKIN, Risk Manager

4/11/2006



**HORIZONTAL CONTROL PLAN**  
 IMPROVEMENT PLANS FOR  
**IRS BUILDING**  
 AT EASTGATE CENTER  
 SACRAMENTO, CALIFORNIA



**BENCHMARK ENGINEERING, INC.**  
 CIVIL ENGINEERING & LAND SURVEYING  
 213 SOUTH BERNA AVENUE - OAKDALE, CALIFORNIA - 95301  
 (916) 845-8000 FAX: (916) 845-8002

NO.	DESCRIPTION	DATE	APPROVED

DATE: 11-14-89  
 SHEET NO. 9  
 DRAWN BY: JAMES J. BROWN  
 CHECKED BY: JAMES J. BROWN  
 PROJECT NUMBER: 89-001

Exhibit "A"

Exhibit "B"

**Briggsmore Avenue and Oakdale Road Intersection CFF Reimbursement for Eastgate Center**

Item	Quantity	*Available Quantity	Units	Unit Cost	Reimbursement
<b>Earthwork</b>					
Roadway Excavation (developed)	161.8		CY	\$18.50	\$2,993.30
<b>Existing Facilities</b>					
Sawcut Existing Asphalt Concrete	1228	1190	LF	\$2.00	\$2,380.00
<b>Structural Section</b>					
Type A Asphalt Concrete	2928.4	661.8	TN	\$50.00	\$33,090.00
Class 2 Aggregate Base	1464.2	831.8	CY	\$33.50	\$27,865.30
<b>Concrete Items</b>					
Concrete Sidewalk	3316		SF	\$3.00	\$9,948.00
Curb and Gutter	1118		LF	\$15.25	\$17,049.50
Median Island Curb	526	357.5	LF	\$18.00	\$6,435.00
Median Island Flatwork	688		SF	\$4.00	\$2,752.00
Sidewalk Ramp	3	1	EA	\$1,150.00	\$1,150.00
<b>Signing/Striping Improvements</b>					
Striping Imps (CBE & CCE - 6 lanes)	1500	375	LF	\$4.00	\$1,500.00
Striping Imps (PA - 6 lanes)	762	312.5	LF	\$4.00	\$1,250.00
Pavement Markings	524	441	SF	\$4.00	\$1,764.00
Signs	1		EA	\$250.00	\$250.00
<b>Drainage &amp; Utility Improvements</b>					
New Drainage Inlets w/ laterals	2		EA	\$4,980.00	\$9,960.00
<b>Lighting and Landscaping</b>					
Street Lights and Pull Boxes	3		EA	\$2,170.00	\$6,510.00
Street Lights Conduit System	460		LF	\$18.00	\$8,280.00
<b>Traffic Signals</b>					
Traffic Signal Modification (high)	1	0.5	EA	\$170,700.00	\$85,350.00
<b>Subtotal Construction Items</b>					<b>\$218,527.10</b>
<b>Other</b>					
Traffic Control				5%	\$10,926.36
Engineering and Administration				20%	\$43,705.42
Right-of-way Acquisition				10%	\$21,852.71

**Intersection Total**

**\$295,011.59**

COLA 1 1.90% \$ 300,616.81  
 COLA 2 5.70% \$ 317,751.96

**TOTAL REIMBURSEMENT** COLA 3 2.9% \$ 326,966.77

\* Available Quantity = Based on Eastgate Center improving 25% of the total intersection, only 25% of what is available through CFF will be reimbursed at any time.

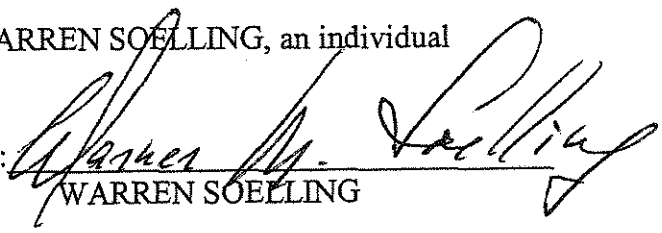
EXHIBIT "C"  
CITY OF MODESTO  
CAPITAL FACILITIES FEES  
REQUEST FOR PAYMENT

The undersigned (the "Developer") hereby requests payment pursuant to the CFF Reimbursement Agreement (the "Agreement"), dated \_\_\_\_\_, 2006, between the City of Modesto ("City") and the Developer, in the total amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for the Improvements identified in Exhibit "A" to the Agreement, all as more fully described in Attachment 1 hereto. In connection with this request for payment, the undersigned hereby represents and warrants to the City as follows:

1. He (she) is a duly authorized representative of the Developer, qualified to execute this request for payment on behalf of the Developer and acknowledgeable as to the matters set forth herein.
2. The Developer has submitted or submits herewith to the City as-built drawings or similar plans and specifications for the Improvements to be acquired as listed in Attachment 1 hereto, and such drawings or plans and specifications, as applicable, are true, correct and complete.
3. Developer has submitted or submits herewith to the City a warranty security for the Improvements to be acquired, in an amount as determined by District's Engineer and in a form approved by the City Attorney.
4. All costs of the Improvements are actual costs and have not been inflated in any respect.
5. Supporting documentation (such as third party invoices) is attached with respect to each cost.
6. Prevailing wages have been paid relative to the construction of the Improvements and all work has been performed by contractors licensed by the State of California to do said work.
7. The Improvements were constructed in accordance with all applicable City standards, and in accordance with the as-built drawings or plans and specifications, as applicable, referenced in paragraph 2 above.
8. The Developer is in compliance with the terms and provisions of the Agreement.

Dated: 4-24-06

WARREN SOELLING, an individual

By:   
WARREN SOELLING

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-654**

**A RESOLUTION APPROVING A MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES WITH MUNI-FINANCIAL FOR THE PREPARATION OF FACILITIES MASTER PLANS, INFRASTRUCTURE FINANCE PLANS, AND FOR FORMATION OF COMMUNITY FACILITIES DISTRICTS AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the City, has determined that Facilities Master Plans (“FMPs”), and Infrastructure Finance Plans, (“IFPs”) should be prepared for new Specific Plan areas to provide for the public facilities and services needed to serve these areas and to provide for phasing and funding mechanisms, such as Community Facilities District (“CFDs”) to ensure that the infrastructure necessary to serve development will be available in a timely manner, and

WHEREAS, the City has also determined that various technical studies and finance-related studies are needed to support the preparation of the FMPs and IFPs, and

WHEREAS, Muni-Financial (“Consultant”) has been pre-qualified and approved by the Council to provide the services to prepare said FMPs and IFPs , and

WHEREAS, City and Consultant desire to enter into a Master Professional Services Agreement for Consultant Services (“Master Agreement”) pursuant to which Consultant shall prepare FMPs, IFPs, technical studies and related on-call services as assigned by City, and

WHEREAS, prior to commencement of services under the Master Agreement, all work and services to be provided to City by Consultant shall be outlined in a Task Order for each project and shall be approved by the City in accordance with City’s policies regarding contracting authority,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Master Professional Services Agreement for Consultant Services between the City of Modesto and Muni-Financial for the preparation of Facilities Master Plans, Infrastructure Finance Plans, and for formation of Community Facilities Districts is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Master Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-655**

**A RESOLUTION APPROVING TASK ORDER NO. 1 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES WITH MUNIFINANCIAL, A CALIFORNIA CORPORATION, FOR THE PREPARATION OF A FACILITIES MASTER PLAN, INFRASTRUCTURE FINANCE PLAN, AND FOR FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE PELANDALE-MCHENRY SPECIFIC PLAN AREA**

WHEREAS, the City Council is desirous of creating a Facilities Master Plan (“FMP”) and Infrastructure Finance Plan (“IFP”) for the Pelandale-McHenry Specific Plan Area (“Project”), and

WHEREAS, Meritage Homes of California, Incorporated (“Applicant”) has a legal interest in real property located within the Pelandale-McHenry Specific Plan Area, shown in **Exhibit “A”**, and is interested in pursuing development of properties in the Specific Plan Area, and

WHEREAS, on October 24, 2006, by Resolution No. 2006-654, the Council of the City of Modesto approved a Master Professional Services Agreement for Consultant Services with MuniFinancial, a California corporation (“Consultant”), for the preparation of FMPs, IFPs, technical studies and related on-call services as assigned by City, and

WHEREAS, Consultant has prepared Task Order No. 1 (“Task Order”) for the Project, attached as **Exhibit “B”**, and

WHEREAS, Applicant has advanced a deposit in the amount of eight thousand seven hundred and thirty-six dollars (\$8,736) to the City to fund a portion of Task Order No. 1 and to pay staff and consultant expenses expected to be incurred in connection with the Project, and



WHEREAS, additional deposits will be provided by Applicant, as required by the City and as necessary to fund the Task Order, and

WHEREAS, the City will issue Notices to Proceed to the City's Consultant only for those subtasks for which the Applicant has deposited funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Task Order No. 1, attached as Exhibit "B" hereto is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

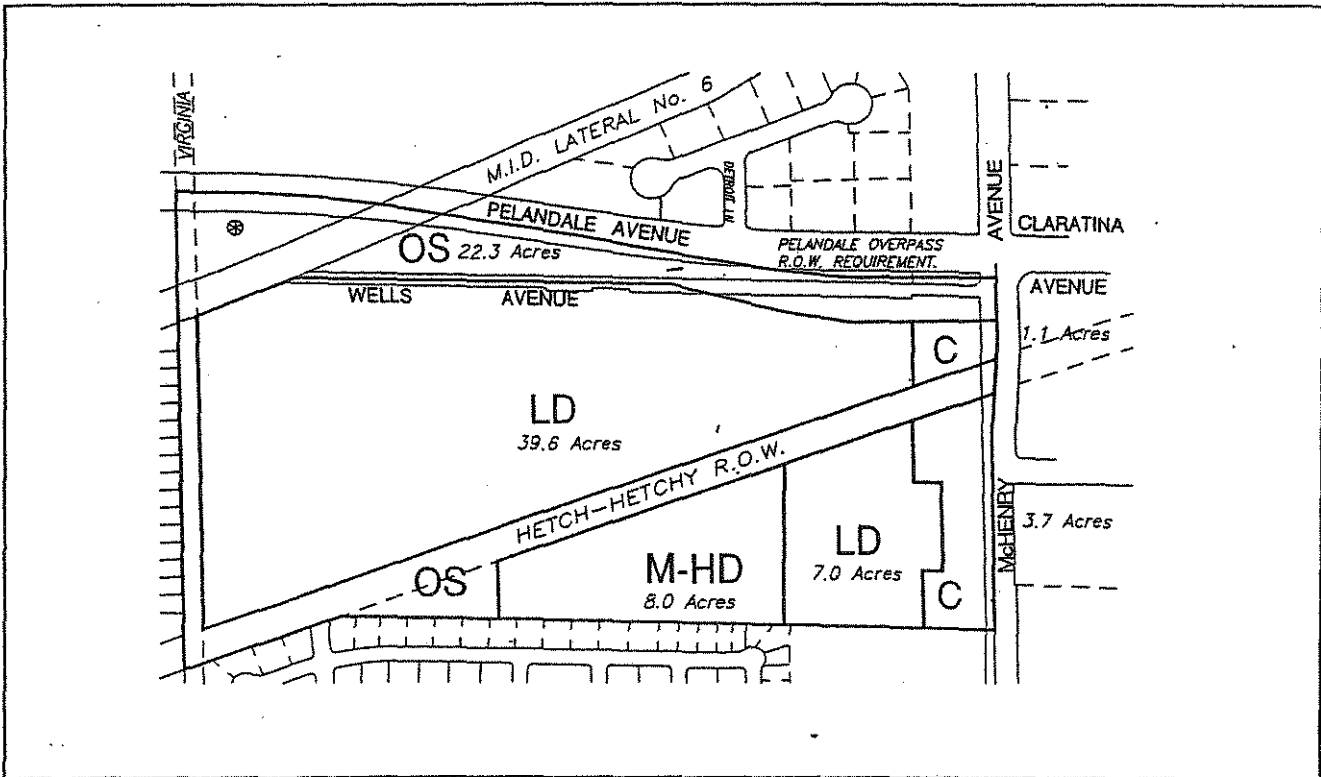
# Exhibit "A"

**Table 2.1 Pelandale / McHenry Specific Plan Land Use Summary**

9/15/05

Land Use	Density (du/ac) Max	Acreage (Gross)	Acreage (Net)	Dwelling Units (Max)	Percent Units	Percent Acres
<b>Residential</b>						
LD Single Family Residential	4.5	46.6	46.6	210	54%	57%
M-HD Multi-Family Residential	22	8.0	8.0	176	46%	10%
<b>Non-Residential</b>						
C Commercial		4.8	2.9			6%
Inclusive of:						
Major Right-of-Way	1.9 ac					
OS Open Space		22.3	4.9			27%
Inclusive of:						
MID Canal	1.8 ac					
Hetch-Hetchy	6.8 ac					
Virginia Corridor	2.0 ac					
Major Right-of-Way	6.8 ac					
<b>Project Totals</b>		<b>81.7</b>	<b>62.4</b>	<b>386</b>	<b>100%</b>	<b>100%</b>

\* Gross acreages less major right-of-way.



## Exhibit "B"

City of Modesto  
TASK ORDER NO. 1

for

MuniFinancial

Master Professional Services Agreement for Consultant Services

**Pelandale-McHenry Specific Plan Area FMP/JFP**

This Task Order No. 1 is made and entered into by and between the City of Modesto, a municipal corporation (hereinafter "CITY"), and MuniFinancial, a California corporation (hereinafter "CONSULTANT") and is effective as of October 24, 2006.

### RECITALS

- A. CONSULTANT has entered into a Master Professional Services Agreement for Consultant Services, (hereinafter "Agreement"), dated October 24, 2006 ("AGREEMENT") with the CITY, by which the CONSULTANT has agreed to provide professional engineering and financial engineering services for various development projects, which is incorporated herein by reference.
- B. At the request of CITY and in compliance with the terms of the AGREEMENT, CONSULTANT has prepared the Task Order No. 1, a copy of which is attached hereto as Exhibit A.
- C. CITY and CONSULTANT desire that CONSULTANT perform the services as identified in the attached Task Order.

NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **INCORPORATION OF MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES.** This Task Order hereby incorporates by reference all terms and conditions set forth in the Master Professional Services Agreement, unless expressly modified by this Task Order. The AGREEMENT and this Task Order shall, to the fullest extent possible, be read and considered as fully integrated documents and shall be interpreted so as to avoid inconsistencies, comply with all applicable laws and ensure that the objectives of the parties will be fully realized.

Nothing in this Task Order is intended to supersede, terminate, modify or otherwise affect any provision of the AGREEMENT, except to the extent that a provision of this AGREEMENT is in direct and irreconcilable conflict with a provision of the AGREEMENT. Then, and only in that event, the provisions of the AGREEMENT shall prevail over the contradictory provision of the Task Order.

2. **SCOPE OF SERVICES.** CONSULTANT shall perform the services described in Exhibit "A" attached hereto and incorporated herein by reference. CONSULTANT shall not replace its Authorized Representative, nor shall CONSULTANT use any subcontractors or subconsultants not listed in this Task Order, without the prior written consent of CITY.
3. **TIME OF PERFORMANCE.** CONSULTANT shall commence performance within five (5) working days after receipt of a Notice to Proceed from City, and shall complete all required services no later than the dates set forth in Exhibit "A".

4. **COMPENSATION.** For services performed by CONSULTANT in accordance with this Task Order, CONSULTANT agrees to accept a sum not to exceed \$188,900. CONSULTANT shall be paid at the times and in the manner set forth in Paragraph 3 of the Master Professional Services Agreement, unless expressly provided otherwise in the attached Task Order.
5. **SIGNATURES.** The individuals executing this Task Order represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Task Order on behalf of the respective legal entities of the CONSULTANT and CITY. This Task Order shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

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-\_\_\_\_\_, adopted by the Council of the City of Modesto on the \_\_\_\_ day of \_\_\_\_\_, 2006, and \_\_\_\_\_ has caused this Agreement to be duly executed in duplicate as of the Effective Date set forth above.

CITY OF MODESTO,  
a municipal corporation

By \_\_\_\_\_  
GEORGE W. BRITTON,  
City Manager

CONSULTANT,  
MuniFinancial, a California corporation\*

By \_\_\_\_\_  
Name Title

By \_\_\_\_\_  
Name Title

APPROVED AS TO FORM:  
SUSANA ALCALA WOOD, City Attorney

(Seal)

By \_\_\_\_\_  
ALISON A. BARRATT-GREEN,  
Senior Deputy City Attorney

Consultant's Federal ID # \_\_\_\_\_

ATTEST:

*\* Corporations - signature of two (2) officers required or one (1) officer plus corporate seal.*

By \_\_\_\_\_  
JEAN MORRIS, City Clerk

*Partnership - signature of a partner required*

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006- 656**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007 OPERATING BUDGET TO CREATE A MULTI-YEAR ACCOUNT (2900-020-0263) AND APPROPRIATING \$8,736, FUNDED BY MERITAGE HOMES OF CALIFORNIA, INCORPORATED, FOR THE PREPARATION OF A FACILITIES MASTER PLAN, INFRASTRUCTURE FINANCE PLAN, AND FOR FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE PELANDALE-MCHENRY SPECIFIC PLAN AREA**

WHEREAS, the Pelandale-McHenry Specific Plan Area is in need of a Facilities Master Plan (“FMP”), and Infrastructure Finance Plan (“IFP”) to plan for necessary facilities and associated costs for buildout of that specific plan area, and

WHEREAS, on October 24, 2006, by Resolution No.2006-654, the Council of the City of Modesto approved a Master Professional Services Agreement for Consultant Services (“Agreement”) with MuniFinancial, a California corporation, for the preparation of FMPs, IFPs, technical studies and related on-call services as assigned by City, and

WHEREAS, on October 24, 2006, by Resolution No.2006-655, the Council of the City of Modesto approved Task Order No. 1 to the Agreement for the preparation of a FMP, IFP, and for formation of a Community Facilities District (“CFD”), and

WHEREAS, on October 24, 2006, by Resolution No.2006-657, an Advanced Funding Agreement between the City and Meritage Homes of California, Incorporated (“Applicant”) was approved by the City Council, and

WHEREAS, Applicant has deposited with the City the amount of eight thousand seven hundred and thirty-six dollars (\$8,736.00) to fund a portion of the costs for the Project and provide for reimbursement as appropriate, and

WHEREAS, additional deposits will be provided by Applicant, as required by the City and as necessary to fund Task Order No. 1, and

WHEREAS, the City will issue Notices to Proceed to the City's Consultant only for those subtasks for which the Applicant has deposited funds,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby amends the Fiscal Year 2006-2007 operating budget to create a multi-year account for the preparation of the Pelandale-McHenry Specific Plan Area Facilities Master Plan and Infrastructure Finance Plan and appropriates \$6,233 to 2900-020-0263-0235 for professional services and \$2,513 to 2900-020-0263-0255 for City services.

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 October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-657**

**A RESOLUTION APPROVING AN ADVANCED FUNDING AGREEMENT FOR THE PELANDALE-MCHENRY SPECIFIC PLAN AREA BETWEEN THE CITY OF MODESTO AND MERITAGE HOMES OF CALIFORNIA, INC. FOR THE PREPARATION OF A FACILITIES MASTER PLAN, INFRASTRUCTURE FINANCE PLAN, AND FOR FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE PELANDALE-MCHENRY SPECIFIC PLAN AREA AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, Meritage Homes of California, Incorporated (“Applicant”) has agreed to advance all funds necessary to prepare a Facilities Master Plan (“FMP”) and Infrastructure Finance Plan (“IFP”), and for formation of a Community Facilities District (“CFD”) for the Pelandale-McHenry Specific Plan Area, and

WHEREAS, the parties agreed to enter into an Advanced Funding Agreement for the Pelandale-McHenry Specific Plan Area by and between the City and the Applicant relating to advances made and to be made by the Applicant to the City, and providing for potential reimbursement to the Applicant if and when certain funds from the Pelandale-McHenry CFD become available, a copy of which is attached as **Exhibit A**,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Advanced Funding Agreement for the Pelandale-McHenry Specific Plan Area between the City of Modesto and Meritage Homes of California, Inc. is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Advanced Funding Agreement.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

# Exhibit "A"

## ADVANCED FUNDING AGREEMENT FOR THE PELANDALE-MCHENRY SPECIFIC PLAN AREA

THIS ADVANCED FUNDING AGREEMENT FOR THE PELANDALE-MCHENRY SPECIFIC PLAN AREA (this "Agreement"), dated as of \_\_\_\_\_, 2006, is entered into by and between the CITY OF MODESTO, a municipal corporation of the State of California (the "City") and MERITAGE HOMES OF CALIFORNIA, INCORPORATED (the "Applicant").

### *RECITALS:*

A. Applicant has a legal interest in real property located within a portion of the Pelandale-McHenry Specific Plan Area ("Specific Plan"), shown in Exhibit A attached hereto and incorporated herein by this reference, and is interested in pursuing development of properties in the Specific Plan.

B. Applicant has requested that the City prepare a Facilities Master Plan and Infrastructure Finance Plan ("FMP/IFP"), and create an appropriate financing mechanism, such as a community facilities district ("CFD") for the principal purpose of master planning and financing the various public facilities and services which are necessary to serve or desirable for the development of the Specific Plan (collectively the "Project").

C. City has either retained, or will retain outside consultants, to assist it with the Project and, if the City determines to proceed with the formation of a CFD, to assist it in connection therewith and with the possible issuance of bonds.

D. The scope of work for the Project ("Scope"), including the estimated costs for completing the Project ("Estimated Costs"), is attached as Exhibit B.

E. Applicant is prepared to deposit with the City the amount needed to fund Task 1 as set forth in the Scope plus 30% for staff time and expenses in order to provide the City with an initial source of funds with which to pay expenses expected to be incurred in connection with the Project. Additional deposits will be provided by Applicant, as required by the City.

F. The City and Applicant are desirous of entering into this Agreement in order to provide monies for the City's costs for the preparing the Project on a time and materials basis, to provide mechanisms by which the funds deposited under this Agreement shall be applied and by which Applicant may make additional deposits, and to reimburse Applicant for monies advanced for the benefit of other landowners in the Project.

G. Pursuant to California Government Code Section 53314.9 and the City's CFD Policies and Procedures, the City Council of the City is authorized to accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or work-in-kind for any authorized purpose, including, but not limited to, paying any costs incurred in connection with the planning and formation of a community facilities district. The City Council of the City is also authorized to enter into an agreement, by resolution, with the person or entity advancing the funds or work-in-kind to repay all or a portion of the funds advanced or to reimburse the person or entity for the cost or value

of the work-in-kind provided that certain conditions are met. The conditions to be satisfied with respect to funds advanced require that (1) the proposal to repay the funds or to pay the cost or value of the work-in-kind must be included in the resolution of intention for the proposed community facilities district and in the resolution of formation for the proposed community facilities district, (2) any proposed special tax is approved by the qualified electors of the community facilities district and, if a proposed special tax is not approved, any funds advanced which have not been committed for any authorized purpose by the time of the election must be returned to the person or entity advancing funds and (3) any work-in-kind accepted shall have been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority, of the local agency.

H. The City and the Applicant are desirous of entering into this Agreement in accordance with Government Code Section 53314.9 and the City's CFD Policies and Procedures in order to provide a mechanism by which the Applicant may make additional deposits if determined necessary pursuant to the City's CFD Policies and Procedures and, when and if bonds are issued and proceeds are available, the CFD can reimburse the Applicant for the amounts advanced by the Applicant.

### AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

1. Recitals. Each of the above recitals is incorporated herein and is true and correct.
2. Proposed Preparation of the Facilities Master Plan ("FMP") and Infrastructure Financing Plan ("IFP").
  - a. Applicant agrees to pay all costs of preparing, processing and approving the FMP/IFP.
  - b. Within ten (10) calendar days after the City Council approves this Agreement, Applicant shall deposit with the City the sum of \$8,736.00 ("Initial Deposit") to fund Task 1 as identified in the Scope ("Task 1"). The Initial Deposit includes 30% for staff time and expenses associated with said Task. The Initial Deposit will be held in trust by the City and used solely for the purposes set forth in this Agreement. Upon receipt by the City of the Initial Deposit and all documents deemed necessary by the City to proceed with the Project, the City will commence work on Task 1 on a time and materials basis and will provide a Notice to Proceed to its Consultant to proceed with Task 1. In connection therewith, the City has either retained, or will retain, the consultants that the City determines necessary or convenient to assist it with the Project and, if the City determines to proceed with the formation of the CFD, to assist it in connection therewith and with the possible issuance of bonds.

After the Initial Deposit has been expended on the Project, Applicant shall make additional advances to the City as provided by subparagraph (d), below, until the Project has been completed or terminated, and all costs associated with the

Project have been fully paid. City will commence work on subsequent Tasks as identified in the Scope on a time and materials basis and will provide a Notice to Proceed to Consultant for each such Task within ten (10) calendar days after it has received an additional deposit sufficient to cover the estimated costs for said Task plus 30% for staff time and expenses associated with said Task

- c. The consultants shall submit invoices to the City for payments based on work completed; such invoices will be promptly sent by the City to the Applicant, which will have ten (10) business days to challenge the work performed, and the City will in good faith consider the position of the Applicant prior to approving payment. Applicant understands and agrees that City shall have the right, in its sole discretion, to approve and pay all such consultant invoices, and may do so consistent with this subsection (c) without obtaining Applicant's approval.

Applicant shall make additional advances to the City within ten (10) business days following receipt from the City of a request for an additional advance to cover the costs referred to herein. In the event that Applicant does not deliver the requested amount to the City within such ten (10) business day period, the City will have no obligation to proceed with any activity relating to the Project. The Applicant may notify the City at any time, in writing, of its intention to abandon the Project. Immediately upon City's receipt of such notice, but in no case later than two (2) business days, the City shall instruct in writing its consultants to cease work immediately. The Applicant shall be responsible for all costs and expenses incurred by the City or any City consultant or advisors relating to the Project until City issues this cease work notice.

- d. Within 60 calendar days after issuance of a cease work notice, City agrees to return to Applicant all unexpended amounts of the Initial Deposit (and any subsequent deposits) which exceed all costs and expenses incurred by City relating to the Project.
- e. Applicant agrees that, notwithstanding the Applicant's funding and reimbursement obligation under this Agreement, the consultants selected by the City shall be the contractors exclusively of the City and not of the Applicant. Except for those disclosures required by law including, without limitation the Public Records Act, all conversations, notes, memoranda, correspondence, and other forms of communication by and between the City and its consultants shall be, to the extent permissible by law, privileged and confidential and not subject to disclosure to the Applicant. Applicant agrees that it shall have no claim to, nor shall it assert any right in any reports, correspondence, plans, maps, drawings, news releases or any and all other documents or work project produced by City's consultants. Applicant understands that it will not be a third party beneficiary to City's contracts with the consultant. City will consult with Applicant prior to replacing its current consultants; however, Applicant agrees that City may select other consultants to replace its current consultants and may do so without obtaining Applicant's approval.

- f. City and Applicant shall work cooperatively and in good faith to facilitate completion of Project as quickly as possible and in the most cost effective way. City and Applicant shall meet and consult on dates and times as may be mutually agreed upon to discuss the progress and any key issues involved in the Project; provided, however, that Applicant's role is advisory only and that City shall control all aspects of the Project. The final work product to be produced by City's consultants shall be subject to the City's sole approval and control.

3. Proposed Formation of the CFD and Issuance of Bonds.

- a. Applicant agrees to pay all costs of preparing, processing and forming a CFD for the Specific Plan area if a CFD is determined to be necessary by the IFP
- b. Upon receipt by the City of a completed application from Applicant for the formation of the CFD, the formation deposit for the CFD, and all documents related thereto as described in the City's CFD Policies and Procedures, the City will undertake to analyze the appropriateness of forming the CFD and the issuance of bonds by it. In connection therewith, the City has either retained or will retain, at the Applicant's expense, the consultants that the City determines necessary or convenient to assist it in studying the proposed formation of the CFD and, if the City determines to proceed with the formation of the CFD, to assist it in connection therewith and with the possible issuance of bonds.
- c. Pursuant to the City's CFD Policies and Procedures, the Applicant shall make additional advances to the City within ten (10) days following receipt from the City of a request for an additional advance to cover the costs referred to herein. In the event the Applicant does not deliver the requested amount to the City within such ten (10) day period, the City will have no obligation to proceed with any activity relating to the formation of the CFD and/or the issuance of bonds. The Applicant may notify the City at any time, in writing, of its intention to abandon the formation of the CFD or the issuance of bonds. Upon receipt of such notice, the City shall instruct its consultants to cease work as soon as practicable. The Applicant shall be responsible for all costs and expenses incurred by the City or any City consultant or advisor relating to the proposed formation of the CFD and/or bond issuance until work with respect to the proposed formation or bond issuance ceases following the receipt of the Applicant's notice of abandonment. Within 60 calendar days after receipt of the Applicant's notice of abandonment, City agrees to return to Applicant all unexpended amounts of the Initial Deposit (and any subsequent deposits) which exceed all costs and expenses incurred by City relating to the Project.

4. Reimbursement Procedure. If the CFD is formed and bonds are issued, bond proceeds in excess of the amount determined by the City's District Administrator to be required in order to satisfy the requirements of the City's CFD Policies and Procedures with respect to capitalized interest and reserves and to pay for the authorized CFD facilities and other incidental expenses therefore may be used to reimburse the Applicant for the amounts that the Applicant has advanced to the City in connection with this Agreement, all as provided for in the City's CFD Policies and Procedures. In the event that the CFD is not formed for any reason, or in the event that

the CFD is formed and bonds are not issued for any reason, the City shall return any funds which have been advanced by the Applicant pursuant to this Agreement and which have not been expended, obligated or otherwise committed for any authorized purpose, subject to the complete reimbursement to the City of all of its direct and indirect costs. If the amounts previously advanced by the Applicant are insufficient to fully reimburse the City for all of its direct and indirect costs, the Applicant shall promptly pay to the City the amount of the deficiency. The City shall be entitled to pay any refund required pursuant to the provisions hereof to the entity that is the signatory to this Agreement irrespective of any changes in the ownership of the property or the organization of the Applicant, and the City shall not be required to pay interest on any amount required to be refunded pursuant to this Agreement.

5. Abandonment of the Project. The Applicant understands that, subject to the satisfaction of all applicable legal requirements, the decision to review, process, prepare or approved the proposed Project, shall be each in the sole discretion of the City. No provision of this Agreement shall be construed as a promise, warranty or agreement by the City to review, process, prepare or approve the proposed Project. The City shall have no liability to Applicant for a decision not to review, process, prepare or approve the proposed Project.

6. Abandonment of Proposed CFD. The Applicant understands that, subject to the satisfaction of all applicable legal requirements, the decision to form the CFD and the decision to issue bonds shall be each in the sole discretion of the City. No provision of this Agreement shall be construed as a promise, warranty or agreement by the City to form the CFD or to issue bonds. Should the proceedings to form the CFD be abandoned for any reason, the City shall provide written notification of such abandonment to the Applicant and shall return to the Applicant all unexpended amounts of the Initial Deposit (and any subsequent deposits) which exceed all costs and expenses incurred by the City relating to formation of the CFD. Said monies shall be returned within 60 days of the issuance of the written notice of abandonment. Except for such reimbursement, the City shall have no liability to Applicant for a decision not to form the CFD or issue bonds.

7. Indemnification and Hold Harmless. The Applicant hereby assumes the defense of, and indemnifies and saves harmless, the City and each of its officers, directors and employees, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of or arising out of any acts or omissions of the Applicant or any of the Applicant's officers, employees, contractors and agents in connection with the proposed formation of the CFD or any work-in-kind provided by or on behalf of the Applicant or its consultants, except for any action, damages, claims, losses or expenses arising out of the sole negligence or willful misconduct of the City, its officers, directors, employees or agents.

8. 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.

Applicant: Meritage Homes  
Attn: Michael P. Evans  
1800 Sutter Street, Suite 500  
Concord, California 94520

Phone: (925) 363-9938  
Facsimile: (925) 288-3033

City: City of Modesto  
1010 Tenth Street, Suite 6100  
Modesto, California 95353  
Attention: IFP Administrative Officer

Phone: (209) 577-5211  
Facsimile: (209) 571-5128

Each party may change its address for delivery of notice by delivering written notice of such change of address to the other party.

9. Assignment. The Applicant may assign its interest in this Agreement with the prior written consent of the City, which consent shall not be unreasonably withheld. Any assignment or attempt to assign this Agreement without the prior written consent of City shall be deemed null and void as of the date of the purported assignment. All covenants, stipulations, and agreements in this Agreement shall bind any such representatives, successors and assigns.

10. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent permitted by law.

11. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the matters provided for herein. All previous proposals, offers and communications relative to this Agreement, whether oral or written, are hereby superseded except to the extent that they have been incorporated into this Agreement. No future waiver of or exception to any of the terms, conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to in writing by all the parties.

12. Amendments. This Agreement may be amended or modified only by written instrument signed by all parties. Any amendment or addendum to this Agreement shall expressly refer to this Agreement.

13. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

14. No Third Party Beneficiaries. No person or entity shall be deemed to be a third party beneficiary hereof; and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than the City (and its officers, directors, employees and agents providing services under this Agreement) and the Applicant, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

15. Singular and Plural; Gender. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

16. Termination. This Agreement shall terminate and be of no further force and effect on the fifth (5<sup>th</sup>) anniversary of the date of this Agreement unless expressly amended by the parties; provided, however, that the Applicant's obligations under Section 7 shall survive the termination and the City's obligation to provide reimbursement in accordance with Section 4 for expenses incurred prior to the termination date shall also survive termination.

17. Time is of the Essence. Except as otherwise expressly stated, time is of the essence in the performance of each and every action required pursuant to this Agreement.

18. Language Construction. The language of each and all paragraphs, terms and/or provisions of this Agreement, shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.

19. Representations of Authority. Each party signing this Agreement on behalf of a party which is not a natural person hereby represents and warrants to the other party that all necessary legal prerequisites to that party's execution of this Agreement have been satisfied and that he or she has been authorized to sign this Agreement and bind the party on whose behalf he or she signs.

20. Relationship of Parties. Nothing contained in this Agreement shall be interpreted or understood by any of the parties, or by any third person, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between City and Applicant or its agents, employees or contractors. Except as City may specify in writing, Applicant shall have no authority to act as an agent of City or to bind City to any obligation.

21. Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of this Agreement's provisions.

22. Waiver. The waiver by any party to this Agreement of any action, obligation, or commitment required by this Agreement or 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 or of any action, obligation, or commitment required by this Agreement unless specifically stated in writing.

23. Discretion of the City. City's execution of this Agreement in no way limits the discretion of City in the permit and approval process in connection with any entitlements within City's jurisdiction, including those related to the Project, or with the design, construction or funding of any onsite or offsite infrastructure improvements within the City's jurisdiction.



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-\_\_\_\_, adopted by the Council of the City of Modesto on the \_\_\_\_\_ day of \_\_\_\_\_, 2006, and MERITAGE HOMES OF CALIFORNIA, INCORPORATED has caused this Agreement to be executed in duplicate, effective as of the date first written above.

CITY OF MODESTO, a municipal corporation

MERITAGE HOMES OF CALIFORNIA, INCORPORATED

By: \_\_\_\_\_  
GEORGE W. BRITTON, City Manager

By: \_\_\_\_\_

Name: \_\_\_\_\_

ATTEST:

Title: \_\_\_\_\_

By: \_\_\_\_\_  
JEAN MORRIS, City Clerk

By: \_\_\_\_\_

Name: \_\_\_\_\_

APPROVED AS TO FORM:  
SUSANA ALACALA WOOD, City Attorney

Title: \_\_\_\_\_

By: \_\_\_\_\_  
ALISON A. BARRATT-GREEN  
Senior Deputy City Attorney

**Signature Requirements**

*Corporation:*

1. Signature of two (2) officers  
or
2. Signature of one (1) officer plus the corporate seal

*Partnership:* Signature of one partner

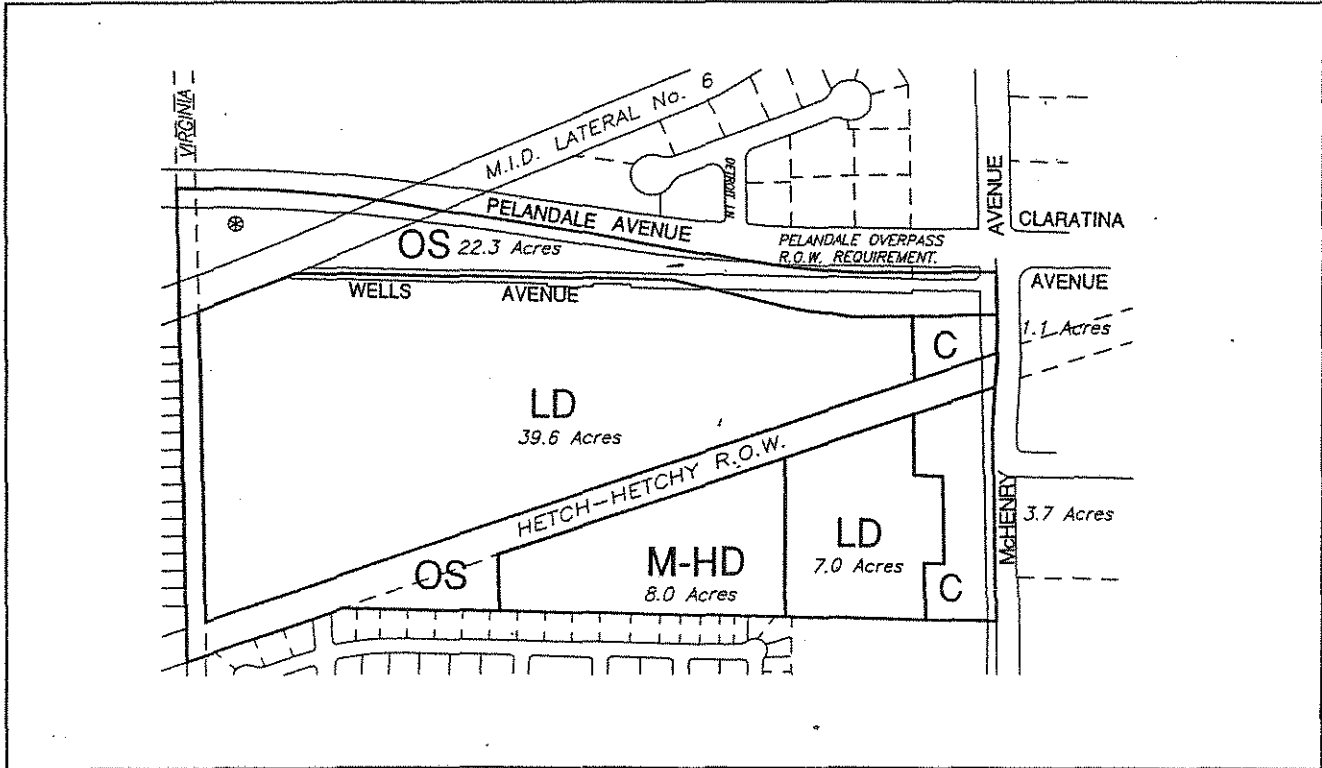
*Sole Proprietorship:* Signature of proprietor

Table 2.1 Pelandale / McHenry Specific Plan Land Use Summary

9/15/05

Land Use	Density du/ac Max	Acreage (Gross)	Acreage (Net)*	Dwelling Units (Max)	Percent Units	Percent Acres
<b>Residential</b>						
LD Single Family Residential	4.5	46.6	46.6	210	54%	57%
M-HD Multi-Family Residential	22	8.0	8.0	176	46%	10%
<b>Non-Residential</b>						
C Commercial		4.8	2.9			6%
Inclusive of:						
Major Right-of-Way	1.9 ac					
OS Open Space		22.3	4.9			27%
Inclusive of:						
MID Canal	1.8 ac					
Hetch-Hetchy	6.8 ac					
Virginia Corridor	2.0 ac					
Major Right-of-Way	6.8 ac					
<b>Project Totals</b>	-	81.7	62.4	386	100%	100%

\* Gross acreages less major right-of-way.



# EXHIBIT B

## MuniFinancial Scope of Work

### Facilities Master Plan and Infrastructure Financing Plan for the Pelandale /McHenry Specific Plan

## Introduction

The objective of this project is to prepare a Facilities Master Plan (FMP) and an Infrastructure Financing Plan (IFP) for the Pelandale/McHenry Specific Plan (PMSP). The PMSP provides development requirements for approximately 82 acres of land in the City of Modesto. The PSMP anticipates build out of 386 dwelling units and 2.9 acres (net) of commercial uses. Existing development on the site includes a 15-acre mobile home park, several single family residents, and about eight acres of commercial uses. The site also has existing and future rights-of-way for the Hetch-Hetchy Aqueduct, Modesto Irrigation District Lateral No. 6, an arterial, and an expressway.

The primary purposes of the FMP are to:

- ♦ Define the public facilities needed to accommodate development in the specific plan area;
- ♦ Provide cost estimates for those facilities; and
- ♦ Identify any facility phasing requirements, particularly the need for “backbone” infrastructure in advance of development.

The primary purposes of the IFP are to:

- ♦ Estimate market absorption rates for proposed development in the project area;
- ♦ Allocate a fair share of public facility costs identified in the IFP to each proposed land use in the project area;
- ♦ Recommend appropriate funding sources and financing mechanisms to fund public facilities (1) in a financially feasible manner, and (2) phased as necessary to adequately serve projected development;
- ♦ Identify special districts that provide funding for public services such as landscape and lighting that should be expanded to include the project; and
- ♦ Form a community facilities district to finance proposed improvements.

## Task Plan

### Task 1.1: Provide Project Management & Policy Development

*Objective:* Identify and resolve policy issues; ensure the project is completed within budget and on schedule.

*Description:* We will identify and resolve policy issues with City staff as we review existing documents and develop the financing plan. These issues may include, for example:

- ◆ Allocation of costs for planned facilities with a citywide impact to a citywide impact fee program;
- ◆ Threshold facility standards that determine backbone infrastructure;
- ◆ Integration of private and other non-impact fee funding sources into the funding plan; and
- ◆ Implementation strategies and policies.

This task includes outside coordination with city staff and the EIR consultant, and inside coordination between MuniFinancial and Willdan. We will keep City staff informed on a regular basis (e.g. monthly conference call) regarding outstanding information needs, unresolved issues, and progress of the project to date. We will prepare and send invoices for project billing.

*Meetings:* One meeting to kick off the project with city staff and the developer.

*Deliverables:* None.

## **Task 1.2: Prepare Facilities Plans & Costs**

*Objective:* Prepare design drawings and cost estimates for needed public improvements.

*Description:* Outside City consultants have prepared or are in the process of preparing capacity studies detailing infrastructure needs for the specific plan area for water, sanitary sewer, drainage, and roads. The project proponent's engineer has also prepared a number of engineering reports and documents. Based on our initial review, these documents provide the needed engineering analysis to support the sizing and routing of the improvements. These documents appear to be sufficient for the purposes of this task to proceed with the development of design drawings, to the extent needed, and the preparation or review and approval of cost estimates.

Although the proposed development is relatively small the project raises facility design and phasing issues that we will specifically address, including a temporary sewer line which may be needed to provide service pending the completion of a permanent line as part of the City's wastewater master plan.

This analysis will assume that development of the specific plan area will not require an adjustment to current citywide impact fee programs. The project represents too small an increment in relation to the overall service area of the City to significantly impact citywide impact fee rates.

In addition, the City is currently updating the master plan for the wastewater treatment plant that serves this area. We anticipate that we will be provided with service area growth projections and cost estimates to accommodate growth so that we can calculate the Pelandale/McHenry project's fair share of those improvements.

The work proposed for this task is as follows:

- ◆ Review the capacity studies, Specific Plan and project proponent's engineering documents to extract a description of the needed improvements for purposes of preparing cost estimates.
- ◆ Identify and describe, if appropriate by reference to existing facility funding programs, all other facility needs not addressed by the capacity studies including general government, parks and recreation, public safety, schools, and transit.
- ◆ Review citywide impact fee programs and identify any overlap of facilities that may exist for potential developer reimbursement.
- ◆ Identify any backbone infrastructure needed in advance of development based on applicable facility standards.
- ◆ Based on the above descriptions, prepare a basis of cost for the facilities plan. Carefully identify and cost elements, if any, that are more properly funded by existing impact fee programs.
- ◆ Prepare 30 percent design drawings requiring an estimated 30 sheets for water, wastewater, storm drain, and street infrastructure.

*Meetings:* Two meetings, one to review facility needs with city staff and one to review preliminary drafts of facility plans and costs.

*Deliverables:* Facility descriptions and cost estimate tables to be included in final report with 30 percent design drawings provided as an appendix.

### **Task 1.3: Conduct Market Analysis**

*Objective:* Ensure that the financial feasibility of financing plan is based on current and projected real estate market conditions.

*Description:* We will develop an understanding of the market conditions for the project area based on site visits, interviews with real estate professionals, and web-based research. We will use the City's boundaries to define the market area, and will evaluate historical development trends and land supply available for development within this area.

We will use this analysis to estimate absorption rates within the project area through build out. We will focus on (1) immediate absorption for the purposes of financing backbone infrastructure; (2) long-term absorption (typically 20 to 30 years), and (3) build out.

We will also estimate current market values by land use category or product type to support the financial feasibility analysis conducted in the following task.

*Meetings:* None.

*Deliverable:* Market context, absorption projection, and unit values to be included in final report.

## Task 1.4: Develop Infrastructure Financing Plan

*Objective:* Identify and program the appropriate revenues sources and financing mechanisms to ensure a financially feasible financing plan.

*Description:* This task will develop a financial model to provide a tool for development of the financing plan. The plan will be based on planned public facilities costs and phasing requirements, and the results of the market analysis. We will identify sufficient funding sources to fully fund facility costs. We will recommend appropriate financing mechanisms for facilities that must be phased in advance of available funding. We will also identify special districts that provide funding for public services such as landscape and lighting that should be expanded to include the project.

**Funding sources.** We will develop the funding plans based on the following potential sources:

- ♦ Impact fees. Evaluate and incorporate as appropriate existing fee revenues and fund balances that are applicable to planned facilities. Develop project-specific fee programs based on a fair share cost allocation methodology as necessary. Incorporate debt financing costs if applicable.
- ♦ Special taxes and assessments. Consider whether annexation to existing special taxes or assessments districts is appropriate. Recommend new special taxes or assessments for the project area as appropriate.
- ♦ Private funding. Incorporate proposed funding from developers such as dedicated facilities and rights-of-way.
- ♦ Public funding. Work with City staff to identify any other available public funding for planned facilities such as property and sales tax increments, utility revenues, asset sales, and grants.

**Financing mechanisms.** As necessary we will evaluate and recommend use of one or more of the following financing mechanisms:

- ♦ Community Facilities Districts;
- ♦ Special assessment districts;
- ♦ Revenue bonds (e.g. utility enterprise funds);
- ♦ Developer financing (e.g. credits and reimbursements);
- ♦ Lease-purchase (e.g. certificates of participation); and
- ♦ Tax increment bonds (redevelopment project area).

We will present the recommended funding and financing plan as a matrix of revenue sources and capital projects. We will provide separate matrices for the initial development phase (including backbone infrastructure), any applicable interim phases, and build out. We will indicate required financing mechanisms by phase including the total amount bonded and the amount of construction proceeds.

**Financial Feasibility (burden analysis).** We will estimate the total cost burden on new development for facilities and services in terms of (1) value-to-lien ratios and (2) the rate of annual taxes, charges, and assessments. The analysis will be used to develop the funding and financing approach and demonstrate that the proposed financing plan remains within acceptable real estate market and underwriting standards.

**Implementation.** Evaluate sensitivity of the financing plan to future land uses that may vary from those assumed as a basis for this analysis

*Meetings:* One meeting with city staff and the developer to discuss financial modeling results.

*Deliverables:* Financing plan matrices and tables to be included in final report.

### **Task 1.5: Prepare Facilities Master Plan / Infrastructure Financing Plan Report**

*Objective:* Communicate the assumptions, methodologies, and results of FMP and IFP to City staff, elected officials, and the public. Provide an FMP/IFP report for adoption in conjunction with the PMSP.

*Description:* We proposed combining the FMP and IFP into a single document because the infrastructure capacity studies that have already been completed provide substantial documentation that can be summarized in the report without the need to prepare a separate FMP.

Based on the results of prior tasks we will first prepare a package of draft report tables and charts for City staff to review. The tables will document each step of the analysis including:

- ◆ Public facility locations, descriptions, and costs;
- ◆ Funding source/capital project matrices and debt financing requirements;
- ◆ Cost allocations by land use including impact fee, special tax, and special assessment rates; and
- ◆ Financial feasibility metrics.

Following City staff approval of the quantitative analysis and graphic presentations, we will prepare a preliminary administrative draft report for staff comment and then a final administrative draft for final comments. Based on those final comments we will prepare a public draft for presentation the City Council and the public.

The FMP/IFP will include the following chapters:

1. **Public Facility Planning and Financing Policies.** Describe policies that guide development and implementation of the FMP/IFP including public facility standards and new development's funding responsibilities.
2. **Land Use and Market Analysis.** Summarize proposed land use plan, absorption rates, development phases, and market values by land use category.

3. **Public Facility Costs and Phasing.** Identify public facilities required to serve development and mitigate environmental impacts by development phase, including backbone infrastructure needed in advance of development.
4. **Funding and Financing Plan.** Present funding sources and financing mechanisms by development phase that enable delivery of planned facilities. Include indicators of financial feasibility.
5. **Implementation Measures.** Recommend implementation measures including preparation of fee nexus studies, formation of special districts, and development of credit and reimbursement programs. Recommend measures for accommodating future land use changes that vary of those assumed in the analysis.

*Meetings:* Three meetings total: one to review the package of draft report tables and charts, one to review the first administrative draft report, and one to present the report to the City Council.

*Deliverables:* (1) Draft report tables and charts; (2) preliminary administrative draft report; (3) final administrative draft report; (4) public draft report.

## **Task 1.6: Support Community Facilities District Formation**

*Objective:* Provide special tax consulting services to support formation of community facilities district (CFD).

*Description:* This task will have the following subtasks:

1. **Rate and method of apportionment:** Develop debt financing assumptions and criteria, including adopted City financing policies, costs of issuance, and overlapping debt. Use results of prior tasks to develop special tax schedule based on pro forma cash flow analysis.
2. **Public hearing report:** Prepare public hearing report in compliance with statute, including: (a) description, costs, and estimated construction date of proposed facilities, (b) estimates of bond issuance costs, (c) projected bonded indebtedness and issuance dates, and (d) explanation of special tax schedule and projected rates by parcel.
3. **Bond issuance support:** Conduct final calculations and prepare tables for (a) special tax coverage, (b) value-to-lien ratios, (c) overlapping debt, and (d) effective tax rate schedules by parcel to include in Preliminary Official Statement (POS) and Official Statement (OS). Provide signed Special Tax Consultant Certificate. Review and comment on draft POS and OS.

*Meetings:* Three meetings: one to discuss preliminary pro forma analysis and rate and method of apportionment, one for adoption of the resolution of intention, and one for the public hearing.

*Deliverable:* (1) Rate and method of apportionment (draft and final); (2) public hearing report (draft and final); and (3) tables for POS and OS.



# Budget

The following table provides the level of effort and budget by task for the scope of services described above. This budget includes up to seven on-site meetings (conference calls are not considered meetings for the purposes of this budget).

## **Modesto Pelandale/McHenry Specific Plan FMP/IFP Budget**

<b>Task</b>	<b>Total Hours</b>	<b>Total Costs</b>
1.1 Provide Project Management & Policy Development	48	\$ 6,720
1.2. Prepare Facilities Plans & Costs	1,068	118,440
1.3. Conduct Market Analysis	36	3,600
1.4. Develop Infrastructure Financing Plan	184	21,200
1.5. Prepare Report	128	16,000
1.6. Support CFD formation	<u>168</u>	<u>18,120</u>
Subtotal Labor	1,632	\$ 184,080
Direct Expenses		<u>4,820</u>
Total Budget		<u>\$ 188,900</u>

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-658**

**A RESOLUTION APPROVING AN ACQUISITION AND SHORTFALL AGREEMENT BETWEEN CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) AND STANDARD PACIFIC HOMES CORP., A DELAWARE CORPORATION, FOR IMPROVEMENTS ON THE EAST SIDE OF ROSELLE AVENUE, NORTH OF KODIAK DRIVE, WITH A MAXIMUM REIMBURSEMENT AMOUNT OF \$506,782, AUTHORIZING THE DISTRICT ADMINISTRATOR TO EXECUTE THE AGREEMENT, AND FINDING THAT THE POTENTIAL ENVIRONMENTAL EFFECTS OF THIS AGREEMENT HAVE BEEN ADEQUATELY ADDRESSED BY THE PREVIOUSLY CERTIFIED VILLAGE ONE SPECIFIC PLAN PROGRAM EIR AS AMENDED BY THE 1994 FINAL SUPPLEMENTAL EIR (SCH NO. 90020181), AND THE 2003 ADDENDUM TO THE EIR**

WHEREAS, the City of Modesto desires to complete the core infrastructure needed to serve the Village One area, and

WHEREAS, Standard Pacific Homes Corp., a Delaware Corporation, (“Developer”) has agreed to install certain improvements on the east side of Roselle Avenue, north of Kodiak Drive, and

WHEREAS, the City Council has considered the proposed Acquisition & Shortfall Agreement (“Agreement”) between City of Modesto Community Facilities District No. 2004-1 (Village One #2) and Developer, and

WHEREAS, said Agreement shall have a maximum reimbursement amount of \$506,782, and

WHEREAS, the City Council has received and considered the Written Checklist, Environmental Assessment EA/C&ED 2004-24, 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

Village One Specific Plan Program EIR as amended by the 1994 Final Supplemental EIR (SCH No. 90020181), and the 2003 Addendum to the EIR, 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:

1. The proposed Acquisition and Shortfall Agreement between City of Modesto Community Facilities District No. 2004-1 and Standard Pacific Homes Corp., a Delaware Corporation, (“Project”) is consistent with the Village One Specific Plan and the Modesto Urban Area General Plan.
2. 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.
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 2004-24, 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 Community Facilities District No. 2004-1 (Village One #2) and Standard Pacific Homes Corp. for construction of certain improvements on Roselle Avenue 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 24th day of October, 2006, 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:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris  
JEAN MORRIS, City

Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-659**

**A RESOLUTION APPROVING AN ACQUISITION AND SHORTFALL AGREEMENT BETWEEN CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) AND PPC SUNRISE, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, FOR IMPROVEMENTS ON THE EAST SIDE OF OAKDALE ROAD, NORTH OF LAFORCE DRIVE, WITH A MAXIMUM REIMBURSEMENT AMOUNT OF \$180,658.62, AUTHORIZING THE DISTRICT ADMINISTRATOR TO EXECUTE THE AGREEMENT, AND FINDING THAT THE POTENTIAL ENVIRONMENTAL EFFECTS OF THIS AGREEMENT HAVE BEEN ADEQUATELY ADDRESSED BY THE PREVIOUSLY CERTIFIED VILLAGE ONE SPECIFIC PLAN PROGRAM EIR AS AMENDED BY THE 1994 FINAL SUPPLEMENTAL EIR (SCH NO. 90020181), AND THE 2003 ADDENDUM TO THE EIR**

WHEREAS, the City of Modesto desires to complete the core infrastructure needed to serve the Village One area, and

WHEREAS, PPC Sunrise, LLC, a California Limited Liability Company, (“Developer”) has agreed to install certain improvements on the east side of Oakdale Road, north of LaForce Drive, and

WHEREAS, the City Council has considered the proposed Acquisition & Shortfall Agreement (“Agreement”) between City of Modesto Community Facilities District No. 2004-1 (Village One #2) and Developer, and

WHEREAS, said Agreement shall have a maximum reimbursement amount of \$180,658.62, and

WHEREAS, the City Council has received and considered Written Checklist, Environmental Assessment EA/C&ED 2006-31, which concludes that the Developer’s project, including improvements for which the Developer will be reimbursed under the proposed agreement, is within the scope of the previously certified Village One

Specific Plan Program EIR as amended by the 1994 Final Supplemental EIR (SCH No. 90020181), and the 2003 Addendum to the EIR, 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:

1. The proposed Acquisition and Shortfall Agreement between City of Modesto Community Facilities District No. 2004-1 and PPC Sunrise, LLC ("Project") is consistent with the Village One Specific Plan and the Modesto Urban Area General Plan.
2. 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 Final Supplemental EIR, and the 2003 Addendum to the EIR, ("Program EIR"), and no new environmental document or findings are required by CEQA.
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 No. 2006-31, 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 Community Facilities District No. 2004-1 (Village One #2) and PPC Sunrise, LLC for construction of certain improvements on Oakdale Road is hereby approved.

BE IT FURTHER RESOLVED that the District Administrator, 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 October, 2006, 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:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-660**

**A RESOLUTION APPROVING A CFD RIGHT-OF-WAY REIMBURSEMENT AGREEMENT BETWEEN CITY OF MODESTO COMMUNITY FACILITIES DISTRICT NO. 2004-1 (VILLAGE ONE #2) AND PPC SUNRISE, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, FOR APPROXIMATELY 0.1583 ACRES ON THE EAST SIDE OF OAKDALE ROAD, NORTH OF LAFORCE DRIVE, WITH A MAXIMUM REIMBURSEMENT AMOUNT OF \$58,779.16, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT, AND FINDING THAT THE POTENTIAL ENVIRONMENTAL EFFECTS OF THE AGREEMENT HAVE BEEN ADEQUATELY ADDRESSED BY THE PREVIOUSLY CERTIFIED VILLAGE ONE SPECIFIC PLAN PROGRAM EIR AS AMENDED BY THE 1994 FINAL SUPPLEMENTAL EIR (SCH NO. #90020181), AND THE 2003 ADDENDUM TO THE EIR**

WHEREAS, the City of Modesto desires to complete the core infrastructure needed to serve the Village One area, and

WHEREAS, PPC Sunrise, LLC, A California Limited Liability Company, (“Developer”) has agreed to sell approximately 0.1583 acres on the east side of Oakdale Road, north of LaForce Drive, to the City of Modesto so that certain improvements to Oakdale Road can occur, and

WHEREAS, the City Council has considered the proposed CFD Right-of-Way Reimbursement Agreement (“Agreement”) between City of Modesto Community Facilities District No. 2004-1 (Village One #2) and Developer, and

WHEREAS, said Agreement shall have a maximum reimbursement amount of \$58,779.16, and

WHEREAS, the City Council has received and considered Written Checklist, Environmental Assessment EA/C&ED 2006-31, which concludes that the Developer’s project, including improvements for which the Developer will be reimbursed under the proposed

agreement, is within the scope of the previously certified Village One Specific Plan Program EIR as amended by the 1994 Final Supplemental EIR (SCH No. 90020181), and the 2003 Addendum to the EIR, 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. The proposed CFD Right-of-Way Reimbursement Agreement between City of Modesto Community Facilities District No. 2004-1 and PPC Sunrise, LLC ("Project") is consistent with the Village One Specific Plan and the Modesto Urban Area General Plan.
2. 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.
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 No. 2006-31, provide the substantial evidence to support findings 1-5, above.

BE IT FURTHER RESOLVED that the CFD Right-of-Way Reimbursement Agreement between the City of Modesto Community Facilities District No. 2004-1 (Village One #2) and PPC Sunrise, LLC for right-of-way acquisition for construction of certain improvements on Oakdale Road is hereby approved.

BE IT FURTHER RESOLVED that the District Administrator, or his designee, is hereby authorized to execute the Agreement and all related property documents as Grantee 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 24 day of October, 2006, 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:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-661**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PROVISION OF RENTAL EQUIPMENT SERVICES ON A CITYWIDE BASIS TO HERTZ EQUIPMENT RENTAL CORPORATION OF MODESTO, CA, HOLT OF CALIFORNIA OF TURLOCK, CA, AND UNITED RENTAL COLDWELL OF MODESTO, CA FOR AN INITIAL TWO (2) YEAR PERIOD, WITH THREE (3) ADDITIONAL ONE-YEAR CONTRACT EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF \$350,000.**

WHEREAS, the Public Works Department has requested the provision of rental equipment services, and is the primary user of rental equipment, and

WHEREAS, various divisions within the Public Works Department may have a need for rental equipment services for City projects, and

WHEREAS, rental equipment services are used over the last fiscal year consisted of: trenchers, rollers, concrete saws, saws, trailers, one-half ton pickups, water trucks, dump trucks, forklifts, loaders, crane trucks, compactors, air compressors, and jack hammers, and

WHEREAS, Resolution No. 2006-309 adopted May 23, 2006, authorized the Purchasing Manager to solicit formal bids for rental equipment services, and

WHEREAS, the Purchasing Division solicited formal bids for rental equipment services on Request for Bid (RFB) 0607-05, and

WHEREAS, twelve (12) vendors were solicited, six (6) of which were local vendors, and

WHEREAS, out of twelve (12) vendors solicited, three (3) chose to respond to the RFB, and

WHEREAS, bids were evaluated on a weekly rental rate and awarded by line item, and

WHEREAS, the following vendors were deemed to be the lowest responsive and responsible bidders for rental equipment services:

- Hertz Equipment Rental Corporation of Modesto, CA.
- Holt of California of Turlock, CA.
- United Rental Coldwell of Modesto, CA.

and,

WHEREAS, Modesto Municipal Code (MMC) Section 8-3.203 requires all purchases, which meet or exceed \$50,000 for materials, equipment or contractual services be formally bid, and

WHEREAS, Section 8-3.203(a) of the MMC states that purchases whose total maximum cost to the City exceed \$50,000 shall receive preliminary approval of Council, and

WHEREAS, this requirement for the provision of rental equipment service received said approval by Resolution No. 2006-309, and

WHEREAS, the Request for Bid (RFB) process conforms to City Code, and

WHEREAS, the City Council has appropriated funds for rental equipment services in the following accounts: 6180-Variou-85 (Water Fund-CIP), 0100-350-32522-0216 (General Fund), 6210-480-5213-0216 (Sewer Operations), 6210-480-5214-0216 (Sewer Operations), 0700-480-4622-0218 (Street, Traffic & Forestry), 0700-160-1612-0365 (Street, Traffic & Forestry), 0700-160-1612-0308 (Street , Traffic & Forestry), and

WHEREAS, the Purchasing Division has coordinated the solicitation and evaluation of bids for rental equipment services with the Public Works Department Divisional staff,

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 provision of rental equipment services on a Citywide basis to Hertz Equipment Rental Corporation of Modesto, CA, Holt Of California of Turlock, CA, United Rental Coldwell of Modesto, CA for an initial two (2) year period, with three (3) additional one-year contract extension options, at the sole discretion of the City, for a total estimated annual cost of \$350,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of October, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
Jean Morris, City Clerk

APPROVED AS TO FORM:

BY: Susana Alcala Wood  
Susana Alcala Wood, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-662**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF LIQUID CHLORINE AND SODIUM HYPOCHLORITE FOR AN INITIAL TWO (2) YEAR PERIOD, WITH THREE (3) ONE-YEAR CONTRACT EXTENSIONS, AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF \$147,000.**

WHEREAS, the Public Works Department-Water Quality Control (WQC) Division has requested the purchase of liquid chlorine, and

WHEREAS, the estimated annual cost for liquid chlorine is \$147,000.00, and

WHEREAS, the Public Works Department-Water Division is requesting the purchase sodium hypochlorite, and

WHEREAS, the estimated annual cost for sodium hypochlorite is \$50,000.00, and

WHEREAS, liquid chlorine (CL2) is used during river discharge season from October 1<sup>st</sup> through May 31, and

WHEREAS, this product is utilized at the Jennings Road facility to chlorinate and disinfect our final effluent to the San Joaquin River, as required in the City's permit, and

WHEREAS, the Jennings Road facility, located at 7007 Jennings Road, borders the San Joaquin River, and

WHEREAS, the plant was constructed in 1965 and in 1985 the CL2 system was installed, and

WHEREAS, the system includes 26 one-ton tanks with four chlorinators, and

WHEREAS, at present, the Jennings Facility is using a gas feed system, and

WHEREAS, to unload the one-ton chlorine cylinders, the unloading station uses a 4,000 pound capacity hoist to unload the one-ton cylinder, and

WHEREAS, the City of Modesto Water Division uses sodium hypochlorite to disinfect

the domestic water supply as specified by water purveyors permit as issued by the California Department of Health Services, and

WHEREAS, the disaffection process, using a 12.5% Sodium Hypochlorite Solution, has provided drinking water disaffection while maintaining a chlorine residual in the distribution system to protect our customers from possible water borne disease, since 1995, and

WHEREAS, sodium hypochlorite is a liquid solution containing chlorine in a salt form, and

WHEREAS, this is a more concentrated form of the same solution that is the familiar laundry bleach (5.5% sodium hypochlorite), and

WHEREAS, this allows for well water and the water distribution systems to be chlorinated in as safe a form as possible for both City personnel and City customers, and

WHEREAS, the City of Modesto Water Division Staff has found that the use of a pure solution of 12.5% Sodium Hypochlorite solution has several disinfecting benefits, and

WHEREAS, sodium hypochlorite is a more stable solution that does not deteriorate as quickly as the solutions of less pure quality, and

WHEREAS, the more stable the solution, the greater the consistency of the chlorine dosage, and

WHEREAS, there are fewer residues, and therefore less maintenance time required on the chlorinating system, and

WHEREAS, by soliciting competitive bids for liquid chlorine and sodium hypochlorite, the Finance Department, City Purchasing Division will comply with the Modesto Municipal Code, (MMC) requires for formal bids,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves formal solicitation of bids for liquid chlorine and sodium hypochlorite for an

initial two (2) year period, with three (3) one-year contract extensions, at the sole discretion of the City, for an estimated annual cost of \$147,000.00 as follows:

SECTION 1. The City Clerk is hereby authorized to call for public competitive sealed bid bids for liquid chlorine and sodium hypochlorite to be opened in the City Clerk, 1010 10<sup>TH</sup> Street, in the City of Modesto. The City Clerk shall be directed to give notice inviting such sealed bids in the time, form, and manner provided by law.

SECTION 2. After the bids are opened, they shall be tabulated and analyzed 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 24th day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
Jean Morris, City Clerk

APPROVED AS TO FORM:

BY: Susana Alcala Wood  
Susana Alcala Wood, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-663**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF LIQUID FERRIC CHLORIDE TO KEMIRON COMPANIES, INC. OF LAWRENCE, KANSAS FOR AN INITIAL TWO (2) YEAR PERIOD, WITH THREE (3) ADDITIONAL ONE-YEAR CONTRACT EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF \$178,551.40.**

WHEREAS, the Water Quality Control Plant (WQCP) has requested the purchase of liquid ferric chloride, and

WHEREAS, odors and corrosion are generated in the wastewater collections system and treatment process due to natural occurring levels of hydrogen sulfide, and

WHEREAS, to properly control the hydrogen sulfide gas, staff must inject a non-hazardous solution of iron, in the form of ferric chloride, into the influent wastewater at the primary treatment plant, and

WHEREAS, ferric chloride can be safely handled and does not require specialized control or safety devices for use, and

WHEREAS, the WQCP has estimated the normal annual usage of liquid ferric chloride to be approximately 147,680 gallons or approximately 2,840 gallons per week, and

WHEREAS, Resolution No. 2006-313 authorized the Purchasing Manager to issue formal Request for Bids (RFB) for liquid ferric chloride, and

WHEREAS, the Purchasing Division issued formal bids for liquid ferric chloride on Request for Bid (RFB) 0607-03, and

WHEREAS, eighteen (18) vendors were solicited, and one (1) of which was a local vendor, and

WHEREAS, out of eighteen (18) vendors solicited, six (6) chose to respond, and

WHEREAS, four (4) bid responses were a no bid, and

WHEREAS, the Purchasing Division and Public Works Department-Water Quality Control Division staff evaluated bids, and

WHEREAS, the City's 2% local vendor preference was not a factor in determining the lowest responsive and responsible bidder for liquid ferric chloride, and

WHEREAS, Kemiron Companies, Inc. of Lawrence, Kansas is hereby deemed to be the lowest responsive and responsible bidder, and

WHEREAS, Modesto Municipal Code (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, MMC Section 8-3.203 (a) states that purchases whose total maximum cost to the City exceeds \$50,000 shall receive preliminary approval of Council, and

WHEREAS, the liquid ferric chloride received said approval with Resolution No. 2006-313, and

WHEREAS, this Request for Bid (RFB) process conforms to MMC, and

WHEREAS, funds are available in account number 6210-480-5213-0312 for this purchase, and

WHEREAS, the Purchasing Division has coordinated the solicitation and evaluation of bids for liquid ferric chloride with the Public Works Department-Water Quality Control Division staff, and

WHEREAS, the Public Work Department has included \$178,551.40 in their operating budget for sewer operations fund for FY 2006/2007, which includes funding for liquid ferric chloride, and

WHEREAS, the estimated annual cost for liquid ferric chloride based on normal usage volume is \$178,551.40,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorized the award of bid and contract for liquid ferric chloride for an initial two (2) year period, with three (3) additional one-year contract extension options, at the sole discretion of the City, for a total estimated annual cost of \$178,551.40.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue a purchase order to Kemiron Companies, Inc. of Lawrence, Kansas for liquid ferric chloride for an estimated annual cost of \$178,551.40.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
Jean Morris, City Clerk

APPROVED AS TO FORM:

BY: Susana Alcala Wood  
Susana Alcala Wood, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-664**

**A RESOLUTION ADOPTING THE NATIONAL INCIDENT MANAGEMENT SYSTEM**

WHEREAS, response to and recovery from major emergencies and disasters requires integrated professional management and coordination, and

WHEREAS, President Bush directed the Secretary of the Department of Homeland Security to develop and administer a National Incident Management System (NIMS) to standardize and enhance incident management procedures nationwide, and

WHEREAS, NIMS provides a structure and process to effectively coordinate responders from multiple disciplines and levels of government and to integrate them with resources from the private sector and non-governmental organizations, and

WHEREAS, the Incident Command System components of NIMS are already an integral part of various incident management activities throughout the City of Modesto and Stanislaus County, including the Emergency Operations Plan, and

WHEREAS, failure to adopt and use NIMS may preclude the City of Modesto from receiving federal preparedness grants or reimbursement for costs expended during major emergency and disaster response and recovery operations.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby adopts the National Incident Management System as the foundation for incident command, management, coordination and support activities.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-665**

**A RESOLUTION AMENDING THE PARKS, RECREATION AND NEIGHBORHOODS DEPARTMENT POSITION ALLOCATION AS ADOPTED BY THE CITY COUNCIL AS PART OF THE FY 06-07 BUDGET TO REALLOCATE ONE (1) EQUIPMENT OPERATOR POSITION IN ORGANIZATION 5222, COMPOST ENTERPRISE FUND, TO THE POSITION OF EQUIPMENT MECHANIC IN ORGANIZATION 5222, COMPOST ENTERPRISE FUND, IN THE SOLID WASTE DIVISION.**

WHEREAS, on January 3, 2006, by Resolution No. 2006-009A, the City Council approved the transfer of the Compost Enterprise Fund from the Public Works Department, Wastewater Division to the Solid Waste Division of the Parks, Recreation and Neighborhoods Department, and

WHEREAS, with the transfer, the Compost Enterprise Fund was allocated six (6) full-time positions, including (1) Compost Facility Supervisor (a new position), one (1) Operations and Maintenance Crew Leader, and four (4) Equipment Operators, and

WHEREAS, one (1) of the Equipment Operator positions is currently vacant and is being filled by a temporary worker, and

WHEREAS, the compost facility currently has six (6) major pieces of heavy equipment that are non-Fleet vehicles: the tub grinder, power screen, windrow turner, water truck, and two loaders, and

WHEREAS, in addition, there are two dump trucks, a service vehicle, and several pickup trucks on site, and

WHEREAS, because the majority of the heavy equipment at the site is not designed for transport over the road, all of the repairs and maintenance of this equipment take place in the maintenance building at the facility, and

WHEREAS, due to the extreme conditions at compost facilities (dirt, mud, etcetera) this equipment requires daily (and in some instances twice daily) preventive maintenance as well as frequent repair, and

WHEREAS, equipment repair and maintenance work is performed on site by the Compost Crew Leader and the Equipment Operators, which takes the crew members away from performing their primary task, which is running the equipment and producing compost, and

WHEREAS, staff is therefore requesting that the vacant Equipment Operator position be reallocated to Equipment Mechanic to address the critical need for a full time mechanic at the facility,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves amending the Parks, Recreation and Neighborhoods Department position allocation as adopted by the City Council as part of the FY 06-07 budget to reallocate one (1) Equipment Operator Position in Organization 5222, Compost Enterprise Fund, to the position of Equipment Mechanic in Organization 5222, Compost Enterprise Fund, in the Solid Waste Division.

BE IT FURTHER RESOLVED that the Personnel Director, or her designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-666**

**A RESOLUTION SETTING PUBLIC HEARING FOR  
NOVEMBER 8, 2006 TO CONSIDER REQUEST (S) TO  
ENTER INTO SERVICE AGREEMENT (S) FOR  
SOLID WASTE COLLECTION SERVICES IN THE  
SERVICE AREA CURRENTLY SERVED BY WASTE  
MANAGEMENT**

WHEREAS, since November, 2003 Waste Management has provided solid waste collection services in the City of Modesto under an Interim Service Agreement for such services, and

WHEREAS, Waste Management currently provides services to approximately 27,000 residential customers in Modesto, and

WHEREAS, on September 26, 2006, the City received a letter from Waste Management notifying the City that the company does not wish to seek an extension of its current Service Agreement, and

WHEREAS, Waste Management's Agreement with the City to provide solid waste collection services expires on December 31, 2006, and

WHEREAS, pursuant to California Public Resources Code Section 49510 (b), the City Council finds that it is in the public interest to foster and encourage solid waste enterprises so that, at all times, there will continue to be competent enterprises willing and financially able to furnish needed solid waste handling services, and

WHEREAS, several other collection companies have stated their intent to submit requests to the City to provide solid waste collection services in the area currently served by Waste Management, and

WHEREAS, Section 5-5.17 of the Modesto Municipal Code requires that persons engaging in the business of solid waste collection in the City be party to an Agreement with the City to provide such services, and

WHEREAS, Sections 5-5.23 through 5-5.33 of the Modesto Municipal Code, inclusive, establish the process by which proposals may be submitted to enter into service agreements with the City, and the procedure by which the City reviews and determines whether to enter into such service agreements, and

WHEREAS, Modesto Municipal Code section 5-5.32 requires that collection companies obtain written consent from the City Council after a public hearing is held, prior to an Assignment of a Service Agreement,

WHEREAS, the Economic Development Committee will consider options for providing service in the Waste Management Service area at a special meeting on October 30, 2006, and its recommendation will be incorporated in the Council Agenda report for the public hearing to be held on November 3, 2006,

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that Wednesday, November 8, 2006, at 5:30 p.m., in the Tenth Street Chambers located at 1010 Tenth Street, Modesto, California, is hereby set as the time and place for a public hearing to consider request(s) to enter into Service Agreement(s) for solid waste collection services in the Service Area currently served by Waste Management, with such Agreement(s) to become effective January 1, 2007.

The foregoing resolution was introduced at a meeting of the Council of the City of Modesto held on the 24th day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None


ABSENT: Councilmembers: None

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By 

SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-667**

**A RESOLUTION AUTHORIZING THE PURCHASING  
MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB)  
FOR THE LEASE/PURCHASE OF A MODULAR BUILDING FOR  
THE COMPOST FACILITY, THE RELOCATION/RENOVATION  
OF THE EXISTING MODULAR BUILDING, AND FOR THE  
PURCHASE AND INSTALLATION OF A SOLAR SHADE COVER  
FOR A FY 2006-2007 ESTIMATED COST OF \$80,000, AND A  
TOTAL ESTIMATED COST OF \$189,500 OVER THE LIFE OF  
THIS PORTION OF THE CAPITAL PROJECT.**

WHEREAS, the City of Modesto's Compost Facility (Facility) at 7007 Jennings Road has been in operation since 1997, and

WHEREAS, the Facility is operated as a separate Enterprise Fund in the Solid Waste Division of the Parks, Recreation, and Neighborhoods Department, and

WHEREAS, the existing modular office building at the Facility is 14 feet wide by 48 feet long, and is too small for the 7-member staff, and

WHEREAS, to provide adequate space for staff and visitors, funds were budgeted in the FY 2006-2007 CIP for the lease/purchase of a new, 24 foot by 60 foot modular building, and for the relocation/renovation of the existing modular building for use as a Resource Recovery Education Center, and funds were also budgeted for the installation of a solar shade structure between the two buildings, to link the two modular units and to provide a shady outdoor area in which to meet with tour groups and demonstrate smaller scale composting methods, and

WHEREAS, staff is requesting authorization by Council to issue a formal Request for Bids,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes the Purchasing Manager to issue formal Request for

Bids (RFB), to be advertised and opened by the City Clerk, for the lease/purchase of a modular building for the Compost Facility, the relocation/renovation of the existing modular building, and for a solar shade structure for a FY 2006-2007 estimated cost of \$80,000, and a total estimated cost of \$189,500 over the life of this portion of the capital project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of October, 2006, 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:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-668**

**A RESOLUTION ACCEPTING THE COPS 2006 TECHNOLOGY GRANT IN THE AMOUNT OF \$394,891 FROM THE U.S. DEPARTMENT OF JUSTICE, OFFICE OF COMMUNITY ORIENTED POLICING SERVICES TO PROVIDE PARTIAL FUNDING FOR THE COMPUTER AIDED DISPATCH (CAD) SYSTEM, INTEGRATED PUBLIC SAFETY SYSTEM AND RECORDS MANAGEMENT SYSTEM; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS.**

WHEREAS, the City of Modesto Police Department desires to undertake a grant designated as the COPS 2006 Technology grant to be funded from the U.S.

Department of Justice, Office of Community Oriented Policing Services, and

WHEREAS, said \$394,891 grant will provide partial funding for the Computer Aided Dispatch (CAD) System, Integrated Public Safety System and Records Management System, and

WHEREAS, these funds will replace existing outdated equipment, provide adequate storage and processing power, provide a structured database for data access and statistical reporting, provide near real-time access to data for proactive policing decisions, allow data transfer in the field and incorporate the use of global positioning and automated vehicle location (GPS/AVL) technology, and

WHEREAS, these upgrades will allow the Modesto Police Department to implement a comprehensive, integrated system resulting in greater communication between agencies, increased and timely access to relevant data to field personnel, and improved officer safety at a reduced cost of operation while improving efficiency, and

WHEREAS, the COPS 2006 Technology grant addresses CAD/Integrated Public Safety System (IPSS) systems software, licensing and interface costs,

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby accepts the COPS 2006 Technology grant in the amount of \$394,891 from the U.S. Department of Justice, Office of Community Oriented Policing Services.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary program documents, including any extensions, 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 24<sup>th</sup> day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-669**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006/07 OPERATING BUDGET, ESTIMATING REVENUE OF \$394,891 FOR THE COPS 2006 TECHNOLOGY GRANT TO PROVIDE PARTIAL FUNDING FOR THE COMPUTER AIDED DISPATCH (CAD) SYSTEM, INTEGRATED PUBLIC SAFETY SYSTEM AND RECORDS MANAGEMENT SYSTEM.**

WHEREAS, the City of Modesto Police Department desires to undertake a grant designated as the COPS 2006 Technology grant to be funded from the U.S. Department of Justice, Office of Community Oriented Policing Services, and

WHEREAS, said \$394,891 grant will provide partial funding for the Computer Aided Dispatch (CAD) System, Integrated Public Safety System and Records Management System, and

WHEREAS, these funds will replace existing outdated equipment, provide adequate storage and processing power, provide a structured database for data access and statistical reporting, provide near real-time access to data for proactive policing decisions, allow data transfer in the field and incorporate the use of global positioning and automated vehicle location (GPS/AVL) technology , and

WHEREAS, these upgrades will allow Modesto Police Department to implement a comprehensive, integrated system resulting in greater communication between agencies, increased and timely access to relevant data to field personnel, and improved officer safety at a reduced cost of operation while improving efficiency, and

WHEREAS, the COPS 2006 Technology grant addresses CAD/Integrated Public Safety System (IPSS) systems software, licensing and interface costs, 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 2006/2007 Operating Budget is hereby amended as indicated below to initiate said grant:

Expense:

To: 7130-070-M780-(M483)-6040 \$394,891 Technology Grant/CAD

Revenue:

To: 7130-070-M780-3508 \$394,891 Federal Police Grant

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-670**

**A RESOLUTION ACCEPTING THE BUCKLE UP STANISLAUS GRANT IN THE AMOUNT OF \$297,900 FROM THE STATE OF CALIFORNIA, OFFICE OF TRAFFIC SAFETY (OTS), TO FUND ONE FULL-TIME COMMUNITY SERVICES OFFICER AND OFFICER OVERTIME TO CONDUCT CAR SEAT CHECKUPS AND CHECKPOINTS AND PROMOTE THE PROPER USE OF SEAT BELT AND CHILD RESTRAINT SYSTEMS; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS.**

WHEREAS, the City of Modesto Police Department desires to undertake a grant designated as the Buckle Up Stanislaus grant to be funded from the State of California, Office of Traffic Safety (OTS), and

WHEREAS, said \$297,900 grant will provide 100% funding for a Community Services Officer for the two-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 of Up Stanislaus grant commences on October 1, 2006 and ends September 30, 2008, 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 \$297,900 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 program documents, including any extensions, amendments, or subsequent contracts with the State of California, Office of Traffic Safety, in relation thereto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-671**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006/07 OPERATING BUDGET, ESTIMATING REVENUE OF \$297,900 FOR THE BUCKLE UP STANISLAUS GRANT TO CONDUCT CAR SEAT CHECKUPS AND CHECKPOINTS AND PROMOTE THE PROPER USE OF SEAT BELT AND CHILD RESTRAINT SYSTEMS.**

WHEREAS, the City of Modesto Police Department desires to undertake 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 \$297,900 grant will provide 100% funding for a Community Services Officer for the two-year program to oversee and run the Buckle Up Stanislaus Program, and

WHEREAS, upon completion of the grant the one Community Services Officer position will be absorbed into the General Fund, 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 of Up Stanislaus grant commences on October 1, 2006 and ends September 30, 2008, 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 2006/2007 Operating Budget is hereby amended as indicated below to initiate said grant:

	<u>Expense:</u>		
To:	0410-190-2969-0110	\$97,228	Salaries
	0410-190-2969-0130	7,904	Overtime
	0410-190-2969-0188	39,004	Benefits
	0410-190-2969-0209	18,000	Training
	0410-190-2969-0235	77,635	Contractual Services
	0410-190-2969-0308	39,129	Field Supplies (Safety Seats, checkup supplies, educational items)
	0410-190-2969-0350	11,000	Computer Equipment
	0410-190-2969-0205	6,000	Printing
	0410-190-2969-0301	<u>2,000</u>	Office Supplies
	TOTAL	\$297,900	
	<u>Revenue:</u>		
To:	0410-190-2969-3490	\$297,900	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 24<sup>th</sup> day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-672**

**A RESOLUTION ACCEPTING THE VEHICLE IMPOUND/DUI/SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) GRANT IN THE AMOUNT OF \$1,000,000 FROM THE STATE OF CALIFORNIA, OFFICE OF TRAFFIC SAFETY (OTS), TO PROVIDE FOUR NEW FULL-TIME MOTOR POLICE OFFICERS AND EQUIPMENT TO REDUCE PERSONS KILLED AND INJURED IN TRAFFIC COLLISIONS, ALCOHOL INVOLVED CRASHES, AND TRAFFIC CRASHES INVOLVING DRIVERS WITH SUSPENDED OR REVOKED LICENSES; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY PROGRAM DOCUMENTS.**

WHEREAS, the City of Modesto Police Department desires to undertake a grant designated as the Vehicle Impound/DUI/Selective Traffic Enforcement Program (STEP) grant to be funded from the State of California, Office of Traffic Safety, and

WHEREAS, said \$1,000,000 grant will provide four new full-time motor police officers and equipment, and

WHEREAS, these funds will be used to pay 100% of the salary for the four motor police officers the first operational year and 50% salary for the second year, and

WHEREAS, the grant will also fund four fully equipped police motorcycles for these officers, and

WHEREAS, the City agrees to increase the traffic unit from its current complement of 16 officers to 20 officers and maintain a minimum of 20 officers throughout the grant period, and

WHEREAS, the motor police officers will be responsible for achieving the grant goals and objectives to reduce persons killed and injured in traffic collisions,

alcohol involved crashes, and traffic crashes involving drivers with suspended or revoked licenses, and

WHEREAS, upon completion of the grant these four motor police officer positions will be absorbed into the General Fund, and

WHEREAS, one of the requirements of the grant is that the City of Modesto should be able to sustain the enforcement program by creating a self-sustaining Vehicle Impound Program, which will continue after the grant monies are expended to satisfy the National Highway Traffic Safety program income requirements, and

WHEREAS, on August 8, 2006, the City Council approved Resolution Nos. 2006-514A and 2006-515 at the Public Hearing to increase the vehicle impound fee, and establish a Traffic Offender Fund, and

WHEREAS, the Traffic Offender Fund will be subject to a financial audit by the State of California, Office of Traffic Safety, and

WHEREAS, the Vehicle Impound Fee will receive a "Sunset" review by the City Council in FY 2013-2014, to determine if the program should be terminated, modified, or remain in place, and

WHEREAS, all collected vehicle release fees will be placed in the Traffic Offender Fund, and pursuant to the agreement with the State of California, Office of Traffic Safety, each fiscal year \$210,000 of the Vehicle Impound Fees collected will be transferred to the General Fund, and

WHEREAS, any and all additional fees collected, above and beyond the \$210,000 will remain in the Traffic Offender Fund to be used solely for traffic safety

programs with the City of Modesto, as administered by the Modesto Police Department,  
and

WHEREAS, monies in the Traffic Offender Fund will cover the  
administrative costs incurred by the City relating to the removal, impoundment, storage  
and release of vehicles allowed under the authority of Section 22850.5 of the California  
Vehicle Code, and

WHEREAS, the grant will commence on October 1, 2006 and end on  
September 30, 2008,

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby  
accepts the Vehicle Impound/DUI/Selective Traffic Enforcement Program (STEP) grant  
in the amount of \$1,000,000 from the State of California, Office of Traffic Safety (OTS),  
to provide four new full-time motor police officers and equipment to reduce persons  
killed and injured in traffic collisions, alcohol involved crashes, and traffic crashes  
involving drivers with suspended or revoked licenses.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is  
hereby authorized to execute the necessary program documents, including any  
extensions, amendments, or subsequent contracts with the State of California, Office of  
Traffic Safety (OTS), in relation thereto.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-673**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006/07 OPERATING BUDGET, ESTIMATING REVENUE OF \$1,000,000 FOR THE VEHICLE IMPOUND/DUI/SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) GRANT TO REDUCE PERSONS KILLED AND INJURED IN TRAFFIC COLLISIONS, ALCOHOL INVOLVED CRASHES, AND TRAFFIC CRASHES INVOLVING DRIVERS WITH SUSPENDED OR REVOKED LICENSES.**

WHEREAS, the City of Modesto Police Department desires to undertake a grant designated as the Vehicle Impound/DUI/Selective Traffic Enforcement Program (STEP) grant to be funded from the State of California, Office of Traffic Safety, and

WHEREAS, said \$1,000,000 grant will provide four new full-time motor police officers and equipment, and

WHEREAS, these funds will be used to pay 100% of the salary for the four motor police officers the first operational year and 50% salary for the second year, and

WHEREAS, the grant will also fund four fully equipped police motorcycles for these officers, and

WHEREAS, the City agrees to increase the traffic unit from its current complement of 16 officers to 20 officers and maintain a minimum of 20 officers throughout the grant period, and

WHEREAS, the motor police officers will be responsible for achieving the grant goals and objectives to reduce persons killed and injured in traffic collisions, alcohol involved crashes, and traffic crashes involving drivers with suspended or revoked licenses, and

WHEREAS, upon completion of the grant these four motor police officer positions will be absorbed into the General Fund, and

WHEREAS, one of the requirements of the grant is that the City of Modesto should be able to sustain the enforcement program by creating a self-sustaining Vehicle Impound Program, which will continue after the grant monies are expended to satisfy the National Highway Traffic Safety program income requirements, and

WHEREAS, on August 8, 2006, City Council approved Resolution No. 2006-514A and 2006-515 at the Public Hearing to increase the vehicle impound fee, and establish a Traffic Offender Fund, and

WHEREAS, the Traffic Offender Fund will be subject to a financial audit by the State of California, Office of Traffic Safety, and

WHEREAS, the Vehicle Impound Fee will receive a "Sunset" review by the City Council in FY 2013-2014, to determine if the program should be terminated, modified, or remain in place, and

WHEREAS, all collected vehicle release fees will be placed in the Traffic Offender Fund, and pursuant to the agreement with the State of California, Office of Traffic Safety, each fiscal year \$210,000 of the Vehicle Impound Fees collected will be transferred to the General Fund, and

WHEREAS, any and all additional fees collected, above and beyond the \$210,000 will remain in the Traffic Offender Fund to be used solely for traffic safety programs with the City of Modesto, as administered by the Modesto Police Department, and

WHEREAS, monies in the Traffic Offender Fund will cover the administrative costs incurred by the City relating to the removal, impoundment, storage and release of vehicles allowed by the authority of Section 22850.5 of the California Vehicle Code, and

WHEREAS, the grant will commence on October 1, 2006 and end on September 30, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the FY 2006/2007 Operating Budget is hereby amended as indicated below to initiate said grant:

Expense:

To:	0410-190-2968-0110	\$ 387,942	Salaries
	0410-190-2968-0130	184,028	Overtime
	0410-190-2968-0188	224,230	Benefits
	0410-190-2968-0209	16,000	Training
	0410-190-2968-5000	112,000	Equipment
	0410-190-2968-0356	70,800	Radar Units/Helmets/Radios
	0410-190-2968-0308	4,000	Checkpoint Supplies
	0410-190-2968-0205	<u>1,000</u>	Printing
	TOTAL	\$1,000,000	

Revenue:

To:	0410-190-2968-3490	\$1,000,000	State 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 24<sup>th</sup> day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-674**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006/07 OPERATING BUDGET TO APPROPRIATE A TOTAL OF \$315,000 IN REVENUES TO 0610-190-1908-1028 AND INCREASE THE TRANSFER TO THE GENERAL FUND FROM \$185,000 TO \$210,000 (0100-190-1961-4028).**

WHEREAS, the City of Modesto Police Department desires to undertake a grant designated as the Vehicle Impound/DUI/Selective Traffic Enforcement Program (STEP) grant to be funded from the State of California, Office of Traffic Safety, and

WHEREAS, said \$1,000,000 grant will provide four new full-time motor police officers and equipment, and

WHEREAS, on August 8, 2006, the City Council approved Resolution Nos. 2006-514A and 2006-515 at the Public Hearing to increase the vehicle impound fee, and establish a Traffic Offender Fund, and

WHEREAS, the Traffic Offender Fund will be subject to a financial audit by the State of California, Office of Traffic Safety, and

WHEREAS, the Vehicle Impound Fee will receive a "Sunset" review by the City Council in FY 2013-2014, to determine if the program should be terminated, modified, or remain in place, and

WHEREAS, any and all additional fees collected, above and beyond the \$210,000 will remain in the Traffic Offender Fund to be used solely for traffic safety programs with the City of Modesto, as administered by the Modesto Police Department, and

WHEREAS, the grant will commence on October 1, 2006 and end on September 30, 2008,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the FY 2006/2007 Operating Budget is hereby amended to appropriate a total of \$315,000 in revenues to 0610-190-1908-4028 and increase the transfer to the general fund from \$185,000 to \$210,000 (0100-190-1961-4028).

Organization 2968 is Multi-year.

	<u>Revenue:</u>	
To:	0610-190-1908-4028	\$315,000
From:	0100-190-1961-4028	-\$185,000
<u>Transfers To:</u>		
	0100-700-1961-9061	\$210,000
<u>Transfers From:</u>		
	0610-700-1961-7010	\$210,000

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-675**

**A RESOLUTION APPROVING AN AGREEMENT WITH STANTEC CONSULTING INC. FOR ON-CALL SURVEY AND PLAN LINE SERVICES FOR VARIOUS PUBLIC WORKS – CAPITAL IMPROVEMENT SERVICES (CIS) PROJECTS FOR ONE (1) YEAR WITH THREE (3) ONE (1) YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF CITY, IN AN AMOUNT NOT-TO-EXCEED \$100,000 PER YEAR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND UP TO THREE (3) ONE (1) YEAR EXTENSION OPTIONS. TOTAL COST FOR FOUR (4) YEARS IS NOT TO EXCEED \$400,000**

WHEREAS, the Public Works Department – Capital Improvement Services (CIS) Division performs a number of tasks requiring a field survey to identify the existing topography and related engineering support services that, because of workload levels and/or staff experience, are beyond the ability of City’s engineering staff to gather topographic surveys, or to create plan lines in a timely manner, and

WHEREAS, in the past, CIS has utilized the services of consultant engineers to perform targeted engineering services, and

WHEREAS, retaining a survey and plan line consultant will allow CIS to have quick access to survey, plan line and related engineering support services, when needed, and to complete the survey and plan lines in a timely manner, and

WHEREAS, in addition, an on-call survey and plan line consultant can provide services for projects by providing field personnel to perform field surveys, perform research and review of record information, topographic surveys, right-of-way surveys, horizontal control surveys, and Global Positioning System (GPS) surveys, provide field personnel and equipment for traffic control purposes, engineering design and drafting services to establish preliminary street “plan lines” documents, and offer a quick turnaround, which is essential to efficient response to the large undertaking of numerous

Capital Improvement Projects presently scheduled for review and processing by City staff, and

WHEREAS, Stantec Consulting Inc. (Stantec) is a nationwide company with a local office, and is deemed the most qualified to provide the requested on-call survey and plan line services and has the ability to respond quickly to City staff requests in a timely and cost effective manner, and

WHEREAS, Stantec technicians have an intimate knowledge of surveying and plan line procedures and can provide related engineering support services as specified, and

WHEREAS, Stantec is familiar with the City's survey needs and has demonstrated satisfactory services to the City on a past project. For example, Stantec (formerly Thompson-Hysell Engineers) assisted with engineering services for a recent project by successfully completing the Pelandale Intersection Improvements design which included all survey work; therefore, City staff recommends consultant, Stantec, be awarded a contract for On-call Survey and Plan Line Services, and

WHEREAS, City staff recommends consultant, Stantec, be awarded a one-year contract for On-call Survey and Plan Line Services, with three (3) one (1) year extension options, at the sole discretion of City, and

WHEREAS, the consultant is paid on an hourly basis for actual hours required to perform specific task orders at a set rate, and

WHEREAS, the consultant will submit a written scope of services outlining the specific work, schedule and cost estimate associated with each task order, and

WHEREAS, Stantec will perform no service until the Director of Public Works Department has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to Stantec prior to commencement of services, and

WHEREAS, the City Manager will have authority to approve task orders greater than \$50,000, not-to-exceed \$100,000 per year,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with Stantec Consulting Inc. for On-call Survey and Plan Line Services for various Public Works – Capital Improvement Services projects for one (1) year with three (3) one (1) year extension options, at the sole discretion of City, in an amount not to exceed \$100,000 per year. Total cost for four (4) years is not to exceed \$400,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement with Stantec Consulting Inc., and up to three (3) one (1) year extension options.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-676**

**A RESOLUTION APPROVING AN AGREEMENT WITH TBE GROUP, INC. FOR ON-CALL UTILITY LOCATION SERVICES FOR VARIOUS PUBLIC WORKS – CAPITAL IMPROVEMENT SERVICES (CIS) PROJECTS FOR ONE (1) YEAR WITH THREE (3) ONE (1) YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF CITY, IN AN AMOUNT NOT-TO-EXCEED \$40,000 PER YEAR, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT AND UP TO THREE (3) ONE (1) YEAR EXTENSION OPTIONS. TOTAL COST FOR FOUR (4) YEARS IS NOT TO EXCEED \$160,000**

WHEREAS, the Public Works Department – Capital Improvement Services (CIS) Division performs a number of tasks requiring underground utilities location and related engineering support services that, because of workload levels and/or staff experience, are beyond the ability of City’s engineering staff to accomplish for every project prior to construction or in a timely manner, and

WHEREAS, retaining an on-call utility location consultant allows CIS to have quick access to specific utility location and related engineering support services, when needed, and will allow the division to confirm the locations of utilities prior to bidding projects thus saving money in change orders after the construction contract has been issued, and

WHEREAS, in addition, an on-call utility location consultant can provide services for projects by performing preparation and submittal of Traffic Control Plans and Right of Way Use Permit Applications, pre-mark test hole locations and make the Underground Service Alert (USA) utility notification, deployment of all necessary traffic control devices, coordinate with utility companies, excavation of test holes, restoration of asphalt or concrete surfaces, preparation of Test Hole Data Sheets, QA/QC of field data, and offer a quick turnaround, which is essential to efficient response to the large undertaking

of numerous Capital Improvement Projects presently scheduled for review and processing by City staff, and

WHEREAS, TBE Group, Inc. (TBE Group) is a nationwide company with a large staff size, and is deemed the most qualified to provide the requested on-call utility location and related engineering support services and has the ability to respond quickly to City staff requests in a timely and cost effective manner, and

WHEREAS, TBE Group technicians have an intimate knowledge of utility location services and procedures and can provide related engineering support services as specified, and

WHEREAS, in addition, TBE Group is currently the on-call consultant used locally by Caltrans, therefore, City staff recommends consultant, TBE Group, be awarded a contract for On-call Utility Location Services, and

WHEREAS, City staff recommends consultant, TBE Group be awarded a one-year contract for On-call Utility Location Services, with three (3) one (1) year extension options, at the sole discretion of City, and

WHEREAS, the consultant is paid on an hourly basis for actual hours required to perform specific task orders at a set rate, and

WHEREAS, the consultant will submit a written scope of services outlining the specific work, schedule and cost estimate associated with each task order, and

WHEREAS, TBE Group will perform no service until the Director of Public Works Department has approved the proposed specific task order and a written Notice to Proceed (NTP) is prepared and sent to TBE Group prior to commencement of services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement with TBE Group, Inc., for On-call Utility Location Services for various Public Works – Capital Improvement Services projects for one (1) year with three (3) one (1) year extension options, at the sole discretion of City, in an amount not to exceed \$40,000 per year. Total cost for four (4) years is not to exceed \$160,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement with TBE Group, Inc., and up to three (3) one (1) year extension options.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-677**

**A RESOLUTION ADOPTING A MITIGATED NEGATIVE DECLARATION (EA/PW 2005-13) AND A MITIGATION MONITORING AND REPORTING PROGRAM FOR THE PROJECT TITLED "SYLVAN AVENUE PEDESTRIAN OVERCROSSING."**

WHEREAS, Section 15070 of the CEQA Guidelines relating to Initial Study/Mitigated Negative Declaration permits a lead agency to prepare an Initial Study/Mitigated Negative Declaration on any proposed project to analyze whether the project may cause any significant effect on the environment, and

WHEREAS, Jones and Stokes, Inc., under subcontract to Kimley-Horn and Associates, Inc., under contract with the City, prepared an Initial Study, Mitigated Negative Declaration, and Mitigation Monitoring Plan for the Sylvan Avenue Pedestrian Overcrossing Project, which identified potential significant impacts from the proposed Project, which could be mitigated to a level of insignificance by incorporating feasible mitigation measures into the Project, and

WHEREAS, feasible mitigation measures were incorporated into the Project and agreed to by the City before the Initial Study/Mitigated Negative Declaration was released for public review, which measures will avoid or mitigate the identified effects to a point where clearly no significant effect will occur, and

WHEREAS, a 30-day public review period for the proposed Initial Study/Mitigated Negative Declaration began on December 15, 2005, and ended on January 13, 2006, and

WHEREAS, public comments were received on the draft Initial Study/Mitigated Negative Declaration, which comments are responded to in the Initial Study/Final Mitigated Negative Declaration dated February 2006, and

WHEREAS, the response to the public comments as contained in the Initial Study/Final Mitigated Negative Declaration dated February 2006 do not require technical revisions to be made to the document or any of the proposed mitigation measures, and

WHEREAS, the Mitigation and Monitoring Program is included and described within the Initial Study/Mitigated Negative Declaration – Final, dated February 2006,

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 and Mitigation Monitoring Plan prepared for the Sylvan Avenue Pedestrian Overcrossing Project, and based on the substantial evidence provided in said Initial Study/Mitigated Negative Declaration makes the following findings:

1. The recitals set forth above are true and correct.
2. The Initial Study/Mitigated Negative Declaration prepared for the proposed project has identified additional potentially significant environmental effects. These additional potentially significant effects are potential impacts to cultural resources, hazards and hazardous materials, and transportation/traffic.
3. 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.
4. There is no substantial evidence, in light of the whole record before the public agency, that the project, as revised, may have a significant effect on the environment (Public Resources Code Section 21064.5(2)).
5. The Initial Study/Mitigated Negative Declaration reflects the independent judgment of the lead agency.

6. As required by Public Resources Code Section 21081.6 et seq., the Mitigation Monitoring and Reporting Program is hereby adopted, a copy of which is included in the Mitigated Negative Declaration, which is on file with the City Clerk.
7. The Initial Study/Mitigated Negative Declaration, Environmental Assessment (EA/PW 2005-13) 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 Initial Study/Mitigated Negative Declaration (EA/PW 2005-13), 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 24th day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-678**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "SYLVAN AVENUE PEDESTRIAN OVERCROSSING," ACCEPTING THE BID AND APPROVING A \$1,556,375.00 CONTRACT WITH MCM CONSTRUCTION, INC., FOR THE PROJECT TITLED, "SYLVAN AVENUE PEDESTRIAN OVERCROSSING," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT**

WHEREAS, plans and specifications have been prepared for the "Sylvan Avenue Pedestrian Overcrossing" and City staff recommends approval to the City Council, and

WHEREAS, the bids received for "Sylvan Avenue Pedestrian Overcrossing" were opened at 11:00 a.m. on October 10, 2006, 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 \$1,556,375.00 from MCM Construction, Inc., of North Highlands, California be accepted as the lowest responsible bid and the contract be awarded to MCM 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 MCM Construction, Inc., in the amount of \$1,556,375.00 and hereby awards MCM Construction, Inc., the contract titled "Sylvan Avenue Pedestrian Overcrossing."

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 October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-679**

**A RESOLUTION APPROVING AN AGREEMENT CONSENTING TO COMMON USE BETWEEN THE MODESTO IRRIGATION DISTRICT AND THE CITY OF MODESTO REGARDING THE CONSTRUCTION OF A WESTBOUND TRAFFIC TURN LANE AT THE INTERSECTION OF STANDIFORD AND DALE ROADS, ALONG DISTRICT'S LATERAL NO. 7 FOR THE PURPOSE OF IMPROVING TRAFFIC FLOW AT THE INTERSECTION, AND TO MAKE SUCH IMPROVEMENTS TO THE DISTRICT'S LATERAL NO. 7 AS ARE NECESSARY TO MAINTAIN LATERAL NO. 7 IN LIGHT OF THE INSTALLATION OF THE NEW TRAFFIC TURN LANE; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, Council Resolution No. 2004-245 dated August 10, 2004 adopted the Kaiser Modesto Medical Center Development Plan, and

WHEREAS, the Kaiser Modesto Medical Center Development Plan included a project titled, "Kaiser Build Roadway Improvements" at the Pelandale Avenue/Dale Road Intersection, and at Dale Road and Standiford Road intersection, and

WHEREAS, the intersection improvements at Dale Road and Standiford Road are scheduled to be completed by November 2006, and

WHEREAS, the construction plans for the Dale Road and Standiford Road intersection improvements consist of adding a westbound right-turn, and

WHEREAS, the additional right-turn lane will occupy a portion of MID's right-of-way requiring consent of MID, and

WHEREAS, a draft Consent to Common Use Agreement between the City and MID for a portion of MID Right-of-Way has been completed, and

WHEREAS, the potential impacts of this Agreement have been adequately addressed within the context of the Kaiser Build Roadway Improvements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement Consenting to Common Use between the Modesto Irrigation District and the City of Modesto regarding the construction of a westbound traffic turn lane at the intersection of Standiford and Dale Roads, along District's Lateral No. 7 for the purpose of improving traffic flow at the intersection, and to make such improvements to the District's Lateral No. 7 as are necessary to maintain Lateral No. 7 in light of the installation of the new traffic turn lane; and authorizing the City Manager, or his designee, to execute the Agreement.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement with Modesto Irrigation District.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-680**

**A RESOLUTION APPROVING A THIRD AMENDMENT TO THE LEASE AGREEMENT WITH MODESTO EXECUTIVE AIR CHARTER, DBA SKY TREK AVIATION, WHICH ALLOWS A SUSPENSION RETROACTIVELY FROM DECEMBER 31, 2005 TO JULY 1, 2007, OF A 5% SUBLEASE FEE THAT SKY TREK AVIATION PAYS TO THE CITY ON GROSS RENTS RECEIVED, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT ON BEHALF OF THE CITY**

WHEREAS, Modesto Executive Air Charter, dba Sky Trek Aviation, is a tenant of the City at the Modesto City-County Airport, and

WHEREAS, Sky Trek Aviation has a long-term ground lease that contains a clause requiring them to pay 5% of all rents received from its tenants to the City, and

WHEREAS, Sky Trek Aviation petitioned the City to suspend the 5% surcharge on gross rents in 2003 and the City Council approved the suspension until May 31, 2004, and

WHEREAS, Sky Trek Aviation again petitioned the City on June 23, 2004 requesting another suspension of the 5% surcharge due to low occupancy of their facilities, and the City Council approved the suspension until December 31, 2005, and

WHEREAS, Sky Trek again petitioned the City on June 22, 2006, to request a permanent abatement of the 5% sublease surcharge, and

WHEREAS, the Economic Development Committee reviewed the request and recommended the suspension be retroactively extended from December 31, 2005, to July 1, 2007, and

WHEREAS, a new third amendment to the Airport lease agreement with Sky Trek Aviation has been prepared to provide for suspension of the 5% sublease fee until July 1, 2007, and

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the third amendment to the lease agreement between the City of Modesto and Sky Trek Aviation, suspending the five (5) percent sublease fee retroactively from December 31, 2005 to July 1, 2007.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute the amendment 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 24<sup>th</sup> day of October, 2006 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-681**

**A RESOLUTION APPROVING AN AMENDMENT TO AN AGREEMENT WITH COFFMAN ASSOCIATES, INC., TO REFLECT THE REVISED SCOPE OF SERVICES AND RELATED FINAL COST ESTIMATE FOR THE NOISE COMPATIBILITY PROGRAM UPDATE AT THE MODESTO CITY-COUNTY AIRPORT AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT ON BEHALF OF THE CITY.**

WHEREAS, the City of Modesto and Coffman Associates, Inc. (Coffman), entered into a Professional Services Agreement on December 11, 2001, in the amount of \$596,000, which included the sum of \$296,000 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 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, Coffman completed the Airport Master Plan and updated the airport layout plan, and

WHEREAS, on May 18, 2006, Coffman provided a revised Scope of Services and revised Final Cost Breakdown for the CFR 14 Part 150 Noise Compatibility Program 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, the new total cost for the NCP Update is now \$316,214, or \$16,214 more than the \$300,000 specified in the original agreement, and

WHEREAS, there is a need for Coffman to provide additional services to fully complete the NCP Update that is required by the FAA for funding of future airport expansion, and

WHEREAS, said additional costs associated with the project are eligible for 95% reimbursement by the FAA, and funds are currently available in Capital Project Account (6320-440-A803) to cover the City's share of the cost,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Professional Services Agreement with Coffman Associates, Inc., providing an additional \$16,214 for completion of an update to the Airport Noise Compatibility Program and environmental review.

BE IT FURTHER RESOLVED that the City Manager, or his authorized designee, is hereby authorized to execute the amendment 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 24<sup>th</sup> day of October, 2006 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-682**

**A RESOLUTION AMENDING THE ADOPTED CAPITAL IMPROVEMENT PROGRAM BUDGET FOR FISCAL YEAR 2006-07 AND APPROPRIATING \$16,214 FROM THE FAA CAPITAL GRANT (6320-440-A803-3613 - \$15,403) AND PASSENGER FACILITY CHARGE (6320-440-A803-4405 - \$811) TO THE CAPITAL IMPROVEMENT PROJECT TITLED NOISE STUDY (6320-440-A803) TO FULLY FUND THIS PROJECT.**

WHEREAS, the City of Modesto and Coffman Associates, Inc. (Coffman), entered into a Professional Services Agreement on December 11, 2001, in the amount of \$596,000, which included the sum of \$296,000 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 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, Coffman completed the Airport Master Plan and updated the airport layout plan, and

WHEREAS, on May 18, 2006, Coffman provided a revised Scope of Services and revised Final Cost Breakdown for the CFR 14 Part 150 Noise Compatibility Program 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, the new total cost for the NCP Update is now \$316,214, or \$16,214 more than the \$300,000 specified in the original agreement, and



WHEREAS, it is necessary to appropriate funds in the amount of \$16,214 from the FAA Capital Grant (6320-440-A803-3613 - \$15,403) and Passenger Facility Charge (6320-440-A803-4405 - \$811) to the Noise Study Project (6320-440-A803) to fund the additional costs for the NCP Update,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the adopted Capital Improvement Program budget for fiscal year 2006-07 and appropriating \$16,214 from the FAA Capital Grant (6320-440-A803-3613 - \$15,403) and the Passenger Facility Charge (6320-440-A803-4405 - \$811) to the Capital Improvement Project titled noise study (6320-440-A803) to fully fund this project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmember: None

ABSENT: Councilmember: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-683**

**A RESOLUTION APPROVING AN AGREEMENT WITH HDR ENGINEERING INC. IN AN AMOUNT NOT TO EXCEED \$55,500 TO PROVIDE A RESOURCE ANALYSIS FOR THE CITY'S ABILITY COMPLY WITH STATE-MANDATED WASTE DISCHARGE REQUIRMENTS FOR THE WASTEWATER COLLECTIONS DIVISION, AND AUTHORIZE THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.**

WHEREAS, on May 2, 2006, the State Water Resources Control Board initiated Order No. 2006-0003-DWQ, which is the Statewide General Waste Discharge Requirements (WDR) for Sanitary Sewer Systems, and

WHEREAS, this order requires two major changes for the Wastewater Collections Division:

- Development and implementation of a system-specific Sewer System Management Plan (SSMP)
- Changes in the reporting of Sanitary Sewer Overflows (SSO)

, and

WHEREAS, in order to comply with these new regulations, staff is requesting authorization to have HDR Engineering Inc. do a Resource Analysis for the City's ability to comply with the state-mandated WDR, and

WHEREAS, the purpose of the analysis is to examine the City's current collection systems management, operations, maintenance and capital programs and practices, and to develop an opinion of the City's readiness to comply with the newly adopted WDR regulation, and

WHEREAS, the result will be a Technical Memorandum identifying areas the City is currently in compliance with<sup>1</sup>, as well as areas that require improvement, as the City develops the required SSMP, and

WHEREAS, HDR Engineering Inc. is currently the Wastewater Collections Division on-call engineering consultant and is familiar with the current processes within the Wastewater Collections Division and are best able to conduct this analysis, and

WHEREAS, upon completion of this analysis, staff will report back to Council on its findings and request authorization to solicit a Request for Proposals to complete the required work, and

WHEREAS, funds are budgeted in 6210-480-A209-6080,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with HDR Engineering Inc. in an amount not to exceed \$55,500 to provide a Resource Analysis for the City's ability to comply with state-mandated Waste Discharge Requirements for the Wastewater Collections Division.

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 October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: Susana Alcala Wood

SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-684**

**A RESOLUTION APPROVING A FIVE-YEAR WATER SERVICES AGREEMENT (WSA) WITH BASIN WATER COMPANY FOR WATER TREATMENT FACILITIES AT WELL #66 (GALAS) AT AN ANNUAL ESTIMATED COST OF \$250,000, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.**

WHEREAS, on December 23, 2003, the City of Modesto entered into an Agreement to Construct Necessary Infrastructure with Del Valle Corporation (Del Valle) requiring completion of necessary infrastructure within the Galas Brothers Unit No. 1 and Unit No. 2 subdivisions, and

WHEREAS, part of the Water infrastructure included a well and any treatment facilities necessary to provide potable water to the new development, and

WHEREAS, the City will take ownership of this infrastructure once accepted and will be responsible for operation and maintenance of the well and treatment facilities, and

WHEREAS, during development of the well it was determined two treatment processes were needed to meet Department of Health Services (DHS) standards, and

WHEREAS, these treatment processes are currently being installed, will be permitted to operate under a DHS permit issued to the City, and are expected to begin operation in December 2006, and

WHEREAS, because of the complexity of the technology used in the treatment processes and the lack of knowledge and experience with City staff, it is necessary to develop a WSA with Basin Water Company to assist with the operation and maintenance of the treatment facilities for a five-year period, and

WHEREAS, under separate Council action, staff is also requesting approval of a five-year agreement with Basin Water Company for Performance Criteria Guarantee for these treatment facilities at no cost to the City, and

WHEREAS, funding for this agreement has been submitted in the Supplemental Budget process; however, Water Division's Operating Budget will absorb the cost if necessary in 6100-480-5013-0223, as this agreement is necessary to maintain the treatment processes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a five-year Water Services Agreement with Basin Water Company for water treatment facilities at Well #66 (Galas) at an annual estimated cost of \$250,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of October, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: Susana Alcala Wood

SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-685**

**A RESOLUTION APPROVING A FIVE-YEAR AGREEMENT WITH BASIN WATER COMPANY FOR A PERFORMANCE CRITERIA GUARANTEE (PCG) FOR WATER TREATMENT FACILITIES AT WELL #66 (GALAS) AT NO COST TO THE CITY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.**

WHEREAS, on December 23, 2003, the City of Modesto entered into an Agreement to Construct Necessary Infrastructure with Del Valle Corporation (Del Valle) requiring completion of necessary infrastructure within the Galas Brothers Unit No. 1 and Unit No. 2 subdivisions, and

WHEREAS, part of the Water infrastructure included a well and any treatment facilities necessary to provide potable water to the new development, and

WHEREAS, the City will take ownership of this infrastructure once accepted and will be responsible for operation and maintenance of the well and treatment facilities, and

WHEREAS, during development of the well it was determined two treatment processes were needed to meet Department of Health Services (DHS) standards, and

WHEREAS, these treatment processes are currently being installed, will be permitted to operate under a DHS permit issued to the City, and are expected to begin operation in December 2006, and

WHEREAS, because of the complexity of the technology used in the treatment processes and the lack of knowledge and experience with City staff, it is necessary to secure a PCG with Basin Water Company for the treatment facilities for a five-year period, and

WHEREAS, under separate Council action, staff is also requesting approval of a five-year Water Services Agreement with Basin Water Company for assistance with the operations and maintenance of these treatment facilities at an annual estimated cost of \$250,000,



NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a five-year agreement with Basin Water Company for a Performance Criteria Guarantee (PCG) for water treatment facilities at Well #66 (Galas) at not cost to the City.

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 24<sup>th</sup> day of October, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: Susana Alcala Wood

SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-686**

**A RESOLUTION AMENDING THE WATER ENTERPRISE FUND BUDGET TO  
APPROPRIATE THE AMOUNT OF \$250,000 FROM UNAPPROPRIATED  
RESERVES FOR THE COST OF A WATER SERVICES AGREEMENT WITH  
BASIN WATER COMPANY IN LINE ITEM 6100-480-5013-0223**

WHEREAS, on December 23, 2003 the City of Modesto entered into an Agreement to Construct Necessary Infrastructure with the Del Valle Capital Corporation for the completion of necessary water infrastructure improvements within the Galas Brothers Unit No. 1 and Unit No. subdivisions, and

WHEREAS, the technology associated with the water treatment infrastructure that will be utilized upon the completion of these improvements is complex in nature, and

WHEREAS, the City Council has approved a 5-year Water Services Agreement with Basin Water Company for the operation and maintenance of the water treatment infrastructure, and

WHEREAS, the Water Enterprise Fund has sufficient unappropriated reserves available to pay for the cost of the Water Services Agreement, and

WHEREAS, the budget of the Water Enterprise Fund must be amended to reflect the appropriation of \$250,000 from unappropriated reserves into line item 6100-480-5013-0223,

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 budget of the Water Enterprise Fund to appropriate the amount of \$250,000 in line item 6100-480-5013-0223 from the unappropriated reserves.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24<sup>th</sup> day of October 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Woods  
Susana Alcala Woods, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-687**

**A RESOLUTION ACCEPTING 1) DRAFT ENGINEER'S REPORT, JUSTIFICATION AND COST ALLOCATION FOR PROPOSED WASTEWATER COLLECTION SYSTEM AND TREATMENT IMPROVEMENTS; 2) DRAFT WASTEWATER COLLECTION SYSTEM MASTER PLAN; 3) DRAFT WASTEWATER TREATMENT MASTER PLAN, AND DIRECTING STAFF TO UTILIZE THE ABOVE REPORTS AS THE BASIS FOR A WASTEWATER COST OF SERVICE STUDY TO DETERMINE APPROPRIATE SEWER RATES AND SEWER CAPACITY CHARGES**

WHEREAS, Council has directed staff to proceed with steps necessary to conduct a sewer rate study, and

WHEREAS, Council had approved contracts with Carollo Engineers to update the City's Wastewater Master Plan and produce an Engineer's Report, and

WHEREAS, the Wastewater Master Plan was divided into two major components: 1) the wastewater collection system, and 2) the wastewater treatment facilities, and

WHEREAS, a task of the Wastewater Master Plans is to determine a Capital Improvement Program, for both wastewater collection and treatment facilities, that will be required for the build-out of the City's Sewer Service Area, and meet its infrastructure needs for both existing and future users, and

WHEREAS, the Engineer's Report essentially summarizes the master plans and provides the rationale for the cost allocation between existing and future users, and will become the basis for cost of service study that will ultimately recommend adjustments to the City's sewer rates and capacity charges, and

WHEREAS, Carollo Engineers has produced Draft Wastewater Master Plans and a Draft Engineer's Report for the sewer rate and capacity charge study.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts: 1) Draft Engineer's Report, Justification and Cost Allocation for Proposed Wastewater Collection System and Treatment Improvements; 2) Draft Wastewater Collection System Master Plan; and 3) Draft Wastewater Treatment Master Plan.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that it directs staff to utilize the above reports as the basis for a wastewater cost of service study to determine appropriate sewer rates and sewer capacity charges,

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 24th day of October, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-688**

**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. 13)**

WHEREAS, this Council did, on September 5, 2006, adopt its Resolution No. 2006-528 (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. 13 of Community Facilities District No. 2004-1 (Village One #2) of the City of Modesto, County of Stanislaus, State of California," was recorded on September 8, 2006, 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 57; and

WHEREAS, at the time and date set for the hearing (October 10, 2006) pursuant to the Resolution of Intention to Annex, this Council opened the public hearing and continued it to October 24, 2006; and

WHEREAS, at the time and date set for the continued public hearing, the 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.

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 24th day of October 2006. 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 24th of October, 2006, 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:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**SAMPLE**

**OFFICIAL BALLOT**

**BALLOT NO. \_\_\_\_\_**

**CITY OF MODESTO  
COMMUNITIES FACILITIES DISTRICT NO. 2004-1  
(VILLAGE ONE #2)**

**ANNEXATION NO. 13**

**SPECIAL TAX ELECTION**

October 24, 2006

**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. 2006-528, 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. 13)" adopted by the City Council of the City of Modesto on September 5, 2006, 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

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-689**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MODESTO CANVASSING THE RESULTS OF THE OCTOBER 24, 2006, 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. 13)**

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. 2006-528, 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. 13)" adopted on September 5, 2006, 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. 2006-688, adopted on October 24, 2006, and, as a result, this Council called an election within the territory proposed to be annexed to the District (the "Election") for October 24, 2006, or as soon thereafter as practicable, relative to the foregoing; and

WHEREAS, on October 24, 2006, the Election was held; and

WHEREAS, the City Clerk has certified that at the Election the proposition of levying the District Special Taxes within the territory proposed to be annexed to the District was approved by more than two-thirds (2/3) of the votes cast at the Election;

NOW, THEREFORE, BE IT RESOLVED, ORDERED AND FOUND by the City Council of the City of Modesto that:

SECTION 1. The Election was duly and validly conducted in conformity with all applicable laws pertaining thereto. It is hereby determined that the owner or owners of the territory proposed to be annexed are as set forth in the Certificate of City Clerk as to Distribution of Official Ballots, submitted to this Council and on file with the City Clerk.

SECTION 2. The ballot proposition presented to the qualified electors of the territory proposed to be annexed at the Election received at least two-thirds (2/3) of the votes cast at the Election. A copy of the City Clerk's certificate of election results is **attached**.

SECTION 3. Pursuant to Section 53339.8 of the Act, it is hereby ordered that the territory proposed to be annexed to the District pursuant to Resolution No. 2006-528 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 24th day of October 2006, 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:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**CERTIFICATE OF CITY CLERK**

I, JEAN MORRIS, City Clerk of the City of Modesto, hereby certify that, pursuant to Resolution No. 2006-688, 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. 13) adopted on September 5, 2006, by the City Council of the City of Modesto, I did conduct the Special Tax Election on October 24, 2006, 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. 2006-528, 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. 13)" adopted by the City Council of the City of Modesto on September 5, 2006, 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 11      NO 0  
Jean Morris  
Jean Morris  
City Clerk of the City of Modesto  
Dated: 10/26, 2006



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-690**

**A RESOLUTION APPROVING THE CITY OF MODESTO  
CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION  
REPORT (CAPER) FOR FISCAL YEAR 2005-2006, AND AUTHORIZING  
THE CITY MANAGER, OR HIS DESIGNEE, TO SUBMIT THE REPORT  
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, the Consolidated Annual Performance and Evaluation Report (CAPER)  
reflects the activities of the City and its sub-recipients for the period of July 1, 2005, through  
June 30, 2006, 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 Citizens Housing and Community Development Committee (CH&CDC)  
met on September 8, 2006, and reviewed and recommended the CAPER, and

WHEREAS, the CAPER must be made available for public review and comment for a  
minimum 15-day period, and

WHEREAS, on September 26, 2006, a public hearing was held at which time the City  
Council by Resolution No. 2006-625 approved the CAPER authorizing the City Manager to  
submit the report to HUD, and

WHEREAS, subsequently City staff learned that the CAPER was not duly noticed, and

WHEREAS, the City received authorization from HUD to submit the CAPER as approved by the City Council by Resolution No. 2006-625 on September 26, 2006, in order to meet deadlines and to hold a public hearing on October 24, 2006, and

WHEREAS, the CAPER was made available for public review and comment from October 8, 2006, through October 24, 2006, and

WHEREAS, all public comments, and staff responses to these comments, must be presented to the City Council for review and approval, and

WHEREAS, a duly noticed public hearing was held by the Council on October 24, 2006, 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 as follows:

1. That the Consolidated Annual Performance and Evaluation Report for Fiscal Year 2005-2006 is hereby approved, and a copy of said report is on file in the office of the City Clerk.
2. That the City Manager, or his authorized designee, is hereby authorized, after having made any necessary correction, to submit said 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 24<sup>th</sup> day of October, 2006, by Councilmember Olsen, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-691**

**A RESOLUTION APPROVING A LICENSE AGREEMENT BETWEEN THE CITY OF MODESTO AND THE MODESTO NUTS PROFESSIONAL BASEBALL CLUB AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the City owns, operates and manages John Thurman Field, a Class A professional baseball stadium, and,

WHEREAS, on December 11, 2003, the City of Modesto and the Modesto A's Professional Baseball Club entered into a license agreement under authority of Resolution No. 2003-648 for the lease of John Thurman Field, and

WHEREAS, on December 14, 2005, the Council of the City of Modesto extended the license agreement with the Modesto Nuts Professional Baseball Club under authority of Resolution No. 2005-609 for one year commencing on January 1, 2006, and terminating on December 31, 2006, and

WHEREAS, it is the desire of the City of Modesto to continue to lease John Thurman Field to the Modesto Nuts Professional Baseball Club, and

WHEREAS, a long-term license agreement with stadium improvements is desirable for both the Modesto Nuts Professional Baseball Club and the City of Modesto, and

WHEREAS, the Modesto Nuts Professional Baseball Club will agree to a ten-year license agreement and the City of Modesto will provide stadium improvements including but not limited to a new scoreboard, a banquet/entertainment building, expanded picnic areas, fieldwork, lighting upgrades and a new grounds-crew area, and

WHEREAS, at its August 9, 2006, meeting, the Finance Committee recommended entering into a ten-year license agreement with the Modesto Nuts Professional Baseball Club,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves entering into a license agreement with the Modesto Nuts Professional Baseball Club to lease John Thurman Field, for ten years commencing on January 1, 2007, and terminating on December 31, 2017.

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 October, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-692**

**A RESOLUTION APPROVING A MAINTENANCE AGREEMENT BETWEEN  
THE CITY OF MODESTO AND THE MODESTO NUTS PROFESSIONAL  
BASEBALL CLUB AND AUTHORIZING THE CITY MANAGER, OR HIS  
DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, the City owns, operates and manages John Thurman Field, a Class A professional baseball stadium, and,

WHEREAS, on December 11, 2003, the City of Modesto and the Modesto A's Professional Baseball Club entered into a maintenance agreement under authority of Resolution No. 2003-649 for the lease of John Thurman Field, and

WHEREAS, on December 14, 2005, the Council of the City of Modesto extended the maintenance agreement with the Modesto Nuts Professional Baseball Club under authority of Resolution No. 2005-610 for one year commencing on January 1, 2006, and terminating on December 31, 2006, and

WHEREAS, it is the desire of the City of Modesto to continue field maintenance at John Thurman Field with the Modesto Nuts Professional Baseball Club, and

WHEREAS, a long-term maintenance agreement with stadium improvements is desirable for both the Modesto Nuts Professional Baseball Club and the City of Modesto, and

WHEREAS, the Modesto Nuts Professional Baseball Club will agree to a ten-year maintenance agreement and the City of Modesto will provide stadium improvements including but not limited to a new scoreboard, a banquet/entertainment building, expanded picnic areas, fieldwork, lighting upgrades and a new grounds-crew area, and

WHEREAS, at their August 9, 2006, meeting, the Finance Committee recommended entering into a ten-year maintenance agreement with the Modesto Nuts Professional Baseball Club,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves entering into a maintenance agreement with the Modesto Nuts Professional Baseball Club to provide field maintenance at John Thurman Field, for ten years commencing on January 1, 2007, and terminating on December 31, 2017.

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 October, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-693

A RESOLUTION APPROVING THE 2007 CITY COUNCIL MEETING  
CALENDAR

BE IT HEREBY RESOLVED by the Council of the City of Modesto that 2007 City Council Meeting, 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 8<sup>th</sup> day of November 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



## City Council Calendar 2007

### January 2007

2<sup>nd</sup> Council Meeting (regular)  
 9<sup>th</sup> Council Meeting (regular)  
 16<sup>th</sup> NO MEETING  
 23<sup>rd</sup> Council Meeting (regular)  
 30<sup>th</sup> NO MEETING – 5<sup>th</sup> Tuesday

### July 2007

3<sup>rd</sup> Council Meeting (regular)  
 10<sup>th</sup> Council Meeting (regular)  
 17<sup>th</sup> NO MEETING  
 24<sup>th</sup> CANCELLED  
 31<sup>st</sup> NO MEETING – 5<sup>th</sup> Tuesday

### February 2007

6<sup>th</sup> Council Meeting (regular)  
 13<sup>th</sup> Council Meeting (regular)  
 20<sup>th</sup> NO MEETING  
 27<sup>th</sup> Council Meeting (regular)

### August 2007

8<sup>th</sup> Council Meeting (special)\*  
 14<sup>th</sup> Council Meeting (regular)  
 21<sup>st</sup> NO MEETING  
 28<sup>th</sup> NO MEETING

### March 2007

6<sup>th</sup> Council Meeting (regular)  
 13<sup>th</sup> Council Meeting (regular)  
 20<sup>th</sup> NO MEETING  
 27<sup>th</sup> Council Meeting (regular)

### September 2007

4<sup>th</sup> Council Meeting (regular)  
 11<sup>th</sup> Council Meeting (regular)  
 18<sup>th</sup> NO MEETING  
 25<sup>th</sup> Council Meeting (regular)

### April 2007

3<sup>rd</sup> Council Meeting (regular)  
 10<sup>th</sup> CANCELLED  
 17<sup>th</sup> NO MEETING  
 24<sup>th</sup> Council Meeting (regular)

### October 2007

2<sup>nd</sup> Council Meeting (regular)  
 9<sup>th</sup> Council Meeting (regular)  
 16<sup>th</sup> NO MEETING  
 23<sup>rd</sup> Council Meeting (regular)  
 30<sup>th</sup> NO MEETING – 5<sup>th</sup> Tuesday

### May 2007

1<sup>st</sup> Council Meeting (regular)  
 8<sup>th</sup> Council Meeting (regular)  
 15<sup>th</sup> NO MEETING  
 22<sup>nd</sup> Council Meeting (regular)  
 29<sup>th</sup> NO MEETING – 5<sup>th</sup> Tuesday

### November 2007

7<sup>th</sup> Council Meeting (special)\*\*  
 13<sup>th</sup> Council Meeting (regular)  
 20<sup>th</sup> NO MEETING  
 27<sup>th</sup> Council Meeting (regular)

### June 2007

5<sup>th</sup> Council Meeting (regular)  
 12<sup>th</sup> Council Meeting (regular)  
 19<sup>th</sup> NO MEETING  
 26<sup>th</sup> Council Meeting (regular)

### December 2007

4<sup>th</sup> Council Meeting (regular)  
 12<sup>th</sup> Council Meeting (special)\*\*\*  
 18<sup>th</sup> CANCELLED per MMC 2-1.01  
 25<sup>th</sup> CANCELLED per MMC 2-1.01

\*August 8<sup>th</sup> Wednesday Meeting due to National Night Out on August 7<sup>th</sup>

\*\*November 7<sup>th</sup> Wednesday Meeting due to Election Day on November 6<sup>th</sup>

\*\*\*December 12<sup>th</sup> Wednesday Meeting due to Run-Off Election Day on December 11<sup>th</sup>

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 -694**

**A RESOLUTION ESTABLISHING A MULTI-YEAR  
OPERATING ORGANIZATION IN THE CITY  
ATTORNEY'S OFFICE IN THE AMOUNT OF \$601,509  
FOR PAYMENT OF OUTSIDE LITIGATION FEES AND  
COSTS AND REIMBURSING THE CITY ATTORNEY'S  
OPERATING BUDGET IN THE AMOUNT OF \$101,509  
FOR OUTSIDE LITIGATION EXPENSES ALREADY  
PAID IN FY 06-07.**

WHEREAS, from time to time it is necessary for the City to hire outside legal counsel to handle complex litigation requiring expertise in a specialized area of law or to handle overflow legal work that cannot be handled by existing staff, and

WHEREAS, the sum of \$101,509 has already been paid for outside litigation expenses in the current year, and

WHEREAS, establishment of a multi-year operating organization in the City Attorney's Office in the amount of \$601,509 is needed to provide \$500,000 in future litigation expenses and for reimbursement of outside litigation expenses already paid from the City Attorney's Operating Budget for current year expenses,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the establishment of a multi-year operating organization in the City Attorney's Office for payment of outside litigation expenses, transferring \$601,509 from the General Fund Reserves Account No. 0100-800-8000-8003 to the newly established organization. Said \$601,509 shall include the amount of \$500,000 for future litigation expenses incurred in handling complex litigation and/or overflow legal work for the City which cannot be handled due to insufficient staffing, and the amount of \$101,509 for

reimbursement to the City Attorney's Operating Budget for outside litigation fees already paid in FY 06-07.

BE IT FURTHER RESOLVED that the Finance Director, or his designee, is hereby directed 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 8<sup>th</sup> day of November 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-695**

**A RESOLUTION AUTHORIZING STAFF TO PROCEED WITH A  
REQUEST FOR PROPOSALS FOR CONSULTANT SERVICES  
FOR THE FIVE YEAR CAPITAL FACILITIES FEE UPDATE**

WHEREAS, the City Council of the City of Modesto has adopted Modesto Municipal Code 8-1.904 et seq. creating and establishing the authority for imposing and charging Capital Facilities Fees (“CFF”), and

WHEREAS, the City desires to continue to update the CFF program every five years, and

WHEREAS, the City last approved a comprehensive update of the CFF program on June 24, 2003, and

WHEREAS, staff desires to issue a Request for Proposals (“RFP”) for a professional consultant to update its CFF program, and

WHEREAS, City staff wishes to contract with a consultant to updates its CFF program and will assist the City in ensuring all facilities within the program are appropriate and adequate for the build out of the City and to outline any deficiencies that may occur, and

WHEREAS, Requests for Proposals shall be evaluated on the basis of specific selection criteria, with selection interviews tentatively scheduled in January 2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby authorizes staff to proceed with a Request for Proposals for consultant services for the Five Year Capital Facilities Fee Update.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of November 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS  
City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD  
City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION No. 2006-696**

**A RESOLUTION APPROVING A DEFERRED PAYMENT AGREEMENT AND NOTICE OF LIEN WITH NAGRA, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, TO PAY TEN PERCENT (10%) (\$67,609.50) OF CAPITAL FACILITIES FEES AT THE TIME OF BUILDING PERMIT ISSUANCE FOR APN 056-083-004, PARCEL 1, WITH THE REMAINING NINETY PERCENT (90%) (\$608,485.50), SUBJECT TO INTEREST, TO BE PAID IN NO MORE THAN TEN (10) ANNUAL INSTALLMENTS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, Nagra, LLC, a California Limited Liability Company (“Owner”), owns a parcel of real property located within the City of Modesto, County of Stanislaus, State of California, commonly known as APN 056-083-004, Parcel 1, more particularly described on **Exhibit “A”**, attached hereto and incorporated herein by reference (Property), and

WHEREAS, Owner desires to obtain a building permit from the City for the construction of two retail buildings consisting of approximately 45,800 square feet, located at 2301 Crows Landing Road, Modesto, California (Project), and

WHEREAS, pursuant to Modesto City Council Resolution No. 2006-061, a property owner may defer payment of CFF for a non-residential project on one parcel of land or a group of contiguous parcels under the same ownership for which CFF exceeds \$150,000.00, and

WHEREAS, Owner desires to pay ten (10%) percent (\$67, 609.50) of the total CFF at the time of building permit issuance, and

WHEREAS, Owner desires to defer the remaining ninety percent (90%) (\$608,485.50), subject to interest, to be paid in no more than ten (10) annual installments,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto

that the Deferred Payment Agreement and Notice of Lien (“Agreement”) with Nagra, LLC, a California Limited Liability Company, for the payment of ten percent (10%) (\$67,609.50) of capital facilities fees at the time of building permit issuance with the remaining ninety percent (90%) (\$608,485.50), subject to interest, to be paid in no more than ten (10) annual installments, is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Deferred Payment Agreement and Notice of Lien.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, O’Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

# Exhibit "A"

# 54 PM # 86

## PARCEL MAP

BEING A DIVISION OF PARCEL A AS SHOWN ON THAT MAP FILED IN BOOK 52 OF PARCEL MAPS AT PAGE 49, STANISLAUS COUNTY RECORDERS, LYING IN THE SOUTHEAST QUARTER OF SECTION 9, TOWNSHIP 4 SOUTH, RANGE 4 EAST, MOUNT Diablo MERIDIAN, CITY OF MODOSTO, COUNTY OF STANISLAUS, STATE OF CALIFORNIA.

PREPARED FOR: NAGRA LLC  
AUGUST, 2008



**ASSOCIATED ENGINEERING GROUP, INC.**  
406 REDWOOD DRIVE - MODOSTO, CALIFORNIA 95208  
(209) 528-1100 FAX (209) 528-1101

### LEGEND

- INDICATES 2" X 4" IRON PIPE WITH L.S. 600 PER REFERENCE "A"
- INDICATES 2" X 4" IRON PIPE WITH L.S. 600 SET STAMPED L.S. 7126
- INDICATES SET 2" X 4" X 24" LONG IRON PIPE WITH L.S. 600 SET STAMPED L.S. 7126 AS A WITNESS CORNER
- INDICATES SET A WALL AND BRASS (1/2" DIA) STAMPED L.S. 7126 AS A WITNESS CORNER WITH TIE TO TIE CORNER
- INDICATES SET A WITNESS CORNER WITH TIE TO TIE CORNER AS SHOWN IN HANDBOOK WELL AS NOTED
- (M) INDICATES WITNESS CORNER WITH TIE TO TIE CORNER AS SHOWN IN HANDBOOK WELL AS NOTED
- (N) INDICATES WITNESS CORNER WITH TIE TO TIE CORNER AS SHOWN IN HANDBOOK WELL AS NOTED
- (14-48) INDICATES WITNESS CORNER WITH TIE TO TIE CORNER AS SHOWN IN HANDBOOK WELL AS NOTED
- (14-49) INDICATES WITNESS CORNER WITH TIE TO TIE CORNER AS SHOWN IN HANDBOOK WELL AS NOTED
- (14-50) INDICATES WITNESS CORNER WITH TIE TO TIE CORNER AS SHOWN IN HANDBOOK WELL AS NOTED
- (14-51) INDICATES WITNESS CORNER WITH TIE TO TIE CORNER AS SHOWN IN HANDBOOK WELL AS NOTED
- (14-52) INDICATES WITNESS CORNER WITH TIE TO TIE CORNER AS SHOWN IN HANDBOOK WELL AS NOTED
- (14-53) INDICATES WITNESS CORNER WITH TIE TO TIE CORNER AS SHOWN IN HANDBOOK WELL AS NOTED
- (14-54) INDICATES WITNESS CORNER WITH TIE TO TIE CORNER AS SHOWN IN HANDBOOK WELL AS NOTED
- (14-55) INDICATES WITNESS CORNER WITH TIE TO TIE CORNER AS SHOWN IN HANDBOOK WELL AS NOTED
- (14-56) INDICATES WITNESS CORNER WITH TIE TO TIE CORNER AS SHOWN IN HANDBOOK WELL AS NOTED
- (14-57) INDICATES WITNESS CORNER WITH TIE TO TIE CORNER AS SHOWN IN HANDBOOK WELL AS NOTED
- (14-58) INDICATES WITNESS CORNER WITH TIE TO TIE CORNER AS SHOWN IN HANDBOOK WELL AS NOTED
- (14-59) INDICATES WITNESS CORNER WITH TIE TO TIE CORNER AS SHOWN IN HANDBOOK WELL AS NOTED
- (14-60) INDICATES WITNESS CORNER WITH TIE TO TIE CORNER AS SHOWN IN HANDBOOK WELL AS NOTED

### BASEMENT NOTE

THE SURVEY FOR THIS PARCEL MAP WAS CONDUCTED BY ASSOCIATED ENGINEERING GROUP, INC. ON BEHALF OF NAGRA LLC. THE SURVEY WAS CONDUCTED ON AUGUST 15, 2008. THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACTS OF 1907 AND 1941, AND THE CALIFORNIA PROFESSIONAL SURVEYING ACTS OF 1927 AND 1941. THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACTS OF 1907 AND 1941, AND THE CALIFORNIA PROFESSIONAL SURVEYING ACTS OF 1927 AND 1941. THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACTS OF 1907 AND 1941, AND THE CALIFORNIA PROFESSIONAL SURVEYING ACTS OF 1927 AND 1941.

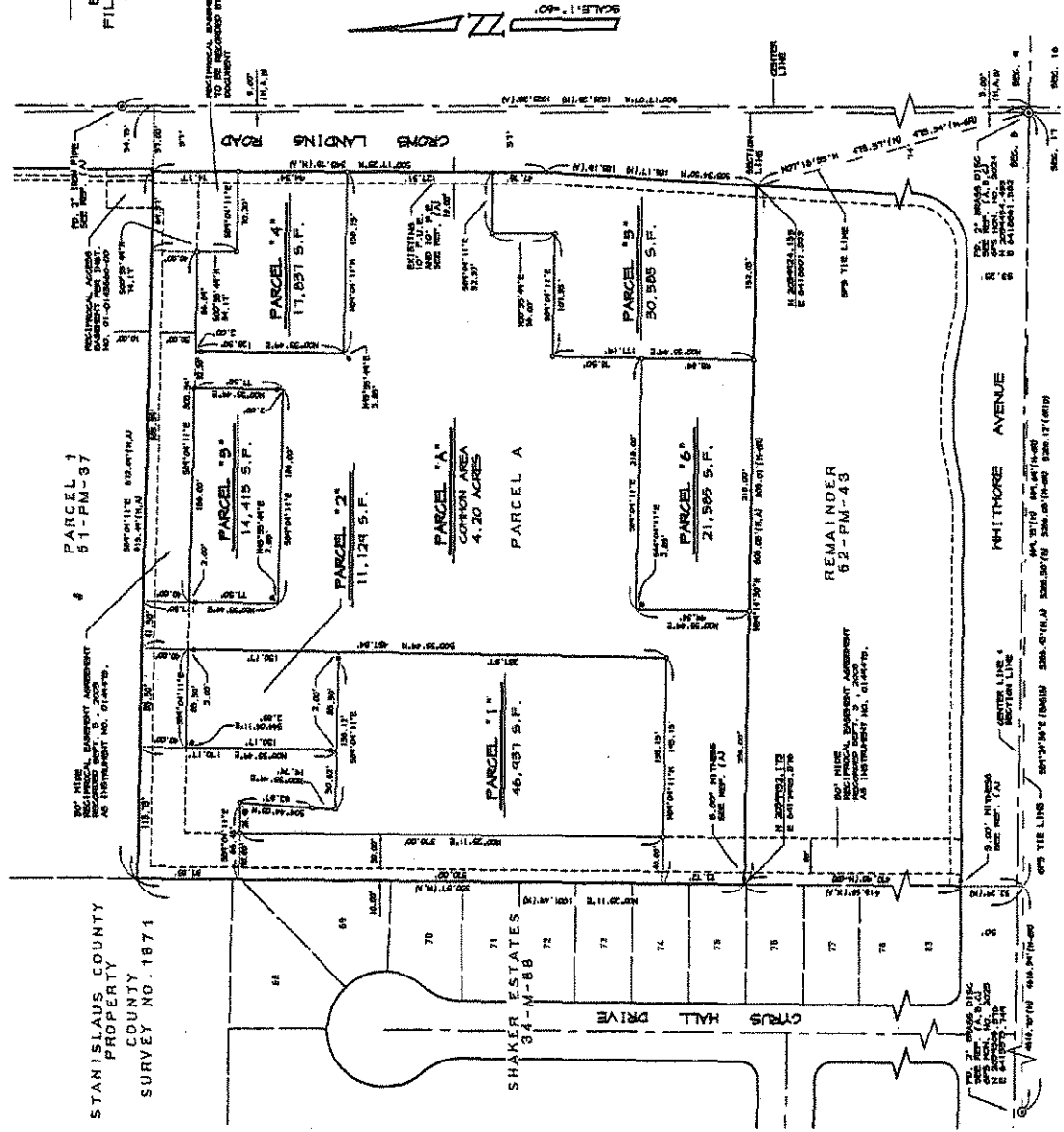
### REFERENCES

- (A) REFERS TO BOOK 52 OF PARCEL MAPS AT PAGE 49, S.C.R.
- (B) REFERS TO BOOK 51 OF PARCEL MAPS AT PAGE 51, S.C.R.
- (C) REFERS TO VOLUME 22 OF SURVEYS AT PAGE 91, S.C.R.

### BASIS OF BEARINGS

THE BEARINGS ON THIS PARCEL MAP WERE OBTAINED FROM THE BEARING CITY OF MODOSTO MAPS PROMULGATED IN 2005 AND 2004 AS CALCULATED FROM DATA SHOWN ON VOLUME 25 OF SURVEYS AT PAGE 91, STANISLAUS COUNTY RECORDS, AND USED AS THE BASIS FOR ALL BEARINGS SHOWN THEREON.

NOTE: THE DISTANCES SHOWN WERE MEASURED AND CALCULATED TO CONTAIN WITH DISTANCES, BASED ON THE 1983 ADJUSTMENT OF NORTH AMERICAN DATUM OF 1983 (NAD83) AS SHOWN ON REFERENCE (C).



# 54 PM # 86



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-697**

**A RESOLUTION APPROVING A DEFERRED PAYMENT AGREEMENT AND NOTICE OF LIEN WITH NAGRA, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, TO PAY TEN PERCENT (10%) (\$15,615.70) OF CAPITAL FACILITIES FEES AT THE TIME OF BUILDING PERMIT ISSUANCE FOR APN 056-083-004, PARCEL 3, WITH THE REMAINING NINETY PERCENT (90%) (\$140,541.30), SUBJECT TO INTEREST, TO BE PAID IN NO MORE THAN TEN (10) ANNUAL INSTALLMENTS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, Nagra, LLC, a California Limited Liability Company (“Owner”), owns a parcel of real property located within the City of Modesto, County of Stanislaus, State of California, commonly known as APN 056-083-004, PARCEL 3, more particularly described on **Exhibit “A”**, attached hereto and incorporated herein by reference (Property), and

WHEREAS, Owner desires to obtain a building permit from the City for the construction of one retail building consisting of approximately 10,256 square feet, located at 2301 Crows Landing Road, Modesto, California (Project), and

WHEREAS, pursuant to Modesto City Council Resolution No. 2006-061, a property owner may defer payment of CFF for a non-residential project on one parcel of land or a group of contiguous parcels under the same ownership for which CFF exceeds \$150,000.00, and

WHEREAS, Owner desires to pay ten (10%) percent (\$15,615.70) of the total CFF at the time of building permit issuance, and

WHEREAS, Owner desires to defer the remaining ninety percent (90%) (\$140,541.30), subject to interest, to be paid in no more than ten (10) annual installments,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto

that the Deferred Payment Agreement and Notice of Lien (“Agreement”) with Nagra, LLC, a California Limited Liability Company, for the payment of ten percent (10%) (\$15,615.70) of capital facilities fees at the time of building permit issuance with the remaining ninety percent (90%) (\$140,541.30), subject to interest, to be paid in no more than ten (10) annual installments, is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Deferred Payment Agreement and Notice of Lien.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, O’Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-698**

**A RESOLUTION APPROVING A DEFERRED PAYMENT AGREEMENT AND NOTICE OF LIEN WITH NAGRA, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, TO PAY TEN PERCENT (10%) (\$15,615.70) OF CAPITAL FACILITIES FEES AT THE TIME OF BUILDING PERMIT ISSUANCE FOR APN 056-083-004, PARCEL 6, WITH THE REMAINING NINETY PERCENT (90%) (\$140,541.30), SUBJECT TO INTEREST, TO BE PAID IN NO MORE THAN TEN (10) ANNUAL INSTALLMENTS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, Nagra, LLC, a California Limited Liability Company (“Owner”), owns a parcel of real property located within the City of Modesto, County of Stanislaus, State of California, commonly known as APN 056-083-004, PARCEL 6, more particularly described on **Exhibit “A”**, attached hereto and incorporated herein by reference (Property), and

WHEREAS, Owner desires to obtain a building permit from the City for the construction of one retail building consisting of approximately 10,256 square feet, located at 2301 Crows Landing Road, Modesto, California (Project), and

WHEREAS, pursuant to Modesto City Council Resolution No. 2006-061, a property owner may defer payment of CFF for a non-residential project on one parcel of land or a group of contiguous parcels under the same ownership for which CFF exceeds \$150,000.00, and

WHEREAS, Owner desires to pay ten (10%) percent (\$15,615.70) of the total CFF at the time of building permit issuance, and

WHEREAS, Owner desires to defer the remaining ninety percent (90%) (\$140,541.30), subject to interest, to be paid in no more than ten (10) annual installments,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto

that the Deferred Payment Agreement and Notice of Lien (“Agreement”) with Nagra, LLC, a California Limited Liability Company, for the payment of ten percent (10%) (\$15,615.70) of capital facilities fees at the time of building permit issuance with the remaining ninety percent (90%) (\$140,541.30), subject to interest, to be paid in no more than ten (10) annual installments, is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Deferred Payment Agreement and Notice of Lien.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, O’Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

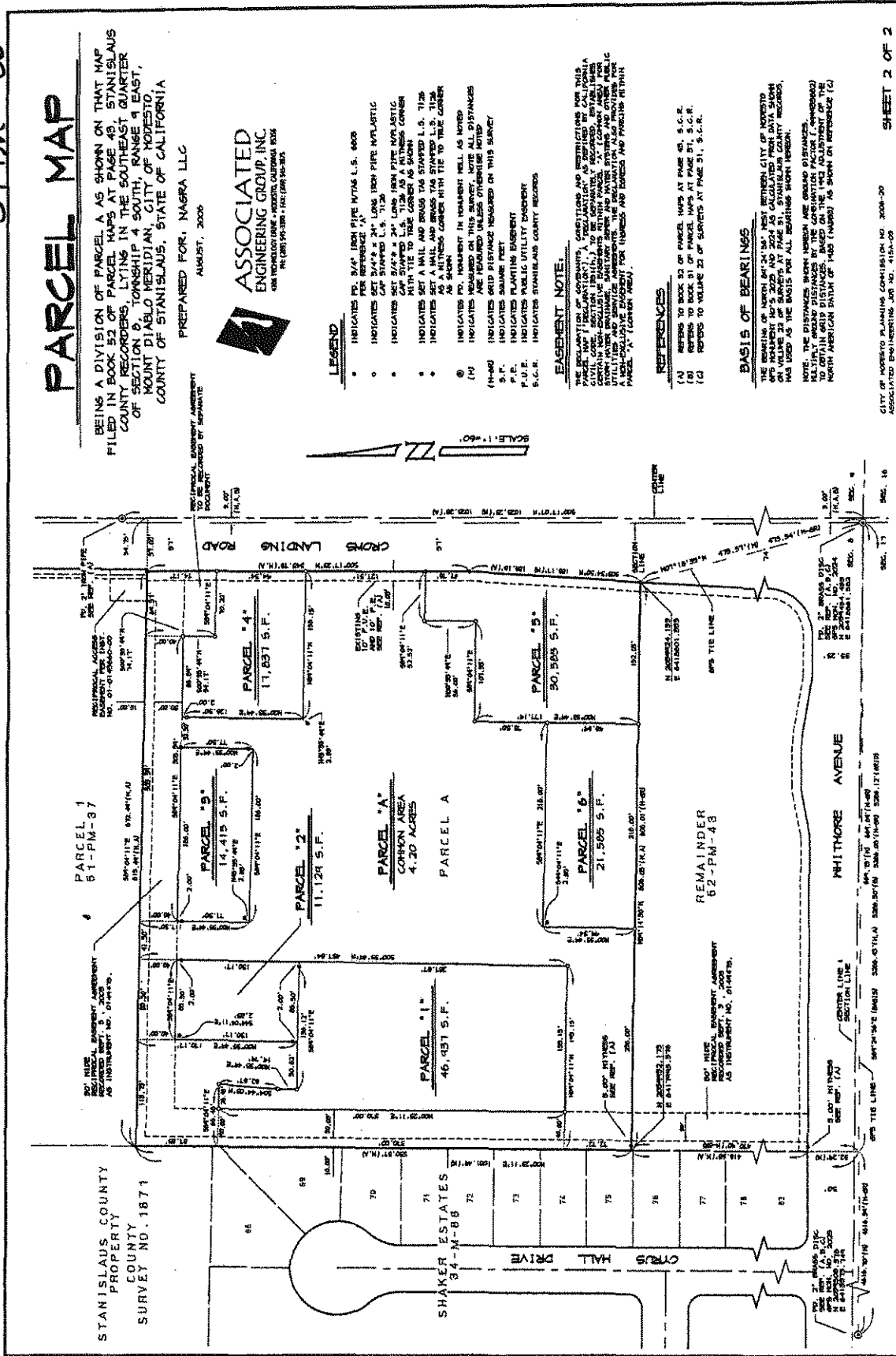
ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

BY: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**Exhibit "A"**

**# 54 PM # 86**



**PARCEL MAP**

BEING A DIVISION OF PARCEL A AS SHOWN ON THAT MAP FILED IN BOOK 52 OF PARCEL MAPS AT PAGE 81, STANISLAUS COUNTY RECORDS, TOWNSHIP 4 SOUTH, RANGE 4 EAST, MOUNT DIABLO MERIDIAN, CITY OF HODDSDON, COUNTY OF STANISLAUS, STATE OF CALIFORNIA. PREPARED FOR: NAGRA LLC, AUGUST, 2008.



**LEGEND**

- INDICATES 3/4" IRON PIPE N.P.M.S. L.S. 6005
- INDICATES SET 3/4"x2" 24" LONG IRON PIPE NYLONASTIC CAP STAKED L.S. 1128
- INDICATES SET 3/4"x2" 24" LONG IRON PIPE NYLONASTIC WITH TIE TO TIE CORNER AS SHOWN
- INDICATES SET A NAIL AND BRASS TIE STAKED L.S. 1128
- INDICATES SET A NAIL AND BRASS TIE STAKED L.S. 1128 AS AN ALTERNATE CORNER WITH TIE TO TIE CORNER
- Ⓞ INDICATES PO. MONUMENT IN TOLLMENT WELL AS NOTED
- (19) INDICATES GRID DISTANCE MEASURED ON THIS SURVEY. NOTE ALL DISTANCES ARE MEASURED UNLESS OTHERWISE NOTED
- (1940) INDICATES READING ELEMENT
- S.P. INDICATES PUBLIC UTILITY EXHIBIT
- P.U.E. INDICATES PUBLIC UTILITY EXHIBIT
- S.C.R. INDICATES STANISLAUS COUNTY RECORDS

**EASEMENT NOTE:**

THE EASEMENTS SHOWN ON THIS PARCEL MAP ARE RESTRICTIONS USE THIS PARCEL MAP IN COMPLIANCE WITH THE CALIFORNIA CIVIL CODE, SECTION 8120. THE EASEMENTS SHOWN ON THIS PARCEL MAP ARE SUBJECT TO ALL OTHER EASEMENTS, RIGHTS, AND INTERESTS AND OTHER PUBLIC RECORDS INCLUDING BUT NOT LIMITED TO A NON-EXCLUSIVE EASEMENT FOR HIGHWAYS AND HIGHWAYS AND FENCIBLE WITHIN PARCEL 'A' (TOLLMENT AREA).

**REFERENCES**

- (A) REFERS TO BOOK 52 OF PARCEL MAPS AT PAGE 81, S.C.R.
- (B) REFERS TO BOOK 52 OF PARCEL MAPS AT PAGE 81, S.C.R.
- (C) REFERS TO VOLUME 23 OF SURVEYS AT PAGE 51, S.C.R.

**BASIS OF BEARINGS**

THE BEARINGS OF NORTH 84°24'30" WEST BETWEEN CITY OF HODDSDON AND PARCEL MAPS 51-PM-87 AND 62-PM-43 AS CALCULATED FROM DATA SHOWN ON THIS PARCEL MAP ARE BASED ON THE CITY OF HODDSDON RECORDS, THE BASIS FOR ALL BEARINGS SHOWN HEREON. BEARINGS ARE MEASURED FROM THE INTERSECTION OF THE BEARING LINE AND THE CENTERLINE OF THE BEARING LINE. THE BEARING LINE IS A LINE DRAWN PARALLEL TO THE CENTERLINE OF THE BEARING LINE. DISTANCES ARE MEASURED FROM THE INTERSECTION OF THE BEARING LINE AND THE CENTERLINE OF THE BEARING LINE. THE DISTANCES ARE MEASURED FROM THE INTERSECTION OF THE BEARING LINE AND THE CENTERLINE OF THE BEARING LINE.

**# 54 PM # 86**

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-699**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT FOR THE PURCHASE OF LIQUID SULPHUR DIOXIDE TO SIERRA CHEMICAL COMPANY OF SPARKS, NEVADA FOR AN INITIAL TWO (2) YEAR PERIOD, WITH THREE (3) ADDITIONAL ONE-YEAR CONTRACT EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR A TOTAL ESTIMATED ANNUAL COST OF \$114,247.00.**

WHEREAS, the Public Works Department-Water Quality Control Plant (WQCP) has requested the purchase of sulphur dioxide (SO<sub>2</sub>), and

WHEREAS, liquid sulphur dioxide is used at the Secondary Water Quality Control facility to dechlorinate secondary treated wastewater before it is discharged into the San Joaquin River, and

WHEREAS, the Secondary Water Control Plant was constructed in 1967, and

WHEREAS, a liquid sulphur dioxide system was installed in 1985, and

WHEREAS, the system consists of one (1) 50,000 pound bulk storage tank and two (2) 1,900 pound sulfonators, and

WHEREAS, failure to perform dechlorination can result in fines up to \$10,000 per day, and

WHEREAS, the City of Modesto is responsible for the proper disinfection of water that is discharged into the San Joaquin River based on the Regional Water Quality Control Board (RWQCB) permit. The RWQCB permit is designed to protect the river habitat and surrounding environment, and

WHEREAS, the river discharge season is from October 1<sup>st</sup> through May 31<sup>st</sup>, and

WHEREAS, Resolution No. 2006-312 authorized the Purchasing Manager to issue bids for liquid sulphur dioxide, and

WHEREAS, the Purchasing Division issued formal bids for liquid sulphur dioxide on Request for Bid (RFB) 0607-04, and

WHEREAS, twenty (20) vendors were solicited, one (1) of which was a local vendor, and

WHEREAS, out of the twenty (20) vendors solicited, three (3) chose to respond, and

WHEREAS, two responses were a no bid, and

WHEREAS, the Purchasing Division and Public Works Department-Water Quality Control Plant staff evaluated bids, and

WHEREAS, the City's 2% local vendor preference was not a factor in determining the lowest responsive and responsible bidder for liquid sulphur dioxide, and

WHEREAS, Sierra Chemical Company of Sparks, Nevada is hereby deemed to be the lowest responsive and responsible bidder for liquid sulphur dioxide, with an estimated annual cost of \$114,274.00, and

WHEREAS, Modesto Municipal Code (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, MMC Section 8-3.203 (a) states that purchases whose total maximum cost to the City exceed \$50,000 shall receive preliminary approval of Council, and

WHEREAS, the liquid sulphur dioxide received said approval with Resolution No. 2006-312, and

WHEREAS, this Request for Bid (RFB) process conforms to the MMC, and

WHEREAS, funds are available in account number 6210-480-5214-0312 for this purchase, and



WHEREAS, the Public Works Department has included \$114,247.00 in their operating budget for sewer operations fund, which includes funding for liquid sulphur dioxide, and

WHEREAS, the estimated annual cost for liquid sulphur dioxide is \$114,247.00 for FY 2006/2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the award of bid and contract for liquid sulphur dioxide for an initial two (2) year period, with three (3) one-year contract extension options, at the sole discretion of the City, for a total estimated annual cost of \$114,247.00.

BE IT FURTHER RESOLVED that it hereby authorizes the Purchasing Manager to issue a purchase order to Sierra Chemical Company of Sparks, Nevada for an estimated annual cost of \$114,247.00.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8<sup>th</sup> day of November 2006, by Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
Jean Morris, City Clerk

APPROVED AS TO FORM:

BY: Susana Alcala Wood  
Susana Alcala Wood, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-700**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO PURCHASE NOVELL LICENSES AND MAINTENANCE RENEWAL FOR THE INFORMATION TECHNOLOGY DEPARTMENT, FROM THE STATE OF CALIFORNIA, DEPARTMENT OF GENERAL SERVICES (DGS), SOFTWARE LICENSE MASTER AGREEMENT THROUGH COMPUCOM, RANCHO CORDOVA, CA FOR A TERM OF ONE (1) YEAR, AT AN ESTIMATED COST OF \$68,174.**

WHEREAS, the Information Technology Department (IT), purchases annual maintenance agreements on most of its software applications for the purpose of receiving technical support and to keep current with software releases, and

WHEREAS, the City of Modesto is currently migrating from the Novell to the Microsoft Exchange platform and GroupWise to Outlook email system, and

WHEREAS, in an effort to allow staff adequate time to effectively migrate historical email and attached documents, the Senior Executive Team encouraged that Novell/GroupWise remain functional for a period of one year beyond the migration to MS Exchange/Outlook, and

WHEREAS, the City has utilized Novell for more than seven years and has during that timeframe always purchased Novell annual maintenance contracts, and

WHEREAS, the annual maintenance contract provides technical support, free Novell upgrades as they occur, and most importantly keeps the City's total license count compliant with our contracted number of licenses, 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, and

WHEREAS, there are exceptions to said 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, and

WHEREAS, “accessing the terms” through the master agreement set in place with the State of California, DGS, for the purchase of Novell licenses and maintenance renewal will ensure that the City will be paying the lowest cost commensurate with the desired quality, and

WHEREAS, this purchase will conform to MMC Section 8-3.204 (d),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue a Purchase Order to CompuCom, Rancho Cordova, CA for the purchase of Novell licenses and maintenance renewal for a term of one (1) year, at the estimated cost of \$68,174.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8<sup>th</sup> day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, CITY CLERK

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, CITY ATTORNEY

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-701**

**A RESOLUTION APPROVING A LEASE AGREEMENT  
BETWEEN THE CITY AND THE MODESTO  
REDEVELOPMENT AGENCY FOR THE PARK  
OPERATION, MAINTENANCE, AND USAGE AT THE 17<sup>TH</sup>  
AND G STREET PARK ("TOWER PARK") AND  
AUTHORIZING THE CITY MANAGER TO SIGN SAID  
LEASE AGREEMENT.**

WHEREAS, On June 27,2006 the City Council and the Agency conducted a joint public hearing and approved the sale and acquisition of Tower Park from the City to the Agency for fair market value of \$770,000, and

WHEREAS, This property was purchased for affordable housing project, and

WHEREAS, In the interim prior to development, staff believes it is desirable that the operation and maintenance of the park continue as well as usage of the property as an open park space, and

WHEREAS, The City has the ability to maintain the operation and maintenance of the park, and

WHEREAS, The City is willing to lease the park from the Agency for \$12 per year, and

WHEREAS, The Agency will absorb the cost of landscape maintenance, utilities and any repair or maintenance needed on the property to maintain it in a reasonably safe and healthy condition, and

WHEREAS, The term of the Lease agreement is for a period of one year with an option to extend the terms of the lease for an additional six months, if required.

BE IT FURTHER RESOLVED, that the City Council of Modesto hereby adopts a Resolution approving a Lease Agreement between the City and the Modesto Redevelopment

Agency ("Agency") for the park operation, maintenance and usage at the 17<sup>th</sup> and G Street park ("Tower Park") and authorizing the City Manager or his designee, to sign said Lease Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8th of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-702**

**A RESOLUTION APPROVING THE INSTALLATION OF CRIME STOPPERS SIGNS THROUGHOUT THE CITY OF MODESTO AT HIGH-CRIME LOCATIONS, AND WAIVING THE INSTALLATION FEE FOR THE FIRST TWELVE (12) SIGNS INSTALLED, WITH THE COST OF ANY ADDITIONAL SIGN INSTALLATION TO BE INCURRED BY CRIME STOPPERS.**

WHEREAS, the Crime Stoppers Board desires to install 18" x 20" red and black Crime Stoppers Signs throughout the city of Modesto in high-crime areas, and

WHEREAS, the Crime Stoppers Board believes these signs will add additional visibility and citizen awareness to lead to the capture and arrest of more wanted criminals, and

WHEREAS, the Crime Stoppers Board will contact Weed and Seed and other crime units to determine the best locations to place these signs, and

WHEREAS, Crime Stoppers is a non-profit organization and is funding the layout, design, and printing material for the signs, and

WHEREAS, the installation fee per sign is \$50.00, and staff is requesting that City crews perform the sign installation at no cost to Crime Stoppers for the first 12 signs, and

WHEREAS, any additional costs for sign installation would have to be incurred by Crime Stoppers, and

WHEREAS, the Safety and Communities Committee reviewed this item at their October 2, 2006 meeting, and recommended approval by the full Council,

NOW, THEREFORE, BE IT RESOLVED that the City Council hereby approves the installation of Crime Stoppers Signs throughout the City of Modesto at high-crime locations.

BE IT FURTHER RESOLVED that the installation fee of \$50.00 per sign be hereby waived for the first twelve (12) signs installed, with the cost of any additional sign installation to be incurred by Crime Stoppers.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8<sup>th</sup> day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-703**

**A RESOLUTION AWARDED A CONSULTANT AGREEMENT WITH DAMON S. WILLIAMS ASSOCIATES, LLC (DSWA) IN THE AMOUNT OF \$49,912.00 TO COMPLETE A CONCEPTUAL REPORT OF WELLHEAD TREATMENT AT WELL 226 AND WRITE A REQUEST FOR PROPOSALS FOR THE APPROPRIATE ARSENIC AND NITRATE REDUCTION TECHNOLOGY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, effective January 1, 2006, the United States Federal Environmental Protection Agency (EPA) set new standards for arsenic in drinking water, and

WHEREAS, the new EPA standards reduced the arsenic from 50 parts per billion (ppb) to 10 ppb, and

WHEREAS, the City of Modesto tests all water wells for arsenic compliance, and

WHEREAS, City Water Well No. 226 located at the Conant Avenue/Brenner Way intersection had a reading of 12 ppb for the first quarter of 2006, and

WHEREAS, the 12 ppb amount exceeds the new EPA limitation and well treatment is now necessary, and

WHEREAS, aboveground treatment alternatives were explored to determine which would be best for this location, and

WHEREAS, each option has advantages and disadvantages, and

WHEREAS, Damon S. Williams Associates, LLC was chosen to assist the City with the design of an arsenic and nitrate removal system for Wellhead Treatment at Well 226, and

WHEREAS, Damon S. Williams Associates, LLC provided a Proposal with Scope of Services for the Well 226 project, and

WHEREAS, staff proposes the City execute an agreement with Damon S. Williams Associates, LLC to provide a Conceptual Design for Wellhead Treatment at Well 226, and to write a Request for Proposals for the appropriate arsenic and nitrate reduction technology,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between City of Modesto and Damon S. Williams Associates, LLC for a Conceptual Report for Wellhead Treatment at Well 226, and to write a Request for Proposals for the appropriate arsenic and nitrate reduction technology in the amount of \$49,912.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-704**

**A RESOLUTION APPROVING AN AMENDMENT TO AGREEMENT WITH RMC WATER AND ENVIRONMENT (RMC), IN THE AMOUNT OF \$12,675, FOR THE COMPLETION OF EXISTING TASKS TO COMPLETE THE CITY'S URBAN WATER MANAGEMENT PLAN, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT**

WHEREAS, the Urban Water Management Planning Act of the California Water Code requires water suppliers in California, providing water for municipal purposes either directly or indirectly to more than 3,000 customers or supplying more than 3,000 acre-feet of water annually, to prepare and adopt an Urban Water Management Plan (UWMP) every five years, which defines their current and future water use, sources of supply and its reliability, and existing conservation measures, and

WHEREAS, the City had previously filed Urban Water Management Plans for 1985, 1990, 1995, and 2000. This UWMP update will address the new legislative requirements of the Urban Water Management Planning Act, and

WHEREAS, in addition to meeting all of the State's legislative requirements, the UWMP will serve as a foundation document supporting water supply assessments, local and regional planning efforts, and the General Plan Updates, and

WHEREAS, the UWMP will also ensure the appropriate level of reliability in water service sufficient to meet the needs of various categories of customers during normal, dry, and multiple dry years, and

WHEREAS, in addition to meeting the minimum requirements of a UWMP, the scope also includes a task to identify and evaluate alternatives for meeting long-term water supply needs, and

WHEREAS, the City is coordinating its preparation of the UWMP with the Modesto Irrigation District (MID). Because the Department of Water Resources (DWR) requires each agency to prepare a separate UWMP, due to differing management objectives, the City is preparing its UWMP from the water supplier's perspective, while MID preparing their UWMP from the water wholesaler's perspective, and

WHEREAS, RMC Water and Environment (RMC), of Walnut Creek, CA, was determined to be the most qualified firm to prepare the City's UWMP, and by Resolution No. 2005-374 the City Council awarded the contract to RMC on July 12, 2005, and

WHEREAS, since the award of the contract, a draft UWMP report has been submitted to the City and MID for review. Due to the sensitive nature of UWMPs and its consequence on future development, a considerable amount of time has been spent for legal review, to ensure that the report adequately addresses water supply issues and reduce any potential liabilities that could result in a finalized UWMP, and

WHEREAS, in September 2006, the City requested that RMC integrate additional items beyond the scope of the existing contract, such as incorporating the City's new policy, based on SB 1087, and

WHEREAS, there are sufficient funds within the existing contract to continue work on the existing tasks, but additional funds are needed to complete the additional work as follows: 1) Task 1: Project management and quality assurance (QA)/quality control (QC); 2) Task 2: Stakeholder coordination and public outreach that will be required for future public hearings; and 3) Task 8: Plan preparation to incorporate updated information and additional tasks in order to finalize the submittal of the UWMP, and

WHEREAS, the original Agreement was for \$121,596 and the additional work associated with this Amendment is \$12,675, which will increase the total Agreement to an amount not-to-exceed \$134,271, and

WHEREAS, the current budgeted amount of \$12,675 for the Amendment to Agreement is available in the CIP Account 6180-430-W410-6010 "Urban Water Management Plan" to cover the cost for these additional services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to Agreement between City of Modesto and RMC Water and Environment, for additional services related to the Urban Water Management Plan in the amount of \$12,675.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Amendment to Agreement.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8th day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST   
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-705**

**A RESOLUTION GRANTING IN PART AND DENYING IN PART THE  
APPEAL OF RONALD MALIK TO A PLANNING COMMISSION DECISION  
REGARDING CONDITION NO. 14 TO THE BRIDGES VESTING TENTATIVE  
PARCEL MAP (MALIK).**

WHEREAS, Modesto Municipal Code Section 4-4.502(c) authorizes the Planning Commission to take action on proposed tentative parcel maps, and

WHEREAS, on July 22, 2005, Ronald Malik submitted an application for a vesting tentative parcel map to divide 24 acres located on the south side of Kiernan Avenue west of Dale Road into 13 lots, and

WHEREAS, a public hearing was held by the Planning Commission on January 9, 2006, 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, at said public hearing applicant's representative expressed concern with certain provisions of Condition No. 14 which requires that the project participate in a shell Community Facilities District (CFD) which includes regional streets, and a contingency storm drainage plan for the project, and

WHEREAS, the Planning Commission continued the public hearing to January 23, 2006, to allow staff and the applicant the opportunity to resolve issues regarding the conditions of approval, and

WHEREAS, a continued public hearing of the Planning Commission was held on January 23, 2006, 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, by Resolution No. 2006-03 the Planning Commission approved the vesting tentative parcel map entitled The Bridges Vesting Tentative parcel map, because the proposed map, together with the provisions for design and improvements, was deemed consistent with the Kiernan Business Park Specific Plan, Modesto Urban Area General Plan, the City of Modesto Municipal Code and State of California Subdivision Map Act, and

WHEREAS, an appeal to the Planning Commission's approval of Condition No. 14 to The Bridges vesting tentative parcel map was filed with the Office of the City Clerk by the applicant's representative George Petrulakis, on February 6, 2006, 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 10<sup>th</sup> Street, Modesto, California, at 5:30 p.m. on March 7, 2006, but was continued for hearing to March 28, 2006, at the applicant's request, and

WHEREAS, said appeal was further continued for hearing to April 25, 2006, then to June 27, 2006, then to August 8, 2006, then to September 26, all at the applicant's request, and

WHEREAS, the hearing was further continued to November 8, 2006, at the joint request of the applicant and staff to allow for further discussions regarding the CFD requirements, and

WHEREAS, after further discussion with the applicant, City staff has agreed that interim storm drainage provisions do not need to be included in the CFD, provided that

certain other conditions related to the storm drainage system are included as part of the parcel map approval, 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 10<sup>th</sup> Street, Modesto, California, at 5:30 p.m. on November 8, 2006, 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 of the City of Modesto found and determined that the decision of the Planning Commission should be affirmed as to all provisions of Condition No. 14 except the provision requiring inclusion of a contingency storm drainage plan but that Condition No. 2 of the approval should be modified, in part to add a financial security requirement related to the provision of storm drainage for the project.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the appeal of Ronald Malik to the decision of the Planning Commission approving Condition No. 14 to The Bridges vesting tentative parcel map is hereby granted in part and denied in part for the reason set forth below:

The proposed Condition No. 14 of the vesting tentative parcel map entitled The Bridges, as revised by the Council's decision on the appeal, together with the provisions for its design and improvements, is consistent with the Kiernan Business Park Specific Plan, Modesto Urban Area General Plan, the City of Modesto Municipal Code, and the State of California Subdivision Map Act,

BE IT FURTHER RESOLVED that the decision of the Planning Commission approving The Bridges parcel map (Planning Commission Resolution No. 2006-03) is



hereby affirmed subject to the following modifications to Conditions of Approval Nos. 2 and 14::

2. Prior to recordation of a parcel map, the developer shall enter into a written agreement with the City of Modesto for the development, use, maintenance and liability, either directly or indirectly, associated with the permanent storage and treatment of stormwater from both the adjacent frontages along Healthcare Way, as well as all on-site stormwater. The agreement shall also include a provision that in the event the retention system fails or is deemed unacceptable by any regulatory entity having jurisdiction over storm water, the developer shall at its sole expense install a positive storm drain system in accordance with City Standards. Failure of the system is defined as failure to meet the design criteria in the Standard Specifications at any time. The agreement shall further require that the applicant provide, and maintain at all times, a cash or cash equivalent financial security to secure applicant's maintenance obligations. The security shall be in an amount required by the Public Works Director and in a form approved by the City Attorney.
  
14. Prior to recordation of a final parcel map, subdivider shall take all actions reasonably necessary to secure and establish a City Mello-Roos Community Facilities District ("CFD") for the Bridges Business Park site for capital improvements and ongoing maintenance composed of street improvements and landscaping and irrigation, as set forth in the Kiernan Business Park Specific Plan to be financed by said CFD or, if said CFD has been established for the Kiernan Business Park Specific Plan, subdivider shall take all actions reasonably necessary to annex its subdivision to said CFD, which shall actually result in annexation of its subdivision to said CFD at the tax rate for the zone of said CFD to which the subdivision is ultimately annexed; or alternatively, in the event complete annexation does not occur for any reason, subdivider may provide a funding mechanism for said capital improvements and ongoing maintenance to the same general standard as other similar capital improvements and ongoing maintenance financed by said CFD, subject to approval of the funding mechanism by the City, such approval not to be unreasonably withheld.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8<sup>th</sup> day of November, 2006, 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: Dunbar, Hawn, Keating, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-706**

**A RESOLUTION APPROVING A DEVELOPMENT PLAN FOR PLANNED DEVELOPMENT ZONE, P-D(576) (BANK OF STOCKTON)**

WHEREAS, a verified application for an amendment to Section 1-3-8 of the Zoning Map was filed by Bank of Stockton on August 18, 2003, to reclassify from Specific Plan Overlay Zone, SP-O, to Planned Development Zone, P-D(576), to allow the development of a bank and a future professional office building, property located on the northeast corner of Pelandale Avenue and Dale Road, described as follows,

SP-O to P-D(576)

All that portion of the north half of the southwest quarter of Section 1, Township 3 South, Range 8 East, Mount Diablo Base and Meridian, particularly described as follows:

Parcel A as shown on the Map recorded in Book 47 of Parcel Maps at Page 46, Stanislaus County Records. Containing 3.00 acres.

Also including the east one-half of Dale Road and North one-half of Pelandale Avenue adjacent to the above described property.

WHEREAS, after a public hearing held on September 11, 2006, in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, it was found and determined by the Planning Commission, by its Resolution No. 2006-60, that rezoning of the property as requested is required by public necessity, convenience, and general welfare for the following reasons:

1. The proposed Planned Development is consistent with the General Plan and Specific Plan designations for the site.
2. The development will provide some much-needed roadway improvements to facilitate the flow of traffic on Dale Road.

WHEREAS, said matter was set for a public hearing of the City Council to be held on November 8, 2006, in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, at which date and time said duly noticed public hearing was held, and

WHEREAS, after said public hearing the Council found and determined that the application of Bank of Stockton 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. 2006-60 and quoted above, and

WHEREAS, the Council has introduced Ordinance No. 3429-C.S. on the 8<sup>th</sup> day of November, reclassifying the above-described property from Specific Plan-Overlay Zone, SP-O to Planned Development Zone, P-D(576).

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(576), is hereby approved subject to the following conditions:

1. Prior to issuance of a building permit, the applicant shall submit, for approval by the Community and Economic Development Director, a set of revised plot plans and building elevations showing any reduction or alteration in the building footprint and providing architecture in accordance with the Kiernan Business Park Specific Plan's design guidelines. All development shall conform to this revised plan as amended in red, stamped approved by the Planning Commission.
2. Development of the future professional office building will require separate site plan and elevations approval by the Planning Commission.
3. Prior to issuance of a building permit, a landscaping and irrigation plan shall be approved by the Parks, Recreation and Neighborhood Director or designee. The temporary stormwater retention basin

shall landscaped and irrigated. Landscaping and the irrigation system shall be installed and maintained in accordance with the approved plan.

4. Prior to issuance of a building permit, developer shall take all actions reasonably necessary to secure and establish a City Mello-Roos Community Facilities District ("CFD") for the area bounded by Dale Road, Pelandale Avenue, Bangs Road and American Avenue for the capital improvements and ongoing maintenance of a regional storm drain basin, right-of-way dedication and improvements for a third lane on Dale Road and the landscaping in the public right-of-way adjacent to the project site to be financed by said CFD or, if said CFD has been established for the area bounded by Dale Road, Pelandale Avenue, Bangs Road and American Avenue, developer shall take all actions reasonably necessary to annex its development to said CFD, which shall actually result in annexation of its development to said CFD at the tax rate for the zone of said CFD to which the development is ultimately annexed; or alternatively, in the event complete annexation does not occur for any reason, developer may provide a fund-in mechanism for said capital improvements and ongoing maintenance to the same general standard as other similar capital improvements and ongoing maintenance financed by said CFD, subject to approval of the funding mechanism by the City, such approval not to be unreasonably withheld.
5. All landscaping, fences, and walls shall be maintained and the premises shall be kept free of weeds, trash, and other debris.
6. Prior to the issuance of a building permit, the developer shall provide the following street dedication as shown on the stamped approved plan:
  - a. 21.5 feet along the Dale Road frontage, flaring at the intersection as required by City Standards and the Public Works Director.
  - b. 16.5 feet along the Pelandale Frontage, flaring at the intersection as required by City Standards and the Public Works Director.
7. Prior to the issuance of Certificate of Occupancy, the developer shall install the following street improvements as shown on the stamped approved plan per City Standards:

- a. A two-foot-wide uninterrupted median paralleling the proposed Dale Road driveway and continuing 100 feet north of the northern edge of the driveway and 100 feet south of the southern edge of the driveway as required by the Public Works Director or designee.
  - b. All improvements necessary for the installation of a third northbound lane along the Dale Road frontage as required by the Public Works Director or designee, including, but not limited to, curb, gutter, sidewalk, streetlights, street pavement and striping and traffic signal relocation.
8. 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.
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. Irrigation lines shall be removed, relocated, or protected as required by the Modesto Irrigation District and the City Engineer or designee. Easements for irrigation lines to remain shall be dedicated.
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 shall be bermed to prevent stormwater run-on and graded to drain to adjacent landscape areas as required by the Public Works director or designee.

14. Prior to occupancy the developer shall execute a Reciprocal Easement Agreement, in a form approved by the City Attorney, which shall provide for vehicular and pedestrian access for the use of the property to the north and east.
15. Prior to issuance of a building permit, the developer shall show on the plans submitted to Building and Development Services all fire hydrants and FDC's required by the Fire Chief. All hydrants and FDC's required by the Fire Chief shall be installed and operable prior to construction of any structures.
16. Internal circulation shall provide adequate emergency services access as determined by the Fire Chief.
17. Prior to issuance of a building permit, a ten-foot-wide public utility easement, and six-foot-wide planting easement located within the ten-foot-wide public utility easements, as required by the City Engineer or designee, shall be dedicated along Pelandale Avenue and Dale Road.
18. Prior to the issuance of a building permit, the developer shall provide an interim storm drainage plan, to the satisfaction of the City Engineer or designee, to accommodate both on-site runoff as well as the runoff from east half of Dale Road and north half Pelandale Avenue adjacent to the project site. On an interim basis, on-site runoff shall be detained in the proposed on-site drainage basin and street drainage shall be accommodated in the public right of way adjacent to the project site and constructed in accordance with the Improvement Plans for Kaiser Modesto Remote Off-Site Improvements. Both the on-site and off-site storm drainage systems shall be designed to ultimately drain into the future regional basin as required by the City Engineer or designee in accordance with City Standards. Storm drain improvements shall be constructed in accordance with the approved plans.
19. Prior to occupancy, the developer shall enter into an agreement for the development, use, maintenance and removal of the temporary storm drain basin, which shall include financial security for the elimination of the temporary storm drain basin and restoration of the basin site as required by the Public Works Director in a form acceptable to the City Attorney.
20. All signs shall comply with the sign requirements of the P-O Zone and the Kiernan Business Park Specific Plan.

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. All development shall conform to the Kiernan Business Park Specific 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:

24. 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.
25. 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.
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. 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.



28. 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.
29. 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.
30. Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site.
31. Suspend excavation and grading activity when winds exceed 20 mph.
32. Limit the area subject to excavation, grading and other construction activity at any one time.
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."

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.
34. If archaeological resources are discovered at any time during construction, all activity shall cease until the site is surveyed by a qualified archaeologist. The survey shall include mitigation measures, which shall be implemented before construction resumes. The survey shall follow the criteria as presented in Appendix K.
35. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.
36. Prior to the issuance of a building permit, the developer shall submit a plan for approval by the Operations and Maintenance Director to provide on-site treatment of storm water in accordance with the guidance manual for new development stormwater quality control measures. Storm drain improvements shall be constructed in accordance with the approved plans.

37. Prior to issuance of a building permit for each of the buildings within the development, the applicant shall pay the water connection fees at the rate in effect at the time of issuance of the building permit.

SECTION 2. DEVELOPMENT SCHEDULE. The following development schedule is hereby approved for said Planned Development Zone, P-D(576):

The construction program be accomplished in two phases as follows:

1. For Phase 1, all development associated with the bank, construction to begin on or before September 11, 2008 and completion to be not later than September 11, 2009.
2. For Phase 2, all development associated with the 10,000 square foot office building, construction to begin on or before September 11, 2010 and completion to be not later than September 11, 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(576), becomes effective.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8<sup>th</sup> day of November, 2006, 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: Dunbar, Hawn, Keating, O'Bryant,  
Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

APPROVED AS TO LEGAL DESCRIPTION

By   
Community & Economic Development Department  
Planning Division

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-707**

**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 1-3-8 OF THE ZONING MAP TO RECLASSIFY FROM SPECIFIC PLAN OVERLAY ZONE, SP-O, TO PLANNED DEVELOPMENT ZONE, P-D(576), PROPERTY LOCATED ON THE NORTHEAST CORNER OF PELANDALE AVENUE AND DALE ROAD (BANK OF STOCKTON)**

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, Bank of Stockton has proposed that the zoning designation for the property located on the northeast corner of Dale Road and Pelandale Avenue, be amended from Specific Plan Overlay Zone, (SP-O), to Planned Development Zone, P-D(576), to allow the development of a bank and a future professional office building, 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. 2006-51 (“Initial Study”) reviewed the proposed amendment to the Zoning Map from Specific Plan Overlay Zone, (SP-O), to Planned Development Zone, P-D(576), 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 October 16, 2006, 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. 2006-60 recommended to the City Council approval of the application of Bank of Stockton to amend Section 1-3-8 of the Zoning Map to rezone from Specific Plan Overlay Zone, (SP-O), to Planned Development Zone, P-D(576), for the property located on the northeast corner of Pelandale Avenue and Dale Road, to allow the development of a bank and a future professional office building as set forth in said Resolution No. 2006-60, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on November 8, 2006, 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(576) to allow a bank and future professional office building, 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 Urban Area General Plan Master EIR (MEIR).
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 identified in the MEIR.
  - b. No new or additional mitigation measures or alternatives are required.
5. The Initial Study, Environmental Assessment No. EA/C&ED 2006-51, provides the substantial evidence to support findings 1-4, noted above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of determination within five (5) business days with the Stanislaus County Clerk pursuant to Section 21152 of the Public Resources Code.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 8<sup>th</sup> day of November, 2006, 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: Dunbar, Hawn, Keating, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney



**EXHIBIT A**

**Initial Study**

**EA/C&ED No. 2006-51**

**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 proposed project, rezone SP-O to P-D for Bank of Stockton, 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 SP-O to P-D for Bank of Stockton
- B. Address or Location: Northeast corner of Dale Road and Pelandale Avenue
- C. Applicant: Bank of Stockton, P.O Box 1110, Stockton, Ca. 95201
- D. City Contact Person: Josh Bridegroom

Project Manager: Josh Bridegroom  
Department: Community and Economic Development Department  
Phone Number: (209) 577-5267  
E-mail address: jbridegroom@modestogov.com

- E. Current General Plan Designation(s): BP
- F. Current Zoning Classification(s): SP-O
- G. Surrounding Land Uses: North: Church Facilities  
South: Pelandale Avenue/Commercial  
East: Church Facilities  
West: Dale Road/Commercial

- 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-referenced property from SP-O (Specific Plan-Overlay) to P-D (Planned Development) to allow the development of an 8,620 square foot bank, associated parking and a temporary stormwater retention basin. A professional office building is proposed to be developed in the future over the area designated for the temporary stormwater retention basin.

The development is proposed to obtain ingress and egress to the public street system via a single right-in, right-out connection to Dale Road; left turn access into the development from southbound traffic on Dale Road will be precluded by a developer-installed median. Reciprocal access connections are proposed to the properties to the north and east to provide for improved future circulation within the Kiernan Business Park Specific Plan area.

The developer proposes to dedicate and provide improvements for three northbound lanes on Dale Road along the project frontage and to provide dedication on the Pelandale Expressway in accordance with City Standards.

- I. Other Public Agencies Whose Approval is Required: None

**III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)**

1. 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:

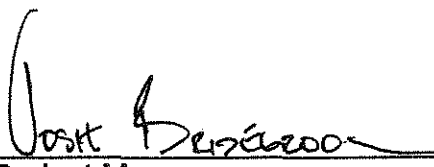
- A. The type of project is described in Chapter II of the Master EIR.
- B. All applicable policies, regulations, and mitigation measures identified in the Master EIR have been applied to the project or otherwise made conditions of approval of the project.
- C. An Initial Study was prepared by the City 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

ASSOCIATE PLANNER  
Title

9/16/06  
Date

#### 4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

- |   | YES | NO                       |
|---|-----|--------------------------|
| (1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.  | X   | <input type="checkbox"/> |
| (2) City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. | X   | <input type="checkbox"/> |
| (3) Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).  | X   | <input type="checkbox"/> |
| (4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.  | X   | <input type="checkbox"/> |
| (5) The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.  | X   | <input type="checkbox"/> |
| (6) Development within the project will comply with all mitigation measures identified in the General Plan Master EIR.  | X   | <input type="checkbox"/> |

#### 5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any no response must be discussed.

- |   | YES | NO                       |
|---|-----|--------------------------|
| (1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project.  | X   | <input type="checkbox"/> |
| (2) This project was described in the Master EIR and its approval will not affect the adequacy of the Master EIR for any subsequent project because the City can make the following findings: . | X   | <input type="checkbox"/> |
| (3) No substantial changes have occurred with respect to the circumstances under which the Master EIR was certified.  | X   | <input type="checkbox"/> |

- (4) No new information, which was not known and could not have been known at the time the Master EIR was certified as complete, has become available. X
- (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 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.

**c. Project-Specific Effects**

Section V-1.B of the MEJR 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.	<input type="checkbox"/>	X
(2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	<input type="checkbox"/>	X
(3) Result in inadequate emergency access.	<input type="checkbox"/>	X
(4) Result in inadequate parking capacity.	<input type="checkbox"/>	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 as supplemented by the Kaiser EIR. 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, as conditioned, is in accordance to City

standards.

- (3) Fire and Police Staff have reviewed this proposal and have determined that the existing layout, as conditioned, does not create an emergency access problem.
- (4) The project meets City Standards in terms of the number of parking spaces required on-site.

## 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

### c. Project-Specific Effects

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- |  | YES                      | NO |
|--|--------------------------|----|
| (1) The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines. | <input type="checkbox"/> | X  |
| (2) The project does not incorporate the best management practices for   | <input type="checkbox"/> | X  |



PM10 reduction established by the SJVUAPCD.

- |     |   |                          |   |
|-----|---|--------------------------|---|
| (3) | The project does not comply with the air quality policies of the Modesto Urban Area General Plan. | <input type="checkbox"/> | X |
| (4) | The project would expose sensitive receptors to substantial pollutant concentrations.             | <input type="checkbox"/> | X |
| (5) | The project would create objectionable odors affecting a substantial number of people.            | <input type="checkbox"/> | X |

Discussion:

- (1) The project is within the scope of the Master EIR for traffic related impacts. Therefore, it should be within the scope of the Master EIR for CO and NOx emissions, in that these pollutants are traffic induced.
- (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 in that it is an office development. Thus, the main source of pollution that would come with the development is traffic related. Since the traffic impacts are within the scope of the MEIR, 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 development should not produce objectionable odors; in that office buildings generally do not.

**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:

Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

**c. Project-Specific Effects**

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	<input type="checkbox"/>	X
(2)	The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(3)	The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	X
(4)	The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	<input type="checkbox"/>	X

Discussion:

- (1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.
- (2) The project is consistent with what the General Plan assumed for the site both in land use and intensity and 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. 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.

##### 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:

There are no mitigation measure applicable to this project.

##### c. Project-Specific Effects

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- |  | YES                      | NO |
|--|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.  | <input type="checkbox"/> | X  |
| (2) The project will directly result in the development of land outside the March 2003 planning area boundaries. | <input type="checkbox"/> | X  |
| (3) The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.           | <input type="checkbox"/> | X  |

- (4) The project will involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.  X

Discussion:

- (1) The project is consistent with the General Plan land use policies. It is being proposed on fallow land in an area designated by the General Plan as Planned Urbanizing. The areas designated in the General Plan and MEIR as Important Farmland are not affected by this development.
- (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. It is taking place in an area designated in the General Plan and MEIR as Planned Urbanizing and is not extending infrastructure to land designated as Important Farmland.

## 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:

Mitigation Measures appropriate to this project include: WS-11

### c. Project-Specific Effects

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- |   | YES                      | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (2) Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed. | <input type="checkbox"/> | X  |

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
- (2) The City has determined that it is experiencing a cumulative deficiency in water supply for new development throughout the City's service area. According to the City's recent long-term water supply analyses, the anticipated growth of the City's urban area will increase overall demand for water. By 2010, the demand will exceed the City's assured supply, which is currently provided through treated surface water and the pumping of the groundwater basin (up to the safe yield). Water demand exceeding the assured supply in the future is a significant cumulative environmental impact. (See Stanislaus Natural Heritage Project v. County of Stanislaus (1995) 48 Cal.App.4th 182.) Each new development, which creates a demand on the City's water system, contributes to this significant cumulative impact.

The City has thus implemented a long-term program for securing and developing additional water supplies, including the expansion of the Modesto Surface Water Treatment Facility, and has established a mitigation fee program, in the form of increased water connection fees, in order to fund the cost of developing these new water supplies. Payment of the new water connection fees represents a project's fair share of the cost of mitigating this significant cumulative impact, and the applicants have agreed to a condition requiring payment of the new water connection fees.

## 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.   | <input type="checkbox"/> | X  |
| (2) The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments. | <input type="checkbox"/> | X  |

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
- (2) The project was referred to Public Works 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 V, Mitigation Measures Applied to Project:

Discussion:

There are no mitigation measure applicable to this project. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

**c. Project-Specific Effects**

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	<input type="checkbox"/>	X
(3) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<input type="checkbox"/>	X

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
- (2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.
- (3) There is no conflict with any local policies or ordinances protecting biological resources

**8. ARCHAEOLOGICAL OR HISTORICAL SITES**

**a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.



**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 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-12, Master EIR.

**c. Project-Specific Effects**

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site.	<input type="checkbox"/>	X

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.
- (2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. The mitigation measure called for by the General Plan is incorporated into the conditions of approval for the project.

**9. STORM DRAINAGE**

**a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase

in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered less than significant.

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. This cumulative impact is considered significant and unavoidable.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Measures Applied to Project:

Discussion:

Mitigation measures appropriate to this project include: SD-7, MEIR.

**c. Project-Specific Effects**

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2)	The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.	<input type="checkbox"/>	X
(3)	Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	<input type="checkbox"/>	X

### Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.
- (2) The project proposes to increase the impervious surface. However, it should be designed to meet the standards contained in the "Guidance Manual for New Development-Storm Water Quality Control Measures," adopted by the City and applied to the project as a Mitigation Measure. With the application of the appropriate mitigation, the effect will be less than significant.
- (3) The project will contribute additional water runoff. However, with the application of the mitigation measures called for in the conditions of approval for the project, the effect will be less than significant.

## **10. FLOODING AND WATER QUALITY**

### **a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to flooding and water quality:

Effect: Increased runoff can accelerate soil erosion, stream channel scouring, and sedimentation of channels, and also increase pollutant transport to waterways. The potential impacts of the project on flooding are considered less than significant because the Urban Area General Plan Update includes policies to restrict development in the floodplain and therefore would avoid exposing persons and property to flood hazards. In addition, new development under the Urban Area General Plan is required to install storm water drainage facilities that restrict the amount of post-development runoff from exceeding pre-development conditions.

Effect: The potential impacts of the project on surface-water quality are considered less than significant because the City policies and capital improvement projects for storm water drainage facilities would minimize discharges of urban pollutants to natural waterways. The City drainage program policies require new development to prepare drainage plans and implement urban runoff control measures; larger Specific Plan developments must have storm drainage systems designed to control pollutant runoff. The City's implementation policies for the municipal NPDES storm water permit require new development to implement an appropriate selection of permanent pollution control measures. Permanent erosion control measures such as seeding and planting vegetation for new cut-and-fill slopes, directing runoff through vegetation, or otherwise reducing the offsite discharge of particulates and sediment are the most effective method of controlling offsite discharges of urban pollutants.

Effect: The City's future development will contribute to cumulative water quality effects. EPA regulations for NPDES storm water permits and new proposed regulatory additions to the rules have become much more comprehensive in recent years and are being implemented to reduce pollutant runoff from both large- and small-scale activities. Implementation of NPDES-permitting programs throughout the county will reduce potential water-quality impacts to a less-than-significant level.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Flooding and Water Quality mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-10-7 through V-10-10 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project are listed in Section V, Mitigation Applied to Project:

Discussion:

Mitigation measures appropriate to this project include: FWQ-14, MEIR.

**c. Project-Specific Effects**

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	<input type="checkbox"/>	X
(3) The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	<input type="checkbox"/>	X
(4) The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff.	<input type="checkbox"/>	X

Discussion:

- (1) The project is consistent with the General Plan Designation for the site both in 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. The appropriate mitigation measures will be applied to the project.

**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:

There are no mitigation measures applicable to this 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. | <input type="checkbox"/> | <input checked="" type="checkbox"/> X |

Discussion:

- (1) The project is consistent with the General Plan 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, 8 middle schools, and 7 high schools beyond 1994/1995 levels. This would result in a significant impact on schools in that it would exceed current capacity. By statute, this impact is considered to be mitigated below a level of significance by payment of school impact fees and exercise of any or all of the financing options set out in Government Code Section 65997.

### b. Master EIR and/or New Mitigation Measures Applied to the Project

The Master EIR did not identify any new mitigation measures. Mitigation relies upon the implementation of the policies in place under the Modesto Urban Area General Plan. ). As long as all anticipated subsequent projects apply these policies, no new mitigation is necessary. Further, payment of school impact fees and compliance with SB 50 is statutorily deemed to be full mitigation of school impacts (Government Code Section 65995). The proposed additional school policy will address the situation that would arise should AB 50 be repealed. It will authorize impact fees or other methods to finance additional school facilities.

The following schools mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See pages V-12-4 through V-12-7 of the MEIR. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section V, Mitigation Applied to Project:

#### Discussion:

There are no mitigation measures applicable to this project.

### c. Project-Specific Effects

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- |   | YES                      | NO                                  |
|---|--------------------------|-------------------------------------|
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

- (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 includes no residential student-gathering component.

**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. | <input type="checkbox"/> | X  |
| (2) The project would result in the need for construction of new or       | <input type="checkbox"/> | X  |

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 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.

#### **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 this project.

##### **c. Project-Specific Effects**

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.



Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- |  | YES                      | NO |
|--|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.  | <input type="checkbox"/> | X  |
| (2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. | <input type="checkbox"/> | X  |

Discussion:

- (1) The project is consistent with the General Plan 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.

## 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.   | <input type="checkbox"/> | X  |
| (2) The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity. | <input type="checkbox"/> | X  |

#### Discussion:

- (1) The project is consistent with the General Plan in both land use and intensity.
- (2) This project was referred to the County and Solid Waste Division of the Public Works Department 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 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-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less than significant unless:

- |   | YES                      | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (2) The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.                                | <input type="checkbox"/> | X  |
| (3) The project contains a contaminated site not identified as of March 2003.   | <input type="checkbox"/> | X  |
| (4) The project would emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.  | <input type="checkbox"/> | X  |
| (5) The project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and as a result, would create a significant hazard to the public or the environment. | <input type="checkbox"/> | X  |

#### Discussion:

- (1) The project is consistent with the General Plan 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.
- (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. It is an office development.
- (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 this project.

### **c. Project-Specific Effects**

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds: The project-specific effects will be less than significant unless:

- |   | YES                      | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (2) The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse. | <input type="checkbox"/> | X  |

#### Discussion:

- (1) The project is consistent with the General Plan in both land use and intensity.
- (2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

**18. ENERGY**

**a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less than significant.

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and 650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. The impact is less than significant.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 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.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Discussion:

(1) The project is consistent with the General Plan in both land use and intensity.

## 19. PLANNING AND LAND USE

The Master EIR was certified for the Modesto Urban Area General Plan. The significant effects described in the 18 subject areas contained in the Master EIR are based on the planning policies and diagrams adopted as part of the General Plan. Planning and land use were not among the 18 subject areas analyzed in the Master EIR because they essentially defined the project being evaluated in the EIR.

### a. Project-Specific Effects

Determination of project effects will be based on the following threshold. A project-specific effect is less than significant unless:

- |  | YES                      | NO |
|--|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.                | <input type="checkbox"/> | X  |
| (2) The project includes a substantive amendment to the Modesto Urban Area General Plan. | <input type="checkbox"/> | X  |
| (3) The project would physically divide an established community                         | <input type="checkbox"/> | X  |

#### Discussion:

- (1) The project is consistent with the General Plan in both land use and intensity.
- (2) No amendment to the General Plan is required by this project.
- (3) The project 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 significant unless:

- |  | YES                      | NO |
|--|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.  | <input type="checkbox"/> | X  |
| (2) The project would have a substantial adverse effect on a scenic vista.   | <input type="checkbox"/> | X  |
| (3) The project would substantially degrade the existing visual character or quality of the project site and its surroundings. | <input type="checkbox"/> | X  |

- (4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area.  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.
- (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).

**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.

A Mitigated Negative Declaration/EIR shall be prepared for the project and the following additional project-specific mitigation measures listed below are necessary to reduce the identified new significant effect:

**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.
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; and
9. Limit the area subject to excavation, grading and other construction activity at any one time.

**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:**

- 1. Prior to issuance of a building permit for each of the buildings within the development, the applicant shall pay the water connection fees at the rate in effect at the time of issuance of the building permit.

**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. Prior to the issuance of a building permit, the developer shall submit a plan for approval by the Operations and Maintenance Director to provide on-site treatment of storm water in accordance with the guidance manual for new development stormwater quality control measures. Storm drain improvements shall be constructed in accordance with the approved plans.
2. 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. Prior to the issuance of a building permit, the developer shall submit a plan for approval by the Operations and Maintenance Director to provide on-site treatment of storm water in accordance with the guidance manual for new development stormwater quality control measures. Storm drain improvements shall be constructed in accordance with the approved plans.
2. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

**Parks and Open Space Measures:**

N/A

**Schools Measures:**

N/A

**Police Services:**

N/A

**Fire Services:**

N/A

**Generation of Solid Waste**

N/A

**Generation of Hazardous Materials**

N/A

**Potential for Landslides and Seismic Activity**

N/A

**Energy**

N/A

**Planning and Land Use**

N/A

**Aesthetics**

N/A

**B. New or Additional Mitigation Measures or Alternatives Required**

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: ***None.***

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-708**

**A RESOLUTION APPROVING THE REALLOCATION OF THE CURRENT WASTE MANAGEMENT SERVICE AREA TO GILTON SOLID WASTE AND BERTOLOTTI DISPOSAL, REVISING THE SERVICE AREA MAP ON FILE WITH THE CITY CLERK FOR THE COLLECTION OF SOLID WASTE, INCLUDING GARBAGE, INDUSTRIAL GARBAGE, CONTAINERIZED GREEN WASTE, COMMINGLED GARBAGE/RECYCLABLES, RECYCLABLE MATERIALS, AND SALVAGABLE WASTE, ADDING CANCELLATION CLAUSE AND AUTHORIZING THE CITY MANAGER TO EXECUTE A LETTER AMENDMENT TO THE SERVICE AGREEMENTS REFERENCING THE NEW MAP.**

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1990 ("AB 939"), has declared that it is within the public interest to authorize and require local agencies to make adequate provisions for handling solid waste, including garbage, garbage/recyclables, recyclables, yard waste, industrial garbage, and salvageable waste handling within their jurisdictions, and

WHEREAS, pursuant to California Public Resources Code Section 40059, the City Council of the City of Modesto has determined that the public health, safety, and well-being require that a service agreement be executed with a qualified firm for the collection, transport, recycling, and disposal of solid waste, including garbage, garbage/recyclables, recyclables, containerized yard waste, industrial garbage, and salvageable waste in residential, commercial, and industrial areas and construction/demolition sites in the CITY, and

WHEREAS, the City Council of the City of Modesto declares its intention of maintaining reasonable rates for the services to be provided within the City limits by COLLECTOR under this Agreement, and

WHEREAS, pursuant to California Public Resources Code Section 49510 (b), the City Council of the City of Modesto finds that it is in the public interest to foster and encourage solid waste enterprises so that, at all times, there will continue to be competent enterprises willingly and financially able to furnish needed solid waste handling services, and

WHEREAS, Section 5-5.23 through 5-5.31 of the Modesto Municipal Code, inclusive, establish the process by which proposals may be submitted to enter into service agreements with the City, and the procedure by which the City reviews and determines whether to enter into such service agreements, and

WHEREAS, Gilton, Solid Waste and Bertolotti Disposal have submitted proposals to provide services within the area currently served by Waste Management, and

WHEREAS, staff has concluded that reallocating the service areas and allowing these companies to provide services in this area under the terms and conditions of their current agreements presents the least risk to the City, and would reward two local companies for their dedicated service to the community, and

WHEREAS, at the October 30, 2006, meeting of the Economic Development Committee, the Committee voted unanimously to forward a recommendation to the City Council to reallocate the current Waste Management Service Area to Gilton Solid Waste and Bertolotti Disposal, and

WHEREAS, the City Council has held the required public hearing and considered testimony related thereto, and

WHEREAS, the City Council has added to Section U of the Service Agreement as follows: “COLLECTOR shall notify CITY of its intent to cease providing service within the City of Modesto no less than 18 months prior to ceasing to provide services.”

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Council of the City of Modesto that the revised Service Area Map shown as Option 2 in the November 8, 2006, City Council staff report for the Public Hearing on Requests to Enter into Service Agreements for Solid Waste Collection Services in the Service Area Currently Held by Waste Management, a copy of which is attached hereto as ‘**Exhibit 1**’ and incorporated herein by reference, will be adopted, in which Map customers at build out are allocated to the two service providers in the following ratios; Gilton Solid Waste Sixty-nine percent (69%) and Bertolotti Disposal thirty-one percent (31%).

BE IT FURTHER RESOLVED by the Council that the reallocated areas will be served under the terms and conditions of the current Service Agreements with the two companies.

BE IT FURTHER RESOLVED by the Council that it hereby authorizes the City Manager to execute a letter amendment with Gilton Solid Waste and Bertolotti Disposal referencing the revised Service Area Map as the correct map; and

BE IT FURTHER RESOLVED by the Council that at such time of adoption of Map 2 as referenced above, that certain map entitled “Service Areas” dated January 23, 2001, on file in the office of the City Clerk, will become void.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 8<sup>th</sup> day of November, 2006, 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: Dunbar, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST: Jean Morris

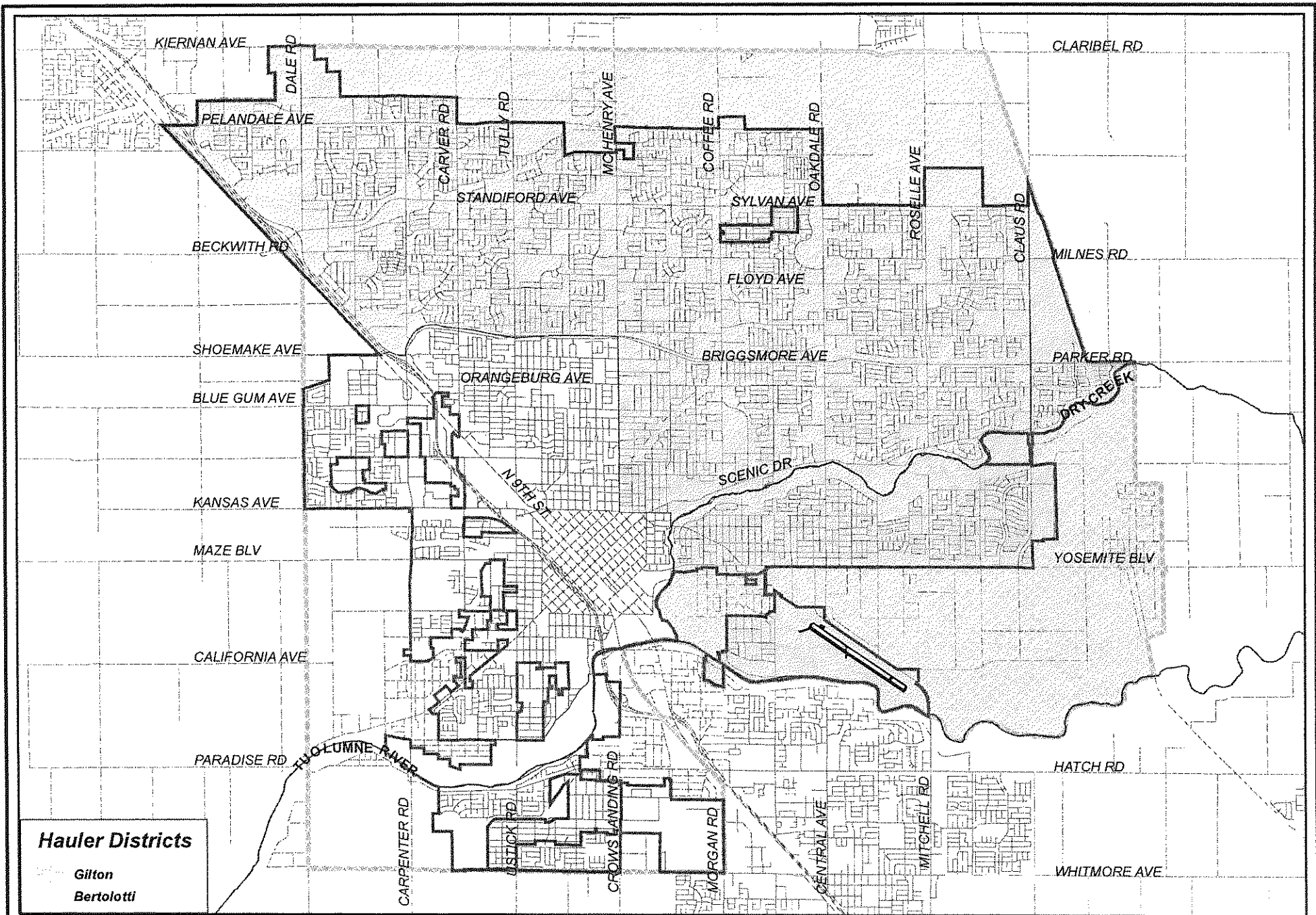
JEAN MORRIS, City Clerk

(SEAL)



APPROVED AS TO FORM:

By Susana Alcala Wood

SUSANA ALCALA WOOD, City Attorney



**Hauler Districts**

-  Gilton
-  Bertolotti



November 9, 2006

**City of Modesto**  
 Council Approved: November 8, 2006  
 Effective January 1, 2007





MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-709

A RESOLUTION AMENDING THE  
FISCAL YEAR 2006-2007 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain year-end adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2006-2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2006-2007 budget have been adjusted as shown in **Schedule A.**

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 14<sup>th</sup> day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following votes:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(seal)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MONTHLY BUDGET ADJUSTMENTS – OCTOBER 2006  
SCHEDULE A**

***Parks, Recreation & Neighborhoods***

Recycling Program/Additional Unbudgeted Revenue

To:	Commercial Recycling Fees Revenue Acct #0310-355-4402-4097	\$30,000
	Industrial Recycling Fees Revenue Acct #0310-355-4402-4098	\$30,000
	Residential Recycling Fees Revenue Acct #0310-355-4402-4096	\$64,739
To:	Promotional Expense Acct #0310-355-4402-0237	\$30,000
	Advertising Acct #0310-355-4402-0230	\$30,000
	Salary/Benefit Acct #0310-355-4402-0110/0188	\$15,000
	Advertising Acct #0310-355-4402-0230	\$9,739
	Promotional Acct #0310-355-4402-0237	\$40,000

CDBG Operating/HUD Annual Action Plan

To:	CDBG Carryover Revenue Acct #1130-320-3252-3511	\$ 3,223
	CDBG Carryover Revenue Acct #1130-320-3256-3511	\$ 5,698
From:	Homebuyer Acct #1130-320-3254-0494	\$( 3,000)
	Professional Services Acct #1130-320-3254-0235	\$( 3,000)
	Paint and Insulation Rebate Acct #1130-320-3256-1101	\$( 500)
	Real Estate Property Rental	\$(16,126)
	Professional Services Acct #1130-320-3252-0235	\$( 3,223)
To:	Direct Loans (DPAP) Acct #1130-320-3254-0497	\$ 3,000
	Property Enhancement Program Acct #1130-320-3256-0261	\$ 3,500
	Professional Services Acct #1130-320-3256-0235	\$ 10,428

CDBG/Crime Free Housing

To:	CDBG Carryover Revenue Acct #1130-320-3254-3511	\$110,000
From:	CDBG Direct Grants Acct #1130-320-3254-0496	\$110,000

***Public Works Department***

Project #A008 Airport Parking Lot Expansion

From:	FAA Capital Grant Acct #6320-440-A008-3613	\$652,544
To:	Engineering Design Acct #6320-440-A008-6010	\$ 49,902
	Construction Acct #6320-440-A008-6040	\$604,444
	Construction Administration Acct #6320-440-A008-6060	\$ 66,000

**MONTHLY BUDGET ADJUSTMENTS – OCTOBER 2006**  
**SCHEDULE A**

Project #E635/Arterial Roundabouts

From: Project Revenue Acct #1410-160-E635-3531	\$(563,703)
Project Expense Acct #1410-160-E635-6040	\$(563,703)

Project #Q312/Sylvan-Roselle Intersection

To: Project Revenue Acct #2691-020-Q312-3607	\$342,378
Project Expenditure Acct #2691-020-Q312-6040	\$342,378

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-710**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF CAST IRON AND DUCTILE IRON FITTINGS AND SPOOLS, 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 \$130,000**

WHEREAS, the Finance Department, Central Stores Division inventories various materials for use by the Public Works Department, Water Division for City services and projects, including cast iron and ductile iron fittings and spools, and

WHEREAS, these fittings and spools are used to connect water mains to residential homes and businesses, and

WHEREAS, these fittings and spools shall be purchased from an annual agreement as “inventory stock”, and warehoused by the Central Stores Division for release to the Water Division, and

WHEREAS, the need and specifications for these items have been developed over time through collaboration between Central Stores staff and Water Division personnel requesting the materials, and

WHEREAS, competitively bidding and inventorying these materials benefit the City in many ways. Some of the benefits include:

- Consolidation of Citywide requirements to obtain firm pricing for a specified period of time, thereby avoiding price increases in a potentially volatile market.
- Materials are readily available in one location and crews are on the job more quickly and for longer periods.

- Reduction of staff time used in processing one-time bids throughout the year, and

WHEREAS, by issuing formal Request for Bids, the City will achieve the best value for cast iron and ductile iron fittings and spools, and meet Modesto Municipal Code requirements for formal bids, 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 the purchase of cast iron and ductile iron fittings and spools will conform to code, and

WHEREAS, funds are budgeted and available in account 6100-480-5012-0360 for the purchase of cast iron and ductile fittings and spools for FY 06/07,

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 cast iron and ductile iron fittings and spools, 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 14<sup>th</sup> day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmemeber Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
Jean Morris, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
Susana Alcala Wood, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-711**

**A RESOLUTION AUTHORIZING THE AWARD OF BID AND CONTRACT  
FOR THE PURCHASE OF MARTIX, HIGH DENSITY, STACKING CHAIRS  
FOR THE MODESTO CENTRE PLAZA, TO OFFICE DEPOT, MODESTO, CA,  
FOR A TOTAL ESTIMATED COST OF \$146,792.37**

WHEREAS, the current inventory of event chairs at the Modesto Centre Plaza is approximately eighteen (18) years old, purchased when the Centre Plaza opened in 1988, and

WHEREAS, the chair inventory has deteriorated to the point where there often are not enough acceptable chairs to set the rooms for larger events, and

WHEREAS, the current condition and supply of chairs is not acceptable to meet the many needs of the clients hosted at the Modesto Centre Plaza, and

WHEREAS, the purchase of 2,000 new chairs will completely replace the current inventory, and

WHEREAS, on April 25, 2006, Council approved Resolution No. 2006-238 authorizing the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of matrix, high density, stacking chairs for the Modesto Centre Plaza, and

WHEREAS, on July 27, 2006, the Purchasing Division issued Request for Bid No. 0506-30 for the purchase of matrix, high density, stacking chairs to fifteen (15) prospective bidders, six (6) of which were local companies, posted the bid on the City's web site, and formally advertised as required by law, and

WHEREAS, on August 29, 2006, RFB's were formally opened in the City Clerk's office, and

WHEREAS, of the fifteen (15) prospective bidders, six (6) companies chose to respond, and

WHEREAS, two (2) companies submitted bids that were disqualified, and

WHEREAS, RFB specification 3.1 Required Documents, states:

- Failure to furnish two (2) "inked" signed original bid documents will result in disqualification.
- Failure to furnish the required documents may result in disqualification, and

WHEREAS, one (1) company submitted only one (1) original bid document, and

WHEREAS, their bid submittal was disqualified and received no consideration, and

WHEREAS, one (1) company did not provide product brochures or specification sheets, which were requested in one of the required documents, it could not be determined if the chair bid met the required minimum specifications outlined in the RFB, and

WHEREAS, on September 18, 2006, an email was sent to the company requesting detailed manufacturer specifications that would support the required minimum technical specifications, to ensure quality, safety and durability, and

WHEREAS, the company did not respond to the email, or furnish the requested information, and

WHEREAS, their bid was disqualified and received no further consideration, and

WHEREAS, two (2) companies submitted bids, which required further information to determine if the chairs bid met the required minimum specifications, and



WHEREAS, on September 18, 2006, an email was sent to each company requesting detailed manufacturer specifications that would support the required minimum technical specifications, to ensure quality, safety and durability, and

WHEREAS, both companies furnished the requested information, and

WHEREAS, this data was forwarded to the Modesto Centre Plaza, Technical Liaisons for evaluation and summary. As a result of this review, the Technical Liaison Team expressed two primary concerns:

- Chairs are not made for Centre's existing racks. Rack shown is much larger than current racking and would affect storage options. Additionally, based on the dimensions given, chairs would protrude four (4) inches over front of rack. Weight could shift to back of rack and affect how many chairs could fit on a rack.
- The dimensions of the chairs are larger than current chair, which will affect set capacity levels, and

WHEREAS, one (1) company submitted a bid that included bid pricing for two (2) alternate chairs, and further information was needed to determine if the chairs bid met the required minimum specifications, and

WHEREAS, on September 18, 2006, an email was sent to the company requesting detailed manufacturer specifications that would support the required minimum technical specifications, to ensure quality, safety and durability, and

WHEREAS, the company furnished the requested information, and

WHEREAS, this data was forwarded to the Modesto Centre Plaza, Technical Liaisons for evaluation and summary. This review indicated:

- Chairs do not have a cross bar. RFB specifications require a cross bar for additional support.
- The dimensions of the chairs are larger than current chair, which will affect set capacity levels.

WHEREAS, based on providing a responsive and responsible bid, City staff recommends the award of bid and contract for the purchase of matrix, high density, stacking chairs for the Modesto Centre Plaza to, Office Depot, Modesto, CA, for a total estimated cost of \$146,792.37, 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 matrix, high density, stacking chairs for the Modesto Centre Plaza, conforms to code requirements,

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 matrix, high density, stacking chairs for the Modesto Centre Plaza, to Office Depot, Modesto, CA, for a total estimated cost of \$146,792.37.

BE IT FURTHER RESOLVED that the Purchasing Manager is hereby authorized to issue a purchase order for the purchase of matrix, high density, stacking chairs for the Modesto Centre Plaza, to Office Depot, Modesto, CA, for a total estimated cost of \$146,792.37.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
Jean Morris, City Clerk

APPROVED AS TO FORM:

By:   
Susana Alcalá Wood, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-712**

**A RESOLUTION APPROVING AN AMENDMENT TO THE  
GUIDELINES FOR THE CITY OF MODESTO'S FIRST TIME  
HOMEBUYER MORTGAGE ASSISTANCE PROGRAM  
FUNDED THROUGH STATE CALHOME FUNDS TO  
INCREASE THE MAXIMUM LOAN AMOUNT TO \$100,000.**

WHEREAS, on October 3, 2003, the City of Modesto submitted an application to the Department of Housing and Community Development for a \$300,000 grant to fund the City's First Time Homebuyer Mortgage Assistance Program, and

WHEREAS, staff was notified on February 4, 2004, that the City of Modesto was awarded \$300,000 in funding from the State of California's Department of Housing and Community Development, CalHome Program for First-Time Homebuyers Mortgage Assistance, and

WHEREAS, CalHome requires that each City develop the guidelines for this program based on CalHome regulations, and

WHEREAS, the current guidelines have a maximum loan amount of \$60,000, and

WHEREAS, staff is recommending that the maximum loan amount be increased to \$100,000 only for the CalHome First Time Homebuyers Mortgage Assistance Program so the funds can be utilized, and

WHEREAS, said guidelines are attached hereto as **Exhibit "A"** and made a part hereof,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves an amendment to the guidelines for the City of Modesto's First Time Homebuyer Mortgage Assistance Program funded through CalHome Funds to increase the

maximum loan amount from \$60,000 to \$100,000 for the First Time Homebuyer Mortgage Assistance Program.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**City of Modesto  
FTHB Mortgage Assistance Program  
CalHome Program Requirements**

**1. Overview**

The State of California CalHome Program is one of the funding sources providing assistance to eligible Borrowers under this program.

**2. Eligible Use of Funds**

CalHome funds may be use only for the provision of permanent secondary mortgage assistance to first time homebuyers in connection with a new primary mortgage loan for the purchase of a principal place of residence.

**3. Ineligible Uses of Funds**

CalHome funds may not be use for:

- a. Refinancing existing loans
- b. Recurring loan costs
- c. Payoff of all or any portion of a Borrower's consumer debt, liens or judgments.

**4. Eligible Households**

1. To be eligible to receive CalHome funds an applicant household must:
  - a. Be a very-low or low- income household (80% or less of the area median income as adjusted for household size) when considering the gross income of all household residents 18 years old or older.
    - i) Gross income is as defined in the California Code of Regulations (CCR), Title 25, Section 6914 and is: "The anticipated income of a person or family for the 12 month period following the date of determination of income."
    - ii) Lender shall determine annual gross income in accordance with the CCR, Title 25, Section 6914.
  - b. Include as Borrowers all persons who will be or are on title to the property.
  - c. Be a first time homebuyer and occupy the property as principal place of Residence.
2. The following individual or individuals may not be excluded from consideration as a first time homebuyer under this section:
  - a. A displaced homemaker, who, while a homemaker, owned a house with his or her spouse or resided in a house owned by the spouse. A displaced



homemaker is an adult who has not, within the preceding two years, worked on a full-time basis as a member of the labor force for a consecutive twelve-month period and who has been unemployed or underemployed, experienced difficulty in obtaining or upgrading employment and worked primarily without remuneration to care for his or her home and family;

- b. A single parent who, while married owned a house with his or her spouse or resided in a house owned by the spouse. A single parent is an individual who is unmarried or legally separated from a spouse and has one or more minor children for whom the individual has custody or joint custody or is pregnant; or
- c. An individual or individuals who owns or owned, as a principal place of residence during the three-year period before the purchase of a house with CalHome assistance, a dwelling unit whose structure is:
  - 1) Not permanently affixed to a permanent foundation in accordance with state or local regulations; or
  - 2) Not in compliance with state, local or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

## **5. Eligible Property**

- 1. Property purchased with CalHome funds must be located within the City of Modesto limits.
- 2. Property type must be:
  - a. Single-family housing
  - b. Condominium unit; or
  - c. Manufactured housing unit on a permanent foundation
- 3. Eligible property must have the following occupancy characteristics:
  - a. Currently occupied by the owner-seller of the property; or
  - b. Vacant for six months prior to acceptance of a contract to purchase.

## **6. Maximum Sales Price / Value Limit**

The maximum sales price/value limit for a home purchased with the assistance of CalHome funds shall be the current FHA mortgage limit of a single family home in



Modesto. The FHA mortgage limits are provided by the U.S. Department of Housing and Urban Development.

## **7. Maximum Loan Amount**

The maximum loan amount for households earning up to 80% of the area median income (AMI) is up to \$100,000.

Applicant will receive the minimum amount of financing to ensure affordable monthly housing costs as defined by the first mortgage lender (the first lender shall make the largest first loan possible given the ability of the Borrower to repay in order to keep the CalHome loan amount at the minimum amount necessary).

## **8. Loan Documentation**

All CalHome loans shall be evidenced by the following documents and provisions:

- a. Promissory Note, payable to the City of Modesto in the principal amount of the loan and stating the terms and rate interest.
- b. Deed of Trust, securing the Note; this deed shall be recorded and shall secure the City's financial interest in the property.
- c. Other appropriate security instruments naming the City of Modesto as beneficiary.

## **9. Loan Terms**

### **1. Security:**

- a. CalHome loans shall be secured by the property or leasehold interest, as applicable.
- b. The lien securing repayment of the CalHome loan shall be subject only to liens, encumbrances and other matters of record reviewed and approved by the City.

### **2. Deferment:**

- a. Principal and interest payments shall be deferred for the term of the CalHome loan.

### **3. Repayment:**

- a. The CalHome loan principal and interest shall be repayable upon:
  1. Sale, transfer or lease of the property.





2. Borrower's failure to occupy the property as Borrower's principal place of residence (Borrower must certify occupancy annually).
  3. The CalHome maturity date.
  4. The maturity date, or full repayment, of any debt secures by lien on the property that is senior to the CalHome deed of trust.
  5. Upon default of the CalHome promissory note, deed of trust or other recorded documents pertaining to the property.
- b. If it is determined by the City that repayment of the loan at maturity will cause a hardship to the Borrower, the City may, at its option, elect to:
1. Approve a one-time additional deferral period of up to 30 years in length at 0% interest, or;
  2. Convert the debt (principal and accrued interest) to a 15 year amortized loan at 0% additional interest.
4. Assumability:
- a. CalHome loans are not assumable.
5. Transfer of Interest Exceptions:
- a. The following transfers of interest shall not require repayment of the CalHome loan:
    1. Transfer to a surviving joint tenant by devise, descent or operation of the law on the death of a joint tenant.
    2. A transfer, in which the transferee is a person who occupies or will occupy the property, which is:
      - i. A transfer in which the spouse becomes an owner of the property.
      - ii. A transfer resulting from a decree of dissolution of marriage, legal separation agreement, or from incidental property settlement agreement by which the spouse becomes an owner of the property.
    3. A transfer into an inter vivos trust in which the Borrower is and remains the beneficiary and occupant of the property.



6. Loan Term:

- a. The CalHome loan term shall be for 30 years, except upon the occurrence of any condition requiring repayment as noted above.
- b. When the United States Department of Agriculture, Rural Housing Services (ESDA-RHS) 502 mortgage loans are in first lien position; the CalHome loan term shall be the term of the 502 mortgage (30 to 38 years).

7. Prepayment:

- a. A Borrower may prepay the CalHome loan, in part or whole, at any time without penalty.

8. Interest:

- a. Interest shall accrue at a 3% simple fixed interest per annum.

9. Restrictions on Sale:

- a. In any loan transaction in which the CalHome loan is the only secondary financing, the Borrower cannot be restricted from selling the home at its fair market value at any time.
- b. Subsequent buyers, unless assisted with a CalHome loan under this Program, do not need to meet the Eligible Household requirements set forth above.
- c. Resale restrictions required by other secondary financing sources used in conjunction with a CalHome loan shall prevail.

**10. Loan-to-Value Limits**

The loan-to-value (LTV) ratio for a CalHome loan, when combined with all other indebtedness to be secured by the property, shall not exceed 100% of the sales price plus a maximum of up to 5% of the sales price to cover closing cost.

**11. Downpayment**

No downpayment shall be required of an eligible Borrower in order to receive CalHome funds under this program.

**12. First Mortgage Underwriting Requirements**

1. In addition to the first mortgage requirements of the primary lender, the following



First Time Homebuyer Program requirements shall also apply to first mortgages issued in conjunction with a FTH second mortgage:

- a. Borrower shall obtain the maximum first mortgage loan with a term and interest rate from a mortgage lender consistent with affordable housing costs as defined in herein.
- b. First mortgage loans shall not include provisions for negative amortization, principal increases, balloon payments, deferred interest or temporary buy-downs.
- c. Front End Ratio:
  1. For purposes of qualifying a Borrower for a first mortgage, and as defined herein means the ratio between monthly household income and monthly housing cost, including first mortgage principal, interest, taxes and insurance.
  2. This ratio shall not exceed that set by the primary mortgage lender.
- d. Back End Ratio:
  1. For purposes of qualifying a Borrower for a first mortgage, and as defined herein means the ratio between monthly household income and monthly housing cost plus all payments on long-term installment debt.
  2. This ratio shall not exceed that set by the primary mortgage lender.
- e. Credit Worthiness Criteria:
  1. Borrower's FICO (Fair Isaac Company) score must be 610 or higher.

### **13. Appraisal**

1. Prior to close of escrow an appraisal which meets must the following criteria must be obtained:
  - a. The appraisal shall be prepared by a state-licensed residential property appraiser.
  - b. The appraisal shall use the sales of comparable properties approach to determine value.
  - c. Maximum appraised home values at time of purchase shall not exceed the



purchase price/value limits established by the State of California Department of Housing and Community Development as published in the latest Notice of Funding Availability (NOFA).

#### **14. Cash-Out of Escrow**

Borrowers may not receive cash out of escrow from any loan package containing secondary CalHome financing.

#### **15. Title Insurance**

The Borrower shall provide the City of Modesto with an ALTA title insurance policy in the amount of the CalHome loan at Borrower's expense.

#### **16. Hazard Insurance**

1. Borrower must provide and maintain fire and flood (if the property is located in a 100 year floodplain) insurance in an amount at least equal to the replacement value of the improvements.
2. The City of Modesto must be named as an additional loss payee on the policy.

#### **17. Financing Subordinate to CalHome Loans**

1. Fees and/or charges for subordinate loan financing shall be consistent with reasonable loan origination fees for first mortgage financing as determined by the City based on industry standards.
2. Balloon payments due before the maturity date of the CalHome loan are not permitted.
3. All subordinate financing shall defer principal and interest payments for the term of the CalHome loan.

#### **18. Homebuyer Education**

1. Borrowers will be required to complete a Homebuyers Education Workshop from an Agency approved by the City.
2. The purpose of the workshop is to provide the Borrower with a step-by-step guidance to successfully purchase and maintain ownership of a home. The workshop also helps homebuyers by educating them how to obtain mortgage financing they can afford. Subjects covered in the workshop include shopping for a home, shopping for a mortgage loan, home maintenance, budgeting, and ongoing financial cost.



3. The workshop provider upon the Borrower's completion of the class will issue a Certificate of Completion. The Borrower must present the Certificate to the City for inclusion in the loan application.
4. City may, at its option, request a grant from the Department of Housing and Community Development for providing homebuyer education to Borrowers up to the maximum amount as published in the latest NOFA. The sum of loans made under this Program plus grants received may not exceed the total funding made available to City under the terms of the Standard Agreement between the City and the Department.

#### **19. Re-Use Account**

1. All repayments of CalHome loan principal and interest shall be received by the City and deposited into a separate reuse account maintained by City's Finance Department.
2. The reuse account shall be an interest bearing account into which all earned interest shall be deposited.
3. All funds deposited into the reuse account shall be the property of the City.
4. A line item for reuse of CalHome funds will be inserted into City's fiscal year budget allocating and approving use of funds for CalHome eligible activities.
5. All reuse funds shall be expended in accordance with the CalHome Regulations and the Standard Agreement between the City and the Department. Reuse funds may be used for:
  - a. Additional CalHome mortgage assistance.
  - b. Costs of homebuyer education for each first time homebuyer receiving mortgage assistance from the reuse account.
  - c. CalHome loan processing activity delivery fees as applicable.
  - d. Cost (up to 5% of the reuse funds deposited) of loan servicing contracted by City.
6. City shall allow the Department full access to the reuse account records for the purpose of determining City's compliance with CalHome Regulations.



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-713**

**A RESOLUTION AUTHORIZING STAFF TO SUBMIT A REQUEST FOR A SIX-MONTH EXTENSION TO THE CALHOME AGREEMENT WITH THE STATE OF CALIFORNIA'S DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LETTER REQUESTING A SIX-MONTH EXTENSION AND SUBSEQUENT DOCUMENTS.**

WHEREAS, on October 3, 2003, the City of Modesto submitted an application to the Department of Housing and Community Development for a \$300,000 grant to fund the City's First Time Homebuyer Mortgage Assistance Program, and

WHEREAS, staff was notified on February 4, 2004, that the City of Modesto was awarded \$300,000 in funding from the State of California's Department of Housing and Community Development, CalHome Program for First-Time Homebuyers Mortgage Assistance, and

WHEREAS, due to high home sale prices in recent years and low-income household earning, it has been difficult for these household to qualify for mortgage loans and for down payment assistance, and

WHEREAS, the agreement for CalHome funding between the City and the State Department of Housing and Community Development indicates that all funds remaining unexpended as of February 5, 2007, shall be disencumbered, and

WHEREAS, the City desires a six (6) month extension of said CalHome funding to enable low income households to utilize CalHome for construction of their new homes, and

WHEREAS, staff has been working with affordable housing developers to ensure that certain affordable units can be built during this six (6) month extension,

NOW THEREFOR BE IT RESOLVED, that the Council of the City of Modesto hereby authorizes staff to submit a request for a six-month extension to the CalHome Agreement with the State of California Department of Housing and Community Development.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the letter of extension and subsequent documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-714**

**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. CLASSIFICATIONS AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the job specifications for the classifications of Chief Building Official and Deputy Chief Building Official. The job specifications for these classifications are being amended to update the essential functions and to change the certification requirements. The job specifications for the classifications of Chief Building Official, as shown in the attached **Exhibit "A,"** and Deputy Chief Building Official, as shown in the attached **Exhibit "B,"** which are hereby made a part of this resolution by reference, are hereby approved and made part of the Position Classification Plan of the City of Modesto.



SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after November 14, 2006.

The foregoing resolution was introduced in a special meeting of the Council of the City of Modesto held on the 14th day of November, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

CHIEF BUILDING OFFICIAL

DEFINITION

To manage, direct and coordinate the activities of the Building Inspection and Development Services Division; to coordinate building inspection activities with other divisions and departments as well as outside architects and engineers; and to provide highly complex staff assistance to the Community and Economic Engineering Services Development Director.

SUPERVISION RECEIVED AND EXERCISED

Receives general direction from the Engineering Services Community and Economic Development Director.

Exercises direct supervision over professional, technical and clerical staff.

~~EXAMPLE OF DUTIES - Duties may include, but are not limited to, the following:~~

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS

Essential and other important responsibilities and duties may include, but are not limited to the following:

Essential Functions:

Recommend goals and objectives; assist in the development of policies and procedures.

Manage, direct and organize building inspection activities; coordinate building inspection activities with other City departments, architects, engineers, contractors, developers and the general public.

Supervise and review engineering design calculations for buildings, water lines, sewer lines, and other engineering structures.

Direct, oversee and participate in the development of the division work plan; assign work activities, projects and programs; monitor workflow; review and evaluate work products, methods and procedures.

Essential Functions: (Continued)

Prepare the Division budget; assist in budget implementation; participate in the forecast of additional funds needed for staffing, equipment, materials, and supplies; administer the approved budget.

Participate in recommending the appointment of personnel; provide or coordinate staff training and technical assistance including emergency disaster; work with employees to correct deficiencies; implement discipline procedures; recommend employee terminations.

Supervise and participate in building inspection activities; evaluate the need for and develop procedures, methods and schedules; assist in recommending and drafting building and related code changes.

Provide technical and administrative assistance to the Engineering Services Community and Economic Development Director; develop, prepare and present reports, surveys and other administrative activities; resolve work problems and interpret administrative policies to subordinates, other departments, consultants, contractors and the public.

Participate in professional and public meetings as required including job site and construction meetings.

Oversee and direct Division office operations; maintain appropriate records and files; coordinate workflow.

Assist in preparing presentations for City Council; assist in preparing ordinances and ordinance amendments related to building activities; enforce a wide variety of regulations and laws pertaining to public health and safety.

Provide information to the public; respond to the most difficult inquires and complaints by the public; and perform the most difficult building inspections.

Determine the need for building evaluations according to State historical code; determine appropriate alternatives.

Perform a variety of activities in support of the Building Inspection and Development Services Division including preparing Requests for Proposals and contracts, directing health and safety investigations, reviewing engineering calculations and documents, and directing the issuance of building permits and citations.

Essential Functions: (Continued)

Prepare reports, memoranda, letters and other forms of correspondence.

Act as Secretary to the Board of Building Appeals.

Act as Secretary to the Disabled Access Appeals Board.

~~Engineering Services~~ Act as Community and Economic Development Director as required.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Organizational and management practices as applied to the analysis and evaluation of programs, policies and operational needs.

Budgeting procedures and techniques.

Principles and practices of organization, administration and personnel management.

Principles and practices of the Uniform California Building, Plumbing, Mechanical, and Electrical Codes.

Principles of civil engineering, structural design, engineering mathematics and building inspection.

Research methods and sources of information related to building code enforcement.

Pertinent Federal, State and local laws, codes and regulations.

Principles of supervision, training and performance evaluation.

Modern office procedures, methods and computer equipment.

Ability to:

Administer a variety of building inspection and related code enforcement activities.

Analyze problems, identify alternative solutions, and project consequences of proposed actions and implement recommendations in support of goals.

Analyze, interpret and check complex plans, specifications, calculations, laws, and regulations.

Assist in preparing ordinances and code amendments.

Interpret building policies and procedures to the general public.

Interpret and apply City policies, procedures, rules and regulations as well as the Uniform California Building Codes.

Gain cooperation through discussion and persuasion.

Supervise, train and evaluate assigned personnel.

Prepare and administer a budget.

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 the inspection of public, commercial, industrial and residential buildings including two years of administrative and supervisory experience.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with major course work in civil engineering or a related field.

License or Certificate

Possession of, or ability to obtain, an appropriate, valid California driver's license.

Possession of certification as Building Official issued by the International Code Council (ICC) and/or Council of American Building Officials (CABO) is required.

Possession of a Certificate of Registration as a Professional Civil Engineer or Architect in the State of California is highly desirable.

WORKING CONDITIONS

Environmental Conditions

Office environment; occasionally travel from site to site.

Physical Conditions

Essential and other marginal functions may require maintaining physical conditions necessary for sitting for prolonged periods of time; traveling to and from sites,

## DEPUTY CHIEF BUILDING OFFICIAL

Class specifications are intended to present a descriptive list of the range of duties performed by employees in this class. Specifications are not intended to reflect all duties performed within the job.

### DEFINITION

To assist in managing, directing and coordinating the activities of the Building Inspection and Development Services Division; to perform professional engineering work in review and approval of commercial and residential building plans; and to provide staff assistance to the Chief Building Official.

### SUPERVISION RECEIVED AND EXERCISED

Receives direction from the Chief Building Official.

Exercises direct supervision over subordinate professional and technical staff.

~~EXAMPLES OF DUTIES - Duties may include, but are not limited to, the following:~~

### ESSENTIAL AND MARGINAL FUNCTION STATEMENTS

Essential and other important responsibilities and duties may include, but are not limited to, the following:

#### Essential Functions:

Assists in the managing, directing and organizing of the building inspection activities; assist in coordinating building inspection activities with other City departments, contractors and developers.

Assign work activities, projects and programs; monitor workflow; review and evaluate work products, methods and procedures.

Assist in preparing the Division budget; assist in budget implementation; participate in the forecast of additional funds needed for staffing, equipment, materials, and supplies; administer approved budget.

Participate in recommending the appointment of personnel; provide or coordinate staff training; work with employees to correct deficiencies; implement discipline procedures; recommend employee terminations.

Essential Functions:(Continued)

Assist in overseeing building inspection activities; evaluate the need and develop procedures, methods and schedules.

Provide technical and administrative assistance to the Chief Building Official; develop, prepare and present reports, surveys and other administrative activities.

Assist in recommending and drafting building and related code changes.

Participate in professional and public meetings as required including job site and construction meetings.

Assist in preparing presentations for City Council; assist in preparing ordinances and ordinance amendments related to building activities.

Respond to the most difficult inquiries and complaints by the public; and perform the most difficult building inspections.

Prepare reports, memoranda, letters and other forms of correspondence.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Organizational and management practices as applied to the analysis and evaluation of programs, policies and operational needs.

Principles and practices of organization, administration and personnel management.

Principles and practices of the ~~Uniform~~ California Building, Plumbing, Mechanical, and Electrical Codes.

Principles of structural design, engineering mathematics and building inspection.

Research methods and sources of information related to building code enforcement.



Knowledge of: (Continued)

Pertinent Federal, State and local laws, codes and regulations.

Principles of supervision, training and performance evaluation.

Modern office procedures, methods and computer equipment.

Ability to:

Administer a variety of building inspection and related code enforcement activities.

Analyze problems, identify alternative solutions, project consequences of proposed actions and implement recommendations in support of goals.

Analyze, interpret and check complex plans, specifications, calculations, laws, and regulations.

Assist in preparing ordinances and code amendments.

Interpret building policies and procedures to the general public.

Interpret and apply City policies, procedures, rules and regulations as well as the ~~Uniform~~ California Building Codes.

Gain cooperation through discussion and persuasion.

Supervise, train and evaluate assigned personnel.

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:

Four years of increasingly responsible experience in the inspection of public, commercial, industrial and residential buildings including one year of administrative and supervisory experience.

Training:

Equivalent to a Bachelor's degree from an accredited college or university with mayor course work in civil engineering or a related field.

License or Certificate

Possession of, or ability to obtain, an appropriate, valid California driver's license.

Possession of certification as Building Official issued by the International Code Council (ICC) and/or Council of American Building Officials (CABO) is required.

Possession of a Certificate of Registration as a Professional Civil Engineer or Architect in the State of California is highly desirable.

WORKING CONDITIONS

Environmental Conditions

Office environment; occasionally travel from site to site.

Physical Conditions

Essential and other marginal functions may require maintaining physical conditions necessary for sitting for prolonged periods of time; traveling to and from sites, attending meetings and using a personal computer and other office equipment.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-715**

**A RESOLUTION APPROVING AN AGREEMENT WITH HSQ TECHNOLOGY IN THE AMOUNT OF \$33,360 ANNUALLY FOR THREE YEARS WITH TWO ONE-YEAR EXTENSION OPTIONS, AT THE SOLE DISCRETION OF THE CITY, FOR MAINTENANCE SERVICES ON THE SUPERVISORY CONTROL AND DATA ACQUISITION (SCADA) SYSTEM, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.**

WHEREAS, HSQ Technology supplied the City of Modesto SCADA System in 1993,  
and

WHEREAS, the Water Quality Control (WQC), Wastewater and Stormwater Collections, and Water Divisions use the SCADA System to transmit and receive operational data from over 200 remotely located facilities such as wells, storage tanks, and lift stations, and

WHEREAS, the SCADA System provides for the remote control of equipment as well as real-time monitoring to ensure a rapid response to any abnormal system condition, and

WHEREAS, the SCADA system stores data and shares it with other City systems to allow for historical report creation to satisfy regulatory requirements, and

WHEREAS, HSQ Technology is the manufacturer and sole distributor for the SCADA telemetry system and is uniquely qualified to provide maintenance and 24 hours/7 days a week software and hardware support for the system, and

WHEREAS, HSQ Technology has been under contract through purchase orders for the past 13 years to provide SCADA System maintenance, and

WHEREAS, this agreement locks in the cost for maintenance for three years and allows negotiation of increases, as necessary, for two additional years, and

WHEREAS, funds are budgeted in 6100-480-5013-0235-50 in the amount of \$16,680 and in 6210-480-5213-0235-50 in the amount of \$16,680,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an agreement with HSQ Technology in the amount of \$33,360 annually for three years with two one-year extension options, at the sole discretion of the City, for maintenance services on the Supervisory Control and Data Acquisition (SCADA) System.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: Susana Alcala Wood

SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-716**

**A RESOLUTION ACCEPTING THE WORK BY ACME CONSTRUCTION CO., INC., FOR THE PROJECT TITLED "MADDUX YOUTH CENTER RENOVATION AND EXPANSION" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$2,617,297.94**

WHEREAS, a report has been filed by the Public Works Director that the project titled "Maddux Youth Center Renovation and Expansion" has been completed by Acme Construction Co., Inc., in accordance with the contract agreement dated March 8, 2005,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "Maddux Youth Center Renovation and Expansion" is hereby accepted as complete from said contractor, Acme Construction Co., Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$2,617,297.94, as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-717**

**A RESOLUTION ACCEPTING THE WORK BY BOND BLACKTOP, INC., FOR THE PROJECT TITLED "2006 CAPE SEALS" AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNTS DUE TOTALING \$920,194.33.**

WHEREAS, a report has been filed by the Public Works Director that the project titled "2006 Cape Seals" has been completed by Bond Blacktop, Inc., in accordance with the contract agreement dated April 4, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "2006 Cape Seals" project is hereby accepted as complete from said contractor, Bond Blacktop, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County and that payment of amounts due totaling \$920,194.33, as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14th day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Marsh

ATTEST:

  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-718**

**A RESOLUTION ACCEPTING THE SAFE ROUTES TO SCHOOL GRANT-  
CONANT AVENUE IMPROVEMENTS IN THE AMOUNT OF \$384,300, AND  
AUTHORIZING THE CITY MANGER OR HIS DESIGNEE, TO EXECUTE  
NECESSARY GRANT DOCUMENTS**

WHEREAS, in June 2005, the Public Works Department-Traffic Engineering staff submitted a grant application for the Safe Routes to School Grant program to install sidewalk, curb and gutter, and street lighting on the west side of Conant Avenue between Rumble Road and Eicher Avenue, near Chrysler Elementary School, and

WHEREAS, in June 2006, Traffic Engineering staff received notification that this project was successful in receiving Safe Routes to School grant funding in the amount of \$384,300, and

WHEREAS, this project will enhance safety for students as they travel to and from Chrysler Elementary School and for citizens that use the facilities of Chrysler Elementary School throughout the year,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby accepts the Safe Routes to School Grant-Conant Avenue Improvements in the amount of \$384,300.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary grant documents for said projects.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-719**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006/2007 CAPITAL IMPROVEMENT PROGRAM (CIP) BUDGET ACCEPTING THE GRANT FUNDS AND ESTABLISHING A NEW CIP PROJECT TITLED, "SAFE ROUTES TO SCHOOL GRANT-CONANT AVENUE IMPROVEMENTS," ACCOUNT NUMBER MY-2370-160-E955, IN THE AMOUNT OF \$427,000**

WHEREAS, in June, 2006, Traffic Engineering staff received notification that this project was successful in receiving Safe Routes to School grant funding in the amount of \$384,300, and

WHEREAS, acceptance of said grant funds requires a 10% match by City, and

WHEREAS, it is necessary to transfer \$42,700 from Account Number 2370-160-E602, "Traffic Control Devices New-Gas Tax," primary account to make up the City's 10% match requirement for this project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves amending the Fiscal Year 2006/2007 Capital Improvement Program (CIP) budget accepting the Safe Routes to School grant in the amount of \$384,300, with a \$42,700 City match from Gas Tax Reserves, for a total of \$427,000, and creating a new Capital Improvement Program titled, "Safe Routes to School Grant-Conant Avenue Improvements," Account Number MY-2370-160-E955.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-720**

**A RESOLUTION APPROVING AN AGREEMENT WITH DOKKEN ENGINEERING TO PROVIDE CONSULTANT SERVICES FOR THE “STATE ROUTE 99/PELANDALE AVENUE INTERCHANGE MODIFICATION PROJECT APPROVAL & ENVIRONMENTAL DOCUMENT (PA&ED)”, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.**

WHEREAS, the City Council in their Fiscal Year 2005-06 Capital Improvement Program approved \$1.3M and approved staff's request to explore City taking the lead on the State Route 99/Pelandale Avenue Interchange Improvements – Project Approval and Environmental Document (PA&ED) and issue a Request for Proposals for said work, and

WHEREAS, following Council's approval, staff made a formal request to StanCOG to apply for lead agency status on the Pelandale Interchange Improvement Project, and

WHEREAS, the City of Modesto sent a Request For Proposals (RFP) to 52 qualified consultants, and the project was advertised in the newspaper and the City's contracts available website, and

WHEREAS, proposals were received from Dokken Engineering and URS Corporation, and

WHEREAS, a selection panel appointed by the Public Works Director reviewed the proposals, and

WHEREAS, the selection panel recommended Dokken Engineering be awarded the agreement for consulting services for the State Route 99/Pelandale Avenue Interchange Modification Project Approval & Environmental Document (PA&ED), based upon the firm's proposal, qualifications and experience,

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 Dokken Engineering for consulting services for the State Route 99/Pelandale Avenue Interchange Modification Project Approval & Environmental Document (PA&ED) in a total amount not to exceed \$873,792.00.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement with Dokken Engineering.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 14<sup>th</sup> day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-721**

**A RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$25,000,000 PRINCIPAL AMOUNT OF WASTEWATER REVENUE BONDS, SERIES 2006A, AUTHORIZING AND DIRECTING EXECUTION OF A THIRD SUPPLEMENTAL WASTEWATER REVENUE BOND INDENTURE PURSUANT TO WHICH SUCH BONDS ARE ISSUED, APPROVING A CONTRACT OF PURCHASE, AN OFFICIAL STATEMENT AND A CONTINUING DISCLOSURE AGREEMENT, APPOINTING A SUCCESSOR TRUSTEE, AND AUTHORIZING OTHER OFFICIAL ACTION**

WHEREAS, pursuant to the City of Modesto Wastewater Treatment Facilities 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, improvement, furnishing, equipping, remodeling, repair, reconstruction or rehabilitation of the wastewater treatment facilities of the City (the "Enterprise"); and

WHEREAS, the City has entered into a Wastewater Revenue Bond Indenture, dated as of April 1, 2005 (the "Indenture"), between the City and U.S. Bank National Association, as trustee, providing for the issuance of wastewater revenue bonds thereunder; and

WHEREAS, in accordance with the Bond Law and the Indenture, as supplemented by a First Supplemental Indenture, dated as of April 1, 2005 (the "First Supplemental Indenture"), and Second Supplemental Indenture, dated as of April 1, 2005 (the "Second Supplemental Indenture"), the City has previously issued its City of Modesto, California Wastewater Revenue Refunding Bonds, Series 2005A, and its City of Modesto, California Wastewater Revenue Refunding Bonds, Series 2005B (collectively, the "Series 2005 Bonds"); and

WHEREAS, the Indenture provides that the City may issue bonds from time to time as authorized by a supplemental indenture; and

WHEREAS, the City has determined that it is desirable and necessary and in the best interest of the City to authorize an additional series of wastewater revenue bonds in order to provide moneys to finance certain improvements to the Enterprise, in a principal amount not to exceed \$25 million, to be designated “City of Modesto, California Wastewater Revenue Bonds, Series 2006A” (the “Series 2006A Bonds”), to be issued pursuant to the Third Supplemental Wastewater Revenue Bond Indenture described below; and

WHEREAS, the Series 2006A Bonds are proposed to be sold to Citigroup Global Markets Inc. (the “Underwriter”) pursuant to the Contract of Purchase described below; and

WHEREAS, it is proposed that the City execute and deliver the Continuing Disclosure Agreement described below to allow the Underwriter to comply with Rule 15c2-12(b)(5) of the Securities Exchange Act of 1934; and

WHEREAS, it is proposed that the City deem final for purposes of Rule 15c(2)-12 of the Securities Exchange Act of 1934, as amended, a Preliminary Official Statement (the “Preliminary Official Statement”) and to execute and deliver a final Official Statement (the “Official Statement”) and to authorize the distribution of the Preliminary Official Statement to prospective purchasers of the Series 2006A Bonds and the Official Statement to the actual purchasers of the Series 2006A Bonds; and

WHEREAS, all acts, conditions and things required by the Bond Law and the laws of the State of California to exist, to have happened and to have been performed precedent to and in connection with the sale and issuance of the Series 2006A Bonds authorized hereby do exist, have happened and have been performed in regular and due time, form and manner required by law, and the City is now duly authorized and empowered, pursuant to each and every requirement of law, to

issue and sell the Series 2006A Bonds 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. Approval of Series 2006A Bonds. The City Council hereby authorizes the issuance of its Wastewater Revenue Bonds, Series 2006A in an aggregate principal amount not to exceed \$25 million.

SECTION 2. Appointment of Successor Trustee. The City hereby appoints The Bank of New York Trust Company, N.A., as successor trustee under the Indenture. Upon acceptance by The Bank of New York Trust Company, N.A., of such appointment as trustee, all of the trusts, powers, discretions, immunities and privileges as trustee shall be transferred from U.S. Bank National Association, as predecessor trustee, and vested with The Bank of New York Trust Company, N.A., as successor trustee. Each of the Mayor, the City Manager or the Finance Director, or any duly authorized designee of any of such officers, acting singly, is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver any and all documents necessary to effect the foregoing succession and the transfer and vesting of such trusts, powers, discretions, immunities and privileges.

SECTION 3. Third Supplemental Indenture; Form of Series 2006A Bonds. The City Council hereby approves the form of the Third Supplemental Wastewater Revenue Bond Indenture (the "Third Supplement") by and between the City and The Bank of New York Trust Company, N.A. as successor trustee (hereinafter, the "Trustee") in substantially the form on file with the City Clerk together with any additions thereto or changes therein deemed necessary or

advisable by Sidley Austin LLP, Bond Counsel, or by the authorized officer executing the same, whose execution thereof shall be conclusive evidence of such officer's approval of any such additions and changes. The Mayor, the City Manager or the Finance Director, or any duly authorized designee of any of such officers, acting singly, is authorized and directed to execute, and the City Clerk is authorized and directed to attest to said signature on, the final forms of the Third Supplement for and in the name and on behalf of the City. The City hereby authorizes the delivery and performance of the Third Supplement.

The proposed form of the Series 2006A Bonds as set forth in the Third Supplement is hereby approved and the Mayor, the City Manager or the Finance Director, or any duly authorized designee of any of such officers, acting singly, is hereby authorized and directed to execute for and on behalf of the City the Series 2006A Bonds in substantially such forms and the City Clerk is authorized and directed to attest to said signature on the Series 2006A Bonds, and the Trustee is hereby authorized and directed to authenticate and deliver the Series 2006A Bonds to the Underwriter in accordance with the Third Supplement and the Contract of Purchase approved herein, subject to the limitations set forth in Section 3 hereof.

SECTION 4. Contract of Purchase. The City Council hereby approves the form of the Contract of Purchase (the "Contract of Purchase") by and between the City and the Underwriter in substantially the form on file with the City Clerk together with any additions thereto or changes therein deemed necessary or advisable by Bond Counsel, or by the authorized officer executing the same, whose execution thereof shall be conclusive evidence of such officer's approval of any such additions and changes; provided, however, that the Underwriter's discount shall not exceed 0.75% of the principal amount of the Series 2006A Bonds, the true interest cost of the Series 2006A Bonds shall not exceed 6.00% per annum, and the final maturity of the



Series 2006A Bonds shall be not later than November 1, 2038. The Mayor, the City Manager or the Finance Director, acting singly, is authorized and directed to execute the final form of the Contract of Purchase for and in the name and on behalf of the City. The City hereby authorizes the delivery and performance of the Contract of Purchase.

SECTION 5. Continuing Disclosure Agreement. The City Council hereby approves the form of the Continuing Disclosure Agreement (the “Continuing Disclosure Agreement”) by and between the City and the Trustee in substantially the form on file with the City Clerk together with any additions thereto or changes therein deemed necessary or advisable by Bond Counsel, or by the authorized officer executing the same, whose execution thereof shall be conclusive evidence of such officer’s approval of any such additions and changes. The Mayor, the City Manager or the Finance Director, or any duly authorized designee of any of such officers, acting singly, is authorized and directed to execute the final form of the Continuing Disclosure Agreement for and in the name and on behalf of the City. The City hereby authorizes the delivery and performance of the Continuing Disclosure Agreement.

SECTION 6. Official Statement. The City Council hereby approves the form of preliminary official statement of the City relating to the Series 2006A Bonds (the “Preliminary Official Statement”) in substantially the form submitted to this City Council. The Mayor, the City Manager or the Finance Director, or any duly authorized designee of any of such officers, acting singly, is authorized to certify that the Preliminary Official Statement, with such changes therein as the officer so certifying shall approve after consultation with Bond Counsel, is as of its date “deemed final” for purposes of Rule 15c2-12 of the Securities and Exchange Commission. The Mayor, the City Manager or the Finance Director, or any duly authorized designee of any of such officers, acting singly, is authorized and directed to execute for and on behalf of the City 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 Series 2006A Bonds) as the Mayor, the City Manager or the Finance Director, or any duly authorized designee of any of such officers, acting singly, shall approve after consultation with Bond Counsel, such approval to be evidenced by the execution and delivery thereof. The Underwriter is authorized to distribute copies of the Preliminary Official Statement to persons who may be interested in the purchase of the Series 2006A Bonds, and the Underwriter is directed to deliver copies of any final official statement to all actual purchasers of the Series 2006A Bonds.

SECTION 7. Other Actions. All actions heretofore taken by the officers and agents of the City with respect to the issuance of the Series 2006A Bonds are hereby approved, confirmed and ratified. The Mayor, the City Manager, the Finance Director, the Deputy Director of Finance, the City Clerk, the City Attorney and any and all other officers of the City 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, necessary to effectuate the purposes of this Resolution, including the negotiating and obtaining of a municipal bond insurance policy, debt service reserve surety bond or investment agreement for any funds and accounts held under the Indenture if the Mayor, the City Manager, the Finance Director or the Deputy Director of Finance, upon the advice of Public Financial Management, Inc., Financial Advisor, determine that such policy, bond or agreement will result in debt service savings or will otherwise be financially advantageous to the City, and the execution and delivery of any and all assignments, certificates, requisitions, agreements, notices, consents, instruments of conveyance, warrants and other documents, which they, or any of them, may deem necessary or advisable in order to consummate the lawful issuance, sale and delivery of the Series 2006A Bonds.

The foregoing resolution was introduced at a meeting of the City of Modesto held on the 14<sup>th</sup> day of November, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS,  
City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD,  
City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-722**

**A RESOLUTION APPROVING TASK ORDER NO. 3 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES WITH HARRIS AND ASSOCIATES FOR THE FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR KIERNAN BUSINESS PARK WEST**

WHEREAS, Kaiser Foundation Hospitals (“Applicant”) has a legal interest in real property located within a portion of the Kiernan Business Park West Specific Plan Area, shown in **Exhibit “A”**, and is interested in pursuing development of properties in the Specific Plan Area, and

WHEREAS, the City Council is desirous of forming a community facilities district (“CFD”) for the Kiernan Business Park West Specific Plan Area (“Project”), and

WHEREAS, on September 26, 2006, the Council of the City of Modesto approved a Master Professional Services Agreement for Consultant Services with Harris and Associates for the preparation of FMPs, IFPs, formation of CFDs, technical studies and related on-call services assigned by City, and

WHEREAS, Harris and Associates (“Consultant”) has prepared Task Order No. 3 for the Project (“Task Order”), attached as **Exhibit “B”**, and

WHEREAS, Applicant has advanced a deposit to the City in the amount of sixty-four thousand five hundred dollars (\$64,500) to fund Task Order No. 3 and to pay staff and consultant expenses expected to be incurred in connection with the Project, and

WHEREAS, the City will issue Notices to Proceed to the City’s Consultant only for those subtasks for which the Applicant has deposited funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Task Order No. 3, attached as Exhibit “B” hereto, 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 November, 2006, Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

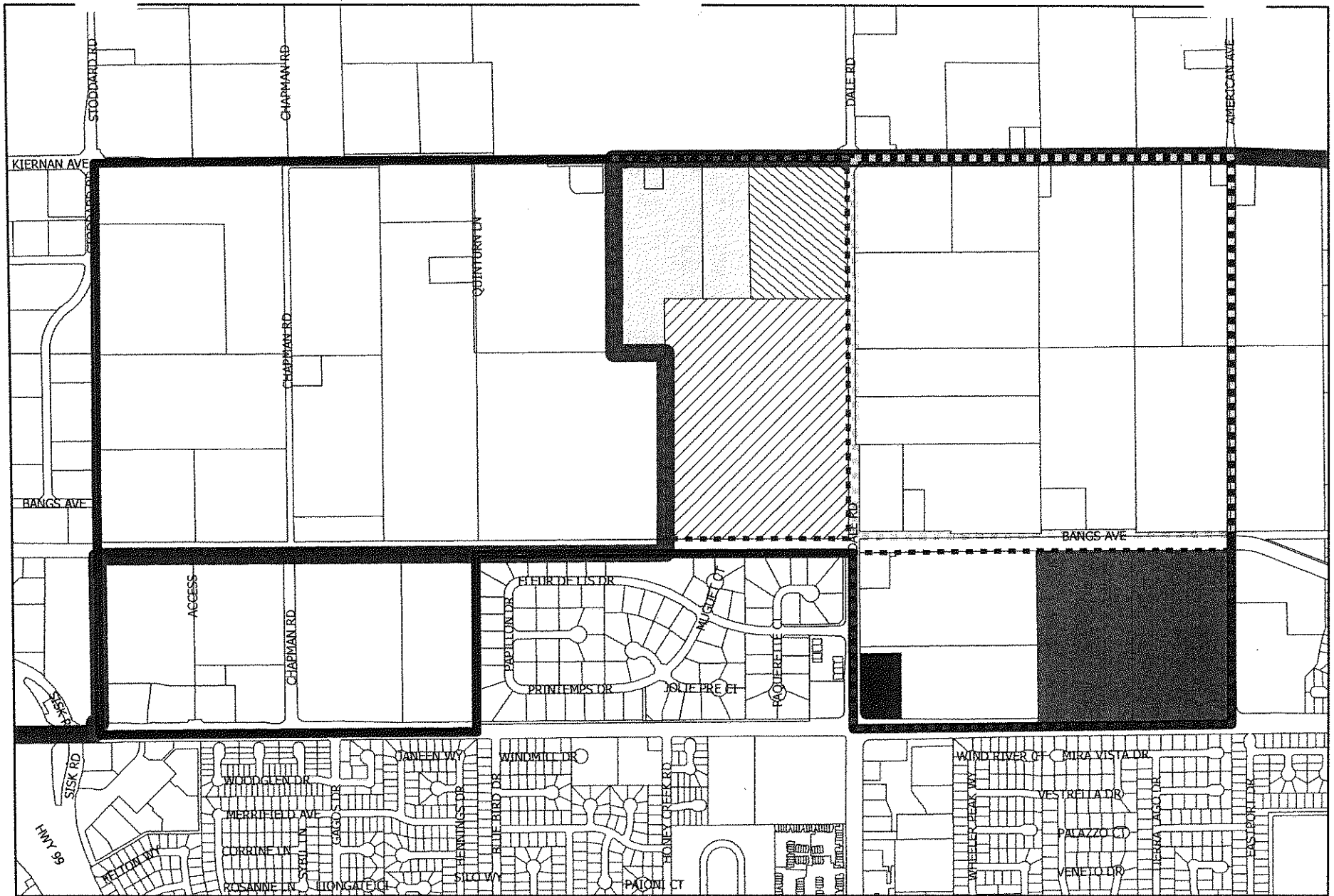
NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney



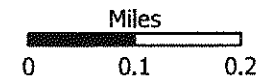
KBPE 11-05.mxd

City of Modesto

# Kiernan Business Park Specific Planning Area

- |  |                             |  |                  |
|--|-----------------------------|--|------------------|
|  | Modesto Sphere of Influence |  | Bank of Stockton |
|  | Kiernan Business Park SP    |  | Mana/Wagner      |
|  | Kiernan Business Park East  |  | Bridges (Malik)  |
|  | Kiernan Business Park South |  | Kaiser Hospital  |
|  | Kiernan Business Park West  |  | Leaping Lizards  |

November 30, 2005



**City of Modesto  
TASK ORDER NO. 3  
for  
Harris & Associates'  
Master Professional Services Agreement**

**Kiernan/Kaiser Community Facilities District**

This Task Order No. 3 is made and entered into by and between the City of Modesto, a municipal Corporation (hereinafter "CITY"), and Harris & Associates, Inc., California Corporation (hereinafter "CONSULTANT") and is effective as of \_\_\_\_\_.

**RECITALS**

- A. CONSULTANT has entered into a Master Professional Services Agreement, (hereinafter "Agreement"), dated September 29, 2006 ("AGREEMENT") WITH THE CITY, by which the CONSULTANT has agreed to provide professional engineering and financial engineering services for development projects, which is incorporated herin by reference.
- B. At the request of CITY and in compliance with the terms of the AGREEMENT, CONSULTANT has prepared the Task Order No. 3, a copy of which is attached hereto as Exhibit A.
- C. City and CONSULTANT desire that CONSULTANT perform the service as identified in the attached Scope of Work.

**NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

1. **INCORPORATION OF MASTER PROFESSIONAL SERVICES AGREEMENT.** This Task Order hereby incorporates by reference all terms and conditions set forth in the Master Professional Services Agreement, unless expressly modified by this Task Order. The AGREEMENT and this Task Order shall, to the fullest extent possible, be read and considered as fully integrated documents and shall interpreted so as to avoid inconsistencies, comply with all applicable laws and ensure that the objectives of the parties will be fully realized.

Nothing in this Task Order is intended to supersede, terminate, modify or otherwise affect any Provisions of the AGREEMENT, except to the extent that provision of the AGREEMENT is in direct and irreconcilable conflict with a provision of AGREEMENT. Then, and only in that Event, the provisions of the AREEMENT shall prevail over the contradictory of the Task Order.

2. **SCOPE OF SERVICES.** CONSULTANT shall perform the services described in Exhibit "A" Attached hereto and incorporated herin by reference. CONSULTANT shall not replace its Authorized Representative, nor shall CONSULTANT use any subcontractors or subconsultants not Listed in this Task Order, without the prior written consent of CITY.

3. **TIME OF PERFORMANCE.** CONSULTANT shall commence performance within five (5) working days after receipt of a Notice to Proceed from City, and shall complete all required services no later than the dates set forth in Exhibit "A".
4. **COMPENSATION.** For services performed by CONSULTANT in accordance with this Task Order, CONSULTANT agrees to accept a sum not to exceed \$ 49,995. CONSULTANT shall be paid at the times and in the manner set forth in Paragraph 3 of the Master Professional Services Agreement, unless expressly provided otherwise in the attached Scope of Work.
5. **SIGNATURES.** The individuals executing this Task Order represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Task Order on behalf of the respective legal entities of the CONSULTANT and CITY. This Task Order shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

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-\_\_\_\_\_, adopted by the Council of the City of Modesto on the \_\_\_\_\_ day of \_\_\_\_\_, 2006, and has caused this Agreement to be duly executed in duplicate as of the Effective Date set forth above.

CITY OF MODESTO,  
a municipal corporation

CONSULTANT,  
a California corporation\*

By \_\_\_\_\_  
GEORGE W. BRITTON,  
City Manager

By Ray Buehler President  
Name Title

By Dele McCosker SR.V.P.  
Name Title

APPROVED AS TO FORM:  
SUSANA ALCALA WOOD, City Attorney

(Seal)

By \_\_\_\_\_  
ALISON A. BARRATT-GREEN,  
Senior Deputy City Attorney

Consultant's Federal ID # 94-2385238

ATTEST:

\* Corporations - signature of two (2) officers  
required or one (1) officer plus corporate seal.

By \_\_\_\_\_  
JEAN MORRIS, City Clerk

Partnership - signature of a partner required



## EXHIBIT A

**Harris & Associates**  
**Scope of Work For Task Order No. 3**  
**Kiernan Business Park**  
**Preparation of the Kaiser Community Facilities District**  
**October 24, 2006**

The following Scope of Work is for preparation of the necessary studies and review of documents needed for the preparation of a Community Facilities District. The Harris Team includes three sub consultants on this project: Fehr & Peers for Traffic, Stantec for Storm Drainage and Goodwin Consulting Group. The work will be performed on a time and materials basis. The cost estimate for Harris' hours and the sub-consultants are summarized in this Exhibit and Exhibit B includes the hourly rate schedule. The following provides Harris and Associates' (Harris) approach and level of effort for this scope of work.

### Task 3.1 – Prepare Preliminary Studies and Prepare Community Facilities District

Harris & Associates will prepare the necessary studies required by the City of Modesto (City) to determine the cost allocation responsibility and on-going maintenance responsibilities for the CFD. Harris and subconsultants will peer review the project cost for completeness and consistency and work with the City to distribute responsibility as needed. In addition, the Harris team will review and prepare on-going maintenance costs and responsibilities. All of this information will be used as input for the formation of the Community Facilities District.

#### Traffic Review

Fehr & Peers will prepare estimates of traffic contributions to selected intersections and roadways in the City of Modesto by four proposed developments: (1) Kaiser, (2) Kiernan Business Park East, (3) Kiernan Business Park South, and (4) Malik Business Park. The purpose of this analysis is to estimate each project's proportional contribution for cost sharing purposes. For this analysis the following locations will be evaluated.

#### ***Intersections***

1. Dale Road/Kiernan Avenue
2. Dale Road/Healthcare Way
3. Dale Road/Kaiser Medical Center Entrance
4. Dale Road/Bangs Avenue
5. Dale Road/Pelandale Avenue
6. Dale Road/Standiford Avenue

#### ***Roadway Segments***

7. Pelandale Avenue: Chapman Road to Dale Road
8. Dale Road: Kiernan Avenue to Healthcare Way
9. Dale Road: Technology Drive to Kaiser Entrance
10. Dale Road: Kaiser Entrance to Bangs Avenue
11. Dale Road: Bangs Avenue and Fleur de Lis
12. Dale Road: Fleur de Lis and Pelandale Avenue
13. Dale Road: Snyder Avenue to Standiford Avenue
14. Technology Drive/Healthcare Way: Dale Road to westerly property line of Kaiser facility
15. Bangs Avenue: Dale Road to American Avenue

Fehr & Peers will use information contained in the Modesto Kaiser Environmental Impact Report (EIR) to estimate traffic volumes for the Kaiser and Malik Business Park projects.

#### Kaiser

- 1,275,000 square foot medical center

#### Malik Business Park

- 300,000 square foot business park
- 100,000 square foot medical office

For the Kiernan Business Park East and Kiernan Business Park South projects, Fehr & Peers will assume the current development proposals.

#### Kiernan Business Park East

- 1,498,224 square foot business park
- 420,354 square foot mixed use development (retail commercial)
- 80,000 square foot general office
- 80 apartment units (above office uses)
- 354 attached dwelling units

#### Kiernan Business Park South

- 160,000 square feet of professional offices
- 400,000 square feet of business park uses

Project trips for each development will be assigned to the roadway network based on PM peak hour trip generation using trip distribution percentages presented in the Kaiser EIR.

Fehr & Peers will then document the portion of traffic added to each of the study locations that can be contributed to each of the four developments listed above. Existing traffic and traffic from other developments not discussed above will not be included in this analysis.

These results will be documented in a memorandum report. A draft version will be submitted for review and comment. The comments will be incorporated into a final version.

#### Community Facilities District

Harris will prepare the Community Facilities District, which includes the following:

Goodwin Consulting Group, Inc. (GCG) will serve as special tax consultant to assist the City of Modesto (City) in the formation of a Mello-Roos Community Facilities District (CFD) that will fund public improvements and public services required to serve the Kiernan South project. GCG will meet with City staff, property owners, the City's financial advisor, bond counsel and other members of the financing team to compile data and to discuss the structure and components of the Mello-Roos cash flow analysis. This task will include (i) confirming land uses for the Bank of Stockton site and future property that will be designated as future annexation area for the CFD, (ii) identifying proposed land uses, public facilities to be financed, annual storm drain and landscape maintenance costs, anticipated absorption rates, and timing and number of bond issues, (iii) discussing assumptions to be used for the initial allocation of special taxes to land uses within the CFD and reviewing the advantages and disadvantages associated

with various allocation methods, (iv) evaluating the potential for separate CFDs, improvement areas or tax zones based on the objectives of the City and developers, and (v) coordinating with the financial advisor regarding the anticipated bond structure, including special tax/debt service escalator, bond interest rate, short-term reinvestment rate, capitalized interest, reserve fund, and other features that may affect the size of bond issues and the corresponding annual debt service.

Mello-Roos Cash Flow Analysis GCG will use the information compiled to prepare an analysis of the annual cash flow of the CFD. The analysis will identify the maximum special tax that will be needed to maintain required debt service coverage on bonded indebtedness issued on behalf of the CFD. In addition, the cash flow will (i) estimate the special tax burden on undeveloped property based on a given absorption scenario, (ii) determine the size of the initial and subsequent bond sales taking into consideration minimum value-to-lien requirements set forth in state law and City policy, and (iii) evaluate the increased bonding capacity that is created from an escalating special tax and debt service or other unique bond structure.

GCG will present the cash flow analysis at a second meeting and discuss alternatives that the working group would like analyzed. Subsequent iterations of the analysis will be prepared based on feedback from City staff, affected property owners, the financial advisor, bond counsel and other members of the working group. Ultimately, through review and discussion of each alternative, the team will select a special tax structure which GCG will incorporate in the Rate and Method of Apportionment of Special Tax outlined below.

Rate and Method of Apportionment of Special Tax Based on the special tax structure selected pursuant to Task B-2 above, GCG will prepare the Rate and Method of Apportionment of Special Tax (RMA), which will serve as the official special tax formula for the CFD. The RMA will provide detail and direction as to how the special tax should be levied in future years to ensure adequate revenues are available for timely repayment of debt service on bonded indebtedness issued by the CFD. The RMA will be included as an exhibit to the Resolution of Intention to Form the CFD, which will be adopted by the City Council as part of the first set of actions taken towards forming the CFD.

In addition to providing guidance relative to the annual levy of special taxes in the CFD, the RMA will provide some or all of the following items:

- Identification of the maximum special tax for each special tax category, including each category of developed and undeveloped property
- Provision for a back-up special tax or alternate mechanism to be used to maintain maximum special tax revenues in the event that land uses change in future years
- A detailed prepayment formula that will provide flexibility for a property owner to prepay all or a portion of the special tax obligation after some or all bonds have been issued for the CFD
- If additional property is expected to annex into the CFD, a description of the “catch-up tax” that will apply to annexing parcels to equalize the cumulative special tax burdens (if applicable)

Contributions and Review of Other CFD Formation Documents In coordination with the working group, GCG will review, prepare and contribute to other documents required in the CFD formation proceedings. Specifically, GCG will prepare the CFD Report required, pursuant to Section 53321.5 of the Government Code, to be filed with the City Clerk prior to the public hearing. GCG will also review

all CFD formation documents and, based on results of the cash flow analysis, assist in calculating the maximum bond authorization and appropriations limit for the CFD. GCG will also ensure that the CFD boundary map is consistent with the areas expected to be included in the CFD when the maximum special tax and/or bonding capacity is calculated.

In preparation for the issuance of bonds, GCG will review the bond purchase agreement, fiscal agent agreement and/or bond indenture to assure that the flow of special tax revenues and interest earnings as set forth in these documents are consistent with assumptions used in the Mello-Roos cash flow analysis. In addition, GCG will review the preliminary official statement and, at the request of the financial advisor or underwriter, prepare one or more of the following:

- A table demonstrating special tax coverage based on the projected stream of revenues compared to annual debt service on the bonds
- If multiple landowners/developers are included within the CFD, a table showing diversification of special tax burdens among the major participants
- Incorporating information provided in the appraisal, a table identifying the value-to-lien ratios for each assessor parcel or major property owner
- A table summarizing a sample tax bill for individual residential units within each tax category to demonstrate compliance with City policy pertaining to the total effective tax rate
- Any other tables requested by the financial advisor and/or underwriter to assist in disclosure related to the special tax formula

Certification of Special Tax Revenues and Acceptance of Associated Liability GCG will execute the Certificate of Special Tax Consultant, which commits to bond buyers that the minimum debt service coverage will be maintained by application of GCG's tax formula regardless of land use changes that occur within the CFD in future years.

Task 3.1 assumes 4 meetings with the City and/or developers.

Level of Effort and costs for Task 3.1:

Firm	Hours	Costs	Meetings in Scope
Harris – PM	<b>80</b>	<b>\$ 11,000</b>	4 w/staff
Stantec (Drainage)		<b>2,500</b>	1 w/staff
Fehr & Peers		<b>7,950</b>	2 w/staff
Goodwin Consult Grp		<b>\$25,000</b>	4 w/staff
Subs Mark-ups (10%)		<b>\$3,545</b>	
Totals		<b>\$49,995</b>	

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-723**

**A RESOLUTION APPROVING AN AGREEMENT FOR SERVICES BETWEEN THE CITY OF MODESTO AND PACIFIC MUNICIPAL CONSULTANTS (PMC) FOR PREPARATION OF AN ENVIRONMENT IMPACT REPORT FOR THE PROPOSED WOODGLEN SPECIFIC PLAN PROJECT IN AN AMOUNT NOT TO EXCEED \$230,300, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, Shawn Fitzpatrick of Fitzpatrick Homes has applied for a specific plan, referred to as the Woodglen Specific Plan, to allow for the orderly and future development within the approximate 79-acre planning area in the unincorporated portion of Stanislaus County bounded by Bangs Avenue to the north, Tully Road to the east, Pelandale Avenue to the south and Carver Road to the west, generally located in the north Modesto area, and

WHEREAS, the Woodglen Specific Plan will also involve the following associated entitlements: rezoning of the site; annexation to the City of Modesto and detachment from the Salida Fire District; an approval of a subdivision map; preparation of a Facilities Master Plan and associated Finance Plan, and formation of a Community Facilities District (CFD) (collectively "Project"), 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 the Project, and

WHEREAS, the City of Modesto has determined that an Environmental Impact Report will be necessary to ensure that the City of Modesto complies with the requirements of the California Environmental Quality Act for the draft Woodglen Specific Plan. The project applicant now desires to proceed with an Environmental Impact Report, and

WHEREAS, City staff recommends an Agreement between the City of Modesto and PMC be executed in an amount not to exceed \$230,300 to allow PMC to prepare an Environmental Impact Report based on the scope of services supplied to City staff, and

WHEREAS, the applicant will pay the entire cost of the EIR, including staff time spent on said project, and the applicant has deposited funds with the City to cover the full amount of work outlined in the Scope of Services described in **Exhibit "A"** of the Agreement for Consultant Services, and

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 PMC for the preparation of an Environmental Impact Report for the draft Woodglen Specific Plan, in an amount not to exceed \$230,300.

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 28th day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**TABLE OF CONTENTS**

Project Understanding and Approach ..... 1

Scope of Work ..... 2

Budget ..... 14

Schedule..... 17

Assumptions..... 19

*Appendices*

- A Resumes
- B Subconsultants

*PW*



## **PROJECT UNDERSTANDING AND APPROACH**

---

### **PROJECT UNDERSTANDING AND APPROACH**

Based on our review of the Preliminary Draft Woodglen Specific Plan, Urban Area General Plan Master Environmental Impact Report and its Update, the Environmental Information Form completed for the project, and discussions of the project approach with City staff, it has been determined that the project requires the preparation of an Environmental Impact Report (EIR).

The Woodglen Specific Plan consists of approximately 79 gross acres within the Kiernan/Carver Comprehensive Planning District. The buildout of the Woodglen Specific Plan would include approximately 541 dwelling units with densities ranging from low to high density residential, private recreation facilities, a 3.9-acre infiltration basin, and 4.9 acres of open space. Pelandale Avenue, Carver Road, Bangs Avenue, and Tully Road will provide access to the roadways proposed within the Plan area.

Entitlements and subsequent applications anticipated for the project include: 1) rezoning to the Specific Plan Overlay, 2) annexation to the City of Modesto, 3) formation of a Community Facilities District, 4) preparation of an Infrastructure Finance Plan and Facilities Master Plan, 5) General Plan Amendment, if the revised Specific Plan proposes housing units in excess of the number of units allowed by the General Plan, 6) tentative subdivision maps or development plans, and 7) site plan review for the multi-family site. Other actions, approvals, or permits would be determined through the environmental review process and project review. It is assumed that the project applicant would be responsible for obtaining all of the required entitlements, approval and permits. The environmental review will assume that services to the site will be provided by the City of Modesto or other appropriate service providers.

We are assuming that City staff will review the adequacy of any infrastructure and improvement plans, pursuant to City standards (this scope of work does not include a "plan-check" review of these documents), while PMC will perform the CEQA review of the infrastructure proposed in the Woodglen Specific Plan. This proposal does not include performance of environmental review for subsequent projects associated with the Woodglen Specific Plan.

We understand the environmental analysis for the Woodglen Specific Plan will be a stand-alone EIR, which does not tier from the Urban Area General Plan Master EIR but rather uses it as a source of reference. PMC will prepare a Notice of Preparation and Initial Study that will be used to provide interested agencies and the public an opportunity to comment on the scope of the EIR. As discussed under the scope of work below, PMC anticipates preparation of a full project-level EIR.

The project description section of the EIR will identify the components of the project and subsequent actions covered by the environmental document. Following the adoption of the EIR, environmental review of subsequent applications that are part of the Woodglen Specific Plan may be reviewed for substantial conformance with the project as described in CEQA Guidelines Section 15182 (a) which states "Where a public agency has prepared an EIR on a specific plan after January 1, 1980, no EIR or negative declaration need be prepared for a residential project undertaken pursuant to and in conformity to that specific plan if the project meets the requirements of this section." Future applications may also be reviewed under Section 15162 of the CEQA Guidelines, which identify the circumstances when a subsequent EIR is required. Unless, as described under Section 15162, substantial changes are proposed to the project, circumstances under which the project will be undertaken have changed substantially, or new information of substantial importance regarding significant impacts or mitigation measures is available, a subsequent EIR does not need to be prepared. A Notice of Determination should be filed for each phase of the project as it is approved (CEQA Guidelines Section 15075(a)).

PMC will prepare a project level Environmental Impact Report (EIR) in compliance with CEQA Guidelines. In addition, PMC will also comply with the City's environmental review procedures and consider any environmental standards established through City ordinances and the General Plan.

## SCOPE OF WORK

---

- Transportation/Circulation.
- Mandatory Findings of Significance.

*Meetings:* The Project Manager will attend a scoping meeting for the project. Time and cost for meetings is included under Task 6.

*Deliverables:* Sixty-five (65) copies of the NOP/ Initial Study. PMC anticipates providing fifty (50) copies to the City, one camera ready, unbound copy suitable for reproduction and one disk copy, and providing fifteen (15) copies to the State Clearinghouse. The Notice of Preparation will accompany the Initial Study. The City will be responsible for distribution of the Notice and Initial Studies, except to the State Clearinghouse.

### **TASK 3. PREPARATION OF THE ADMINISTRATIVE DRAFT EIR**

The Administrative Draft EIR shall be prepared pursuant to the CEQA Guidelines. The information compiled by PMC's team during preparation of the Initial Study will be compiled into a format suitable for the Environmental Impact Report. Under this task, additional efforts will include preparing the executive summary, determine appropriate project alternatives, and analyzing long-term impacts and growth effects associated with implementation of the project.

The major sections and topic areas to be addressed within the Administrative Draft EIR would include the following:

Introduction. The Introduction will briefly describe the purpose of the document, the CEQA process, and terminology used in the EIR.

Executive Summary. The Executive Summary will provide a brief description of the project, areas of controversy, and a summary of environmental impacts and mitigation measures identified in the EIR. The environmental impacts and mitigation measures will be provided in a matrix format for ease of review.

Project Description. The Project Description will provide a complete and detailed description of the project, including project objectives and graphics illustrating the project's location and characteristics. The Project Description will aid the public and interested agencies in understanding the project's area-wide context and its potential environmental impacts.

Environmental Analysis. The Environmental Analysis section will address the topics of concern identified in the Initial Study/Notice of Preparation (NOP), as well as issues raised in response to the NOP.

This section will be largely based on the Initial Study drafted for the project, which will identify potential impacts of the project. It is anticipated that the information in the Initial Study will be supplemented to provide more detail, particularly for the technical analyses, as well as the regulatory framework and General Plan analyses, which are not generally provided in an Initial Study. Additional technical analysis required to analyze project alternatives for the EIR is included in this Scope of Work.

PMC's Project Team includes AMBIENT Air Quality and Noise Consulting (air quality and noise), KDAnderson Transportation Engineers (traffic), and ENGEO (agricultural resources) who will prepare technical studies in their areas of expertise to determine the significance of potential impacts. Technical studies are an essential component of the EIR since the significance of impacts that would occur with implementation of the project has not been assessed. For example, traffic associated with the project may result in significant impacts due to level of service change(s) on roadways serving the site, impacts due to noise exposure from Pelandale Avenue or Tully Road may not be mitigatable to a less than significant level, air pollutants associated with project construction or operations may exceed the standards established by the San Joaquin Valley Air Pollution Control District, and conversion of important agricultural lands to urban development.

## SCOPE OF WORK

---

state and federal ambient air quality standards, which have been established for the protection of human health and welfare.

- No major emission sources of toxic air contaminants or odors have been identified in the project area, nor is the proposed project anticipated to result in the development of such emission sources. As a result, evaluation of toxic air contaminants and odors will be qualitatively assessed. This assessment will include identification of minor sources of TACs and odors within the project area, as well as a general discussion of potential adverse short-term and long-term human health impacts. If necessary, based on the initial analysis, a Human Health Risk Assessment (HHRA) may be required as an optional item. A scope of work and cost estimate for the HHRA will be provided to the City once specific emissions sources and the required modeling for those sources have been identified.
- Prepare an analysis of regional changes in vehicle and indirect emissions using the most recent version of the URBEMIS-2002 computer program adopted by the SJVAPCD; the version currently adopted by SJVAPCD is URBEMIS-2002 8.7. This analysis will include quantification of area and mobile-source emissions, based in part on the traffic analysis prepared for this project. Net change in long-term operational emissions due to the construction of the project and alternatives will be quantified. Impact significance will be determined in comparison with SJVAPCD-recommended thresholds of significance. Note: The air quality analysis prepared for this EIR would not involve the calculation of emissions in support any regulatory compliance requirements such as permit/indirect source review applications.
- Evaluate consistency of the project with local general plan policies and with regional air quality planning efforts.
- Identify construction mitigation measures necessary to reduce construction dust impact to a level that is less-than-significant.
- Develop, with the assistance of SJVAPCD staff, mitigation measures for permanent air quality impacts found to be significant in association with Rule 9510, Indirect Source Review. Estimate effectiveness in reducing emissions. The analysis will be coordinated with the City to determine if project emissions have already been addressed adequately in the Urban Area General Plan Master EIR.

**Biological Resources.** The project site encompasses approximately 79 acres of predominantly ruderal and agricultural vegetation, which provides potential habitat for several special-status and projected species, including Swainson's hawk. PMC's biologist assisted by technical staff will perform the following tasks in preparation of the biological resources analysis.

- Identify the existing setting for biological resources, including a query of the California Natural Diversity Database (CNDDDB) and the California Native Plant Society (CNPS) databases to compile a list of special-status plant species that have potential to occur within the study area, use of CNDDDB information and other technical reports and agency information to help determine the likelihood of special-status species that may occur within the project area.
- A list of federally listed special-status species with potential to occur in the area will be requested from the U.S. Fish and Wildlife Service (USFWS).
- The California Department of Fish and Game (CDFG) shall also be consulted to discuss the project and obtain any pertinent information on State listed and sensitive species. Burrowing owl and Swainson's hawk, state and federal species of concern would be a high priority focal species in this area.

## **SCOPE OF WORK**

---

**Hydrology/Water Quality.** PMC will prepare the Hydrology and Water Quality section that addresses issues related to storm drainage, flooding, erosion/sedimentation, and storm water quality. The following research and review activities will be conducted:

- Reconnaissance of the site and surrounding area to visually evaluate its hydrologic and topographic character and its orientation with respect to local and master planned storm drainage facilities.
- Review of infrastructure capacity studies relevant to storm drainage prepared for the proposed development by the City's consultant.
- Review of the most recent Storm Drainage Master Plan for the City of Modesto prepared by Stantec Consulting Inc.
- Review of City of Modesto standards and policies that are pertinent to development in this area.
- Review of City of Modesto Design Standards for Dual Use Flood Control/Recreation Facilities prepared by Stantec Consulting Inc. dated December 2000.
- Meet with City of Modesto staff to obtain any additional relevant information regarding drainage and flooding in the area that should be considered in the evaluation of the proposed project.
- Review pertinent documents and materials, including technical analysis of the storm drainage plan for the specific plan area to be performed by Stantec, the proposed site master plan, any preliminary grading and drainage plans, any topographic mapping prepared for the proposed specific plan area by the applicant, USGS Quadrangle maps and aerial photographs covering the area, and the City of Modesto's design manual relating to storm water quality.
- Identify impacts related to storm runoff production, storm drainage control, dual-use detention, erosion/sedimentation, and storm water quality
- Develop mitigation measures, as appropriate.

**Land Use.** The Plan area is within the Kiernan/Carver CPD. A range of residential densities and an open space area are proposed in the Woodglen Specific Plan. The EIR will describe the character of the region and the area surrounding the project in terms of existing, planned and future development patterns and land uses. PMC will identify adopted, planned and proposed development in the project area and buildout under the General Plan. PMC will describe existing land uses as well as City and County General Plan and zoning land use designations in the vicinity of the project. Consistency with applicable LAFCo goals will also be described. The project will be reviewed for conformity with applicable General Plan policies (including uses planned for the Kiernan/Carver CPD), development standards, and other appropriate plans and guidelines and the project's consistency with the applicable plans, programs and ordinances will be identified.

**Agricultural Resources.** The Plan area was previously used for agricultural operations and is currently under two Williamson Act contracts. Figure V-4-1 of the 2003 Final Master EIR for the Urban Area General Plan identifies the Plan area as 'Important Farmland.' Development of the Plan area would alter existing land use patterns in the project area and would remove agricultural lands from service. The project would also result in potential agricultural/interface conflicts with surrounding lands. The project will be reviewed for conformity with applicable General Plan policies and the project's consistency with the applicable plans, programs and ordinances, including applicable LAFCo goals, will be identified. ENGEO will prepare the agricultural analysis for the project. The work effort will include review the most recent soil survey for Stanislaus County produced by the U.S. Department of

## SCOPE OF WORK

Implementation of the project would result in an increase in demand for public services in the project area. PMC will use water and wastewater analyses, including a Water Supply Assessment, Water Capacity Analysis, and Wastewater Study, prepared by the City's consultants for use in determining impacts to water and wastewater providers. The following tasks will be performed for the public service section:

- Service and utility providers will be contacted in order to determine existing service levels in the project area. This would include documentation regarding existing staff levels, equipment and facilities, and planned service expansions. Based on a preliminary review of the project, it is not anticipated that the project would result in any significant impacts to public schools and recreation services.
- Describe City and District policies, programs, and standards associated with the provision of public services.
- Based on the above review, identify significant public service impacts as a result of implementation of the proposed project.
- Specifically address potential impacts associated with discharge capacity and secondary treatment requirements for wastewater.
- Identify mitigation measures for any significant impacts identified.

**Transportation/Circulation.** KDAAnderson Transportation Associates (KDA) will prepare the traffic analysis for the project pursuant to the standard City requirements. The traffic analysis will include the following:

### Study Initiation

- KDA will attend an initiation meeting with the client and City staff to discuss the City's concerns, study approach, developer objectives for the project, etc., and review the schedule for the traffic study and for the EIR as a whole.
- Identify CEQA Standards of Significance for signalized and unsignalized intersections, pedestrian/bicycle safety, design features and other potential transportation impacts.

### Collect Traffic Volume Data/ Assess Current Conditions

- KDA will collect the traffic count information needed for the traffic analysis. KDA will assemble p.m. peak hour traffic counts at the intersections that are likely to be affected by the development of the project. KDA's budget includes new counts at study intersections, including:

1. Pelandale Avenue / Carver Road
2. Pelandale Avenue / Tully Road
3. Bangs Avenue / Carver Road
4. Bangs Avenue / Tully Road
5. Kiernan Avenue / Carver Road
6. Kiernan Avenue / Tully Road
7. Standiford Avenue / Carver Road
8. Standiford Avenue / Tully Road
9. McHenry Avenue / Bangs Avenue
10. Tully Road / Snyder Avenue
11. Carver Road / Snyder Avenue
12. Prescott Road / Snyder Avenue
13. Prescott Road / Pelandale Avenue

## SCOPE OF WORK

---

11. Carver Road / Snyder Avenue
12. Prescott Road / Snyder Avenue
13. Prescott Road / Pelandale Avenue

- To produce year 2025 forecasts KDA will disaggregate the current citywide traffic model to accurately assign traffic to the local street system. Resulting p.m. peak hour forecasts will be created in a manner that is consistent with other recent City EIR's. Resulting p.m. peak hour forecasts will be created in a manner that is consistent with other recent City EIRs.

### Review Project Access and Related Items.

- Proposed project access will be reviewed with regard to City of Modesto standards for intersection spacing, and the extent to which auxiliary lanes / traffic controls are needed will be suggested.
- Evaluate potential impacts to pedestrian and bicycle safety.
- Evaluate proposed on-site access and any potential traffic safety issues.

### Identify Mitigation Measures.

- If unsatisfactory traffic or access conditions are projected we will explore alternative mitigation measures and recommend a strategy for reducing impacts to a level of insignificance. However, those impacts that may not be avoidable will be noted as well.

### Meetings / Coordination

- KDA has assumed three (3) meetings, and this cost is included in the budget. However, while participation in the Planning Commission review of the project or additional meetings with City staff may be necessary, this cost is not included in KDA's base budget.

***Mandatory Findings of Significance.*** PMC will assess the project in light of the mandatory findings of significance included in the CEQA Guidelines and will identify the significance of potential impacts.

***Other CEQA Required Sections.*** The EIR will include the other required sections including cumulative impact analysis, growth inducing impacts of the project and summary of significant and unavoidable impacts of the project.

***Project Alternatives.*** PMC will coordinate with City staff in the development of up to three reasonable alternatives to the proposed project. Our proposal includes consideration of one alternative site to be determined in consultation with the City. Other alternatives could include no project and modified design alternatives. These alternatives will be described qualitatively and quantitatively, and contrasted with the proposed project in terms of the extent that the alternatives can achieve project objectives or reduce adverse impacts. This analysis will be presented in a separate chapter of the EIR.

***Mitigation Monitoring and Reporting Program.*** A Mitigation Monitoring and Reporting Program (MMRP) will be prepared as part of the ADEIR to facilitate implementation of all mitigation measures adopted through the CEQA process. The MMRP will list the mitigation measures identified within the EIR for a

## **SCOPE OF WORK**

---

### **TASK 7. NOTICES, FINDINGS AND RESOLUTIONS**

PMC will prepare the Notice of Preparation for the EIR and Notices of Completion for submittals to the State Clearinghouse. PMC will also prepare the Statement of Overriding Considerations and provide the City with a Resolution to adopt the environmental document, make required findings, and adopt the Mitigation Monitoring and Reporting Program.

*Deliverables: PMC will provide fifteen (15) copies to the City, one camera ready, unbound copy suitable for reproduction and one disk copy.*

### **TASK 8. MEETINGS AND PROJECT MANAGEMENT**

PMC will attend up to six (6) meetings for the EIR. These meetings will include Project Manager and Senior Environmental Planner attendance at three (3) project meetings with City staff and Project Manager attendance at three (3) public hearings regarding the project. The traffic engineer, KDA, will attend two staff-level meetings and one public meeting. During the comment period on the Notice of Preparation, PMC anticipates attending a scoping meeting and presenting the project and its anticipated environmental effects. PMC and KDA will attend additional meetings at the request of the City on a time/expense cost basis.

### **TASK 9: WETLAND DELINEATION (OPTIONAL)**

Background: Wetland delineations are a standardized method of identifying water features within the jurisdiction of the Army Corps of Engineers (Corps). The Corps has jurisdiction over a variety of water features including wetlands (i.e. vernal pools, marshes, seasonal wetlands) and "other Waters of the United States" (i.e. drainages, creeks, streams, navigable waters, tidal area). The Corps has provided guidance on the characteristics that wetlands and "other waters of the United States" must have to be determined within their jurisdiction. This guidance is provided in the 1987 Corps Delineation Manual. Jurisdictional wetlands must (under normal conditions):

- be inundated or saturated for a least five percent of the growing season (about 14 consecutive days in Central California);
- support hydrophytic (water loving) vegetation (more than fifty percent of the cover); and
- be underlain by hydric (historically saturated) soils.

PMC proposes to utilize a routine on-site wetland delineation method as presented in the 1987 Corps Delineation Manual (Section C, Subsection 3) to identify the jurisdictional wetland features and their extent within the project area. The method of determining the jurisdictional status of wetland features and delineating the feature boundaries will be field surveys.

Paired data points will be taken within and outside of each feature to determine and justify the wetland boundaries. Data point locations will be recorded with the use of GPS units. Standard data (dominant vegetation, soil characterization and indicators of hydrology) will be collected and recorded on standard wetland delineation sheets. The location of non-wetland jurisdictional waters (linear drainages, ponds, creeks etc.) will be recorded with GPS units. Width characteristics of linear features will be recorded at 10-foot intervals or as appropriate (given the nature of the feature). Soil mapping provided by the Natural Resource Conservation Service will be digitized into a GIS file. The delineation map will be superimposed on the soil mapping to document the soil type of wetland features.

A Draft Preliminary Wetland Delineation Report will be submitted to the client for review. Comments and edits will be considered and a Preliminary Wetland Delineation Report will be prepared for submittal to the Corps for verification. It is assumed that the field verification meeting with the Corps will be no longer than 8 hours.

The Corps may require an aerial photograph and a detailed topographic mapping of the site. It is assumed that the project

## SCHEDULE

---

### SCHEDULE

Upon authorization to proceed, PMC will provide the Administrative Draft Environmental Impact Report to the City within 8 weeks; this time period assumes that PMC will work during the 30-day circulation period of the NOP. At the close of the 45-day public review period of the Draft Environmental Impact Report, we anticipate four weeks to respond to comments and prepare the Final Environmental Impact Report. This schedule is dependent on timely completion of infrastructure capacity studies that are acceptable to the City and provided to PMC by the 3<sup>rd</sup> week of Task 3.



## ASSUMPTIONS

---

### ASSUMPTIONS UPON WHICH THIS PROPOSAL IS BASED

The scope of work and cost provisions of this proposal are based upon several assumptions that are summarized below. PMC recognizes that these assumptions may be subject to change by the City during the course of the project. While such changes would not necessarily result in modification of the scope or cost, PMC reserves the right to propose such modifications in the event of such changes.

- Property owners must give access permission before any field review activities may begin; if property access is delayed, the time period to complete the Initial Study shall be extended commensurate with the delay.
- PMC assumes that the agricultural suitability analysis, Phase II Environmental Assessment, and water, wastewater, and storm water technical reports being prepared as part of the Facilities Master Plan will be reviewed by the City for conformity to applicable City and state standards and that the report preparers will be available for questions at no expense to PMC. These reports or adequate data from the reports to complete the EIR analysis are assumed to be received by PMC within eight weeks of commencing work on the project to avoid delays on the project.
- PMC assumes that the applicant will initiate a Rule 9510, Indirect Source Review (ISR) with the San Joaquin Valley Air Pollution Control District as soon as possible to avoid delays in preparation of the air quality analysis included in the EIR. The results of the ISR shall be provided to PMC as soon as they are available.
- It is the applicant's responsibility to obtain any necessary permits and other regulatory approvals. Any information generated from the project applicant's negotiations, coordination, and consultations with regulatory agencies and through pre-application packages that may be useful during the preparation of the Initial Study, should be forwarded to PMC.
- The Project Description shall not be substantially changed once approved by the City.
- It is assumed that the project applicant will provide detailed information necessary for a thorough evaluation of the Specific Plan request as noted in the scope. In order to maintain the project schedule, this information must be available to the consulting team upon notice to proceed.
- There will be two rounds of review of the Initial Study by the City. The City will provide PMC with one copy of consolidated comments on each draft of the Initial Study.
- There will be two rounds of review of the Administrative Draft Environmental Impact Report. The City will provide PMC with one copy of consolidated comments on the Administrative Draft EIR and Screencheck Draft EIR.
- The schedule for the completion of the Administrative Final Environmental Impact Report will be based on the receipt of a complete set of comment letters. Responses to comments estimate assumes a moderate level of effort as described in the scope of work. PMC reserves the right to renegotiate if comments received would require a level of effort beyond our estimate.
- City staff and responsible agencies will cooperate with the PMC Project Team in a timely manner.

EXHIBIT B  
MONTHLY BILLING TEMPLATE

BUDGET

Task	Task Description	Project Director	Project Manager	Biological Specialist	Environmental & GIS Planners	Graphics/ISP Staff	Sub-Consult. <sup>1</sup>	Printing, Distribution and Other Costs <sup>2</sup>	Totals
		\$145	\$115	\$90 - \$95	\$80 - \$100	\$65			
1.	<b>Project Initiation</b>								
	<b>Subtotal Task 1</b>	2	4	0	0	0		\$220	6
		\$290	\$460	\$0	\$0	\$0			\$970
2	<b>Initial Study/Notice of Preparation</b>								
	IS/NOP and Scoping Meeting	2	14	5	62	11		\$2,412	94
		\$290	\$1,610	\$380	\$5,890	\$715			\$11,297
	<b>Subtotal Task 2</b>	2	14	5	62	11	0	0	94
		\$290	\$1,610	\$380	\$5,890	\$715	\$0	\$2,412	\$11,297
3	<b>Administrative Draft Environmental Impact Report</b>								
	Executive Summary	0	1	0	4	0	0	0	5
		\$0	\$115	\$0	\$380	\$0	\$0	\$0	\$495
	Project Description	1	3	0	15	10	0	0	29
		\$145	\$345	\$0	\$1,425	\$650	\$0	\$0	\$2,565
	Land Use & Planning	0	2	0	16	3	0	0	21
		\$0	\$230	\$0	\$1,520	\$195	\$0	\$0	\$1,945
	Agricultural Resources	0	2	0	14	5	0	0	21
		\$0	\$230	\$0	\$1,330	\$325	\$4,950	\$0	\$6,835
	Population, Housing, and Employment	0	1	0	12	0	0	0	13
		\$0	\$115	\$0	\$1,140	\$0	\$0	\$0	\$1,255
	Transportation and Circulation	0	4	0	12	3	0	0	19
		\$0	\$460	\$0	\$1,140	\$195	\$28,860	\$0	\$30,655
	Noise	0	2	0	6	2	0	0	10
		\$0	\$230	\$0	\$570	\$130	\$850	\$0	\$1,780
	Air Quality	0	1	0	6	0	0	0	7
		\$0	\$115	\$0	\$570	\$0	\$5,500	\$0	\$6,185
	Biological Resources	0	2	72	6	6	0	0	86
		\$0	\$230	\$6,840	\$570	\$390	\$0	\$0	\$8,030
	Hazards/Hazardous Materials	0	1	0	14	0	0	0	15
		\$0	\$115	\$0	\$1,330	\$0	\$0	\$0	\$1,445
	Geology and Soils	0	1	0	14	0	0	0	15
		\$0	\$115	\$0	\$1,330	\$0	\$0	\$0	\$1,445
	Hydrology and Water Quality	0	2	0	24	2	0	0	28
		\$0	\$230	\$0	\$2,280	\$130	\$0	\$0	\$2,640
	Cultural Resources <sup>3</sup>	0	4	0	30	0	0	0	34
		\$0	\$460	\$0	\$1,950	\$0	\$0	\$280	\$2,690
	Visual Resources	0	2	0	4	1	0	0	7

PW

	<b>Project Total</b>	<b>\$7,497</b>	<b>\$36,179</b>	<b>\$10,659</b>	<b>\$66,517</b>	<b>\$9,939</b>	<b>\$52,206</b>	<b>\$27,117</b>	<b>\$209,860</b>
<b>Optional Tasks</b>									
<b>9</b>	<b>Wetland Delineation<sup>5</sup></b>								
	<b>Total Task 9</b>	<b>4</b>	<b>1</b>	<b>56</b>	<b>24</b>	<b>12</b>	<b>0</b>	<b>0</b>	<b>97</b>
		<b>\$580</b>	<b>\$115</b>	<b>\$4,480</b>	<b>\$1,920</b>	<b>\$780</b>	<b>\$0</b>	<b>\$440</b>	<b>\$8,315</b>

- Notes: <sup>1</sup> Outside direct costs are passed through with a 10% mark up.  
<sup>2</sup> Printing, Distribution, and Other costs include the costs of document reproduction and delivery to the State Clearinghouse.  
<sup>3</sup> The Cultural Resources budget includes attendance at one meeting by a senior cultural resources specialist.  
<sup>4</sup> Additional meetings will be billed based on time and expenses; Principal Traffic Engineer attendance will be billed at \$125/hour.  
<sup>5</sup> Senior Biological Manager time shown as Project Director time for Task 9

*pw*

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-724**

**A RESOLUTION APPROVING AN AGREEMENT CONSENTING TO  
COMMON USE WITH THE MODESTO IRRIGATION DISTRICT (MID) FOR  
UTILIZATION OF AN EASEMENT WITHIN LATERAL NO. 4 FOR THE  
PURPOSE OF CONSTRUCTING A CLASS I NON-MOTORIZED TRAIL AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto Non-Motorized Transportation Master Plan (the Plan) was adopted in July, 1996, and re-adopted by Council in 2003, and

WHEREAS, the Plan designates a Class I Non-Motorized trail to run from Needham Avenue near downtown Modesto to the northern City boundary near Bangs Avenue, and

WHEREAS, this trail is known as the Virginia Corridor Project, and

WHEREAS, in order to plan for installation and maintenance of this trail, two agreements with MID are needed, and

WHEREAS, the next project phase of the Virginia Corridor Project will construct a Class I paved trail and amenities between College Avenue and Roseburg Avenue, and between Granger and Orangeburg Avenues, and will be completed by a City-hired contractor next spring, and

WHEREAS, the construction phase will occupy a portion of the Modesto Irrigation District (MID) right-of-way of its Lateral 4, referred to as an "Area of Common Use", and

WHEREAS, an Agreement Consenting to Common Use will be required for said construction,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves an Agreement Consenting to Common Use with the

Modesto Irrigation District for utilization of easements within Lateral No. 4 for the purpose of installing and maintaining a Class I non-motorized trail.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-725**

**A RESOLUTION APPROVING A LICENSE AGREEMENT WITH THE  
MODESTO IRRIGATION DISTRICT (MID) FOR UTILIZATION OF AN  
EASEMENT WITHIN LATERAL NO. 4 FOR THE PURPOSE OF INSTALLING  
AND MAINTAINING A CLASS I NON-MOTORIZED TRAIL AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the City of Modesto Non-Motorized Transportation Master Plan (the Plan) was adopted in July, 1996, and re-adopted by Council in 2003, and

WHEREAS, the Plan designates a Class I Non-Motorized trail to run from Needham Avenue near downtown Modesto to the northern City boundary near Bangs Avenue, and

WHEREAS, this trail is known as the Virginia Corridor Project, and

WHEREAS, in order to plan for installation and maintenance of this trail, two agreements with MID are needed, and

WHEREAS, the next project phase of the Virginia Corridor Project will construct a Class I paved trail and amenities between College Avenue and Roseburg Avenue, and between Granger and Orangeburg Avenues, and will be completed by a City-hired contractor next spring, and

WHEREAS, this phase will also require use of a portion of Lateral No. 4, along the northerly right-of-way from Virginia Avenue to just west of College Avenue, for the purpose of installing and maintaining a bike path and landscaping and for a temporary construction area, which will require a "License Agreement" between the City and MID,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves a License Agreement with the Modesto Irrigation

District for utilization of easements within Lateral No. 4 for the purpose of installing and maintaining a Class I non-motorized trail.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-726**

**A RESOLUTION APPROVING THE TIMELINE FOR  
DEVELOPMENT OF THE ANNUAL ACTION PLAN, AND THE  
CDBG AND ESG PUBLIC SERVICE GRANTS, FOR FISCAL  
YEAR 2007-2008.**

WHEREAS, the Department of Housing and Urban Development (HUD) regulations require that the City of Modesto have a Citizen Participation Plan that contains the City's procedures for community participation in development of the Annual Action Plan and use of Community Development Block Grant (CDBG), HOME, and Emergency Shelter Grant (ESG) funds, and

WHEREAS, the City adopted and last amended its Citizen Participation Plan in September of 2005, and

WHEREAS, in order to comply with the Citizen Participation Plan and HUD regulations, the City must publish a Citizen Participation Calendar for the development of the coming year's Annual Action Plan, and

WHEREAS, the Citizen Participation Calendar contains the Annual Action Plan, Public Service Grant Activities, and the advertisement dates for the Public Service Grants and the Annual Action Plan Community Meetings, and

WHEREAS, a copy of said Citizen Participation Plan is attached hereto as **Exhibit "A"** and incorporated herein by reference, and

WHEREAS, the Citizens Housing and Community Development Committee met on November 9, 2006, and supported staff's recommended Citizen Participation Calendar,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the timeline for development of the Annual Action Plan, and the CDBG and ESG Public Service Grants, for Fiscal Year 2007-2008, a copy of which is attached hereto as Exhibit "A" and is incorporated herein by reference.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

City of Modesto  
 HUD Programs – Fiscal Year 2007-2008  
 Citizen Participation Calendar of Events

Activity	Date	Time
Timeline for Annual Action Plan, Public Service Grants and Citizen Participation Calendar Approved by the CH&CDC, Room 3001, Tenth Street Place	09 Nov 06 (Thursday)	12:00 p.m.
City Council Meeting to Approve the Draft Timeline for Annual Action Plan, Public Service Grants and Citizen Participation Calendar of Events, Council Chambers, Tenth Street Place	28 Nov 06 (Tuesday)	5:30 p.m.
Ad placed in local English Language Newspaper for Staff Technical Assistance Workshop for CDBG Public Service Grants	10 days Prior to the Technical Assistance Workshop	
Ad placed in local Spanish Language Newspaper for Staff Technical Assistance Workshop for CDBG Public Service Grants	10 days Prior to the Technical Assistance Workshop	
Application Period for Public Service Grants Opens (January 24, 2007– February 23, 2007)	24 Jan 07 (Wednesday)	
Staff Technical Assistance Workshops for CDBG Public Service Grants	1 <sup>st</sup> Week of February	
Applications Due for Funding Requests for Public Service Grants	23 Feb 07 (Friday)	5:00 p.m.
Analysis of Public Service funding Requests by Staff and Review Committee	26 Feb 07 – 09 Mar 07	
Public Service Grant Review Committee to Review Grant Requests	By 16 Mar 07	
CH&CDC Meeting and Public Hearing to consider funding requests for Public Service Applications, Council Chambers, Tenth Street Place	23 Mar 07	12:00 p.m.
Ad placed in local English Language Newspaper for Community Meetings to obtain input for Annual Action Plan	Mar 07 (Minimum of one week prior to meeting dates)	
Ad placed in local Spanish Language Newspaper for Community Meetings to Obtain Input for Annual Action Plan	Mar 07 (Minimum of one week prior to meeting dates)	

Activity	Date	Time
Community Meetings to Obtain Input on Annual Action Plan	March/April 07	
City Council Meeting to Consider and Approve Funding Recommendations for Public Service Grants, Council Chambers, Tenth Street Place	03 Apr 07 (Tuesday)	5:30 p.m.
City Council Study Session, Council Chambers, Tenth Street Place	03 Apr 07 (Tuesday)	5:30 p.m.
30-day Public Notice Announcing Availability of 2007-2008 Annual Action Plan for Review and Comments (11 Apr to 11 May)	11 Apr 07 (Wednesday)	
CH&CDC Meeting to Consider Final Draft of 2007-2008 Annual Action Plan, City Hall, Tenth Street Place	27 Apr 07 (Friday)	12:00 p.m.
City Council Meeting and Public Hearing to Consider and approve Recommendations for the 2007-2008 Annual Action Plan	08 May 07 (Tuesday)	5:30 p.m.
2007-2008 Annual Action Plan Due to HUD	31 May 07 (Thursday)	

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-727**

**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. CLASSIFICATIONS AMENDED. The Position Classification Plan of the City of Modesto is hereby amended to revise the job specification for the following classifications:

1. Instrument Repair Technician

The job specification for classification of Instrument Repair Technician is being amended to more accurately describe the essential functions related to electronics and instrumentation. The job specification for the classification of Instrument Repair Technician, 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.

2. Electrician

The job specification for the classification of Electrician is being amended to more accurately reflect the essential functions of the job. The job specification for the classification of Electrician, 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 2. EFFECTIVE DATE. This resolution shall become effective on and after November 28, 2006.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 28th day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

## INSTRUMENT REPAIR TECHNICIAN

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

### DEFINITION

To perform difficult and complex technical work in the design, testing, installation, maintenance, calibration and repair of pneumatic, electronic and electrical control and data acquisition systems for water and wastewater distribution, collection and treatment operations.

### SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from higher level supervisory and management staff.

ESSENTIAL AND MARGINAL FUNCTION STATEMENTS: - Essential and other important responsibilities and duties may include, but are not limited to, the following:

#### Essential Functions:

~~Install, maintain, repair and adjust computer system hardware and software, digital data multiplexing equipment used for indicating, telemetering, measuring and controlling flow, temperature, motion, force, and chemical composition.~~

~~Install, repair and maintain the Supervisory Control and Data Acquisition (SCADA) system.~~

~~Repair, maintain and calibrate the level, pressure and flow telemetry.~~

Install, maintain, test, calibrate, repair and adjust computer system hardware and software, equipment and components of process control and Supervisory Control and Data Acquisition (SCADA) system.

Design, install, repair and maintain control circuits for monitoring and controlling flow, temperature, motion, pressure, and chemical composition.

Design, install, repair calibrate and maintain circuits for operation and monitoring of motor controls, and remote telemetry unit interface; program system components for water and wastewater systems.

Essential Functions: (Continued)

Configure process and instrumentation diagrams, control loop parameters and logic for programmable logic controllers and control systems.

~~Maintain and repair automatic control valves and associated control functions.~~

~~Maintain SCADA system including control loops and relays.~~

~~Operate a variety of electronics testing equipment.~~

~~Install, maintain and repair underground and overhead circuits and control systems used in the operation of motors, pumps and generators at city-owned facilities.~~

Maintain a variety of electronic control instruments used to operate electrical mechanical equipment, record data, indicate equipment status and activate supervisory control.

Use a variety of test equipment including computers, oscilloscopes, frequency generators and other specialized equipment or devices to calibrate, repair and maintain system.

Using a laptop or personal computer, communicate with the SCADA system, remote telemetry units (RTU's), and radios.

Read and interpret wiring diagrams, mechanical drawings, manuals and specifications used during installations or when performing repair work.

Document and draw circuits as installed; make recommendations for improvements to instrumentation systems.

~~Perform Electrical maintenance.~~

Marginal Functions:

Maintain service records, identify sources and participate in development of specifications for requisitions for parts and electrical equipment.

Train operations and maintenance staff on process control equipment.

Perform related duties as assigned.



## QUALIFICATIONS

### Knowledge of:

Methods, practices and equipment used in the installation, construction, repair, maintenance, testing and adjustment made to the SCADA systems used in water treatment operations.

Design, construction, installation and maintenance of industrial electrical and electronic systems.

Principles and practices of electronics, computer systems, pneumatic and hydraulic control systems as applied to control and data acquisition systems.

Programming of controllers used in water and wastewater treatment systems.

Principles of electronics as applied to telemetry.

Codes, laws and ordinances related to assigned area of responsibility.

Safe working practices and procedures.

Basic methods, materials, tools, equipment, and procedures required/used in the installation and repair of electrical circuits, systems and devices.

### Ability to:

Use and operate a variety of electrical, electronic and mechanical tools, instruments and equipment.

Perform manual labor, including but not limited to medium-heavy occasional lifting up to 75 pounds.

Pass an annual physical examination.

Read and understand technical drawings, specifications and maintenance manuals.

Prepare wiring diagrams and blueprints.

Install, repair and maintain a variety of electronic systems relative to water treatment operations.

Operate and use a personal computer.

Ability to: (Continued)

Communicate clearly and concisely, both orally and in writing.

Establish and maintain effective working relationships with those contacted in the course of work.

Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way to obtain the knowledge and abilities would be:

Experience:

Journey-level Four years experience in industrial electrical systems and electronics involving the calibration, set-up and testing of electronic instrumentation including one year at the journey level.

Training:

Trade school or college level coursework in electronic sensory systems diagnosis, maintenance, repair and testing is desirable.

License or Certificate:

Possession of, or ability to obtain, an appropriate and valid California driver's license.

WORKING CONDITIONS

Environmental conditions:

Field environment; exposure to electrical energy.

Physical conditions:

Essential and marginal functions may require maintaining physical condition necessary for walking, standing or sitting for prolonged periods of time; operating motorized equipment and vehicles; the ability to distinguish color.

## ELECTRICIAN

Class specifications are intended to present a descriptive list of the range of duties performed by employees in the class. Specifications are not intended to reflect all duties performed within the job.

### DEFINITION

To perform a wide variety of skilled work in the installation, maintenance, and repair of electrical systems and equipment, which may include working with high voltage up to 6000 volts.

### DISTINGUISHING CHARACTERISTICS

This is the full journey level class within the Electrician series. Electricians may be allocated to utilities support, including water, wastewater and storm drain collection and treatment or to electrical support, including street lightning, signalization, and facilities. Within these assignments incumbents may develop specialization in one or more areas.

Employees within this class are distinguished from the *Assistant Electrician* by the performance of the full range of duties as assigned, including maintenance and repair of high voltage systems. Employees at this level receive only occasional instruction or assistance as new or unusual situations arise and are fully aware of the operating procedures and policies of the work unit.

### SUPERVISION RECEIVED AND EXERCISED

Receives general supervision from an Electrical Supervisor.

Exercises functional and technical supervision over Assistant Electricians and Electrical Technicians.

### ESSENTIAL AND MARGINAL FUNCTION STATEMENTS

Essential and other important responsibilities may include, but are not limited to the following:

#### Essential Functions:

Diagnose problems and perform complex electrical maintenance and repair work involving municipal facilities, utilities systems, buildings, and signalization and lighting systems including high voltage systems, traffic management, closed circuit television and Supervisory Control and Data Acquisition systems.

Essential Functions: (Continued)

Install, maintain, and repair traffic signals and street lighting, including underground and overhead lines, poles, control circuits, preemption units, battery backup, detection loops, cameras, and microwaves; installs, maintains and repairs communication systems including fiber optic, twisted pair and radio equipment.

Install, maintain, and repair control systems, motors, generators, pumps, telemetering systems, variable frequency drives (VFDs), analyzers, sensors, detectors and other electromechanical and electronic equipment, including replacing boards, cards, chips and other components.

Install, maintain and repair electrical and lighting equipment, heating, air conditioning, and ventilation systems Automated Traffic Control Systems (ATMS), intercommunication and computer systems, in the City's buildings, parks, plant and pumping stations.

Repair and replace defective or work electrical parts in communication hubs, motors, generators, pumps, controllers, switches, pneumatic systems, boilers, and other facilities and equipment.

Test, locate, and repair damaged electrical circuitry, communication and fiber optic systems.

Inspect electrical equipment and lighting to ensure safe and satisfactory functioning.

Read blueprints, schematics, and electrical diagrams. Participate in the design of electrical systems as necessary. Recommend development or changes to specifications.;

May Operate heavy equipment including backhoes, aerials, and other construction equipment. Establish work zones, set up traffic controls and detours.

Develop material lists; obtain prices, and purchase materials. Maintain accurate records of work performed, materials used, and associated costs.

Remove and replace asphalt, concrete, and landscaping.  
May train and have one or more assistants or technicians assigned as helpers.

Marginal Functions:

Perform related duties as assigned.

QUALIFICATIONS

Knowledge of:

Design, construction, installation, and maintenance of electrical and electronic systems.

Basic methods, materials, tools, equipment, and procedures used in the repair of electrical and mechanical devices.

Basic principles of electrical and electronic repair.

Electrical codes and related ordinances and regulations.

Electric motors and control systems.

Basic electronic circuitry.

Safe work practices.

VFD theory and troubleshooting.

Industrial instrumentation standards.

Process instrumentation.

Troubleshooting theory and calculation of Analog circuitry.

Input and output addressing.

Setup of VFD and control circuitry.

Troubleshooting electrical, basic electronic and fiber optic systems.

Design, construction, installation and maintenance of traffic signals and street lighting.

VFD and soft start wiring installation and troubleshooting.

Ability to:

Perform journey level work in the trades area of electrical and electronic maintenance and repair.

Repair electrical signal, lighting, control, and alarm systems.

Understand and interpret written and oral instructions, including blueprints and wiring diagrams.

Use and care for tools and equipment used in maintaining and repairing electrical and electronic devices.

Diagnose causes of electrical malfunction.

Perform mathematical computations as required in electrical and electronic circuits.

Work under emergency and hazardous conditions.

~~Perform heavy manual labor, including but not limited to fifty (50) to one hundred (100) pounds of weight, climbing, bending, stooping, etc.~~ medium/heavy lifting up to 75 lbs.

~~Pass an annual physical examination.~~

Assist others in municipal electrical and electronic maintenance repair.

Communicate clearly and concisely, both orally and in writing.

Establish and maintain cooperative working relationships with those contacted in the course of work.

Program VFDs, level controls and soft starts.

Work with High Voltage AC wiring and low voltage DC wiring.

Work with Analog circuit troubleshooting.

Learn the difference between source and supply wiring.

Integrate electrical and instrumentation.

Troubleshoot and diagnose program errors in variable frequency drives and level controls.

Experience and Training Guidelines

Any combination of experience and training that would likely provide the required knowledge and abilities is qualifying. A typical way would be:

Experience:

One year as an **Assistant Electrician** for the City of Modesto.

Or

Four years of experience in an electrician apprenticeship program and one year of experience as a journey-level electrician in a commercial or industrial environment including experience working with high voltage lines.

Training:

Equivalent to completion of the twelfth grade supplemented by additional specialized training in electrical or electronic maintenance.

License or Certificate

When assigned, possession of an appropriate, valid Class A or Class B Commercial California Driver's license with appropriate endorsements, as assigned, within 60 days of appointment. Failure to obtain the required license may result in release from probation or termination.

When assigned, possession of a valid crane operators certificate, issued by the National Commission of Crane Operators, is required within six months of assignment.

WORKING CONDITIONS

Environmental Conditions:

Field environment; travel from site to site, exposure to inclement weather conditions. Incumbents regularly work with high voltage power lines and equipment. Incumbents may work in aerial truck at heights above 40 feet, and may be exposed to dust and fumes.

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for walking, standing or moving for prolonged periods of time; for occasional bending, kneeling, stooping, crawling and climbing; operating motorized equipment, aerial boom and vehicles for an entire work shift. Must possess hearing sufficient to safely work in traffic and vision corrected to normal, including color vision sufficient to distinguish colored wires and indicator lights.



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-728**

**A RESOLUTION AMENDING EXHIBIT "A" OF RESOLUTION NO. 2006-319  
TO REVISE THE CLASS RANGE TABLE FOR GENERAL NON-SWORN  
CLASSES TO CHANGE THE SALARY RANGE FOR ELECTRICIAN TO  
SALARY RANGE 128.**

WHEREAS, the City Council desires to amend Exhibit "A" of Resolution No. 2006-319, which approved the Class Range Table for General Non-Sworn Classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto as follows:

SECTION 1. AMENDMENT TO RESOLUTION NO. 2006-319. Exhibit "A" entitled, "City of Modesto Class Range Table General Non-Sworn Classes Effective May 23, 2006," attached to Resolution No. 2006-319, is hereby amended as shown on the amended **Exhibit "A"** entitled, "City of Modesto Class Range Table General Non-Sworn Classes Effective November 28, 2006," which is attached hereto and made a part hereof as though set forth in full herein. Said amended Exhibit "A" changes the salary range for Electrician from range 126 to range 128.

SECTION 2. EFFECTIVE DATE. This resolution shall become effective on and after November 28, 2006.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on 28<sup>th</sup> day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO  
 CLASS RANGE TABLE  
 GENERAL NON-SWORN CLASSES  
 Effective **November 28, 2006**

RANGE	TITLE
101	Custodian I
103	Administrative Office Assistant I
104	
105	
106	
107	Administrative Office Assistant II Custodian II Police Clerk I
108	
109	Customer Services Account Clerk I
110	Security Officer Maintenance Worker I
111	Account Clerk Administrative Office Assistant III Customer Services Account Clerk II Police Clerk II
112	
113	Administrative Technician Computer Operator Drafting and Graphics Technician
114	Animal Control Officer I Electrical Technician I Equipment Service Technician Evidence and Property Specialist Maintenance Worker II Production Technician Storeskeeper

Exhibit "A"

RANGE	TITLE
115	Accounting Technician Administrative Services Technician I Code Enforcement Officer I Community Service Officer I Customer Services Account Clerk III Senior Administrative Office Assistant Wastewater Treatment Plant Attendant
116	Equipment Operator Fire Prevention Technician I Motor Sweeper Operator Traffic Operations Technician Used Oil Coordinator Wastewater Collection System Operator Water Distribution System Operator
117	Electrical Technician II
118	Customer Services Accounting Technician Fleet Procurement Specialist Parking Lot Maintenance Crewleader Parks Crewleader Recreation Coordinator Senior Storeskeeper Tree Trimmer
119	Administrative Services Technician II Animal Control Officer II Assistant Buyer Building Maintenance Mechanic Civil Engineering Technician I Code Enforcement Officer II Community Service Officer II Maintenance Mechanic – Parks Maintenance Mechanic – Pumps Public Information Technician Wastewater Treatment Plant Operator

Exhibit "A"

---

RANGE	TITLE
120	Accountant I Assistant Electrician Equipment Mechanic Fire Prevention Technician II Laboratory Analyst I Senior Equipment Operator Traffic Painter Crewleader Water Resource Specialist I Welder/Fabricator
121	Wastewater Treatment Plant Relief Operator
122	Heavy Equipment Mechanic Cross Connection Specialist Fire Equipment Mechanic Law Enforcement Academy Recruit Tree Trimmer Crewleader Water Conservation Specialist
123	Airport Maintenance Crewleader Civil Engineering Technician II Identification Technician I Maintenance Mechanic Crewleader – Parks
124	Community Development Program Specialist I Environmental Compliance Inspector I Equipment Mechanic Crewleader Laboratory Analyst II Operation and Maintenance Crewleader Planning Assistant Plant Mechanic Water Resource Specialist II
125	Crime Analyst
126	Building Inspector I Heavy Equipment Mechanic Crewleader Housing Financial Specialist Housing Rehabilitation Specialist I

Exhibit "A"

RANGE	TITLE
127	Civil Engineering Assistant Identification Technician II Senior Fire Equipment Mechanic
128	Community Development Program Specialist II <b>Electrician</b> Environmental Compliance Inspector II Instrument Repair Technician Senior Wastewater Treatment Plant Operator
129	
130	Building Inspector II Construction Inspector Housing Rehabilitation Specialist II Project Coordinator
131	Senior Civil Engineering Assistant
132	Environmental Review Specialist Senior Environmental Compliance Inspector
133	
134	Deputy Fire Marshal Plan Review Engineer Senior Building Inspector Senior Construction Inspector

Exhibit "A"

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-729**

**A RESOLUTION AMENDING THE PUBLIC WORKS DEPARTMENT'S OPERATING BUDGET, AS ADOPTED FOR FY 06-07, TO APPROPRIATE \$7,440 FROM WASTEWATER FUND BALANCE RESERVE TO ACCOUNT 6210-480-5213-0181 AND \$22,336 FROM SPECIAL GAS TAX FUND BALANCE RESERVE TO ACCOUNT 0700-160-1612-0181 TO FUND EXPENSES ASSOCIATED WITH A CHANGE IN SALARY RANGE FOR (12) TWELVE ALLOCATED ELECTRICIAN POSITIONS.**

WHEREAS, the City Council, under a separate action, adopted Resolution No. 2006-727 amending the Position Classification Plan of the City of Modesto to revise the job specifications for the classifications of Instrument Repair Technician and Electrician, and

WHEREAS, the City Council, under a separate action, adopted Resolution No. 2006-728 amending **Exhibit "A"** of Resolution No. 2006-319 to revise the Class Range Table for General Non-Sworn Classes, to change the salary range for Electrician from salary range 126 (\$3,836-\$4,663 mo.) to salary range 128 (\$4,030-\$4,899 mo.), and

WHEREAS, this change results in a 5% increase in salary for (12) twelve allocated Electrician positions within the Public Works Department, and

WHEREAS, funding for this proposed change, estimated at \$29,776 for FY 06-07, will be provided through a transfer from Wastewater Fund Balance Reserve in the amount of \$7,440 for Electricians assigned to the Wastewater Division and through a transfer from Special Gas Tax Fund Balance Reserve in the amount of \$22,336 for Electricians assigned to the Traffic and Development Services Division,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby amends the Public Works Department's operating budget, as adopted for FY06-07, to appropriate \$7,440 from Wastewater Fund Balance Reserve to account 6210-480-5213-0181 and \$22,336 from Special Gas Tax Fund Balance Reserve to account 0700-160-1612-0181 to fund expenses associated with a change in salary range for (12) twelve allocated Electrician positions.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto, held on the 28th day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



CITY OF MODESTO  
CLASS RANGE TABLE  
GENERAL NON-SWORN CLASSES  
Effective **May 23, 2006**

---

RANGE	TITLE
101	Custodian I
103	Administrative Office Assistant I
104	
105	
106	
107	Administrative Office Assistant II Custodian II Police Clerk I
108	
109	Customer Services Account Clerk I
110	Security Officer Maintenance Worker I
111	Account Clerk Administrative Office Assistant III Customer Services Account Clerk II Police Clerk II
112	
113	Administrative Technician Computer Operator Drafting and Graphics Technician
114	Animal Control Officer I Electrical Technician I Equipment Service Technician Evidence and Property Specialist Maintenance Worker II Production Technician Storeskeeper

City of Modesto  
Class Range Table – General Non-Sworn Classes  
Page 2

---

RANGE	TITLE
115	Accounting Technician Administrative Services Technician I Code Enforcement Officer I Community Service Officer I Customer Services Account Clerk III Senior Administrative Office Assistant Wastewater Treatment Plant Attendant
116	Equipment Operator Fire Prevention Technician I Motor Sweeper Operator Traffic Operations Technician Used Oil Coordinator Wastewater Collection System Operator Water Distribution System Operator
117	Electrical Technician II
118	Customer Services Accounting Technician Fleet Procurement Specialist Parking Lot Maintenance Crewleader Parks Crewleader Recreation Coordinator Senior Storeskeeper Tree Trimmer
119	Administrative Services Technician II Animal Control Officer II Assistant Buyer Building Maintenance Mechanic Civil Engineering Technician I Code Enforcement Officer II Community Service Officer II Maintenance Mechanic – Parks Maintenance Mechanic – Pumps Public Information Technician Wastewater Treatment Plant Operator

---

RANGE	TITLE
120	Accountant I Assistant Electrician Equipment Mechanic Fire Prevention Technician II Laboratory Analyst I Senior Equipment Operator Traffic Painter Crewleader Water Resource Specialist I Welder/Fabricator
121	Wastewater Treatment Plant Relief Operator
122	Heavy Equipment Mechanic Cross Connection Specialist Fire Equipment Mechanic Law Enforcement Academy Recruit Tree Trimmer Crewleader Water Conservation Specialist
123	Airport Maintenance Crewleader Civil Engineering Technician II Identification Technician I Maintenance Mechanic Crewleader – Parks
124	Community Development Program Specialist I Environmental Compliance Inspector I Equipment Mechanic Crewleader Laboratory Analyst II Operation and Maintenance Crewleader Planning Assistant Plant Mechanic Water Resource Specialist II
125	Crime Analyst
126	Building Inspector I Electrician Heavy Equipment Mechanic Crewleader Housing Financial Specialist Housing Rehabilitation Specialist I

---

RANGE	TITLE
127	Civil Engineering Assistant Identification Technician II Senior Fire Equipment Mechanic
128	Community Development Program Specialist II Environmental Compliance Inspector II Instrument Repair Technician Senior Wastewater Treatment Plant Operator
129	
130	Building Inspector II Construction Inspector Housing Rehabilitation Specialist II Project Coordinator
131	Senior Civil Engineering Assistant
132	Environmental Review Specialist Senior Environmental Compliance Inspector
133	
134	Deputy Fire Marshal Plan Review Engineer Senior Building Inspector Senior Construction Inspector

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-730**

**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 Operations and Maintenance Crewleader. The job specification for this classification is being amended to include assignment to the building services division. The job specification for the classification of Operations and Maintenance Crewleader, 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 November 28, 2006.

The foregoing resolution was introduced in a regular meeting of the Council of the City of Modesto held on the 28th day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

## OPERATIONS AND MAINTENANCE CREWLEADER

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

Crewleaders assign work, train, and provide field supervision of crews engaged in a variety of water, storm/wastewater, streets, and urban forestry operations, maintenance, repair and/or construction work; and to provide lead worker assistance to supervisory and/or management staff.

### SUPERVISION RECEIVED AND EXERCISED

Receives supervision from supervisory and management staff.

Exercises direct field supervision over crews engaged in maintenance and repair activities.

### ESSENTIAL AND MARGINAL FUNCTION STATEMENTS

Essential and other important responsibilities may include, but are not limited to, the following:

#### Essential Functions:

Provide field supervision to crews involved in a variety of water, storm/wastewater, streets, sidewalks, and urban forestry operations, building maintenance, repair and/or construction work.

Assist in the design, planning, prioritizing, assignment, and inspection of various maintenance, repair, and construction projects.

Provide feedback to supervisory staff regarding field performance of crews for the purpose of evaluating employee performance.

Assist in developing and monitoring of the Division budget.

Participate in the selection of staff; provide or coordinate staff training; work with employees to correct deficiencies through coaching.

Answer questions and provide information to the public; investigate complaints and recommend corrective action as necessary to resolve complaints.

Exhibit "A"

Essential Functions: (Continued)

Participate and encourage work unit participation in team building activities including self-directed work teams.

May operate and oversee the operation of a full range of heavy and light equipment as needed such as backhoes, loaders, dump trucks, rollers, tractors, vactor trucks, aerial towers and various trucks.

May operate a mobile crane.

Maintain time, material and equipment use records; prepare various reports related to work activities including technical reports in response to regulatory activities.

Prepare project cost estimates; requisition supplies and materials.

When assigned to utility divisions, may assist in activities that ensure adherence to environmental quality standards.

Perform standby duty as assigned.

Marginal Functions:

Perform related duties as assigned.

**Additional duties when assigned to Building Maintenance:**

Adjust, repair, inspect, and monitor a variety of heating, ventilation, and air conditioning equipment including forced air furnaces, boilers, water pumps, chillers, air conditioning units, exhaust fans, air filters, compressors, cooling towers and heat exchangers.

Coordinate building maintenance services activities with other City departments, divisions, and sections and with outside agencies.

Monitor elevator maintenance, custodial, landscaping and other services performed in the buildings.

Monitor building automation systems, ensure the buildings meet all OSHA and ASHME air quality standards. Ensure HVAC checks are performed and records are maintained.



**Additional duties when assigned to Building Maintenance:**  
**(Continued)**

Monitor building backup generator. Conduct routine and preventative maintenance as required.

Inspect buildings, structures and equipment to ascertain need for repair and maintenance work. Plan assign, and direct the completion of routine and preventative maintenance work orders with staff.

**Additional duties when assigned to Water Operations:**

Operate portable sample pump.

Pack, lubricate, clean and paint pumping equipment and motors.

Flush distribution system to maintain water quality.

Maintain and operate chemical feed systems and perform dosage computations.

Install, maintain, and calibrate water meters, hypo chlorinators and on-line analyzers.

Monitor and maintain Granular Activated Carbon (GAC) filters; assist in removal and replacement of carbon, backwashes as required.

Monitor and maintain wellhead water treatment units and storage reservoirs. Perform minor adjustments as required.

Perform the function of shift operator as defined by the California Department of Health Services regulations.

Perform concrete repair including sawing, pouring, finishing and jack hammering.

**QUALIFICATIONS**

**Knowledge of:**

Materials, methods, practices, equipment and elements of construction technology as they relate to the assigned operations, construction, maintenance and repair activities.

Exhibit "A"

Knowledge of: (Continued)

Types and level of maintenance and repair activities generally performed in streets, water, storm/wastewater collection, fleet, park or urban forestry program.

Principles of personnel supervision and training.

Safe work practices; regulatory safety programs and procedures.

Pertinent sections of health, safety and labor codes.

Word processing and spreadsheet applications and Internet usage necessary for job performance.

English composition and technical report writing.

Cost accounting.

**When assigned to Building Maintenance:**

Methods, practices and equipment used in building maintenance services and activities including a variety of building trades work.

Ability to:

Plan, estimate, direct, coordinate, schedule and review the work of others.

Operate and maintain equipment and tools used in the field.

Identify and implement effective courses of action to complete assigned work; use lead by example methodology.

Keep records and make reports.

Lead by example and train assigned staff.

Communicate clearly and concisely, both orally and in writing.

Establish and maintain cooperative-working relationships with those contacted in the course of work.

Coordinate work assignments with other divisions, departments, and agencies and volunteer groups.

Exhibit "A"

Ability to: (Continued)

Perform medium-heavy manual labor, including but not limited to lifting and carrying up to seventy-five (75) pounds of weight, climbing, bending, stooping, etc.

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:

Three years of increasingly responsible experience performing utility operations, construction and maintenance work in the assigned area of responsibility (such as utility infrastructure, sidewalks, building maintenance, parks, or urban forestry).

Training:

Formal or informal education that ensures the ability to read, write, and communicate at a level necessary for successful job performance.

License or Certificate:

Possession of an appropriate, valid Class A or Class B Commercial California Driver's license with appropriate endorsements, as assigned, within 45 60 days of appointment. Failure to obtain the required license may result in release from probation or termination.  
**Note:** This license is not required when assigned to the Building Services Division.

When assigned, possession of a valid crane operator certificate, issued by the National Commission of Crane Operators, is required within six months of assignment.

**When Assigned to Streets and Traffic Operations:**

Any employees hired, transferred, or promoted into this position shall possess a work zone safety certificate from International Municipal Signal Association (IMSA), Traffic Control Supervisor Association (TCSA), International Transportation Engineers (ITE), American Public Works Association (APWA), or the American Traffic Safety Services Association (ATSSA) at time of final filing.

Exhibit "A"

**When Assigned to Water Distribution:**

Possession of a Grade III water distribution operator certificate issued by the State of California at time of final filing.

Possession of a certificate issued by the American Water Works Association (AWWA) for backflow device testing and/or Grade I Water Conservation Practitioner is highly desirable.

**When Assigned to Water Division – Pumps:**

Possession of a Grade III water distribution operator certificate issued by the State of California at time of final filing.

Possession of a Grade II water treatment certificate issued by the State of California at time of final filing.

Possession of a certificate issued by the American Water Works Association (AWWA) for backflow device testing and/or Grade I Water Conservation Practitioner is highly desirable.

**When Assigned to Urban Forestry:**

Possession of a Pesticide Applicator's Certificate within one year of appointment.

**When Assigned to Wastewater Collections:**

Any employees hired, transferred, or promoted into this position shall possess a Grade II Certificate Wastewater Collection System Maintenance Technologist issued by the California Water Environment Association (CWEA) at time of final filing.

**When Assigned to Building Maintenance**

Possession of an Environmental Protection Agency refrigeration certificate is desirable.

**WORKING CONDITIONS**

**Environmental Conditions:**

Field environment; travel from site to site; hot and cold temperatures; inclement weather.

Exhibit "A"

Physical Conditions:

Essential and marginal functions may require maintaining physical condition necessary for walking or standing for prolonged periods of time; operating motorized equipment and vehicles.

Work Assignments:

Depending on assignment may be subject to overtime and standby work assignments.

Exhibit "A"

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 731**

**A RESOLUTION AUTHORIZING THE APPROPRIATION OF \$54,200 FROM THE GENERAL FUND RESERVE TO THE FISCAL YEAR 2006/07 POLICE DEPARTMENT 0100-190-1902-5900 ACCOUNT FOR COMMUNICATION CENTER REPAIRS.**

WHEREAS, the Communication Center Building, located at 3905 Oakdale Road, is jointly owned by Stanislaus County and the City of Modesto, and

WHEREAS, on November 22, 2005, Council approved \$68,000 during the Supplemental Budget Process to appropriate for the City of Modesto share for repairs to the roof, parking lot and air conditioning system, and

WHEREAS, as of June 30, 2006, only \$13,800 had been spent and \$54,200 was still available, and

WHEREAS, the Police Department is requesting to move the previously approved funds from General Fund reserves to the Police Department 2006/07 operating budget so payment can be made when the projects are complete, and

WHEREAS, staff is requesting the appropriation of \$54,200 which were previously approved funds that were left unspent from General Fund reserves to the Police Department FY 2006/07 operating budget so payment can be made when the Communication Center repairs are complete, and

WHEREAS, there is no net fiscal impact since the request was approved last fiscal year,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto, it hereby approves the appropriation of \$54,200 from the General Fund reserves

to the Fiscal Year 2006/07 Police Department 0100-190-1902-5900 account for  
Communication Center Repairs.

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 28<sup>th</sup> day of November, 2006, by  
Councilmember Hawn, who moved its adoption, which motion being duly seconded by  
Councilmember Dunbar, was upon roll call carried and the resolution adopted by the  
following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 732**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE PURCHASE OF FOUR (4) HONDA ST1300P POLICE MOTORCYCLES, AS AWARDED IN THE VEHICLE IMPOUND/DUI/SELECTIVE TRAFFIC ENFORCEMENT PROGRAM (STEP) GRANT, AT AN ESTIMATED TOTAL COST OF \$70,000.**

WHEREAS, on October 24, 2006, by Resolution No. 2006-673, the City Council approved the acceptance of the Vehicle Impound/DUI/Selective Traffic Enforcement Program (STEP) grant in the amount of \$1,000,000 from the State of California, Office of Traffic Safety (OTS), and

WHEREAS, this grant will provide for four full-time police officer positions who will be responsible for achieving the grant goals and objectives, and

WHEREAS, the grant will also fund four fully equipped police motorcycles for these officers, and

WHEREAS funds are budgeted and available in the following account for the purchase of four (4) Honda ST1300P police motorcycles for FY 06/07:

0410-190-2968-5401	\$70,000	Police Motorcycles
--------------------	----------	--------------------

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Purchasing Manager to issue formal Request for Bids (RFB) for the purchase of four (4) Honda ST1300P police motorcycles, as awarded in the Vehicle Impound/DUI/Selective Traffic Enforcement Program (STEP) grant, at an estimated total cost of \$70,000.



BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen


NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 733**

**A RESOLUTION ACCEPTING THE SANITARY SEWER LIFT STATION  
IMPROVEMENTS LOCATED IN THE GALAS BROTHERS SUBDIVISION IN  
THE FAIRVIEW VILLAGE SPECIFIC PLAN AREA AND AUTHORIZING THE  
CITY CLERK TO FILE A NOTICE OF COMPLETION**

WHEREAS, Del Valle Homes, a California Corporation (“DEVELOPER”), is the developer of the Galas Subdivision, also known as the Rancho Encantado Subdivision (“DEVELOPMENT”), and

WHEREAS, as a condition of DEVELOPMENT, DEVELOPER was to construct a Sanitary Sewer Lift Station (“IMPROVEMENTS”) located within the DEVELOPMENT, and

WHEREAS, the City Engineer, in a memorandum to staff, indicates that said IMPROVEMENTS, which is only one of several facilities included in the Acquisition and Shortfall Agreement (“AGREEMENT”) between the City of Modesto Community Facilities District No. 2003-1 (Fairview Village), a District created pursuant to the provision of the California Government Code Section 53311.5 et. seq. (“DISTRICT”) and the Developer, has been completed to the satisfaction of the Public Works Department, and,

WHEREAS, DEVELOPER filed with the City and/or DISTRICT adequate improvement securities to secure faithful performance of this Agreement and to secure payment for labor and materials, and

WHEREAS, DEVELOPER has filed several warranty bonds to guarantee the IMPROVEMENTS in the DEVELOPMENT, and

WHEREAS, the City Engineer has indicated that it would be in order for the City Council to accept said 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 the Sanitary Sewer Lift Station improvements, which include a meandering walkway, landscaping & irrigation, lighting and signage per the AGREEMENT, are hereby accepted and the City Clerk is hereby authorized to record a Notice of Completion for said improvements.

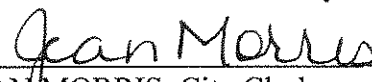
The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of November 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST:

  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 734**

**A RESOLUTION AMENDING THE FY 06-07 CIP BUDGET BY DECREASING THE APPROPRIATION FOR THE FAIRVIEW VILLAGE BIKE TRAIL PROJECT (X728) BY \$132,717 AND CLOSING THE PROJECT, RETURNING THOSE FUNDS TO RESERVES, THEN REAPPROPRIATING \$118,775 FROM FAIRVIEW VILLAGE CFD RESERVE FUNDS AND INCREASING THE APPROPRIATION TO FAIRVIEW VILLAGE WASTEWATER PROJECT (X726) BY \$118,775 TO FULLY FUND THE FAIRVIEW VILLAGE WASTEWATER PROJECT**

WHEREAS, on October 3, 2006, Council Resolution No. 2006-637 adopted the 2006/2007 Capital Improvement Program, and

WHEREAS, the 2006/2007 Capital Improvement Program included a project titled "Fairview Village Wastewater Project (X726)," and

WHEREAS, construction of a sanitary sewer lift station is included in the "Fairview Village Wastewater Project," and

WHEREAS, concurrent with this resolution, by Resolution No. 2006-733 Council accepted the sanitary sewer lift station, which is the main infrastructure included in the "Fairview Village Wastewater Project (X726)" for the Galas Brothers Subdivision located within Fairview Village Specific Plan Area, and

WHEREAS, the budgeted amount for design, construction, contingency and construction administration for the Fairview Village Wastewater Project was \$383,000, of which \$45,683 has been expended to date, leaving \$337,317 available for the sanitary sewer lift station project constructed by Del Valle, and

WHEREAS, Del Valle Homes entered into an Acquisition and Shortfall Agreement with the Fairview Village CFD for reimbursement of costs associated with the

construction of the sanitary sewer lift station (X726), the bike trail (X728) and other infrastructure, and

WHEREAS, Del Valle Homes expended \$430,133 for the construction of the sanitary sewer lift station, and \$367,282 for the construction of the bike trail project, and

WHEREAS, Del Valle Homes completed the Bike Trail Project (X728) for \$367,282 for which they have been reimbursed, and

WHEREAS, the Bike Trail Project (X728) had a budget of \$500,000, leaving \$132,717 remaining in the Bike Trail Project, and

WHEREAS, Del Valle Homes has requested that money remaining in the Bike Trail Project be moved to the Wastewater Project so that they can be reimbursed in full for the costs associated with the pump station project, and

WHEREAS, staff recommends reducing the Fairview Village Bike Trail Project (X728) by \$132,717 and closing the project, and moving the \$132,717 back to the Fairview Village Reserve Account and appropriating the \$118,775 to the Fairview Village Wastewater Project (X726) to provide adequate funding to reimburse Del Valle Homes for their costs associated with the construction of the sanitary sewer lift station,

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Modesto hereby approves amending the FY 06-07 CIP budget by decreasing the appropriation for the Fairview Village Bike Trail Project (X728) by \$132,717 and closing the project, returning those funds to reserves, then reappropriating \$118,775 from Fairview Village CFD reserve funds and increasing the appropriation to Fairview Village Wastewater Project (X726) by \$118,775 to fully fund the Fairview Village Wastewater Project.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 735

A RESOLUTION ACCEPTING THE WORK BY GEORGE REED, INC., FOR THE PROJECT TITLED "BRIGGSMORE AVENUE WIDENING, OAKDALE ROAD TO CLAUS ROAD PROJECT", AS COMPLETE, AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION, AND AUTHORIZING PAYMENT OF AMOUNT DUE TOTALING \$2,872,172.96.

WHEREAS, a report has been filed by the Public Works Director that the project titled "Briggsmore Avenue Widening, Oakdale Road to Claus Road" has been completed by George Reed, Inc., in accordance with the contract agreement dated June 7, 2006,

NOW, THEREFORE, BE IT RESOLVED by the Council that the "Briggsmore Avenue Widening, Oakdale Road to Claus Road" project is hereby accepted as complete from said contractor, George Reed, Inc., that the Notice of Completion be filed with the Recorder of Stanislaus County, and that payment of the amount due totaling \$2,872,172.96, as provided in the contract, be authorized.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 736**

**A RESOLUTION REJECTING THE SOLE BID FOR THE PROJECT TITLED  
“REMODEL OF EXISTING WATER QUALITY CONTROL LABORATORY”  
AND AUTHORIZING STAFF TO RE-ADVERTISE THE PROJECT AT A  
FUTURE DATE.**

WHEREAS, the sole bid received for “Remodel of Existing Water Quality Control Laboratory” was opened at 11:00 a.m. on October 31, 2006, and later tabulated by the Public Works Director for the consideration of the Council, and

WHEREAS, a sole bid by The McDonald Glenn Company was 190.0% above the engineer’s estimate, and

WHEREAS, the sole bid for the project exceeded the engineer’s estimate by an excessive amount, and

WHEREAS, the plans included the remodel of the existing laboratory at the City of Modesto Primary Wastewater Treatment Facility, and

WHEREAS, during the bid evaluation process staff determined that there was insufficient bid competition. Therefore, staff recommends the bid be rejected and staff be allowed to re-advertise the project,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the sole bid received for “Remodel of Existing Water Quality Control Laboratory,” opened in the office of the City Clerk on October 31, 2006, is hereby rejected.

BE IT FURTHER RESOLVED that staff is hereby authorized to re-advertise the project at a future date.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 -737**

**A RESOLUTION APPROVING THE FINAL MAP OF THOMAS  
TERRACE IN THE VILLAGE ONE SPECIFIC PLAN AREA OF  
THE CITY OF MODESTO AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH  
PPC, SUNRISE, LLC, A CALIFORNIA LIMITED LIABILITY  
COMPANY**

WHEREAS, PPC,SUNRISE, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY (“Subdivider”), is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 9.66 acres, known as THOMAS TERRACE (“SUBDIVISION”), in the Village One Specific Plan Area, and

WHEREAS, PPC, SUNRISE, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY 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 23rd day of January, 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 securities, as set forth in Section 4-4.605 of the Modesto Municipal Code, which shall secure the obligations set forth in Section 66499.3 of the Government Code of the State of California. Said securities shall be in forms acceptable to the City Attorney and in the amounts required by the City Engineer.

BE IT FURTHER RESOLVED that the City Manager and the City Clerk be authorized to execute and attest, respectively, an agreement with PPC, Sunrise, 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 28th day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 738**

**A RESOLUTION APPROVING THE FINAL MAP OF HILLGLEN  
SUNRISE IN THE VILLAGE ONE SPECIFIC PLAN AREA OF  
THE CITY OF MODESTO AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE A SUBDIVISION AGREEMENT WITH  
PPC, SUNRISE, LLC, A CALIFORNIA LIMITED LIABILITY  
COMPANY**

WHEREAS, PPC,SUNRISE, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY (“Subdivider”), is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 9.66 acres, known as HILLGLEN SUNRISE (“SUBDIVISION”), in the Village One Specific Plan Area, and

WHEREAS, PPC, SUNRISE, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY 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 5th day of June, 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 securities, as set forth in Section 4-4.605 of the Modesto Municipal Code, which shall secure the obligations set forth in Section 66499.3 of the Government Code of the State of California. Said securities shall be in forms acceptable to the City Attorney and in the amounts required by the City Engineer.

BE IT FURTHER RESOLVED that the City Manager and the City Clerk be authorized to execute and attest, respectively, an agreement with PPC, Sunrise, 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 28th day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 739**

**A RESOLUTION APPROVING THE FINAL MAP OF  
BURKSHIRE ESTATES PHASE II IN THE VILLAGE ONE  
SPECIFIC PLAN AREA OF THE CITY OF MODESTO AND  
AUTHORIZING THE CITY MANAGER TO EXECUTE A  
SUBDIVISION AGREEMENT WITH STANDARD PACIFIC  
CORP., A DELAWARE CORPORATION**

WHEREAS, STANDARD PACIFIC CORP., A DELAWARE CORPORATION (“Subdivider”), is possessed of a tract of land situated in the City of Modesto, County of Stanislaus, consisting of 9.32 acres, known as BURKSHIRE ESTATES PHASE II (“SUBDIVISION”), in the Village One Specific Plan Area, and

WHEREAS, STANDARD PACIFIC CORP., A DELAWARE CORPORATION 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 17th day of April, 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 securities, as set forth in Section 4-4.605 of the Modesto Municipal Code, which shall secure the obligations set forth in Section 66499.3 of the Government Code of the State of California. Said securities shall be in forms acceptable to the City Attorney and in the amounts required by the City Engineer.

BE IT FURTHER RESOLVED that the City Manager and the City Clerk be authorized to execute and attest, respectively, an agreement with Standard Pacific Corp., a Delaware Corporation 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 28<sup>th</sup> day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 – 740**

**A RESOLUTION APPROVING AN AMENDMENT TO THE SERVICE AGREEMENT (SA 06040) WITH STANISLAUS COUNTY FOR INMATE SECURITY SERVICES IN THE AMOUNT OF \$48,500 TO EXTEND THE EXPIRATION DATE FROM DECEMBER 31, 2006 THROUGH JUNE 30, 2007, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AMENDMENT TO THE SERVICE AGREEMENT.**

WHEREAS, Council, by Resolution 2001-114, approved an agreement with Stanislaus County for inmate security services, and

WHEREAS, the term of this agreement was from March 1, 2006 through December 31, 2006, and

WHEREAS, the agreement provides two deputies and approximately 20 inmates to the City on a daily basis assisting the tree-pruning program, performing after-game cleanup of John Thurman Field, assisting the Police Department with homeless camp cleanups, and performing litter cleanup in the City's right-of-way, and

WHEREAS, the City desires to continue the use of inmate labor to perform certain tasks and for the Stanislaus County Sheriff to maintain security of the inmates while assigned, and

WHEREAS, an amendment to align the current expiration date of the current agreement is being presented as a separate item to Council, and

WHEREAS, funds are budgeted in Account 0100-480-4712-0235 of the Forestry Division in the amount of \$24,250 and Account 0100-350-3522-0235 in the Parks Services Division in the amount of \$24,250, for a total amount of \$48,500, and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Amendment to the Service Agreement (SA 06040) with Stanislaus County for inmate security services in the amount of \$48,500 to extend the expiration date from December 31, 2006 through June 30, 2007.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Amendment.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: Susana Alcala Wood

SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 – 741**

**A RESOLUTION APPROVING A NEW SERVICE AGREEMENT (SA 06040) WITH STANISLAUS COUNTY FOR INMATE SECURITY SERVICES FOR A PERIOD OF FIVE (5) YEARS, AT A COST OF \$97,000 PER YEAR, COMMENCING ON JULY 1, 2007 THROUGH JUNE 30, 2012, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE SERVICE AGREEMENT.**

WHEREAS, Council, by Resolution 2001-114, approved an agreement with Stanislaus County for inmate security services, and

WHEREAS, the term of this agreement was from March 1, 2006 through December 31, 2006, and

WHEREAS, the agreement provides two deputies and approximately 20 inmates to the City on a daily basis assisting the tree-pruning program, performing after-game cleanup of John Thurman Field, assisting the Police Department with homeless camp cleanups, and performing litter cleanup in the City's right-of-way, and

WHEREAS, the City desires to continue the use of inmate labor to perform certain tasks and for the Stanislaus County Sheriff to maintain security of the inmates while assigned, and

WHEREAS, an amendment to align the expiration date of the current agreement with fiscal year accounting is being presented as a separate item to Council, and

WHEREAS, funds are budgeted in Account 0100-480-4712-0235 of the Forestry Division in the amount of \$48,500 and Account 0100-350-3522-0235 in the Parks Services Division in the amount of \$48,500, for an annual cost of \$97,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves a new Service Agreement (SA 06040) with Stanislaus County for inmate security services for an additional period of five (5) years, at a cost of \$97,000 per year, commencing on July 1, 2007 through June 30, 2012.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the new Service Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of November, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: Susana Alcala Wood

SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 742**

**A RESOLUTION DENYING THE APPEAL BY BRIAN VELTHOEN  
ON BEHALF OF QUEST DIAGNOSTICS FOR CAPITAL  
FACILITIES FEES PAID IN PROTEST FOR 1008 SIXTH STREET,  
SUITE C**

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, 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 permit, and

WHEREAS, in 2003, the builder paid the general office rate for CFF for a 4,138 sf building located at 1008 Sixth Street, and

WHEREAS, on August 15, 2006, Velthoen and Associates on behalf of Quest Diagnostics paid in protest the incremental difference between the general and medical office CFF rate for construction of 1,267 of medical office space within building located at 1008 Sixth Street, Suite C, and

WHEREAS, on September 26, 2006, Velthoen and Associates was notified by letter from Amy Gedney, Infrastructure Financing Program Administrative Officer, that the

CFF charged for medical office is more than for general office and the difference must be collected when tenant improvements are made, and

WHEREAS, on October 26, 2006, a letter from Brian Velthoen was received on behalf of Quest Diagnostics regarding an appeal of the decision of the Infrastructure Financing Program for the CFF charged on the building located at 1008 Sixth Street, Suite C, and

WHEREAS, said appeal was set for a public hearing on November 14, 2006, at 5:30 p.m. before the City Council at its regular meeting place in the Tenth Street Place Chambers located at 1010 10<sup>th</sup> Street, Modesto, California, but was continued for hearing to November 28, 2006, at the request of Velthoen and Associates, and

WHEREAS, on November 28, 2008, 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 reviewed Velthoen and Associates' request on behalf of Quest Diagnostics and has determined that the incremental difference in the CFF rate between medical office and general office is appropriate.

2. Said appeal is denied as recommended because this use is deemed medical office and not general office and the incremental difference based on associated impacts is appropriate as outlined in the CFF program.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the appeal of Velthoen and Associates on behalf of Quest Diagnostics regarding modification



of Capital Facilities Fees for medical office is hereby denied and the decision of the Infrastructure Financing Program is hereby affirmed for the reasons set forth above.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28th day of November, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen  
NOES: Councilmembers: None  
ABSENT: Councilmembers: Mayor Ridenour

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 743**

**A RESOLUTION ACCEPTING THE AMENDED OAKDALE PARK FINAL  
SUBDIVISION MAP, IN THE VILLAGE ONE SPECIFIC PLAN AREA**

WHEREAS, PPC OAKDALE PARK LLC, a California Limited Liability Company, are the subdividers of OAKDALE PARK SUDIVISION (“SUBDIVISION”), and

WHEREAS, PPC OAKDALE PARK LLC, a California Limited Liability Company, has filed a request to amend the final subdivision map of the Oakdale Park Subdivision to revise the lot lines common to Lot “A” and Lots 6 through 10 inclusive and resulted in the revision of the depth and square footage of all the referenced lots, and

WHEREAS, MMC4-4.1002 requires that the City Council make the following findings prior to approving an amended map:

- (a) There are changes in circumstances which make any or all of the conditions of such a map no longer appropriate or necessary; and
  - (b) The modifications do not impose any additional burden on the present fee owner of the property; and
  - (c) The modifications do not alter any right, title, or interest in the real property reflected on the recorded map, and
  - (d) The map as modified conforms to the provisions of Government Code Section 66474.
- Any such modifications for a parcel map or final map shall be set for public hearing before the City Council as provided for in Government Code Section 66451.3. The public hearing shall be confined to consideration of and action on the proposed modifications. (Added by Ord. 3120-C.S., 1, effective 4-1-99), and

WHEREAS, staff recommends that Council make the required findings based on MMC4-4.1002:

(a) There are changes in circumstances which make any or all of the conditions of such a map no longer appropriate or necessary. Due to the fact that the wall was not constructed according to the approved Final Map, the Amended Map is required to show proper ownership of the affected lots.

(b) The modifications do not impose any additional burden on the present fee owner of the property. The Amended Final Map does not impose any additional burden on the present fee owner of the property. None of the lots have been sold and the shift in the constructed wall does not impose a major change in lot square footage which are designed to city standards.

(c) The modifications do not alter any right, title, or interest in the real property reflected on the recorded map. All of the lots are owned by the same owner as on the original recorded map. The modifications do not alter any right, title, or interest in the real property reflected on the recorded map.

(d) The map as modified conforms to the provisions of Government Code Section 66474. Any such modification for a parcel map or final map shall be set for public hearing before the City Council as provided for in government Code Section 66451.3. The public hearing shall be confined to consideration of and action of the proposed modifications. (Added by Ord. 3120-C.S., 1, effective 4-1-99). Based on the findings by the City Engineer, the Amended Map conforms to the provisions of Government Code Sections as noted.

WHEREAS, a public hearing was held by the City Council at 5:30 p.m. on November 28, 2006, in 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 Engineer has indicated that it would be in order for the City Council to accept and approve the map for said SUBDIVISION, and authorize the City Clerk to record said amended Subdivision,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that pursuant to MMC 4-4.1005,

1. The City Council hereby makes the following findings.
2. The Amended Oakdale Park Final Subdivision Map is hereby accepted and the City Clerk is hereby authorized to record the amended SUBDIVISION.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of November, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 744**

**A RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS IN THE OAKDALE  
PARK SUBDIVISION, IN THE VILLAGE ONE SPECIFIC PLAN AREA, AND  
AUTHORIZING THE CITY CLERK TO RECORD A NOTICE OF COMPLETION  
AND AUTHORIZING RELEASE OF BONDS**

WHEREAS, PPC OAKDALE PARK LLC, a California Limited Liability Company, is the subdivider of OAKDALE PARK SUDIVISION (“SUBDIVISION”), and

WHEREAS, PPC OAKDALE PARK LLC, a California Limited Liability Company, has filed irrevocable subdivision bonds to secure faithful performance and payment for labor and materials in the amounts of \$243,507.00 and \$121,753.50, respectively, and

WHEREAS, PPC OAKDALE PARK LLC, a California Limited Liability Company, has filed a warranty bond in the amount of \$24,350.70 to guarantee improvements in the SUBDIVISION, and

WHEREAS, the City Engineer, 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 City Engineer has indicated that it would be in order for the City Council to accept the improvements in said SUBDIVISION as complete, and authorize the City Clerk to record a Notice of Completion and release the bonds 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 record a Notice of Completion for the SUBDIVISION improvements.
2. The City Clerk is hereby authorized to release the subdivision bond for faithful performance in the amount of \$243,507.00 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 \$121,753.50 sixty (60) days after the 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 the SUBDIVISION improvements in the amount of 24,350.70 one year and one day after the effective date of this resolution, provided no claim is made thereon.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 28<sup>th</sup> day of November, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Hawn, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen

NOES: Councilmembers: None

ABSENT: Councilmembers: Mayor Ridenour

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney



MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 745

A RESOLUTION AMENDING THE  
FISCAL YEAR 2006-2007 ANNUAL BUDGET

WHEREAS, a monthly financial analysis has been completed and it has been determined that certain year-end adjustments are required to the Annual Budget of the City of Modesto for the Fiscal Year 2006-2007,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that appropriations, revenues, and transfers for the 2006-2007 budget have been adjusted as shown in **Schedule A.**

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 5<sup>th</sup> day of December 2006, 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 votes:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: \_\_\_\_\_

  
JEAN MORRIS, City Clerk

(seal)

APPROVED AS TO FORM:

By: \_\_\_\_\_

  
SUSANA ALCALA WOOD, City Attorney

## Schedule A

### *Parks, Recreation & Neighborhoods*

#### Youth Scholarship/Leisure Bucks

To: Misc. Special Service Revenue Acct #0100-350-3801-4095	\$1,000
To: Youth Scholarship Expense Acct #0100-350-3801-1061	\$1,000

#### Contracted Security Services

To: Miscellaneous Revenue Acct #0100-350-3801-8155	\$7,000
To: Professional Services Expense Acct #0100-350-3801-0235	\$7,000

### *Public Works Department*

#### Water Connection Fee Review

From: Water Fund Contingency Reserve Acct #6100-800-8000-8003	\$(2,000)
To: Professional Services Operating Acct #6100-430-5000-0235	\$ 2,000

#### Airport Office Administration

From: Airport Fund Contingency Reserve Acct #6310-800-8000-8003	\$(41,324)
To: Salary & Wages Part-Time Acct #6310-440-5412-0140	\$ 41,324

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 746**

**A RESOLUTION DIRECTING STAFF TO BEGIN THE PROCESS  
TO SEEK DESIGNATION OF A MANDATORY TARGET AREA  
WITHIN THE FEDERALLY-DESIGNATED WEED AND SEED  
AREA.**

WHEREAS, on June 1, 2005, the City of Modesto (City) and the County of Stanislaus (County) were officially, and jointly, designated as an official U.S. Department of Justice Weed and Seed Area, and

WHEREAS, the City and County Weed and Seed designated area is from State Route 99 Southwest on H Street/Paradise Road to Carpenter Road; from Carpenter Road south to the Tuolumne River, east to State Route 99, and State Route 99 north to H Street, and

WHEREAS, the Weed and Seed strategy is a community based multi-agency approach to law enforcement, crime prevention and neighborhood restoration, and

WHEREAS, one of the important elements of neighborhood restoration is the preservation of existing housing stock through a housing rehabilitation program, and

WHEREAS, since 1976, the City has renovated over 2000 homes through the Housing Maintenance Program, primarily through the use of mandatory target areas, and

WHEREAS, staff is recommending that a portion of the Weed and Seed area be designated as a mandatory target area since designation requires a concentrated area of housing units in need of rehabilitation, and

WHEREAS, the specific area recommended for designation as a mandatory target area is highlighted on **Exhibit "A"** attached hereto and incorporated herein by reference, and

WHEREAS, this area is located in Census Tract 22, in which 73.5% of the households are less than 80% of Median Area Income, and

WHEREAS, boundaries recommended for the Mandatory Target Area include the east side of Roselawn Avenue continuing to Colorado Street, which includes 21 parcels with 75 housing units, and

WHEREAS, the Citizens Housing and Community Development Committee met on November 9, 2006, and supported staff's recommendation to begin the process to seek designation of a Mandatory Target Area within the Federally-designated Weed and Seed Area,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby directs staff to begin the process to seek designation of a Mandatory Target Area within the Federally-designated Weed and Seed Area including assessing the housing stock in the designated area, conducting public meetings to inform citizens and homeowners of the program and returning to the City Council with a further recommendation regarding the Mandatory Target Area designation.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of December, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

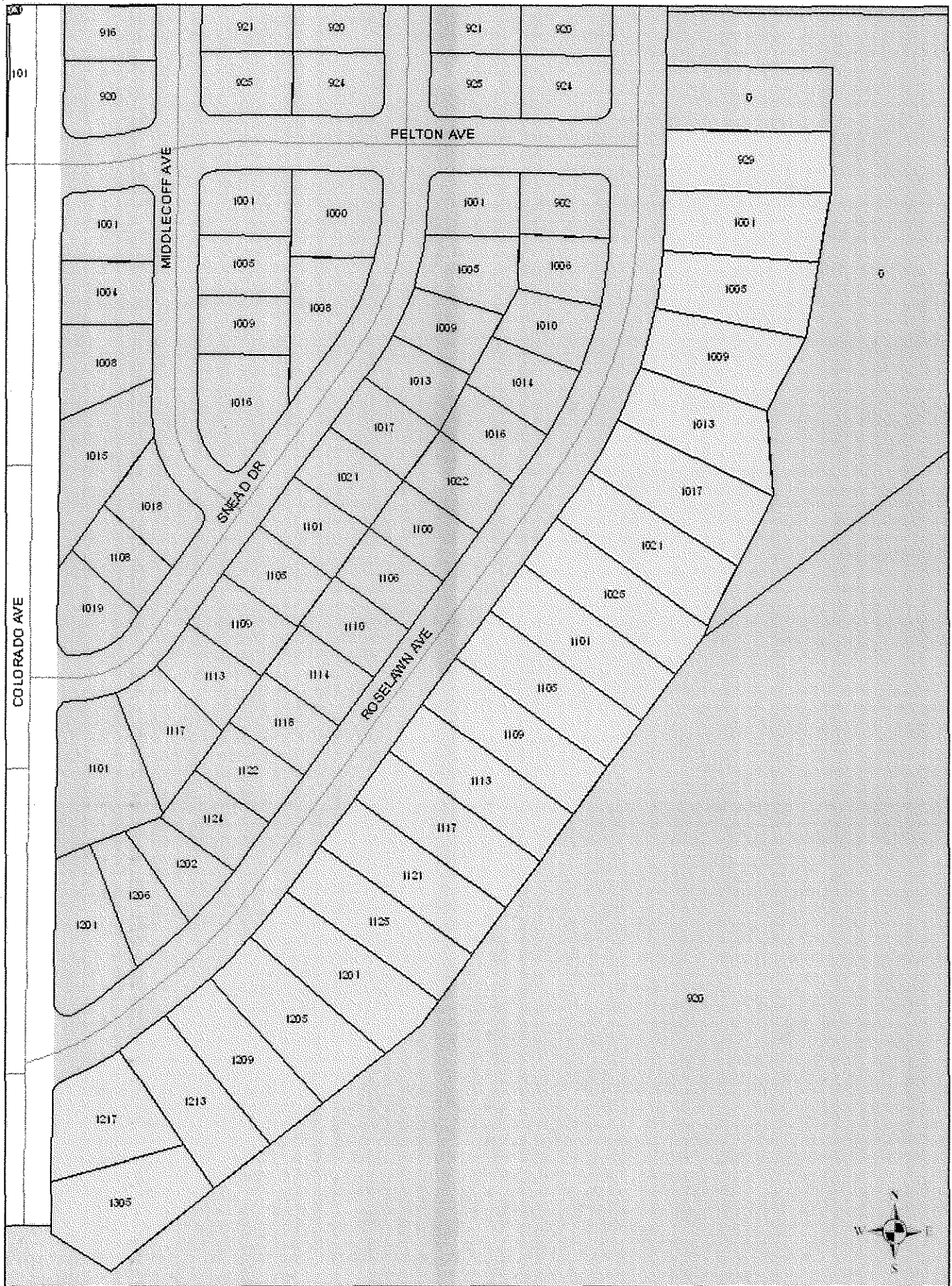
NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**Proposed Target Area Within The Weed And Seed Area**

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 747**

**A RESOLUTION DIRECTING STAFF TO PREPARE AND FILE A  
HUD APPLICATION SEEKING A NEIGHBORHOOD  
REVITALIZATION STRATEGY (NRS) DESIGNATION IN THE  
AIRPORT NEIGHBORHOOD AND AMENDING THE  
CONSOLIDATION PLAN TO REFLECT THE NRS.**

WHEREAS, as a HUD designated entitlement area, the City of Modesto receives an annual allocation of Community Development Block Grant (CDBG) and HOME Investment Partnership (HOME) funding, and

WHEREAS, funds received from the CDBG and HOME programs must be used to revitalize low-income neighborhoods, assist disadvantaged populations by providing adequate public facilities and services, generate affordable housing opportunities, and implement effective strategies to significantly reduce or end homelessness, and

WHEREAS, in recent years HUD's Office of Community Planning and Development (CPD) has stressed a coordinated marshalling of resources to facilitate local communities' ability to engage in comprehensive community revitalization, and

WHEREAS, to that end, HUD has determined criteria for approving an Entitlement Community's Neighborhood Revitalization Strategy (NRS) that are comprised of: a defined and recognized neighborhood boundary; a neighborhood that is primarily residential and contains an "upper quartile percentage" exceeding 51% of low and moderate income households; an explanation of consultation with neighborhood stakeholders; an assessment of the economic conditions of the neighborhood; a neighborhood-based economic development strategy; and identified performance measures from HUD Activities linked to resources available in the jurisdiction, and

WHEREAS, City staff has identified an area in the Airport Neighborhood that meets these criteria, and would like to submit an application for a NRS Designation to the Department of Housing and Urban Development, and

WHEREAS, the Airport Neighborhood area recommended for designation consists of 386 parcels of land and approximately 461 housing units, located in Census Tract 21.00 Block 3 with seventy-six percent of the households in the area reported as low-income, and

WHEREAS, based on the information collected, staff is recommending that the City file an application for Neighborhood Revitalization Strategy designation in the Airport Neighborhood including, but not limited to, the following components: Housing Rehabilitation Programs implemented in phased approach with consideration of a mandatory target area; Economic Development Technical Assistance to businesses that are currently located in or are new to the Airport Neighborhood; Supportive Public Services funded through CDBG funding targeted in upcoming entitlements; and supporting a small community room to facilitate neighborhood based services, and

WHEREAS, the Citizens Housing and Economic Development Committee met on November 9, 2006 and supported the recommendation for the City Council to direct staff to prepare and file a HUD application seeking a Neighborhood Revitalization Strategy (NRS) Designation in the Airport Neighborhood and to amend the Consolidation Plan to reflect the NRS,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby directs staff to prepare and file a HUD application



seeking a Neighborhood Revitalization Strategy (NRS) Designation in the Airport Neighborhood and to amend the Consolidation Plan to reflect the NRS.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of December, 2006, by Councilmember Dunbar, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

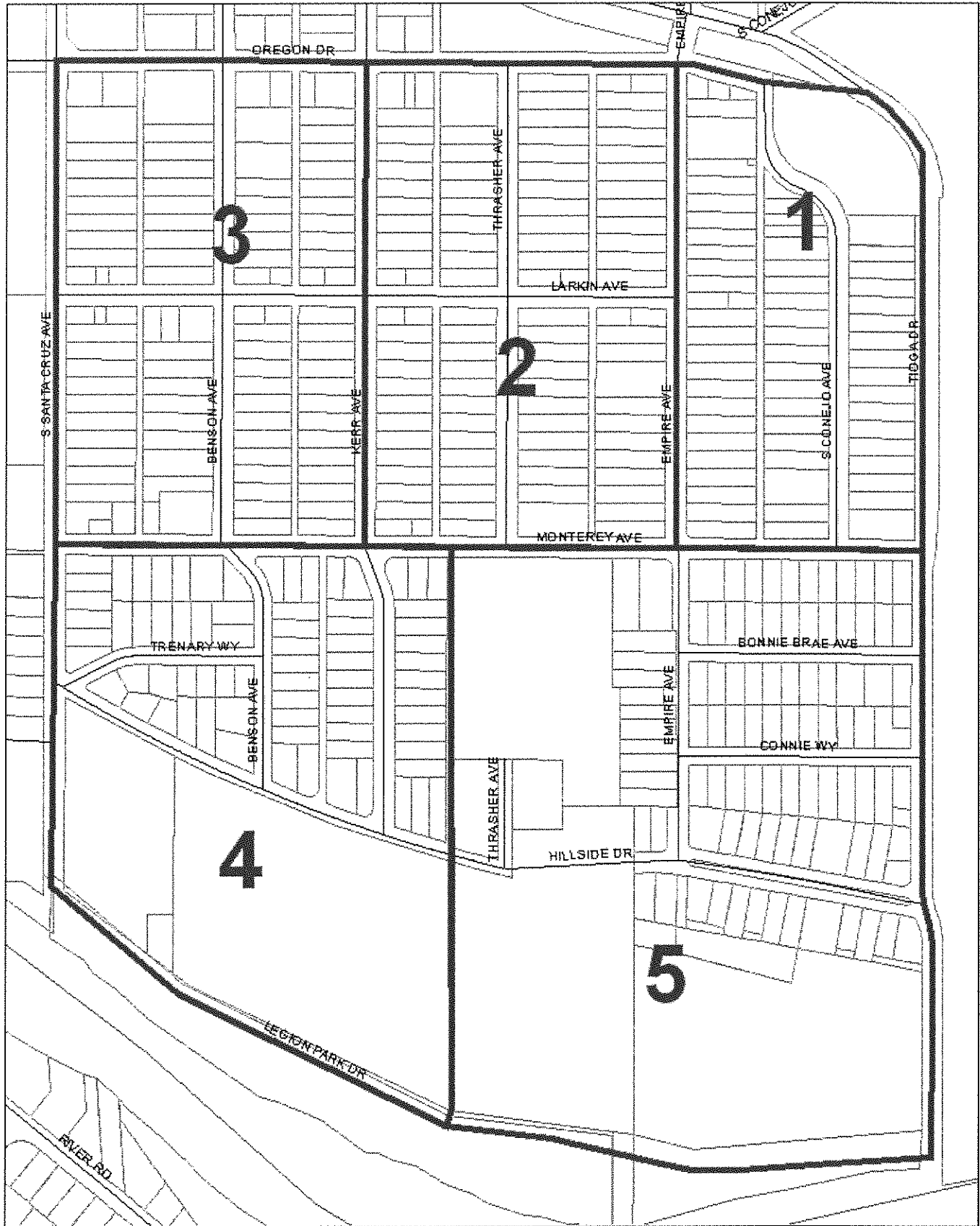
NOES: Councilmembers: None

ABSENT: Councilmembers: None

Attest: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



Airport Neighborhood Proposed NRS Areas 1-5

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 748**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO PURCHASE 81 MOBILE DIGITAL COMPUTERS (MDCs) BY ACCESSING THE TERMS (PIGGYBACKING) OF A COMPETITIVELY BID SACRAMENTO POLICE DEPARTMENT CONTRACT WITH RAYMAR INFORMATION SOLUTIONS OF SACRAMENTO, CA, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS.**

WHEREAS, the Modesto Police Department utilizes Mobile Data Computers (MDCs) in their vehicles that were purchased in 2000, and

WHEREAS, the units moved past their service-life and warranty in the year 2003, and have increasingly fallen behind the technology-curve and upgradeability, and

WHEREAS, this limits the Police Department's ability to integrate modern technologies into the field such as license plate readers, in-car video and full deployment of digital fingerprint readers, and

WHEREAS, this technology will provide officers with the most current information regarding crime activity, which will allow them to be more proactive in their problem solving strategies, and

WHEREAS, the Sacramento Police Department has an existing competitively bid contract for the ITRONIX units, contract IFB B062142012, awarded to Raymar out off Sacramento, who has provided the City a letter stating they will honor Sacramento Police Department pricing, and

WHEREAS, the City has also received correspondence from the manufacturer stating Raymar is the only vendor that can sell at the Sacramento pricing, and

WHEREAS, there are no Modesto resellers for their product, and

WHEREAS, at its meeting of November 6, 2006, the Safety and Communities Committee recommended approval to the City Council,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to purchase 81 Mobile Digital Computers (MDCs) by accessing the terms (piggybacking) of a competitively bid Sacramento Police Department contract with Raymar Information Solutions of Sacramento, CA.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to take the necessary steps to implement the provisions of this resolution.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of December, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 749**

**A RESOLUTION APPROVING A LOAN FROM THE FLEET FUND TO THE  
GENERAL FUND FOR THE PURCHASE OF 81 MOBILE DIGITAL  
COMPUTERS WITH REPAYMENT OF LOAN OVER THE NEXT FOUR AND  
ONE-HALF YEARS.**

WHEREAS, the Modesto Police Department utilizes Mobile Data  
Computers (MDCs) in their vehicles that were purchased in 2000, and

WHEREAS, the units moved past their service-life and warranty in the  
year 2003, and have increasingly fallen behind the technology-curve and upgradeability,  
and

WHEREAS, this limits the Police Department's ability to integrate modern  
technologies into the field such as license plate readers, in-car video and full deployment  
of digital fingerprint readers, and

WHEREAS, this technology will provide officers with the most current  
information regarding crime activity, which will allow them to be more proactive in their  
problem solving strategies, and

WHEREAS, the Sacramento Police Department has an existing  
competitively bid contract for the ITRONIX units, contact IFB B062142012, awarded to  
Raymar out off Sacramento, who has provided the City a letter stating they will honor  
Sacramento Police Department pricing, and

WHEREAS, the City has also received correspondence from the  
manufacturer statubg Raymar is the only vendor that can sell at the Sacramento pricing,  
and

WHEREAS, there are no Modesto resellers for their product, and

WHEREAS, at its meeting of November 6, 2006, the Safety and Communities Committee recommended approval to City Council, and

WHEREAS, in accordance with MMC Section 8-3.204(d), the Purchasing Manager, by accessing the terms (Piggybacking) of the competitively bid Sacramento Police Department contract will purchase 81 Mobile Digital Computers, thereby insuring that the City will be paying the lowest possible cost, commensurate with the desired quality, and also saving the cost of a formal bid process, and

WHEREAS, the Fleet Fund will purchase the Mobile Data Computers at this time and will increase its equipment replacement charges to the Police Department starting in Fiscal Year 2007-2008, recovering the cost, with interest, over a period of four and one-half years,

WHEREAS, the cost of on-going replacement of these units, every three years, has been estimated to be \$182,313.00, and

WHEREAS, this amount coupled with the payback to the Fleet Fund, will add approximately \$299,514 to the annual fleet charges billed to the Police Department for the years between FY 2007-2008 and FY 2010-2011,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the FY 2006/2007 Operating Budget is hereby amended as indicated below:

Expense: 7210-800-8000-8003 (\$434,079)

Expense: 7210-480-5814-5\_\_\_ \$434,079

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 5<sup>th</sup> day of December, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 750**

**A RESOLUTION APROVING AN AGREEMENT WITH STANISLAUS COUNTY, BEHAVIORAL HEALTH AND RECOVERY SERVICES (BHRS), IN THE AMOUNT OF \$41,500, TO PROVIDE PARTY PATROL POLICE OFFICERS AND CONDUCT JUVENILE ALCOHOL EDUCATION, PREVENTION AND INTERVENTION PROGRAMS FOR THE CITY OF MODESTO AND STANISLAUS COUNTY, AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT.**

WHEREAS, Stanislaus County, Behavioral Health and Recovery Services (BHRS) requires Party Patrol Police Officers to contact, identify and hold accountable minors drinking illegally at home parties and in violation of the law, and

WHEREAS, the Modesto Police Department has developed a first-time offender juvenile alcohol education, prevention and intervention program, and,

WHEREAS, minors contacted by the Party Patrol will be cited and required to attend diversion classes with their parents, and

WHEREAS, the goal of the class is to make minors and parents aware of the dangers related to minors consuming alcohol, and

WHEREAS, the Modesto Police Department has seen a reduction in alcohol related injuries and deaths related to juveniles and alcohol since Party Patrol was established, and

WHEREAS, The Modesto Police Department will also provide a marketing campaign, including placing ads in newspapers, yearbooks as well as produce posters to educate youth about harmful effects of alcohol, and

WHEREAS, the Modesto Police Department shall prepare reports on enforcement actions taken related to juvenile alcohol consumption offenses; and



WHEREAS, the term of this agreement is December 1, 2006 through September 30, 2007, and

WHEREAS, the City shall be compensated \$41,500 for the services of Party Patrol Police Officers and the juvenile alcohol education, prevention and intervention program, and

WHEREAS, there is no fiscal impact to the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement with Stanislaus County, Behavioral Health and Recovery Services (BHRS) in the amount of \$41,500 for the provision of Party Patrol Police Officers and the juvenile alcohol education, prevention and intervention program for the City of Modesto and Stanislaus County.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the agreements.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of December, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NUMBER 2006 - 751**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006/2007 OPERATING BUDGET, ESTIMATING REVENUE OF \$41,500, AND APPROPRIATING FUNDS FOR OVERTIME PARTY PATROL OFFICERS AND PROGRAM COSTS.**

WHEREAS, Stanislaus County, Behavioral Health and Recovery Services (BHRS) requires Party Patrol Police Officers to contact, identify and hold accountable minors drinking illegally at home parties and in violation of the law, and

WHEREAS, minors contacted by the Party Patrol will be cited and required to attend diversion classes with their parents, and

WHEREAS, the goal of the class is to make minors and parents aware of the dangers related to minors consuming alcohol, and

WHEREAS, the Modesto Police Department has seen a reduction in alcohol related injuries and deaths related to juveniles and alcohol since Party Patrol was established, and

WHEREAS, the term of this agreement is December 1, 2006 through September 30, 2007 and

WHEREAS, the City shall be compensated \$41,500 for the services of overtime Party Patrol Police Officers and the juvenile alcohol education, prevention and intervention program, and

WHEREAS, the 2006/2007 Operating Budget will be amended as indicated:

<u>Expense:</u>		
To:	0420-190-2092-0130	\$41,500      Officers' Overtime Hours Cost
<u>Revenue:</u>		
To:	0420-190-2092-3730	\$41,500      School/County Contribution

WHEREAS, due to the contract date, this should be set up as a multi-year appropriation.

WHEREAS, there is no fiscal impact to the City of Modesto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of that it hereby approves the agreement with Stanislaus County, Behavioral Health and Recovery Services (BHRS) in the amount of \$41,500 for the provision of Party Patrol Police Officers and the juvenile alcohol education, prevention and intervention program for the City of Modesto and Stanislaus County.

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 5<sup>th</sup> day of December, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 752**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE “MODESTO POLICE DEPARTMENT TRAINING CENTER BLOCK WALL EXTENSION”, ACCEPTING THE BID AND APPROVING A \$19,849.50 CONTRACT WITH MCPHEE MASONRY, INC., FOR THE PROJECT TITLED, “MODESTO POLICE DEPARTMENT TRAINING CENTER BLOCK WALL EXTENSION,” AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, plans and specifications have been prepared for the “Modesto Police Department Training Center Block Wall Extension” and City staff recommends approval to the City Council, and

WHEREAS, the bids received for “Modesto Police Department Training Center Block Wall Extension” were opened at 11:00 a.m. on November 14, 2006, 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 \$19,849.50 received from McPhee Masonry, Inc., be accepted as the lowest responsible bid and the contract be awarded to McPhee Masonry, Inc.,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the “Modesto Police Department Training Center Block Wall Extension.”

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of \$19,849.50, and hereby awards McPhee Masonry, Inc., the contract titled “Modesto Police Department Training Center Block Wall Extension.”

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 5th day of December 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 753**

**A RESOLUTION APPROVING RESCISSION OF PURCHASE AGREEMENT DATED AUGUST 2, 2006, BETWEEN THE CITY OF MODESTO AND ALAN G. MANGINI, SUCCESSOR TRUSTEE OF THE DECIA FAMILY TRUST DATED 3/26/91, AND AUTHORIZING THE CITY MANAGER TO EXECUTE RESCISSION AGREEMENT RESCINDING SAID PURCHASE AGREEMENT DATED AUGUST 2, 2006**

WHEREAS, on April 6, 2004, by Resolution No. 2004-176 the City Council authorized staff to proceed with the expansion of City's water distribution system, and

WHEREAS, as part of the expansion, aboveground water storage tanks must be constructed in each quadrant of the City to support increased water flow, and

WHEREAS, a minimum of five (5) acres of land is necessary to accommodate each tank and appurtenances for operation, along with an access utility easement, and

WHEREAS, staff identified a parcel owned by Alan Mangini, Successor Trustee Of The Decia Family Trust dated 3/26/91 (APN: 007-038-015) of sufficient size and optimum location for the water tank project and said property was appraised to determine fair market value, and

WHEREAS, on August 2, 2006, by Resolution No. 2006-477 the City Council directed staff to enter into negotiations with Alan Mangini to purchase a portion of his real property (hereafter the "subject property") for the Water Downstream Improvements: Tier Two West Tank Project, including an access utility easement, and

WHEREAS, staff notified the California Department of Conservation and the County of Stanislaus of City's interest in acquisition of the Mangini property and the reasons justifying said acquisition, and

WHEREAS, because of Williamson Act issues, staff sought alternate sites and identified four possible alternate parcels. Each of the four alternate sites were evaluated and staff concluded that each of the four alternate sites were inferior and did not satisfy City's needs to locate, construct and operate the water storage tank, and

WHEREAS, on August 2, 2006, by Resolution No. 2006-477 the City Council made special findings as required by California Government Code Section 51292 relating to the Williamson Act, specifically that (1) the acquisition of the 5-acre portion of the Mangini parcel and the access easement was not based primarily on consideration of the lower cost of acquiring land in an agricultural preserve, (2) that none of the alternate parcels considered were reasonably feasible to locate, construct and operate the water tank, and (3) that acquisition of any of the alternate sites would likely cause significant private injury, and

WHEREAS, on August 2, 2006, by Resolution No. 2006-577 the City Council approved an agreement with Alan Mangini for acquisition of the property sending the acquisition into escrow, and

WHEREAS, on or about August 2, 2006, the City of Modesto and Alan Mangini, Successor Trustee Of The Decia Family Trust dated 3/26/91 entered into a Purchase Agreement for sale/purchase of 5-acre portion of the Mangini parcel and access and utility easement, and

WHEREAS, the City of Modesto Survey Crew staked the proposed property and Alan Mangini noticed difficulty in harvesting a small portion of his agricultural crop unless a minor adjustment in the proposed Lot Line was made, and



WHEREAS, a similar minor adjustment in the Lot Line is needed to provide vehicular access to the Modesto Irrigation District Lateral No. 5, and

WHEREAS, the Lot Lines were adjusted to accommodate both requests, and

WHEREAS, the boundary lines of the 5-acre parcel were slightly modified so that the north boundary line moved 6.5 feet and the west boundary line moved 10.1 feet. The total square footage of the fee acquisition remains the same as that of the original purchase of August 2, 2006, and

WHEREAS, the subject property needs to be acquired for this Water Tank project, and

WHEREAS, it is necessary to rescind the original Purchase Agreement dated August 2, 2006 and to execute a new Purchase Agreement for acquisition of the subject property as modified by the lot line adjustments,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves rescission of the Purchase Agreement dated August 2, 2006, between Alan Mangini, Successor Trustee Of The Decia Family Trust dated 3/26/91 and the City of Modesto and that the City Manager is hereby authorized to execute Rescission Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of December, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 754**

**A RESOLUTION APPROVING AN AGREEMENT FOR THE PURCHASE BY THE CITY OF MODESTO OF (1) A FEE INTEREST IN A PORTION OF A PARCEL ALONG MID LATERAL NO. 4, SOUTH OF ELM AVENUE AND WEST OF ROSEMORE AVENUE OWNED BY ALAN G. MANGINI, SUCCESSOR TRUSTEE OF THE DECIA FAMILY TRUST DATED 3/26/91 (APN: 007-038-015) AND (2) A PERMANENT ACCESS AND UTILITY EASEMENT ON A PORTION OF A PARCEL ALONG MID LATERAL NO. 4, SOUTH OF ELM AVENUE AND WEST OF ROSEMORE AVENUE OWNED BY ALAN MANGINI (APN: 007-038-015) FOR THE WATER DOWNSTREAM IMPROVEMENTS: TIER TWO WEST TANK PROJECT, FOR A TOTAL PURCHASE PRICE OF \$252,500, AND MAKING CERTAIN FINDINGS PURSUANT TO GOVERNMENT CODE SECTION 51292 RELATING TO THE WILLIAMSON ACT AND AUTHORIZING THE CITY MANAGER TO EXECUTE SAID AGREEMENT**

WHEREAS, on April 6, 2004, by Resolution No. 2004-176 the City Council authorized staff to proceed with the expansion of City's water distribution system, and

WHEREAS, as part of the expansion, aboveground water storage tanks must be constructed in each quadrant of the City to support increased water flow, and

WHEREAS, a minimum of five (5) acres of land is necessary to accommodate each tank and appurtenances for operation, along with an access utility easement, and

WHEREAS, staff identified a parcel owned by Alan Mangini, Successor Trustee Of The Decia Family Trust dated 3/26/91 (APN: 007-038-015) of sufficient size and optimum location for the water tank project and said property was appraised to determine fair market value, and

WHEREAS, staff notified the California Department of Conservation and the County of Stanislaus of City's interest in acquisition of the Mangini property and the reasons justifying said acquisition, and

WHEREAS, because of Williamson Act issues, staff sought alternate sites and identified four possible alternate parcels. Each of the four alternate sites were evaluated and staff concluded that each of the four alternate sites were inferior and did not satisfy City's needs to locate, construct and operate the water storage tank, and

WHEREAS, on August 2, 2006, by Resolution No. 2006-477 the City Council made special findings as required by California Government Code Section 51292 relating to the Williamson Act, specifically that (1) the acquisition of the 5-acre portion of the Mangini parcel and the access easement was not based primarily on consideration of the lower cost of acquiring land in an agricultural preserve, (2) that none of the alternate parcels considered were reasonably feasible to locate, construct and operate the water tank, and (3) that acquisition of any of the alternate sites would likely cause significant private injury, and

WHEREAS, on August 2, 2006, by Resolution No. 2006-577 the City Council approved an agreement with Alan Mangini for acquisition of the property sending the acquisition into escrow, and

WHEREAS, on or about August 2, 2006, the City of Modesto and Alan Mangini, Successor Trustee Of The Decia Family Trust dated 3/26/91 entered into a Purchase Agreement for sale/purchase of 5-acre portion of the Mangini parcel and access and utility easement, and

WHEREAS, the City of Modesto Survey Crew staked the proposed property and Alan Mangini noticed difficulty in harvesting a small portion of his agricultural crop unless a minor adjustment in the proposed Lot Line was made, and

WHEREAS, a similar minor adjustment in the Lot Line is needed to provide vehicular access to the Modesto Irrigation District Lateral No. 5, and

WHEREAS, the Lot Lines were adjusted to accommodate both requests, and

WHEREAS, the boundary lines of the 5-acre parcel were slightly modified so that the north boundary line moved 6.5 feet and the west boundary line moved 10.1 feet. The total square footage of the fee acquisition remains the same as that of the original purchase of August 2, 2006, and

WHEREAS, the subject property needs to be acquired for this Water Tank project, and

WHEREAS, staff has reviewed the subject property as it relates to the Williamson Act (Government Code Section 51200 et seq.) and recommends making certain findings pursuant to Government Code Section 51292 relating to the Williamson Act Contract (“preserve”) and to other relevant codes as follows:

- a. Acquisition of the subject property for the water tank site location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve.
- b. There is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvement.
- c. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

and

WHEREAS, an agreement is needed for the acquisition of the subject property, and

WHEREAS, a Phase I environmental review has been completed on this proposed property acquisition which indicates no known contamination and now Phase II review is required, and

WHEREAS, on July 12, 2005, the Council adopted Resolution No. 2005-378 certifying the Subsequent Environmental Impact Report (“SEIR”) (SCH No. 2004022013), and

WHEREAS, it has been determined that, pursuant to Sections 15168(c) and 15182 of the California Environmental Quality Act Guidelines (CEQA), this project is within the scope of the SEIR of the Modesto Regional Water Treatment Plant Phase II Expansion and the City of Modesto Downstream Improvements,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Council hereby makes the following special findings:

- a. The subject property as the water storage tank site location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve.
- b. There is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvements.

The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Council hereby approves the Purchase Agreement between the City of Modesto and Alan Mangini, Successor Trustee Of The Decia Family Trust dated 3/26/91 to purchase in fee the 5-acre portion of the parcel along MID Lateral No. 4, south of Elm Avenue and west

of Rosemore Avenue owned by Alan Mangini, Successor Trustee Of The Decia Family Trust dated 3/26/91 and a permanent access and utility easement on said parcel (APN: 007-038-015) for the Water Downstream Improvements: Tier Two West Tank Project in the amount of \$252,500.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of December, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 755**

**A RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN CERTIFICATES OF ACCEPTANCE OF THE GRANT DEED FOR THE ACQUISITION OF THE FEE INTEREST AND ACCESS AND UTILITY EASEMENT DEED FOR THE ACQUISITION OF SAID EASEMENT IN A PORTION OF A PARCEL ALONG MID LATERAL NO. 4, SOUTH OF ELM AVENUE AND WEST OF ROSEMORE AVENUE OWNED BY ALAN MANGINI (APN: 007-038-015) TO THE CITY OF MODESTO FOR THE WATER DOWNSTREAM IMPROVEMENTS: TIER TWO WEST TANK PROJECT**

WHEREAS, Section 27281 of the Government Code requires a public agency to accept real property prior to the recordation of a deed or adopt a resolution accepting real property, and

WHEREAS, the City of Modesto desires to acquire a fee interest and an access and utility easement in a portion of a parcel for the Water Downstream Improvements: Tier Two West Tank Project owned by Alan Mangini, Successor Trustee Of The Decia Family Trust dated 3/26/91 (APN: 007-038-015),

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the City Manager is hereby authorized to sign an acceptance form on behalf of the City of Modesto for (1) Grant Deed for the acquisition of a portion of property owned by Alan Mangini, Successor Trustee Of The Decia Family Trust dated 3/26/91 (APN: 007-038-015) and (2) access and utility easement deed of a portion of property owned by Alan Mangini, Successor Trustee Of The Decia Family Trust dated 3/16/91 for the Water Downstream Improvements: Tier Two West Tank Project.



The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5th day of December, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 756**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS FOR THE PROJECT TITLED "URANIUM AND ARSENIC INVESTIGATION AT WELL 55 AND WELL 313," ACCEPTING THE BID AND APPROVING A \$94,877.05 CONTRACT WITH LAYNE CHRISTENSEN COMPANY, FOR THE PROJECT TITLED, "URANIUM AND ARSENIC INVESTIGATION AT WELL 55 AND WELL 313," AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE CONTRACT**

WHEREAS, City staff has prepared the plans and specifications for the project titled "Uranium and Arsenic Investigation at Well 55 and Well 313" and recommends approval to the City Council, and

WHEREAS, the bids received for this project were opened at 11:00 a.m. on November 14, 2006, 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 \$94,877.05 received from Layne Christensen Company, be accepted as the lowest responsible bid and the contract be awarded to Layne Christensen Company,

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 "Uranium and Arsenic Investigation at Well 55 and Well 313".

BE IT FURTHER RESOLVED that the Council hereby accepts the bid of \$94,877.05, and hereby awards Layne Christensen Company, the contract titled "Uranium and Arsenic Investigation at Well 55 and Well 313."

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 5th day of December, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST:

  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 – 757**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO  
ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR MAINTENANCE  
AND CALIBRATION SERVICES FOR SPECIALIZED WASTEWATER  
EQUIPMENT 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 \$50,000.**

WHEREAS, specialized chemical addition equipment at the Secondary Treatment Plant (STP) requires maintenance and calibration services to ensure that the correct amounts of chlorine is dispensed to effectively disinfect the effluent discharge and the correct amount of sulfur dioxide is dispensed to dechlorinate the discharge, and

WHEREAS flow meters that are used for measuring flows at the STP and for ranch irrigation also require these maintenance and calibration services, and

WHEREAS, these calibrations assure that the City meets its NPDES permit requirements for wastewater discharge to the river, and

WHEREAS, the Public Works Department desires to solicit bids for the maintenance and calibration services, and

WHEREAS, funds are budgeted and are available in 6210-480-5214-0235 for these maintenance and calibration services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes the Purchasing Manager to issue formal request for bids for maintenance and calibration services for specialized wastewater equipment for a two (2) year agreement, with three (3) one-year extension options at the sole discretion of the City, for an estimated annual costs of \$50,000.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of December, 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris

JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY: S. Wood

SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006-758**

**A RESOLUTION APPROVING SPECIFIC PLAN AMENDMENT NO. 3 TO THE NORTH BEYER PARK SPECIFIC PLAN TO MODIFY THE POLICIES AND STANDARDS, IMPLEMENTATION AND FINANCING AND PUBLIC FACILITIES CHAPTERS FOR DEVELOPMENT OF A SMALL-LOT SUBDIVISION FOR SINGLE-FAMILY HOMES, WITH A MINIMUM OF TWENTY-TWO COVENANT-RESTRICTED AFFORDABLE HOUSING UNITS, ON PROPERTY LOCATED ON THE WEST SIDE OF OAKDALE ROAD, BETWEEN MABLE AND CLARATINA AVENUES (FLORSHEIM)**

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 November 26, 1996, the City Council by Resolution No. 96-641, adopted the North Beyer Park Specific Plan, and

WHEREAS, Government Code Section 65453 permits the amendment of specific plans as often as deemed necessary by the legislative body, and

WHEREAS, the City Council on November 4, 1997, by Resolution No. 97-628, adopted Specific Plan Amendment No. 1 to the North Beyer Park Specific Plan to add language to allow changes in service providers, and

WHEREAS, the City Council on February 25, 2003, by Resolution No. 2003-102, adopted Specific Plan Amendment No. 2 to the Beyer Park Specific Plan to Expand the Plan Area to Include Approximately 20 Acres at the Northeast Corner of Coffee Road and Claratina Expressway and Specify Development as a Church Site, and

WHEREAS, Florsheim Land Company has filed an application to amend the North Beyer Park Specific Plan to modify the policies and standards, implementation and

financing and public facilities chapters to allow development of a small-lot subdivision for single-family homes, including twenty-two affordable housing units covenant-restricted to moderate income households, on property located on the west side of Oakdale Road, between Mable and Claratina Avenues, to require future development to annex to a new CFD and to require future residential development to comply with the City's dual-use basin policy, and

WHEREAS, on November 20, 2006, at 7:00 p.m. the Planning Commission held a duly noticed public hearing in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California, at which hearing evidence both oral and documentary was received and considered concerning the proposed Village One Specific Plan amendment, and

WHEREAS, after said public hearing, the Modesto City Planning Commission by Resolution No. 2006-69, recommended to the City Council approval of an amendment to the North Beyer Park Specific Plan to modify the policies and standards, implementation and financing and public facilities chapters to allow development of a small-lot subdivision for single-family homes, including twenty-two affordable housing units covenant-restricted to moderate income households, on property located on the west side of Oakdale Road, between Mable and Claratina Avenues, to require future development to annex to a new CFD and to require future residential development to comply with the City's dual-use basin policy, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing on December 5, 2006, at 5:30 p.m., 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, after said public hearing the Council found and determined that the

proposed amendment to the Specific Plan should be approved, subject to the addition of an express requirement mandating development of the proposed twenty-two units of affordable housing, covenant-restricted to moderate-income households.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby finds and determines as follows:

1. The proposed Specific Plan Amendment is consistent with the Modesto Urban Area General Plan and will not result in any substantive change to the North Beyer Park Specific Plan. The proposed amendment is consistent with the Residential (R) and Mixed Use (MU) land use designations for the site in both type and intensity of development.
2. The development of twenty-two affordable housing units covenant-restricted to moderate-income households furthers the Housing Element Policy calling for the support of housing for all income groups.
3. The proposed amendment to require all residential development to be served by dual-use basins is consistent with and furthers the Dual-Use Basin Policies of the General Plan.
4. The proposed amendment to require annexation of all future development to the new CFD is consistent with the General Plan Policy calling for the cost of public infrastructure to serve new development to be financed from revenue attributable to that development.



BE IT FURTHER RESOLVED by the Council of the City of Modesto that the North Beyer Park Specific Plan is hereby amended to modify the policies and standards, implementation and financing and public facilities chapters to allow development of a small-lot subdivision for single-family homes, with a minimum of twenty-two affordable housing units covenant-restricted to moderate income households, on property located on the west side of Oakdale Road, between Mable and Claratina Avenues, to require future development to annex to a new CFD and to require future residential development to comply with the City's dual-use basin policy. A copy of Amendment No. 3 to the North Beyer Specific Plan is attached hereto as **Exhibit "A"**, and incorporated herein by reference.

BE IT FURTHER RESOLVED by the Council that the City Clerk is hereby authorized and directed to send certified copies of this resolution and said amendment to the North Beyer Park Specific Plan to the Board of Supervisors of the County of Stanislaus.

BE IT FURTHER RESOLVED that the project applicant shall indemnify, defend, and hold harmless the City of Modesto, its agents, officers, and employees from any and all claims, actions, or proceedings against the City of Modesto, its agents, officers, and employees to attack, set aside, void, or annul, any approval by the City of Modesto and its advisory agency, appeal board, or a legislative body concerning this Specific Plan Amendment (File No. P-SPA-06-001). The City of Modesto shall promptly notify the applicant of any claim, action, or proceeding and shall cooperate fully in the defense. If the City fails to do so, the applicant shall not thereafter be responsible to defend, indemnify, or hold City harmless.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of December, 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

## Chapter 2. Development Policies and Standards



### A. LAND USE (SEE FIGURE 2)

#### 1. General Plan Policies

North Beyer Park will be developed in compliance with applicable City General Plan community development, CPD, and related policies. Since the Plan Area is the remaining undeveloped portion of an existing developed neighborhood, land use policies relative to the development of existing neighborhoods apply. City General Plan policies regarding land uses implemented through the Specific Plan are: Overall land use policies based on the City's Zoning Code, Title X of the Modesto Municipal Code (Section III-C(1)), "Neighborhood Plan Prototype" Policies (Section III-C(2)), and the North Beyer Park Specific Plan. City General Plan policies for providing community services and facilities, maintaining public safety, and managing environmental and open space resources are included in subsequent chapters of this Specific Plan.

#### 2. The Specific Plan Overlay Zone

The purpose of the SP-O Zone is to permit development within the North Beyer Specific Plan area under Title X of the Modesto Municipal Code and any exceptions as defined in the Specific Plan.

The City Zoning Map, as allowed by Section 10-2.305 of the Modesto Municipal Code, "The Zoning Map", shall indicate SP-O zoning for the area of the North Beyer Specific Plan.

#### 3. Subsequent Exceptions to Development Regulations

The Planning Commission may grant exceptions to any of the development regulations listed in this chapter, by resolution, based on the following considerations:

- a. **Exception Guidelines.** Exceptions may be granted to achieve the following purposes:
  1. To encourage creative and efficient land uses.
  2. To encourage mixed or multiple-use projects.
  3. To permit variations from the density, height, and other standards in the various zones.

#### 4. Residential (R)

The R designation accommodates single-family residential uses. The maximum permitted density for an overall land use area is 7.5 dwelling units per acre. Areas designated R utilize the City's R-1 zones as its development regulations with the following exceptions: Lot sizes smaller than 5,000 square feet and senior housing facilities, as an example, are permitted as long as the 1,200 dwelling unit maximum is not exceeded. Lots less than 5,000 square feet and senior housing require approval of a Final Development Plan by the Planning Commission. The existing churches and the

Middle School site are designated R in the General Plan, which is consistent with City policy.

### **5. Mixed Use (MU)**

The mixed-use designation applies to a 10-acre site at the southeast corner of the Coffee Road and Claratina Avenue intersection and also a 14-acre site at the southwest corner of the Oakdale Road and proposed Pelandale Expressway intersection, which would allow a possible neighborhood shopping center at both locations. Professional Office uses are proposed for the area at the northeast corner of the Coffee Road and Mable Avenue intersection. A Stanislaus County approved 50,000-square-foot office building, known as "The Arbors", has been planned for this site. Also permitted in the Mixed-Use area is R-3, R-2 and R-1 uses according to the City's Zoning Code, subject to the following exceptions; Lot sizes smaller than 5,000 square feet and senior housing facilities, as an example, are permitted as long as the 1,200 dwelling unit maximum is not exceeded. Lots less than 5,000 square feet and senior housing require approval of a Final Development Plan by the Planning Commission. To develop non-residential areas as residential uses in excess of 1,200 total dwelling units requires a General Plan Amendment. For each of the two Mixed-Use / Neighborhood shopping centers, plot plan approval by the Planning Commission shall be required prior to development. Performance standards deemed necessary by the Commission shall be required at that time.

### **6. Middle School (MS)**

This designation is intended to allow development of an 18.50 acre Middle School facility for the Sylvan Union School District.

### **7. Storm Drainage (SD)**

This designation is intended to permit development for storm drainage facilities to service the project area including basins and related facilities.

### **8. Church (CH)**

The CH designation will permit the construction of a church after the acquisition of a Final Development Plan from the City of Modesto Planning Commission. The development standards shall be as set forth in the City's R-1 Zone, subject to the exceptions listed below. The only permissible use of the site will be as a church. The existing golf course/driving range is allowed as an interim use until the site is developed.

#### Exceptions to R-1 Standards

- a. Landscape setbacks shall be a minimum of 25 feet along Coffee Road and the Claratina Expressway and 15 feet along the north and east property lines.
- b. Walls shall incorporate decorative treatment including a cap treatment, pilasters and finished with materials complementary to the exterior materials on the building. Walls along the north or east property line should transition gradually from the maximum six foot (6') allowable height to 42" within the setback area.

when the North Trunk becomes available north of the site, sewer flows can be diverted to that trunk line, and the connection to the line in Coffee Road can be abandoned. Figure 3 has been updated to show these sewer lines.

## **2. Storm Drainage (See Figure 4)**

A positive storm drainage system comprised of catch basins, pipelines and storm drain basins is proposed to serve this project. The storm drain basins will be constructed as development occurs. Storm drain basins for residential development shall be constructed and maintained in accordance with the City's Dual-Use Basin Policy. The storm drain collection system and basins will be designed in accordance with the City of Modesto and Stanislaus County Standards and Specifications.

Concurrent with its redevelopment as a church, the Claratina Driving Range property will provide its own on-site storage for storm runoff, adequate to capture storm runoff to City Standards. A line will be stubbed from the site to permit for the future connection of the site to an area-wide storm drainage facility. The size and location of the facilities will be finally determined as part of the Final Development Plan process required for redevelopment of the site.

## **3. Water (See Figure 3)**

City water service will be provided to the entire plan area through connection to the existing water mains in Mable Avenue. An existing 10" water main and a 24" transmission water main, which lie in Mable Avenue, are part of a larger looped water system designed to serve the entire Plan Area. All private wells shall be abandoned and capped at the time of development, in accordance with the City of Modesto, Stanislaus County and Department of Health Services Standards.

The Claratina Driving Range property will connect to the existing City water system for the provision of water to the site. A well site will be provided to the City, subject to reimbursement consistent with current City policy, for the location of a future well. The actual location for the well site will be determined as part of the Final Development Plan process required for the redevelopment of the site. As the entire site is currently served by an existing well for irrigation, domestic and fire flow purposes, this well may remain in service for a period of time, until connection to the City system is deemed appropriate. That connection is proposed to consist of a four to six inch (4-6") line for domestic service, and an eight-inch (8") line for fire flow.

# **C. TRANSPORTATION AND CIRCULATION**

## **1. Overview**

The North Beyer Park Plan Area circulation system represents a logical extension of the City's existing arterial and collector street system as specified in the General Plan. The location and classification of streets within this extended street system is shown on Figure 5, Vehicular Circulation Diagram. The plan provides for the dedication of right-of-way (ROW) that is required within the North Beyer Park for the proposed Pelandale Expressway. Additional dedication will be necessary for the expressway, which will be required by the properties north of the Plan Area as future development occurs. The Specific Plan and Mitigated Negative Declaration preparation included a traffic analysis

## D. FINANCING

A long range financing strategy for the North Beyer Park Plan Area is provided as part of this Specific Plan, both in accordance with State Government Code Requirements and with the City of Modesto Urban Area General Plan Policy.

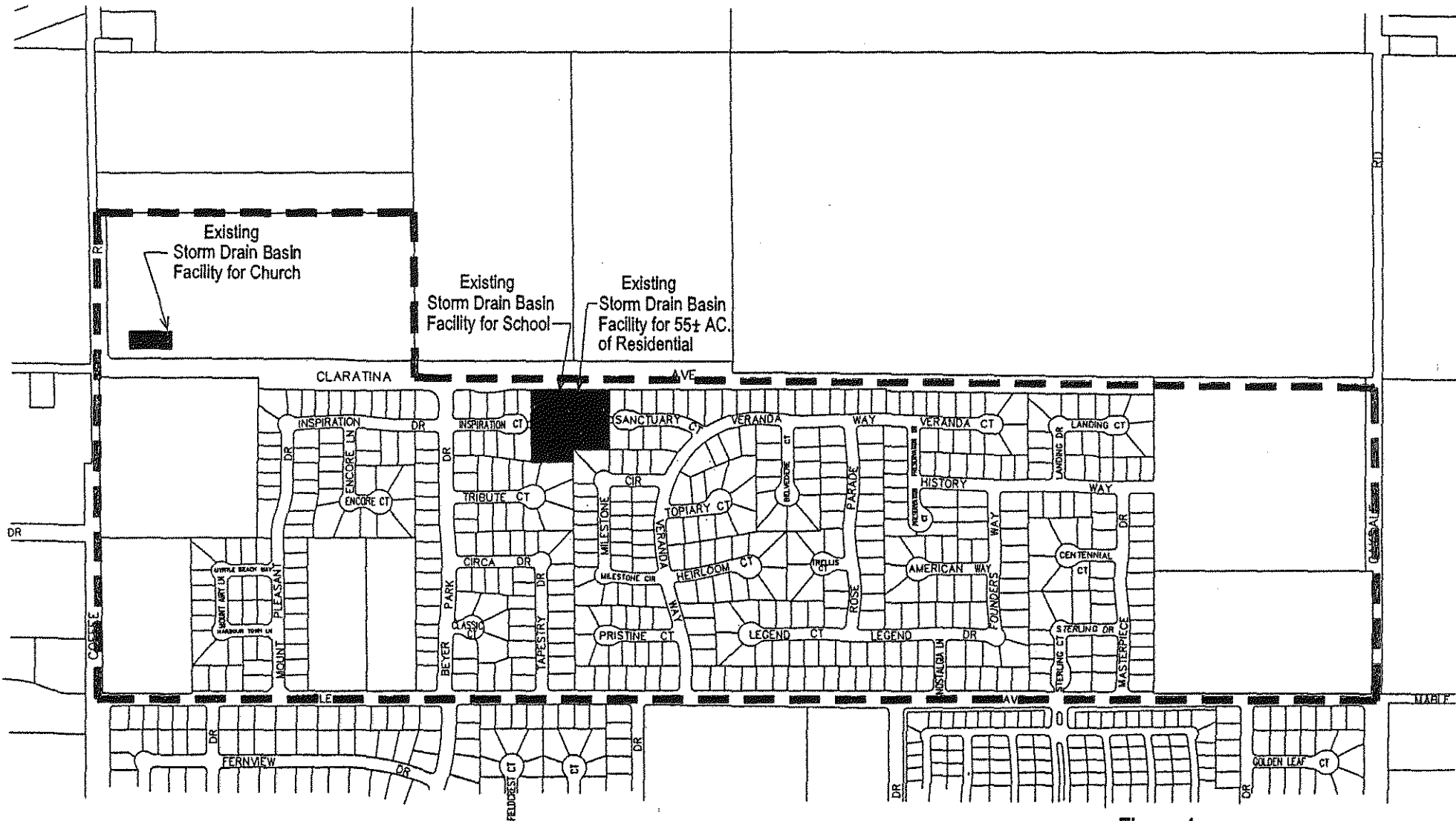
A basic concept of the Specific Plan Financing Strategy is that infrastructure improvements are to be constructed in conjunction with individual project development. These infrastructure improvements shall be sized according to identified future needs with compensation from property owners who will receive future benefit. The City of Modesto does require Specific Plans to provide for the installation and maintenance for certain public facilities as identified below (See Item E.2.b on Page 4-4) through participation in a City Mello-Roos Community Facilities District.




The City intends to create one or more Community Facilities Districts ("CFDs") or similar funding mechanism to fund construction and maintenance of backbone infrastructure, community facilities and services necessary to serve the North Beyer Park Specific Plan Area. The purpose of this funding mechanism will be to ensure the City is collecting all funds necessary to construct and maintain the backbone infrastructure, community facilities and services necessary to serve the Specific Plan Area. It is the policy of the City Council that no new development may occur without forming or annexing to the applicable CFD(s) or other capital and maintenance funding mechanisms adopted by the City at the applicable rate(s), and by paying all applicable fees and taxes.

No precise plan, final map, final development plan, building permit or other development entitlement for any vacant or undeveloped property or for any property which redevelops in the future shall be deemed consistent with the North Beyer Park Specific Plan until and unless the affected parcel is required to form or annex to North Beyer Park CFD #2 and pay all applicable CFD taxes at the rates established by North Beyer Park CFD #2.

Therefore, as a condition of approval for development of any parcel within the North Beyer Park Specific Plan area, the property owner and/or developer shall be required to take all actions necessary to impose all CFD taxes on the land as are required of parcels within North Beyer Park CFD #2, including but not limited to securing and establishing North Beyer Park CFD #2 or annexing to North Beyer Park CFD #2 if North Beyer Park CFD #2, has already been established and actually paying all CFD taxes assessed based on the tax rates established for North Beyer Park CFD #2. The property owner shall be required to secure and establish North Beyer Park CFD #2, or annex to North Beyer Park CFD #2 at the tax rates established for North Beyer Park CFD #2 prior to recordation of a final map or issuance of a building permit, whichever occurs first, for any property located within Tax Area B. Payment of the CFD tax at the rates established for North Beyer Park CFD #2 shall be required prior to issuance of a building permit. Each parcel shall also be required to pay all CFF, sewer and water fees and other development fees applicable to the property in accordance with City ordinances, resolutions, regulations, policies and procedures.

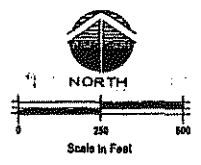
While the Claratina Driving Range property has been added to the North Beyer Specific Plan to permit its immediate development as a church, it is more connected to the Hetch Hetchy CPD relative to the provision of future Master Storm Drainage, Sewer and other infrastructure. As such, while the Claratina Driving Range site may redevelop, paying for the cost of providing the services needed for the project today, consistent with City standards and policies, the Claratina Driving Range will be required to form a Mello-Roos Community Facilities District for the Hetch Hetchy CPD (the "CFD") prior to issuance of a building permit for a church use on the Claratina Driving Range property.



-  Plan Area Boundary
-  Property Ownership Line
-  SD - Storm Drainage Basins

NOTE: ALL STORM BASINS FOR RESIDENTIAL DEVELOPMENT SHALL COMPLY WITH THE CITY'S DUAL USE BASIN POLICY.

Figure 4  
Storm Drain Infrastructure



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 759**

**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): SPECIFIC PLAN AMENDMENT NO. 3 TO THE NORTH BEYER PARK SPECIFIC PLAN TO MODIFY THE POLICIES AND STANDARDS, IMPLEMENTATION AND FINANCING AND PUBLIC FACILITIES CHAPTERS TO ALLOW DEVELOPMENT OF A SMALL-LOT SUBDIVISION FOR SINGLE-FAMILY HOMES ON PROPERTY LOCATED ON THE WEST SIDE OF OAKDALE ROAD, BETWEEN MABLE AND CLARATINA AVENUES, TO REQUIRE FUTURE DEVELOPMENT TO ANNEX TO A NEW CFD AND TO REQUIRE FUTURE RESIDENTIAL DEVELOPMENT TO COMPLY WITH THE CITY'S DUAL-USE BASIN POLICY. (FLORSHEIM)**

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, an application has been filed by Florsheim Land Company for an amendment to the North Beyer Park Specific Plan to modify the policies and standards, implementation and financing and public facilities chapters to provide the ability and procedure to develop a small-lot subdivision for single family homes on property located on the west side of Oakdale Road, between Mable and Claratina Avenues, to require future development to annex to a new CFD and to require future residential development to comply with the City's dual-use basin policy, 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. 2006-66 ("Initial Study") reviewed the proposed amendment to the Zoning Map from Specific Plan Overlay Zone, (SP-O), to Planned Development Zone, P-D(576), 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 November 13, 2006, 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. 2006-69 recommended to the City Council approval of the application of Florsheim Land Company for an amendment to the North Beyer Park Specific Plan to modify the policies and standards, implementation and financing and public facilities chapters to allow development of a small-lot subdivision for single-family homes on property located on the west side of Oakdale Road, between Mable and Claratina Avenues, to require future development to annex to a new CFD and to require future residential development to comply with the City's dual-use basin, and

WHEREAS, said matter was considered by the City Council at a duly noticed public hearing which was held on December 5, 2006, at 5:30 p.m., in the Tenth Street Place Chambers located at 1010 Tenth Street, Modesto, California.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council has reviewed and considered the Initial Study prepared for the proposed amendment to the North Beyer Park Specific Plan to modify the policies and standards, implementation and financing and public facilities chapters to allow development of a small-lot subdivision for single-family homes, to require future development to annex to a new CFD and to require future residential development to comply with the City's dual-use basin policy, 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 Urban Area General Plan Master EIR (MEIR).
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 identified in the MEIR.

- b. No new or additional mitigation measures or alternatives are required.
- 5. The Initial Study, Environmental Assessment No. EA/C&ED 2006-66, provides the substantial evidence to support findings 1-4, noted above.

BE IT FURTHER RESOLVED by the Council of the City of Modesto that the Community & Economic Development Director is hereby authorized and directed to file a notice of 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 5<sup>th</sup> day of December, 2006, by Councilmember Marsh, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour  
NOES: Councilmembers: None  
ABSENT: Councilmembers: None

ATTEST: Jean Morris  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**City of Modesto**

**Finding of Conformance to  
General Plan Master EIR:**

**Initial Study Environmental Checklist  
C&ED No. 2006-66**

**For the proposed:**

**SPA, FDP, VTSM & VTPM – Rose Villas**

**Prepared by:  
City of Modesto  
Community & Economic Development Department  
Planning Division**

**10/20/06**

**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. The North Beyer Park Specific Plan was one of the anticipated subsequent projects in the MEIR. A mitigated negative declaration (MND), tiered off the MEIR, was prepared for the North Beyer Park Specific Plan. This Initial Study Environmental Checklist ("Initial Study") is used in determining whether the proposed project, SPA, FDP, VTSM and VTPM, 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) as supplemented by the North Beyer Park Specific Plan MND (SCH# 96102053). 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: SPA, FDP, VTSM & VTPM – Rose Villas
- B. Address or Location: NWC Oakdale Road and Mable Avenue
- C. Applicant: Florsheim Land Company, LLC, 1701 W. March Lane, Stockton, Ca. 95207
- D. City Contact Person: Josh Bridegroom

Project Manager: Josh Bridegroom  
Department: Community and Economic Development Department  
Phone Number: (209) 577-5267  
E-mail address: jbridegroom@modestogov.com

- E. Current General Plan Designation(s): R & MU
- F. Current Zoning Classification(s): SP-O
- G. Surrounding Land Uses: North: Claratina Avenue

South: Mable Avenue & Single Family Residential  
East: Oakdale Road  
West: 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):

This project is defined by Section II.C of the Master EIR as Zoning and Subdivisions.

This is an application for a Specific Plan Amendment, Final Development Plan, Vesting Tentative Subdivision Map and Vesting Tentative Parcel Map to provide for the development of a 142 small-lot single-family development. A dual-use basin is proposed in accordance with City Standards on the northern portion of the development to provide the storm drainage solution for the development as well as some common open space for the residents. The development proposes twenty-two shared-wall units that will be covenant restricted to remain affordable to moderate-income families. Dedication and improvements consistent with City Standards are proposed along the Claratina Avenue, Oakdale Road and Mable Avenue street frontages.

- I. Other Public Agencies Whose Approval is Required: None

**III. FINDINGS/DETERMINATION (SELECT ONE ON THE BASIS OF THE ANALYSIS IN SECTION IV)**

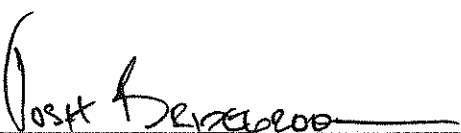
1. X **Within the Scope** - The project is within the scope of the Master EIR, as supplemented by the North Beyer Park Specific Plan MND, and no new environmental document or Public Resources Code Section 21081 findings are required. The following items are found to be true:
- A. The type of project is described in Chapter II of the Master EIR.
  - B. All applicable policies, regulations, and mitigation measures identified in the Master EIR, as supplemented by the North Beyer Park Specific Plan MND, 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, as supplemented by the North Beyer Park Specific Plan MND, 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

ASSOCIATE PLANNER  
Title

10/20/06  
Date

#### 4. Within the Scope Analysis of this Document:

The Master EIR permits projects to be found within the scope of the MEIR if certain criteria are met. Basically, if the following statements are found to be true for all 20 sections of this Initial Study, then the project was covered by the MEIR analysis and is within the scope of the MEIR. Any "No" response must be discussed.

- |   | YES | NO                       |
|---|-----|--------------------------|
| (1) The lead agency for subsequent projects shall be the City of Modesto or a responsible agency identified in the Master EIR.  | X   | <input type="checkbox"/> |
| (2) City policies which reduce, avoid or mitigate environmental effects, will continue to be in effect and therefore would be applied to subsequent projects where appropriate. The policies are described in the list of policies in place and mitigation measures attached to the Initial Study template. | X   | <input type="checkbox"/> |
| (3) Federal, State, Regional and Stanislaus County regulations do not change in a manner that is less restrictive on development than current law (i.e., would not offer the same level of protection assumed under the Master EIR).  | X   | <input type="checkbox"/> |
| (4) No specific information concerning the known or potential presence of significant resources is identified in future reports, or through formal or informal input received from responsible or trustee agencies or other qualified sources.  | X   | <input type="checkbox"/> |
| (5) The development will occur within the boundaries of the City's planning area as established in this Urban Area General Plan.  | X   | <input type="checkbox"/> |
| (6) Development within the project will comply with all mitigation measures identified in the General Plan Master EIR, as supplemented by the North Beyer Park Specific Plan MND.   | X   | <input type="checkbox"/> |

#### 5. Currency of the Master EIR Document

The MEIR should be reviewed on a regular basis to determine its currency, and whether additional analysis/mitigation should be incorporated into the MEIR via a Supplemental or Subsequent EIR (CEQA Section 21157.6). Staff has reviewed sections 1 through 20 of this document in light of the criteria listed below to determine whether the MEIR is current. The analysis contained within the Master EIR is current as long as the following circumstances have not changed. Any no response must be discussed.

- |  | YES | NO                       |
|--|-----|--------------------------|
| (1) Certification of the General Plan Master EIR occurred less than five years prior to the filing of the application for this subsequent project. | X   | <input type="checkbox"/> |



- (2) This project was described in the Master EIR, as supplemented by the North Beyer Park Specific Plan MND, and its approval will not affect the adequacy of the Master EIR, as supplemented by the North Beyer Park Specific Plan MND, 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, as supplemented by the North Beyer Park Specific Plan MND, 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 and in the North Beyer Park Specific Plan MND on pages 20-22. 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.

**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, as supplemented by the MND.

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, as supplemented by the North Beyer Park Specific Plan MNDs program of mitigation measures.	<input type="checkbox"/>	X
(2) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment).	<input type="checkbox"/>	X
(3) Result in inadequate emergency access.	<input type="checkbox"/>	X
(4) Result in inadequate parking capacity.	<input type="checkbox"/>	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 as supplemented by the North Beyer Park Specific Plan MND. 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 of the project, as conditioned, is in accordance with City standards.
- (3) Fire and Police Staff have reviewed this proposal and have determined that the existing layout does not create an emergency access problem.
- (4) The project meets City Standards in terms of the number of parking spaces required on-site, which is two per unit.

## **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. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and are listed in Section IV, Mitigation Measures Applied to Project:

### DISCUSSION:

Mitigation Measures appropriate to this project include: AQ-17

### **c. Project-Specific Effects**

Section V-2.B of the MEIR provides analysis of Air Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

	YES	NO
(1) The project exceeds the emissions thresholds established for CO and NOx by the San Joaquin Valley Unified Air Pollution Control District's (SJVUAPCD) adopted CEQA Guidelines.	<input type="checkbox"/>	X
(1) The project does not incorporate the best management practices for PM10 reduction established by the SJVUAPCD.	<input type="checkbox"/>	X
(2) The project does not comply with the air quality policies of the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(4) The project would expose sensitive receptors to substantial pollutant concentrations.	<input type="checkbox"/>	X
(5) The project would create objectionable odors affecting a substantial number of people.	<input type="checkbox"/>	X

**DISCUSSION:**

- (1) The project was referred to the San Joaquin Valley Unified Air Pollution Control District who determined that the project would not have a significant effect on the ambient air quality.
- (2) This project does incorporate the best management practices for PM10 reduction established by the SJVUAPD (see mitigations measures above).
- (3) Applicable General Plan Policies will be applied to the project. Therefore, project-specific effects will be less than significant for this impact (see mitigations measures above).
- (4) The project is not a significant contributor to pollution levels. The main source of pollution that would come with the 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 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. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project and any new measures are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

Mitigation Measures appropriate to this project include: N-4, N-5 and N-6.

**c. Project-Specific Effects**

Section V-3.B of the MEIR provides analysis of noise impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

	YES	NO
(1) The project will exceed the standards for noise level and hours of operation established by the Modesto noise ordinance.	<input type="checkbox"/>	X
(2) The project will exceed the noise policies of or otherwise be inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(3) The project will result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?	<input type="checkbox"/>	X
(4) The project will result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The City's noise policy is incorporated into the conditions of approval as a mitigation measure.

- (2) The project is consistent with the noise policies of the General Plan. The noise mitigation measures called for by the General Plan MEIR 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, 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, but the noise mitigation measures called for by the General Plan, are 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 relative to agricultural lands:

Effect: Development within the urbanized Baseline Developed Area and Redevelopment Area will have a less-than-significant impact on agricultural lands.

Effect: Conversion of agricultural land will occur as available developable land is occupied within the City. This is a significant and unavoidable impact.

Effect: Growth within Modesto's planning area would contribute considerably to the loss of agricultural land within Stanislaus County. This is a significant and unavoidable cumulative impact.

##### DISCUSSION:

The site is not zoned for agriculture or designated on the General Plan for future agricultural use. The proposed project will not affect areas zoned for agriculture or designated on the General Plan for future agricultural use. The project is an infill development and the surrounding properties are located within a fully developed urbanized area.

##### b. Master EIR and/or New Mitigation Measures Pertinent to the Project

Agricultural Land mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-4-7 and V-4-8 MEIR. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project and any new mitigation to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

##### DISCUSSION:

There are no mitigation measures applicable to this project.

**c. Project-Specific Effects**

Section V-4.B of the MEIR provides analysis of Agricultural Lands impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(2) The project will directly result in the development of land outside the March 2003 planning area boundaries.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(3) The project will Conflict with existing zoning for agricultural use, or a Williamson Act contract.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
(4) The project will Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.	<input type="checkbox"/>	<input checked="" type="checkbox"/>

**DISCUSSION:**

- (1) The project is consistent with the General Plan land use policies. It is a residential development that is consistent in intensity to what was assumed by the General Plan as supplemented by the North Beyer Park Specific Plan.
- (2) The project 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. All of the land surrounding the project is designated for future 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 MEIR. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

**c. Project-Specific Effects**

Section V-5.B of the MEIR provides analysis of Water Supply impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) Sufficient water supplies are not available to serve the project from existing entitlements and resources, new or expanded entitlements are needed.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
- (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. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

#### DISCUSSION:

There are no mitigation measures applicable to this project.

### c. Project-Specific Effects

Section V-6.B of the MEIR provides analysis of Sanitary Sewer Service impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- |   | YES                      | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (2) The project will result in a determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project's projected demand in addition to the provider's existing commitments. | <input type="checkbox"/> | X  |

**DISCUSSION:**

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
- (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. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project regarding sensitive wildlife and plant habitat. The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR.

**c. Project-Specific Effects**

Section V-7.B of the MEIR provides analysis of Wildlife and Plant Habitat impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) Consultation with the California Department of Fish and Game or the U.S. Fish and Wildlife Service determines that the project would have a significant effect on special status species.	<input type="checkbox"/>	X
(3) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan both in land use and intensity.
- (2) The project site is not a biologically sensitive site as defined by Figures V-7-1a through V-7-1e of the MEIR. The California Department of Fish and Game and the U.S. Fish and Wildlife Service were consulted in the production of the MEIR.
- (3) There is no conflict with any local policies or ordinances protecting biological resources.

**8. ARCHAEOLOGICAL OR HISTORICAL SITES**

**a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to archaeological or historical sites:

Effect: If a site-specific project involves the modification or demolition of a qualifying structure more than 50 years in age, then the impact will be significant.

Effect: Areas of high probability for archaeological resources are located within the riparian corridors along the Tuolumne River, Dry Creek, and the Stanislaus River. There, the potential impact comes from earthmoving activities that could result in disturbance of resources or human remains. There is a low probability that archaeological resources will be uncovered in areas outside of the riparian corridors.

Effect: The City Zoning Ordinance requires that when substantial changes to a structure are proposed, the development will be required to comply with other Zoning Ordinance provisions such as parking or landscaping requirements. This could result in modifications to the structure, which substantially reduce its historical significance. This would be a less-than-significant impact with the imposition of new mitigation measure Cultural-1.

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

Archaeological or Historic mitigation measures pertinent to the project being analyzed in this Initial Study are found on page V-8-13 and V-8-14 MEIR. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND.

DISCUSSION:

Mitigation Measures applicable to this project include: AH-8, Master EIR.

**c. Project-Specific Effects**

Section V-8.B of the MEIR provides analysis of Archaeological/Historical impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- |     |   | YES                      | NO |
|-----|---|--------------------------|----|
| (1) | The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (2) | The project would adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. | <input type="checkbox"/> | X  |

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan in both land use and intensity.
- (2) The project would not adversely affect a cultural resource that is either listed or eligible for listing in the California Register of Historical Resources, or that is listed by the City of Modesto as a Designated Landmark Preservation Site. The mitigation measure called for by the General Plan is incorporated into the conditions of approval for the project.

## 9. STORM DRAINAGE

### a. Significant Effects Identified in the Master EIR

The Master EIR identified the following significant environmental impacts relative to storm drainage:

Effect: The potential impacts on storm water drainage that could occur from the project were qualitatively evaluated with respect to several factors including: extent of the projected increase in urban surface area compared to undeveloped ground; magnitude of projected changes to hydrologic and physical site characteristics of the study area compared to existing conditions; regulatory criteria and guidelines; and professional judgment. Because the Urban Area General Plan includes policies that require new development in all three sections of the planning area to install approved drainage facilities, the potential impacts of the Urban Area General Plan on storm water drainage are considered *less-than-significant*.

Effect: The population of Stanislaus County is projected to increase in a fashion similar to that of Modesto, resulting in additional urban development and associated increases in impervious areas and associated urban storm water drainage. Cumulative hydrologic impacts of storm water flows from Modesto urban areas and other areas of the County could occur due to the fixed capacity of MID and TID irrigation canals to convey drainage west to the San Joaquin River. If drainage channels in some areas prove insufficient to handle the increased drainage discharges, existing storm water runoff from urban and agricultural areas during large storm events would have to be interrupted until water levels receded to a point allowing the resumption of discharges to the channel. Ceasing discharges to drainage channels could cause inundation in and around the drainage conveyance pipeline systems, surface drainage channels, detention basins, and other urban areas. *This cumulative impact is considered significant and unavoidable.*

### b. Master EIR and/or New Mitigation Measures Applied to the Project

Storm Drainage mitigation measure(s) pertinent to the project being analyzed in this Initial Study are found on pages V-9-4 through V-9-8 of the MEIR. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND.

#### DISCUSSION:

Mitigation measures appropriate to this project include: SD-7, MEIR. This mitigation measure is addressed by conditions of approval.

### c. Project-Specific Effects

Section V-9.B of the MEIR provides analysis of Storm Drainage impacts of development of the General Plan; the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- |  | YES                      | NO |
|--|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.  | <input type="checkbox"/> | X  |
| (2) The project would substantially increase the rate or amount of surface runoff in a manner that would result in flooding on- or offsite.  | <input type="checkbox"/> | X  |
| (3) Create or contribute runoff water that would exceed the capacity of existing or planned storm water drainage systems or provide substantial additional sources of polluted runoff. | <input type="checkbox"/> | X  |

**DISCUSSION:**

- (1) The project is consistent with the Modesto Urban Area General Plan R (Residential Land Use) and MU (Mixed Use) designations in both land use and intensity.
- (2) The project proposes to increase the rate or amount of impervious surface, but not beyond that which is anticipated by the MEIR, in that the land use and intensity is consistent with that which is assumed under the MEIR, as supplemented by the MND. 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. The project includes storm drainage facilities designed in accordance with City Standards, to accommodate the runoff. Public Works staff have reviewed the plan and have determined that it will not create on or off-site flooding.

**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. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project have been incorporated into the conditions of approval.

DISCUSSION:

Mitigation measures appropriate to this project include: FWQ-14, MEIR. This mitigation measure is addressed by conditions of approval.

**c. Project-Specific Effects**

Section V-10.B of the MEIR provides analysis of Flooding and Water Quality impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2)	The project does not comply with the regulatory requirements of the federal Clean Water Act or the State Porter-Cologne Act.	<input type="checkbox"/>	X
(3)	The project does not comply with Modesto's Guidance Manual for New Development Storm water Quality Control Measures.	<input type="checkbox"/>	X
(4)	The project would create or contribute runoff water, which would exceed the capacity of existing or planned storm water drainage systems or	<input type="checkbox"/>	X

provide substantial additional sources of polluted runoff.

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan 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) The project will comply with the Guidance Manual for New Development Storm Water Quality Control Measures. See MEIR mitigation imposed on the project, as cited above.
- (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. See MEIR mitigation imposed on the project, as cited above.

**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. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project, are listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project. It is not near any of the riparian area identified by Figures V-7-1a through V-7-1e of the MEIR.



**c. Project-Specific Effects**

Section V-11.B of the MEIR provides analysis of Parks and Recreation impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

YES NO

- (1) The project is inconsistent with the Modesto Urban Area General Plan.  YES  NO

**DISCUSSION:**

- (1) The project is consistent with the Modesto Urban Area General Plan 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. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the

project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

There are no mitigation measures applicable to this project.

**c. Project-Specific Effects**

Section V-12.B of the MEIR provides analysis of Schools impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- |   | YES                      | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (2) The project does not comply with SB 50/Proposition 1A funding provisions, or succeeding measures which provide that compliance results in less-than-significant impacts on schools. | <input type="checkbox"/> | X  |

DISCUSSION:

- (1) The project is consistent with the General Plan in both land use and intensity.
- (2) The project was referred to Modesto City Schools who indicated no opposition to the project. The appropriate school impact fees will be assessed on the development in accordance with SB 50.

**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. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

**DISCUSSION:**

No mitigation measures are applicable to this project.

**c. Project-Specific Effects**

Section V-13.B of the MEIR provides analysis of police services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- |  | YES                      | NO |
|--|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.  | <input type="checkbox"/> | X  |
| (2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives. | <input type="checkbox"/> | X  |

**DISCUSSION:**

- (1) The project is consistent with the Modesto Urban Area General Plan 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. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project. are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

**c. Project-Specific Effects**

Section V-14.B of the MEIR provides analysis of fire services impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project would result in the need for construction of new or significantly altered facilities which could cause new significant environmental impacts in order to maintain acceptable service ratios, response times or other performance objectives.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan 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. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Applied to Project:

#### DISCUSSION:

No mitigation measures are applicable to this project.

#### **c. Project-Specific Effects**

Section V-15.B of the MEIR provides analysis of solid waste impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project-specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- |   | YES                      | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.   | <input type="checkbox"/> | X  |
| (2) The County is unable to expand its solid waste disposal capacity and the project would result in waste stream levels that exceed disposal capacity. | <input type="checkbox"/> | X  |

#### DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan 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. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

**c. Project-Specific Effects**

Section V-16.B of the MEIR provides analysis of hazardous materials impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

		YES	NO
(1)	The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2)	The project does not comply with all applicable federal, state, and county standards and regulations relative to the handling, storage, disposal, and transport of hazardous or toxic materials or wastes.	<input type="checkbox"/>	X

- (3) The project contains a contaminated site not identified as of March 2003.  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 designation in both land use and intensity.
- (2) 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. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project to be incorporated into or made conditions of approval of this project are listed in Section IV, Mitigation Measures Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

**c. Project-Specific Effects**

Section V-17.B of the MEIR provides analysis of landslides and seismic impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

	YES	NO
(1) The project is inconsistent with the Modesto Urban Area General Plan.	<input type="checkbox"/>	X
(2) The project would be located on soil that is unstable, or that would become unstable as a result of the project, and potentially result in on or off-site landslide, lateral spreading, subsidence, liquefaction or collapse.	<input type="checkbox"/>	X

DISCUSSION:

- (1) The project is consistent with the General Plan in both land use and intensity.
- (2) The project would not be located on soil that is unstable, or that would become unstable as a result of the project.

**18. ENERGY**

**a. Significant Effects Identified in the Master EIR**

The Master EIR identified the following significant environmental impacts relative to energy:

Effect: The Baseline Developed Area and Redevelopment Area are already developed. New development within the Redevelopment Area will comply with Title 24 standards as well as City Urban Area General Plan policies. *Impacts on energy by development in these areas (i.e., changes in levels of use above the current baseline) will be less-than-significant.*

Effect: Build out under the Urban Area General Plan will utilize an estimated 1,400 million cubic feet per month of natural gas, 1,300 million kilowatt hours (kwh) of electricity per year and



650,000 gallons of gasoline per day. PG&E has indicated that they have at the current time sufficient supplies of natural gas to serve the increased natural gas demands of the project. At present, gasoline supplies are apparently sufficient to serve the gasoline demands of the project. Title 24 of the California Code of Regulation, which ensures that the project will not exceed local, state, and federal energy standards. *The impact is less-than-significant.*

**b. Master EIR and/or New Mitigation Measures Applied to the Project**

The following energy mitigation measure(s) are pertinent to the project being analyzed in this Initial Study. See page V-18-3 MEIR. No mitigation measures were required as a result of the North Beyer Park Specific Plan MND. All feasible measures appropriate to the project will be incorporated into or made conditions of approval of this project. Those measures will be listed in Section IV, Mitigation Applied to Project:

DISCUSSION:

No mitigation measures are applicable to this project.

**c. Project-Specific Effects**

Section V-18.B of the MEIR provides analysis of energy impacts of development of the General Plan, the following is an analysis of whether the proposed project would result in a new, significant, project -specific effect not previously analyzed in the MEIR.

Determination of project effects will be based on the following thresholds. The project-specific effects will be less-than-significant unless:

- |   | YES                      | NO |
|---|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan. | <input type="checkbox"/> | X  |

DISCUSSION:

- (1) The project is consistent with the Modesto Urban Area General Plan 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-significant unless:

- |  | YES                      | NO |
|--|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.                | <input type="checkbox"/> | X  |
| (2) The project includes a substantive amendment to the Modesto Urban Area General Plan. | <input type="checkbox"/> | X  |
| (3) The project would physically divide an established community                         | <input type="checkbox"/> | X  |

Discussion:

- (1) The project is consistent with the Modesto Urban Area General Plan designation in both land use and intensity.
- (2) No amendment to the General Plan is required by this project.
- (3) The project will complete a community plan. It 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-significant unless:

- |  | YES                      | NO |
|--|--------------------------|----|
| (1) The project is inconsistent with the Modesto Urban Area General Plan.  | <input type="checkbox"/> | X  |
| (2) The project would have a substantial adverse effect on a scenic vista.   | <input type="checkbox"/> | X  |
| (3) The project would substantially degrade the existing visual character or quality of the project site and its surroundings.             | <input type="checkbox"/> | X  |
| (4) The project would create a new source of substantial light and glare, which would adversely affect day or nighttime views in the area. | <input type="checkbox"/> | X  |

DISCUSSION:

- (1) The project is consistent with the General Plan in both land use and intensity.
- (2) The project will not have a substantial adverse effect on a scenic vista. It is not near any rivers, mountains or other vistas of interest.

- (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 will be consistent with all City standards and regulations.

## **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:**

1. Prior to recordation of the subdivision, the developer shall provide dedication and improvements along Claratina Avenue, Oakdale Road and Mable Avenue in accordance with City Standards, and as required by the City Traffic Engineer.

#### **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 and 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. The developer shall implement measures to prevent carryout or trackout that may otherwise occur in conjunction with construction activities.

**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 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.

**Storm Drainage Measures:**

1. Prior to the issuance of a building permit for any portion of the small-lot development or recordation of the subdivision map, the developer shall submit a plan for approval by the Operations and Maintenance Director to provide on-site treatment of storm water in accordance with the guidance manual for new development stormwater quality control measures. Storm drain improvements shall be constructed in accordance with the approved plans.
2. 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. Prior to the issuance of a building permit for any portion of the small-lot development or recordation of the subdivision map, the developer shall submit a plan for approval by the Operations and Maintenance Director to provide on-site treatment of storm water in accordance with the guidance manual for new development stormwater quality control measures. Storm drain improvements shall be constructed in accordance with the approved plans.
2. The developer shall implement pre- and post- construction best management practices (BMPs) to minimize pollutants entering the storm system.

**Parks and Open Space Measures:**

N/A

**Schools Measures:**

N/A

**Police Services:**

N/A

**Fire Services:**

N/A

**Generation of Solid Waste**

N/A

**Generation of Hazardous Materials**

N/A

**Potential for Landslides and Seismic Activity**

N/A

**Energy**

N/A

**Planning and Land Use**

N/A

**Aesthetics**

N/A

**B. New or Additional Mitigation Measures or Alternatives Required**

Where the project's effects would exceed the specific thresholds defined for each environmental category, a mitigated negative declaration or Focused EIR must be prepared. Staff has reviewed the project against those thresholds set forth in the Master EIR for all applicable categories in this Initial Study. The following project-specific mitigation measures are necessary to reduce the identified new significant effect: **None**.

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 760**

**A RESOLUTION AFFIRMING THE TERMS OF THE EXISTING CABLE  
FRANCHISE AGREEMENT IN RESPECT TO THE DEFERRED COLLECTION  
OF FRANCHISE AND PEG GRANT FEES.**

WHEREAS, the Governor has signed the Digital Infrastructure and Video Competition Act of 2006 (the "Act"), and

WHEREAS the Act, effective January 1, 2007, provides for state issued video franchises, provides for the obligations and conditions of these franchises and permits existing local cable television franchisees to abrogate their existing franchises and opt into the state franchises, and

WHEREAS, the Act provides for a state franchise fee payable as rent or toll for the use of the public right-of-way by holders in the amount of 5 percent of gross revenues, or the percentage applied by the local agency to the gross revenue of the incumbent cable operators, whichever is less, and

WHEREAS, the existing Franchise Agreement, adopted by ordinance, does impose a franchise fee of three percent, and

WHEREAS three percent franchise fee is required, council has deferred collection of the maximum amount of five percent and reserves the right to initiate collection of the maximum amount at some point in the future, and

WHEREAS, The Act authorizes a PEG fee of one percent (1%) of gross revenues that may be imposed at any time and permits local agencies that are imposing a PEG fee in excess of 1% on December 31, 2006, to then establish by ordinance and collect a PEG fee in excess of one percent but not to exceed three percent (3%), and

WHEREAS, the existing Franchise Agreement, adopted by ordinance, imposes a PEG grant in excess of 1% and that this PEG grant has been and is currently imposed on the cable franchisee, however council's has deferred collection thus far.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto affirming that the existing Franchise Agreement, adopted by ordinance 3223-C.S, imposes a franchise fee of three percent and deferred collection of the maximum amount and reserves the right to initiate collection of the maximum amount at some point in the future. Furthermore, the Franchise Agreement, adopted by ordinance 3223-C.S, imposes a PEG grant in excess of 1% and that this PEG grant has been and is currently imposed on the cable franchisee. However the Council's has deferred collection thus far and reserves the right to collect it at any time in the future.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 5<sup>th</sup> day of December, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmemeber Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: None

ATTEST: Jean Morris  
Jean Morris, City Clerk

APPROVED AS TO FORM:  
By: Susana Wood  
Susana Wood, Interim City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 761**

**A RESOLUTION RECOGNIZING RAY SIMON FOR HIS 32 YEARS OF  
PUBLIC SERVICE TO THE CITIZENS OF MODESTO AND  
STANISLAUS COUNTY**

WHEREAS, Ray Simon moved to Modesto, California to join his family after service in the military and enrolled at Modesto Junior College where he earned his Associates of Arts degree, and

WHEREAS, Ray transferred to the University of California at Berkeley where he graduated with a degree in Criminology. His early and continuing interest in public safety are part of the enormous contributions he has made to the citizens of Stanislaus County.

WHEREAS, after graduation and a period of working with the FBI and CIA in intelligence, Ray returned to Modesto and entered the insurance business as an adjuster for Bud Gianelli. He later purchased the business and started Pegasus Risk Management, Status Medical Management and the Consolidated Status Investigative Group.

WHEREAS, in 1966, Ray was appointed to the City of Modesto Planning Commission by Mayor Don Hammond and in 1967, he was elected to the Modesto City Council where he served two terms,

WHEREAS, Ray's interest in the regional effects of growth, traffic and crime soon lead him to run for the Stanislaus Board of Supervisors, and in 1973, he was elected to the Stanislaus County Board of Supervisors.

WHEREAS, Ray is a leader in promoting regional advanced law enforcement training. The Ray Simon Regional Criminal Justice Training Center is named in

his honor and is the first in the State and is being replicated throughout the State of California.

NOW, THEREFORE, the Modesto City Council extends it sincere gratitude to Ray Simon for his 32 years of public service, leadership and dedication to the citizens of Modesto and Stanislaus County.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12<sup>th</sup> day of December, 2006, 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:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Olsen

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 762**

**A RESOLUTION APPROVING AN ADVANCED FUNDING AGREEMENT FOR THE WOODGLEN SPECIFIC PLAN AREA BETWEEN THE CITY OF MODESTO AND FITZPATRICK LAND DEVELOPMENT, A LIMITED LIABILITY COMPANY, FOR THE PREPARATION OF A FACILITIES MASTER PLAN, AND INFRASTRUCTURE FINANCE PLAN AND FOR FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE WOODGLEN SPECIFIC PLAN AREA, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, Fitzpatrick Land Development, a Limited Liability Company (the “Applicant”) has agreed to advance all funds necessary to prepare a Facilities Master Plan and Infrastructure Finance Plan (“FMP/IFP”) and for formation of a Community Facilities District (“CFD”) for the Woodglen Specific Plan Area, and

WHEREAS, the parties agreed to enter into an Advanced Funding Agreement for the Woodglen Specific Plan Area by and between the City and the Applicant relating to advances made and to be made by the Applicant to the City, and providing for potential reimbursement to the Applicant if and when certain funds from the Woodglen CFD become available, a copy of which is attached as **Exhibit A**,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Advanced Funding Agreement for the Woodglen Specific Plan Area between the City of Modesto and Fitzpatrick Land Development, a Limited Liability Company, is hereby approved.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Advanced Funding Agreement.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of December, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar. was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

## Exhibit "A"

### ADVANCED FUNDING AGREEMENT FOR THE WOODGLEN SPECIFIC PLAN AREA

THIS ADVANCED FUNDING AGREEMENT FOR THE WOODGLEN SPECIFIC PLAN AREA (this "Agreement"), dated as of \_\_\_\_\_, 2006, is entered into by and between the CITY OF MODESTO, a municipal corporation of the State of California (the "City") and Fitzpatrick Land Development, A Limited Liability Company (the "Applicant").

#### *RECITALS:*

A. Applicant has a legal interest in real property located within a portion of the Woodglen Specific Plan Area ("Specific Plan"), shown in Exhibit A attached hereto and incorporated herein by this reference, and is interested in pursuing development of properties in the Specific Plan.

B. Applicant has requested that the City prepare a Facilities Master Plan and Infrastructure Finance Plan ("FMP/IFP"), and create an appropriate financing mechanism, such as a community facilities district ("CFD") for the principal purpose of master planning and financing the various public facilities and services which are necessary to serve or desirable for the development of the Specific Plan (collectively the "Project").

C. City has either retained, or will retain outside consultants, to assist it with the Project and, if the City determines to proceed with the formation of a CFD, to assist it in connection therewith and with the possible issuance of bonds.

C. The scope of work for the Project ("Scope"), including the estimated costs for completing the Project ("Estimated Costs"), is attached as Exhibit B.

E. Applicant is prepared to deposit with the City the amount needed to fund the Scope plus 30% for staff time and expenses in order to provide the City with an initial source of funds with which to pay expenses expected to be incurred in connection with the Project. Additional deposits will be provided by Applicant, as required by the City.

F. The City and Applicant are desirous of entering into this Agreement in order to provide monies for the City's costs for the preparing the Project on a time and materials basis, to provide mechanisms by which the funds deposited under this Agreement shall be applied and by which Applicant may make additional deposits, and to reimburse Applicant for monies advanced for the benefit of other landowners in the Project.

G. Pursuant to California Government Code Section 53314.9 and the City's CFD Policies and Procedures, the City Council of the City is authorized to accept advances of funds or work-in-kind from any source, including, but not limited to, private persons or private entities, and may provide, by resolution, for the use of those funds or work-in-kind for any authorized purpose, including, but not limited to, paying any costs incurred in connection with the planning and formation of a community facilities district. The City Council of the City is also authorized to enter into an agreement, by resolution, with the person or entity advancing the funds or work-in-kind to repay all or a portion of the funds advanced or to reimburse the person or entity for the cost or value of the work-in-kind provided that certain conditions are met. The conditions to be satisfied with respect to funds advanced require that (1) the proposal to repay the funds or to pay the cost or value

of the work-in-kind must be included in the resolution of intention for the proposed community facilities district and in the resolution of formation for the proposed community facilities district, (2) any proposed special tax is approved by the qualified electors of the community facilities district and, if a proposed special tax is not approved, any funds advanced which have not been committed for any authorized purpose by the time of the election must be returned to the person or entity advancing funds and (3) any work-in-kind accepted shall have been performed or constructed as if the work had been performed or constructed under the direction and supervision, or under the authority, of the local agency.

H. The City and the Applicant are desirous of entering into this Agreement in accordance with Government Code Section 53314.9 and the City's CFD Policies and Procedures in order to provide a mechanism by which the Applicant may make additional deposits if determined necessary pursuant to the City's CFD Policies and Procedures and, when and if bonds are issued and proceeds are available, the CFD can reimburse the Applicant for the amounts advanced by the Applicant.

### AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties hereto agree as follows:

1. Recitals. Each of the above recitals is incorporated herein and is true and correct.
2. Proposed Preparation of the Facilities Master Plan and Infrastructure Financing Plan.
  - a. Applicant agrees to pay all costs of preparing, processing and approving the FMP/IFP.
  - b. Within ten (10) calendar days after the City Council approves this Agreement, Applicant shall deposit with the City the sum of \$568,230 ("Initial Deposit") to fund the Scope of work for the Project. The Initial Deposit will be held in trust by the City and used solely for the purposes set forth in this Agreement. Upon receipt by the City of the Initial Deposit and all documents deemed necessary by the City to proceed with the Project, the City will commence work on the Project on a time and materials basis and will provide a Notice to Proceed to its Consultant to proceed with the Project. In connection therewith, the City has either retained, or will retain, the consultants that the City determines necessary or convenient to assist it with the Project and, if the City determines to proceed with the formation of the CFD, to assist it in connection therewith and with the possible issuance of bonds.

After the Initial Deposit has been expended on the Project, Applicant shall make additional advances to the City as provided by subparagraph (d), below, until the Project has been completed or terminated, and all costs associated with the Project have been fully paid. City will commence work on subsequent Tasks as identified in the Scope on a time and materials basis and will provide a Notice to Proceed to Consultant for each such Task within ten (10) calendar days after it has received an additional deposit sufficient to cover the estimated costs for said Task plus 30% for staff time and expenses associated with said Task

- c. The consultants shall submit invoices to the City for payments based on work completed; such invoices will be promptly sent by the City to the Applicant, which will have five (5) business days to challenge the work performed, and the City will in good faith consider the position of the Applicant prior to approving payment. Applicant understands and agrees that City shall have the right, in its sole discretion, to approve and pay all such consultant invoices, and may do so without obtaining Applicant's approval.

Applicant shall make additional advances to the City within ten (10) business days following receipt from the City of a request for an additional advance to the cover the costs referred to herein. In the event that Applicant does not deliver the requested amount to the City within such ten (10) business day period, the City will have no obligation to proceed with any activity relating to the Project. The Applicant may notify the City at any time, in writing, of its intention to abandon the Project. Immediately upon City's receipt of such notice, but in no case later than two (2) business days, the City shall instruct in writing its consultants to cease work immediately. The Applicant shall be responsible for all costs and expenses incurred by the City or any City consultant or advisors relating to the Project until City issues this cease work.

- d. Within 60 calendar days after issuance of a cease work notice, City agrees to return to Applicant all unexpended amounts of the Initial Deposit (and any subsequent deposits) which exceed all costs and expenses incurred by City relating to the Project.
- e. Applicant agrees that, notwithstanding the Applicant's funding and reimbursement obligation under this Agreement, the consultants selected by the City shall be the contractors exclusively of the City and not of the Applicant. Except for those disclosures required by law including, without limitation the Public Records Act, all conversations, notes, memoranda, correspondence, and other forms of communication by and between the City and its consultants shall be, to the extent permissible by law, privileged and confidential and not subject to disclosure to the Applicant. Applicant agrees that it shall have no claim to, nor shall it assert any right in any reports, correspondence, plans, maps, drawings, news releases or any and all other documents or work project produced by City's consultants. Applicant understands that it will not be a third party beneficiary to City's contracts with the consultant. City will consult with Applicant prior to replacing its current consultants; however, Applicant agrees that City may select other consultants to replace its current consultants and may do so without obtaining Applicant's approval.
- f. City and Applicant shall work cooperatively and in good faith to facilitate completion of Project as quickly as possible and in the most cost effective way. City and Applicant shall meet and consult on dates and times as may be mutually agreed upon to discuss the progress and any key issues involved in the Project; provided, however, that Applicant's role is advisory only and that City shall control all aspects of the Project. The final work product to be produced by City's consultants shall be subject to the City' sole approval and control.

3. Proposed Formation of the CFD and Issuance of Bonds.

- a. Applicant agrees to pay all costs of preparing, processing and forming a CFD for the Specific Plan area.
- b. Upon receipt by the City of a completed application for the formation of the CFD, the formation deposit for the CFD, and all documents related thereto as described in the City's CFD Policies and Procedures, the City will undertake to analyze the appropriateness of forming the CFD and the issuance of bonds by it. In connection therewith, the City has either retained or will retain, at the Applicant's expense, the consultants that the City determines necessary or convenient to assist it in studying the proposed formation of the CFD and, if the City determines to proceed with the formation of the CFD, to assist it in connection therewith and with the possible issuance of bonds.
- c. Pursuant to the City's CFD Policies and Procedures, the Applicant shall make additional advances to the City within ten (10) days following receipt from the City of a request for an additional advance to cover the costs referred to herein. In the event the Applicant does not deliver the requested amount to the City within such ten (10) day period, the City will have no obligation to proceed with any activity relating to the formation of the CFD and/or the issuance of bonds. The Applicant may notify the City at any time, in writing, of its intention to abandon the formation of the CFD or the issuance of bonds. Upon receipt of such notice, the City shall instruct its consultants to cease work as soon as practicable. The Applicant shall be responsible for all costs and expenses incurred by the City or any City consultant or advisor relating to the proposed formation of the CFD and/or bond issuance until work with respect to the proposed formation or bond issuance ceases following the receipt of the Applicant's notice of abandonment. Within 60 calendar days after receipt of the Applicant's notice of abandonment, City agrees to return to Applicant all unexpended amounts of the Initial Deposit (and any subsequent deposits) which exceed all costs and expenses incurred by City relating to the Project.

4. Reimbursement Procedure. If the CFD is formed and bonds are issued, bond proceeds in excess of the amount determined by the City's District Administrator to be required in order to satisfy the requirements of the City's CFD Policies and Procedures with respect to capitalized interest and reserves and to pay for the Facilities and other Incidental Expenses may be used to reimburse the Applicant for the amounts that the Applicant has advanced to the City in connection with this Agreement, all as provided for in the City's CFD Policies and Procedures. In the event that the CFD is not formed for any reason, or in the event that the CFD is formed and bonds are not issued for any reason, the City shall return any funds which have been advanced by the Applicant pursuant to this Agreement and which have not been expended, obligated or otherwise committed for any authorized purpose, subject to the complete reimbursement to the City of all of its direct and indirect costs. If the amounts previously advanced by the Applicant are insufficient to fully reimburse the City for all of its direct and indirect costs, the Applicant shall promptly pay to the City the amount of the deficiency. The City shall be entitled to pay any refund required pursuant to the provisions hereof to the entity that is the signatory to this Agreement irrespective of any changes in the ownership of the property or the organization of the Applicant, and the City shall not be required to pay interest on any amount required to be refunded pursuant to this Agreement.



5. Abandonment of the Project. The Applicant understands that, subject to the satisfaction of all applicable legal requirements, the decision to review, process, prepare or approved the proposed Project, shall be each in the sole discretion of the City. No provision of this Agreement shall be construed as a promise, warranty or agreement by the City to review, process, prepare or approve the proposed Project. The City shall have no liability to Applicant for a decision not to review, process, prepare or approve the proposed Project.

6. Abandonment of Proposed CFD. The Applicant understands that, subject to the satisfaction of all applicable legal requirements, the decision to form the CFD and the decision to issue bonds shall be each in the sole discretion of the City. No provision of this Agreement shall be construed as a promise, warranty or agreement by the City to form the CFD or to issue bonds. Should the proceedings to form the CFD be abandoned for any reason, the City shall provide written notification of such abandonment to the Applicant and shall return to the Applicant all unexpended amounts of the Initial Deposit (and any subsequent deposits) which exceed all costs and expenses incurred by the City relating to formation of the CFD. Said monies shall be returned within 60 days of the issuance of the written notice of abandonment. Except for such reimbursement, the City shall have no liability to Applicant for a decision not to form the CFD or issue bonds.

7. Indemnification and Hold Harmless. The Applicant hereby assumes the defense of, and indemnifies and saves harmless, the City and each of its officers, directors and employees, from and against all actions, damages, claims, losses or expenses of every type and description to which they may be subjected or put, by reason of or arising out of any acts or omissions of the Applicant or any of the Applicant's officers, employees, contractors and agents in connection with the proposed formation of the CFD or any work-in-kind provided by or on behalf of the Applicant or its consultants, except for any action, damages, claims, losses or expenses arising out of the sole negligence or willful misconduct of the City, its officers, directors, employees or agents.

8. 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.

Applicant: Fitzpatrick Land Development, LLC  
4216 Kiernan Avenue, Suite 100  
Modesto, CA 95356  
Attention: Shawn Fitzpatrick  
Phone: (209) 543-1608  
Fax: (209) 543-1614

City: City of Modesto  
1010 Tenth Street, Suite 6100  
Modesto, California 95353  
Attention: IFP Administrative Officer  
  
Phone: 209-577-5211  
Fax: 209-571-5128

Each party may change its address for delivery of notice by delivering written notice of such change of address to the other party.

9. Assignment. The Applicant may not assign its interest in this Agreement without the prior written consent of the City, which consent shall not be unreasonably withheld. Any assignment or attempt to assign this Agreement without the prior written consent of City shall be deemed null and void as of the date of the purported assignment. All covenants, stipulations, and agreements in this Agreement shall bind any such representatives, successors and assigns.

10. Severability. If any part of this Agreement is held to be illegal or unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall be given effect to the fullest extent permitted by law.

11. Entire Agreement. This Agreement contains the entire agreement between the parties with respect to the matters provided for herein. All previous proposals, offers and communications relative to this Agreement, whether oral or written, are hereby superseded except to the extent that they have been incorporated into this Agreement. No future waiver of or exception to any of the terms, conditions, and provisions of this Agreement shall be considered valid unless specifically agreed to in writing by all the parties.

12. Amendments. This Agreement may be amended or modified only by written instrument signed by all parties. Any amendment or addendum to this Agreement shall expressly refer to this Agreement.

13. Governing Law. This Agreement and any dispute arising hereunder shall be governed by and interpreted in accordance with the laws of the State of California.

14. No Third Party Beneficiaries. No person or entity shall be deemed to be a third party beneficiary hereof; and nothing in this Agreement (either express or implied) is intended to confer upon any person or entity, other than the City (and its officers, directors, employees and agents providing services under this Agreement) and the Applicant, any rights, remedies, obligations or liabilities under or by reason of this Agreement.

15. Singular and Plural; Gender. As used herein, the singular of any word includes the plural, and terms in the masculine gender shall include the feminine.

16. Termination. This Agreement shall terminate and be of no further force and effect on the third (3<sup>rd</sup>) anniversary of the date of this Agreement unless expressly amended by the parties; provided, however, that the Applicant's obligations under Section 7 shall survive the termination and the City's obligation to provide reimbursement in accordance with Section 4 for expenses incurred prior to the termination date shall also survive termination.

17. Time is of the Essence. Except as otherwise expressly stated, time is of the essence in the performance of each and every action required pursuant to this Agreement.

18. Language Construction. The language of each and all paragraphs, terms and/or provisions of this Agreement, shall, in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Agreement.

19. Representations of Authority. Each party signing this Agreement on behalf of a party which is not a natural person hereby represents and warrants to the other party that all necessary legal prerequisites to that party's execution of this Agreement have been satisfied and that he or she has been authorized to sign this Agreement and bind the party on whose behalf he or she signs.

20. Relationship of Parties. Nothing contained in this Agreement shall be interpreted or understood by any of the parties, or by any third person, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between City and Applicant or its agents, employees or contractors. Except as City may specify in writing, Applicant shall have no authority to act as an agent of City or to bind City to any obligation.

21. Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of this Agreement's provisions.

22. Waiver. The waiver by any party to this Agreement of any action, obligation, or commitment required by this Agreement or 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 or of any action, obligation, or commitment required by this Agreement unless specifically stated in writing.

23. Discretion of the City. City's execution of this Agreement in no way limits the discretion of City in the permit and approval process in connection with any entitlements within City's jurisdiction, including those related to the Project, or with the design, construction or funding of any onsite or offsite infrastructure improvements within the City's jurisdiction.

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-\_\_\_\_, adopted by the Council of the City of Modesto on the \_\_\_\_ day of \_\_\_\_\_, 2006, and Fitzpatrick Land Development, a Limited Liability Company, has caused this Agreement to be executed in duplicate, effective as of the date first written above.

CITY OF MODESTO, a municipal corporation

Fitzpatrick Land Development, A Limited Liability Company

By: \_\_\_\_\_  
GEORGE W. BRITTON, City Manager

By: \_\_\_\_\_

Name: \_\_\_\_\_

ATTEST:

Title: \_\_\_\_\_

By: \_\_\_\_\_  
JEAN MORRIS, City Clerk

By: \_\_\_\_\_

Name: \_\_\_\_\_

APPROVED AS TO FORM:  
SUSANA ALACALA WOOD, City Attorney

Title: \_\_\_\_\_

By: \_\_\_\_\_  
ALISON A. BARRATT-GREEN  
Senior Deputy City Attorney

**Signature Requirements**

*Corporation:*

- 1. Signature of two (2) officers
- or
- 2. Signature of one (1) officer plus the corporate seal

*Partnership:* Signature of one partner

*Sole Proprietorship:* Signature of proprietor

**PROJECT SUMMARY:**

GROSS SITE ACREAGE 47.24 AC  
 PERMITTED BY RPT DEVELOPMENT 47.24 AC  
 TOTAL DWELLING UNITS 4,511 UNITS  
 ADJUSTED GROSS DENSITY 47.75 DW/AC

OPEN SPACE/RETENTION BASIN/REC 452.7 AC  
 NET 47.77 AC  
 PLAY AREA 43.19 AC  
 LAWN 41.18 AC  
 LINEAR PARKWAY 41.18 AC  
 TRAILS ISLAND 44.53 AC  
 PRIVATE RESERVATION AREA 47.12 AC

NEIGHBORHOOD A (45 X 100 LOTS)  
 GROSS ACREAGE 47.24 AC  
 NET ACREAGE 47.24 AC  
 GROSS DENSITY 47.75 DW/AC

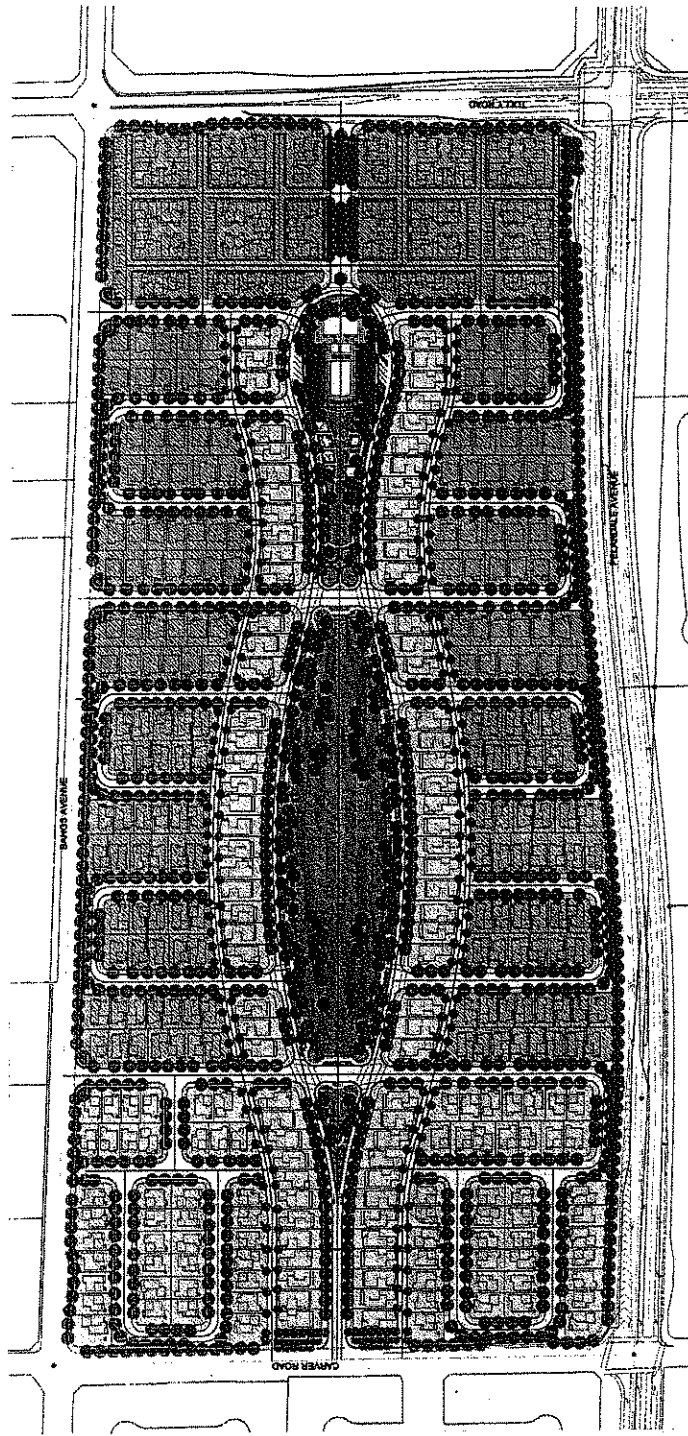
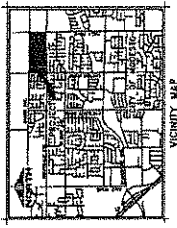
NEIGHBORHOOD B (44 X 80 & 48 X 90 LOTS)  
 GROSS ACREAGE 12.8 AC  
 NET ACREAGE 12.8 AC  
 GROSS DENSITY 100.0 DW/AC

NEIGHBORHOOD C (40 X 78)  
 GROSS ACREAGE 12.4 AC  
 NET ACREAGE 12.4 AC  
 GROSS DENSITY 115.0 DW/AC

NEIGHBORHOOD D (68 X 80 LOTS)  
 GROSS ACREAGE 47.24 AC  
 NET ACREAGE 47.24 AC  
 GROSS DENSITY 47.75 DW/AC

NEIGHBORHOOD E (108 LOTS)  
 GROSS ACREAGE 47.24 AC  
 NET ACREAGE 47.24 AC  
 GROSS DENSITY 47.75 DW/AC

NEIGHBORHOOD F (108 LOTS)  
 GROSS ACREAGE 47.24 AC  
 NET ACREAGE 47.24 AC  
 GROSS DENSITY 47.75 DW/AC



RECEIVED  
 JUN 13 2006  
 C. S. ED PLANNING

Scale bar: 0 10 20 30 40 Feet  
 Date: April 12, 2006  
 Project: P1248801

Land Use Plan **WOODGLEN** Design Guidelines  
 Modesto, CA

## Exhibit "B"

### MuniFinancial

#### Task Order 2 Scope of Work

#### Facilities Master Plan Infrastructure Financing Plan for the Woodglen Specific Plan

The objective of this project is to prepare a Facilities Master Plan (FMP) and an Infrastructure Financing Plan (IFP) for the Woodglen Specific Plan (WSP). The WSP provides development requirements for approximately 79 acres of land in the Kiernan-Carver Comprehensive Planning District of Modesto, California. The WSP anticipates build out of 541 single family and multi-family residential units arranged around a central open space. The central open space includes the project's storm water basin and recreational amenities. The open space elements include a 1.2-acre private recreation facility for resident's use, a 1.3-acre landscaped play area for informal public recreation, and a 3.9-acre storm water basin, comprised of a 1.1-acre grassy slope and the 1.9-acre bottom of the basin where the infiltration of storm water would occur. Existing development and uses on the site include agricultural use and a residence with a barn, and associated outbuildings. The site also has existing right-of-ways, which include Bangs to the north, Tully to the east, Pelandale to the south, and Carver to the west. The City of Modesto has been granted easements for expansion of these right-of-ways.

The scope for the FMP is presented first, followed by the IFP scope. The budget and schedule for the entire project follows the task plans. For this task order, MuniFinancial will be subconsulting with Willdan, West Yost and Associates, Carollo Engineers and Aerial Surveys.

### Facilities Master Plan

The primary objective of preparing the FMP for Specific Plan Areas is to provide a document that will describe the public infrastructure needed to support proposed development. Generally, the FMP provides preliminary engineering information to confirm the technical suitability and requirements of the plan's project area. Specifically, the FMP provides critical assumptions for use in the IFP that is prepared in conjunction with the FMP. The primary components of the FMP are as follows:

- ◆ **Project Description:** Limit the level of planning for the project, including the extent of existing improvements and infrastructure and the availability and limitations of those improvements to serve development. Develop project objectives and requirements.
- ◆ **Facilities Plan:** Use existing or new engineering studies and coordination with existing City modeling programs to prepare a plan for major public facilities (water, sewer, drainage, transportation, and others such as parks and public buildings). The types of facilities included in the IFP depend on the type, amount, and location of projected

development and city policy objectives. Identify major engineering constraints and proposed solutions.

- ♦ **Project Mapping:** If need, develop necessary land and infrastructure mapping information to evaluate public facility needs. (Typically, this will be provided by the applicant/developer.)
- ♦ **Prepare Engineering Drawings and Costs:** Prepare 30 percent engineering drawings and costs estimates to describe the facilities needed to serve the project.
- ♦ **Final Report:** Compile a final report including project description, facility plans, engineering drawings, cost estimates, and other needed information.

## **Task 2.1: Prepare Project Description**

*Objective:* Identify project characteristics that will determine public facility needs.

*Description:* Develop limits of the engineering effort for the studies and the plans. Based upon the land use scenarios proposed by the City, prepare a project description for the specific plan area. Include the following items:

- ♦ Limits of the plan area;
- ♦ Land use scenario (see IFP scope of work)
- ♦ Description of storm drainage, domestic water, recycled water, sanitary sewer and other existing infrastructure
- ♦ General infrastructure requirements; and
- ♦ Preliminary lot and roadway patterns.

Much of the work of this task has been developed in the Preliminary Draft Woodglen Specific Plan and the project description will be compatible with the Draft Plan. This effort will focus on identifying and complete the gaps in the plan that must be filled to complete this effort. In addition, in conjunction with preparation of the IFP, confirm the extent of financed facilities to be included in the plan.

*Meetings:* One meeting to kickoff project and develop initial information request.

*Deliverable:* Information requests.

## **Task 2.2: Develop Facility Plan**

*Objective:* Develop a facility plans and costs for sanitary sewer, domestic water, recycled water, storm drainage, streets and roadways and all other facilities or utilities to be included in the IFP.

*Description:* Coordinate with City infrastructure consultants, City staff, other public agencies, project proponent, and other stakeholders as appropriate. Prepare overall map and technical information describing the methodology and identifying the recommended public facility improvements for the project. Compile findings and exhibits for use in final report. For specific facility types, task to include:

**Domestic Water:** We will calculate the water demands for the project and develop a pipe layout that will deliver the required water to the development's users. We will

coordinate with the City's Master Water Modeler, West Yost Associates, to confirm onsite and offsite capacity and supply availability. This documentation will be left with West Yost Associates so that if the project is approved, the City's masterplan may be updated. If the City's existing water system cannot meet the City's minimum water system design criteria with the increased demands, then we will make recommendations for whatever new water supply sources and/or water system infrastructure facilities will be required to mitigate the water system impacts of the project. An estimate of the probable construction cost for the infrastructure required to provide adequate supply. A separate stand-alone report will be prepared to meet the regulatory requirements of SB610.

**Sanitary Sewer:** We will calculate the wastewater demands of the project and provide sufficient data to Carollo Engineers to update the hydraulic model to reflect changes created by the project. If the necessary capacity is not available probable construction cost estimates and a cost allocation report will be included. This documentation shall be left with Carolla so that if the project is approved, the City's mapsterplan may be updated.

**Storm Drainage:** The preliminary Storm drain management proposal envisions a zero discharge concept and no off-site capacity is currently contemplated. Willdan will prepare a refined design concept and facilities plan to implement the project concept.

**Roadway and Transportation:** Develop transportation demand models and evaluate future facility needs. Develop proposed improvements and confirm responsibility of the Specific Plan. Prepare street cross-sections, rights-of-way needs, traffic control system needs (traffic signals, etc.) and other related tasks. Develop alternative transportation systems (Bikeways, transit, etc.) as they relate to the project. Compile findings in a report and exhibit presenting this information for future use.

**Landscaping Plans:** Evaluate specific plan elements and develop general landscape standards in anticipation of preparing 30% drawings. Review proposed elements and identify any inconsistencies or conflicts that may exist.

**Additional infrastructure (Parks, Schools, other utilities):** Develop proposed improvement descriptions and exhibits. Confirm responsibility of the Specific Plan.

*Meetings:* Two meetings.

*Deliverables:* Reports with all of the analysis described above.

### **Task 2.3: Conduct Project Mapping**

*Objective:* Develop mapping for use in preparing facility designs.

*Description:* Develop base topographic mapping from aerial or ground data sufficient to prepare design. Prepare project boundary maps as needed from existing record drawings and documents. Locate and identify existing easements and encumbrances as needed to include such areas in the mapping documentation. Calculate and locate projected property lines, street centerlines, and rights-of-way as needed to prepare required plans. City obtains right of entry onto private property as needed.



*Meetings:* None.

*Deliverable:* None.

## **Task 2.4: Prepare 30 Percent Engineering Drawings and Cost Estimates**

*Objective:* Provide cost estimate of needed public facilities, and inform final design when the project proceeds to construction.

*Description:* Based upon the information from prior tasks, prepare 30 percent construction drawings. Prepare plan and profile sheets at 40 scale for all roadways and utilities. Prepare preliminary intersection designs, particularly major signalized intersections. Prepare preliminary design of major facilities; such as pump stations, wells, or detention/water quality ponds.

Plans will include pipe layouts, infrastructure requirements, street cross-sections, street and pipe profiles, and other related information. Plans will include an estimate of required equipment, equipment layout, signal phasing, intersection geometrics and other related information.

Plans will generally not include the following items:

- ◆ Construction notes;
- ◆ Construction details;
- ◆ Grading plans;
- ◆ Erosion Control and Storm Water Pollution Plans;
- ◆ Construction traffic control;
- ◆ Stripping plans; and
- ◆ Construction specifications

Revise plans and drawings as needed to address deficiencies in the facility plans developed in Task 2. Prepare cost estimates based on quantities identified in design drawings and reasonable unit cost assumptions.

Based on the preliminary Draft Woodglen Specific Plan, the 30% drawings will likely consist of Bangs Avenue, Tully Road, Pelandale Avenue, Carver Road and the central collector road through the project. In addition, on-site core utilities will be included as defined by the City.

*Meetings:* One meeting to review plans, drawings, and cost estimates.

*Deliverable:* Preliminary plans, drawings, and cost estimates.

## **Task 2.5: Final Report**

*Objective:* Communicate the assumptions, methodologies, and results of FMP.

*Description:* Develop recommendations for phasing requirements for backbone facilities needed in advance development. Recommend measures for accommodating future land use changes that vary from those assumed in the analysis.

Prepare administrative draft report for staff comment based on the results of prior tasks. Prepare a public draft for presentation the City Council. Conduct Council presentations.

*Meetings:* Two meetings, one to review administrative draft report and one for Council presentation.

*Deliverables:* Administrative draft report, public draft report, slide presentation.

## Infrastructure Financing Plan

The primary purpose of the IFP is to provide a strategy for the imposition of exactions through the development process to adequately provide for the public facilities and services needed to accommodate the proposed project. The IFP will be based on the FMP prepared for the same project. The primary components of the IFP are discussed below:

- ♦ **Policy Development:** Policies to guide selection of appropriate (1) funding sources and financing mechanisms for public facilities, and (2) levels of service and funding sources for public services.
- ♦ **Land Use Scenario:** A citywide development projection and related real estate market assumptions to estimate the amount and timing of growth.
- ♦ **Public Facility Needs, Costs, and Phasing:** Use the FMP to summarize the cost of public facilities with a focus on backbone infrastructure needs in advance of development.
- ♦ **Public Facility Funding and Financing:** Allocate to new development their fair share of public facility costs. Identify appropriate funding sources and financing mechanisms that enable development projects to fund public facilities.
- ♦ **Implementation:** Assist in formation of financing districts and preparation of impact fee nexus studies.

### Task 2.6: Provide Project Management & Policy Development

*Objective:* Identify and resolve policy issues; ensure the project is completed within budget and on schedule.

*Description:* Identify and resolve policy issues with City staff as they arise throughout the project, for example:

- ♦ Land use scenario assumptions such as:
  - Planning horizon;
  - Land use categories;
  - Project descriptions;
- ♦ Exactions policies related to the development approval process such as:
  - Use of development agreements to increase flexibility;

- Requirements for development projects to “build and dedicate” versus participate in broader funding programs;
- ♦ Funding and financing policies related to:
  - Development’s fair share of public facilities that also serve existing development;
  - Need for benefit zones that are less than citywide;
  - Development of funding sources other than those related to development;
- ♦ Implementation strategies such as:
  - Exemptions, waivers, credits, and reimbursements;
  - Phasing in funding programs to reduce negative economic impacts;
- ♦ The need for the IFP to consider other policy objectives such as affordable housing, job development, and retail attraction.

Includes coordination with city staff and consultants. Keep city staff informed on a regular basis (e.g. monthly conference call) regarding outstanding information needs, unresolved issues, and progress of the project to date.

*Meetings:* One meeting to kickoff project and develop initial information request.

*Deliverables:* Information requests.

## **Task 2.7: Develop Land Use Scenario**

*Objective:* Prepare project area development projection based on development projects under consideration and reasonable estimates of real estate market conditions.

*Description:* Identify existing levels of development for the base year. Develop a market-based land use scenario based on:

- ♦ Descriptions of potential, proposed, and approved development projects to be provided by city staff;
- ♦ Historical development trends and available land supply based on data to be provided by city staff;
- ♦ Regional projections prepared by planning agencies; and
- ♦ Real estate market factors and trends based on site visits, interviews with real estate professionals, and web-based research;

Quantify land use scenario in terms of housing units, building square feet, population, and employment by land use category. Estimate absorption rates based on (1) **short term** absorption associated with backbone infrastructure development; (2) annual average **long-term** absorption for debt financing (typically 20 to 30 years), and (3) **build out**.

Develop economic assumptions such as market property values by land use category, and sales tax generation from commercial projects, for use in subsequent tasks.

*Meetings:* None.

*Deliverable:* Technical memorandum describing land use scenario, methodology, and assumptions.

## **Task 2.8: Develop Financial Model**

*Objective:* Develop a funding and financing strategy for public facilities to ensure a financially feasible plan.

*Description:* Develop a financial model as a tool for development of the financing plan. Key model inputs to include (1) land use scenario developed in the prior task and (2) public facility costs and phasing summarized from the FMP.

Use model to identify appropriate (1) funding sources to fully fund facility costs, and (2) financing mechanisms for facilities needed in advance of available funding. Consider application of existing city impact fee and special district funding sources to development projects as well as implementation of new sources.

Potential **funding sources** include:

- ♦ Impact fees. Evaluate and incorporate as appropriate existing fee revenues and fund balances that are applicable to planned facilities. Develop project-specific fee programs based on a fair share cost allocation methodology as necessary. Incorporate debt financing costs if applicable.
- ♦ Special taxes and assessments. Consider whether annexation to existing special taxes or assessments districts is appropriate. Recommend new special taxes or assessments for the project area as appropriate.
- ♦ Private funding. Incorporate proposed funding from developers such as dedicated facilities and rights-of-way.
- ♦ Public funding. Work with city staff to identify any other available public funding for planned facilities such as property and sales tax increments, utility revenues, asset sales, and state and federal grants.

Potential **financing mechanisms** include:

- ♦ Community Facilities Districts;
- ♦ Special assessment districts;
- ♦ Revenue bonds (e.g. utility enterprise funds);
- ♦ Developer financing (e.g. credits and reimbursements);
- ♦ Lease-purchase (e.g. certificates of participation); and
- ♦ Tax increment bonds (redevelopment project areas).

Estimate the total cost burden on new development for facilities and services in terms of (1) value-to-lien ratios and (2) the rate of annual taxes, charges, and assessments. Use analysis to develop funding and financing strategies and to demonstrate that the proposed financing plan remains within acceptable real estate market and underwriting standards.

Prepare the following tables and charts to communicate the results of this task:

- ♦ Matrices of cost allocations by project and land use category;
- ♦ Matrices of revenue sources and capital projects for short term, long-term, and build out phases of the land use scenarios;
- ♦ Summary of debt issuance by phase;
- ♦ Pro forma cash flow projections; and
- ♦ Financial feasibility tables.

*Meetings:* Two meetings to review preliminary financing plan results.

*Deliverables:* Financing plan matrices and tables for staff review and comment.

## **Task 2.9: Prepare Infrastructure Financing Plan**

*Objective:* Communicate the assumptions, methodologies, and results of IFP.

*Description:* Develop recommendations for implementing the public facility and services funding and financing strategies developed in prior tasks, such as preparation of fee nexus studies, formation of special districts, and development of credit and reimbursement programs. Recommend measures for accommodating future land use changes that vary from those assumed in the analysis.

Prepare administrative draft report for staff comment based on the results of prior tasks. Prepare a public draft for presentation the City Council. Conduct Council presentations.

The IFP will include the following chapters:

1. Public Facility and Services Planning and Financing Policies.
2. Land Use and Market Analysis.
3. Public Facilities Funding and Financing Plan.
4. Fiscal Impact and Public Services Funding Plan.
5. Implementation Program.

*Meetings:* Two meetings, one to review administrative draft report and one for Council presentation.

*Deliverables:* Administrative draft report, public draft report, slide presentation.

## **Task 2.10: Support Community Facilities District Formation**

*Objective:* Provide special tax consulting services to support formation of community facilities district (CFD).

*Description:* This task will have the following subtasks:

1. **Rate and method of apportionment:** Develop debt financing assumptions and criteria, including adopted City financing policies, costs of issuance, and overlapping debt. Use results of prior tasks to develop special tax schedule based on pro forma cash flow analysis.
2. **Public hearing report:** Prepare public hearing report in compliance with statute, including: (a) description, costs, and estimated construction date of proposed

facilities, (b) estimates of bond issuance costs, (c) projected bonded indebtedness and issuance dates, and (d) explanation of special tax schedule and projected rates by parcel.

3. **Bond issuance support:** Conduct final calculations and prepare tables for (a) special tax coverage, (b) value-to-lien ratios, (c) overlapping debt, and (d) effective tax rate schedules by parcel to include in Preliminary Official Statement (POS) and Official Statement (OS). Provide signed Special Tax Consultant Certificate. Review and comment on draft POS and OS.

*Meetings:* Three meetings: one to discuss preliminary pro forma analysis and rate and method of apportionment, one for adoption of the resolution of intention, and one for the public hearing.

*Deliverable:* (1) Rate and method of apportionment (draft and final); (2) public hearing report (draft and final); and (3) tables for POS and OS.

## Budget

The following table provides the level of effort and budget by task for the scope of services described above. This budget includes up to 14 on-site meetings, six associated with the FMP and eight associated with the IFP. Conference calls are not considered meetings for the purposes of this budget.

## Modesto Woodglen Specific Plan FMP/IFP Budget

<u>Task</u>	<u>Total Hours</u>	<u>Total Costs</u>
<i><u>Facility Master Plan</u></i>		
2.1 Project Description	82	\$ 8,640
2.2 Facility Plan	1,052	121,180
2.3 Project Mapping	275	37,300
2.4 Drawings & Cost Estimates	1,040	110,400
2.5 FMP Report	190	19,000
Direct Expenses		5,580
Subconsultants		
West Yost & Associates		24,000
Carollo Engineers		35,000
Aerial Surveys		10,000
Subtotal FMP	2,639	\$ 371,100
<i><u>Infrastructure Financing Plan</u></i>		
2.6 Project Management & Policy Development	48	6,720
2.7 Land Use Scenario	36	3,600
2.8 Financial Model	184	21,200
2.9 IFP Report	128	16,000
2.10 CFD Formation	168	18,120
Direct Expenses		360
Subtotal IFP	564	\$ 76,000
Total		
Labor	3,203	\$ 362,160
Direct Expenses		5,940
Subconsultants		69,000
Total Budget		<u>\$ 437,100</u>

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 763**

**A RESOLUTION APPROVING TASK ORDER NO. 2 TO THE MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES WITH MUNIFINANCIAL, A CALIFORNIA CORPORATION, FOR THE PREPARATION OF A FACILITIES MASTER PLAN, INFRASTRUCTURE FINANCE PLAN, AND FOR FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE WOODGLEN SPECIFIC PLAN AREA**

WHEREAS, the City Council is desirous of creating a Facilities Master Plan (“FMP”), an Infrastructure Finance Plan (“IFP”) and a Community Facilities District (“CFD”) for the Woodglen Specific Plan Area (“Project Area”), and

WHEREAS, Fitzpatrick Land Development, a Limited Liability Company (“Applicant”), has a legal interest in real property located within the Project Area, shown in **Exhibit “A”** attached hereto and incorporated by this reference, and is interested in pursuing development of properties in the Project Area, and

WHEREAS, on October 24, 2006 by Resolution No. 2006-654, the Council of the City of Modesto approved a Master Professional Services Agreement for Consultant Services with MuniFinancial, a California corporation (“Consultant”), for the preparation of FMPs, IFPs, technical studies, formation of CFDs and related on-call services as assigned by City, and

WHEREAS, Consultant has prepared Task Order No. 2 (“Task Order”) for the Project Area, attached as **Exhibit “B”**, and

WHEREAS, Applicant has advanced a deposit in the amount of FIVE HUNDRED SIXTY-EIGHT THOUSAND TWO HUNDRED THIRTY AND 00/100 DOLLARS (\$568,230) to the City to fund Task Order No. 2 and to pay staff and consultant expenses expected to be incurred in connection with the Project, and



WHEREAS, additional deposits will be provided by Applicant, as required by the City and as necessary to fund the Task Order, and

WHEREAS, the City will issue Notices to Proceed to the City's Consultant only for those subtasks for which the Applicant has deposited funds,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that Task Order No. 2, attached hereto as Exhibit "B" and incorporated by this reference is hereby approved.

The foregoing resolution was introduced at a special meeting of the Council of the City of Modesto held on the 12th day of December, 2006, Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen




ATTEST:   
JEAN MORRIS, City Clerk



APPROVED AS TO FORM:


By   
SUSANA ALCALA WOOD, City Attorney

**PROJECT SUMMARY:**

GROSS SITE ACREAGE +/- 79.2 Ac.  
 Perimeter Rd RW Dedication +/- 7.2 Ac.  
 ADJUSTED GROSS SITE ACREAGE +/- 71.9 Ac.  
 TOTAL DWELLING UNITS +/- 541 UNITS  
 ADJUSTED GROSS DENSITY +/- 7.5 du/Ac.

 NEIGHBORHOOD A (45 X 100 LOTS)	GROSS ACREAGE +/- 16.3 Ac.	NET +/- 9.5 Ac.
	DWELLING UNITS +/- 83 LOTS	
	GROSS DENSITY +/- 5.1 du/Ac.	NET +/- 8.7 du/Ac.
 NEIGHBORHOOD B (44 X 80 & 48 X 80 LOTS)	GROSS ACREAGE +/- 12.0 Ac.	NET +/- 7.8 Ac.
	DWELLING UNITS +/- 78 LOTS	
	GROSS DENSITY +/- 6.5 du/Ac.	NET +/- 10.0 du/Ac.
 NEIGHBORHOOD C (40 X 78 )	GROSS ACREAGE +/- 12.4 Ac.	NET +/- 8.5 Ac.
	DWELLING UNITS +/- 97 LOTS	
	GROSS DENSITY +/- 7.8 du/Ac.	NET +/- 11.5 du/Ac.

 NEIGHBORHOOD D (46 X 80 LOTS)	GROSS ACREAGE +/- 12.3 Ac.	NET +/- 8.6 Ac.
	DWELLING UNITS +/- 87 LOTS	
	GROSS DENSITY +/- 7.1 du/Ac.	NET +/- 10.1 du/Ac.
 HIGH DENSITY NEIGHBORHOOD	GROSS ACREAGE +/- 9.8 Ac.	NET +/- 8.5 Ac.
	ESTIMATED DWELLING UNITS +/- 196 Units	
	GROSS DENSITY +/- 20.0 du/Ac.	NET +/- 23.1 du/Ac.

 OPEN SPACE/DETENTION BASIN/REC	GROSS +/- 9.2 Ac.	NET +/- 7.7 Ac.
ACTIVE PLAY AREA	+/- 1.3 Ac.	+/- 1.0 Ac.
BASIN	+/- 3.9 Ac.	+/- 3.9 Ac.
LINEAR PARKWAY	+/- 2.3 Ac.	+/- 1.6 Ac.
TRAFFIC ISLAND	+/- 0.5 Ac.	+/- 0.3 Ac.
PRIVATE RECREATION AREA	+/- 1.2 Ac.	+/- 0.9 Ac.

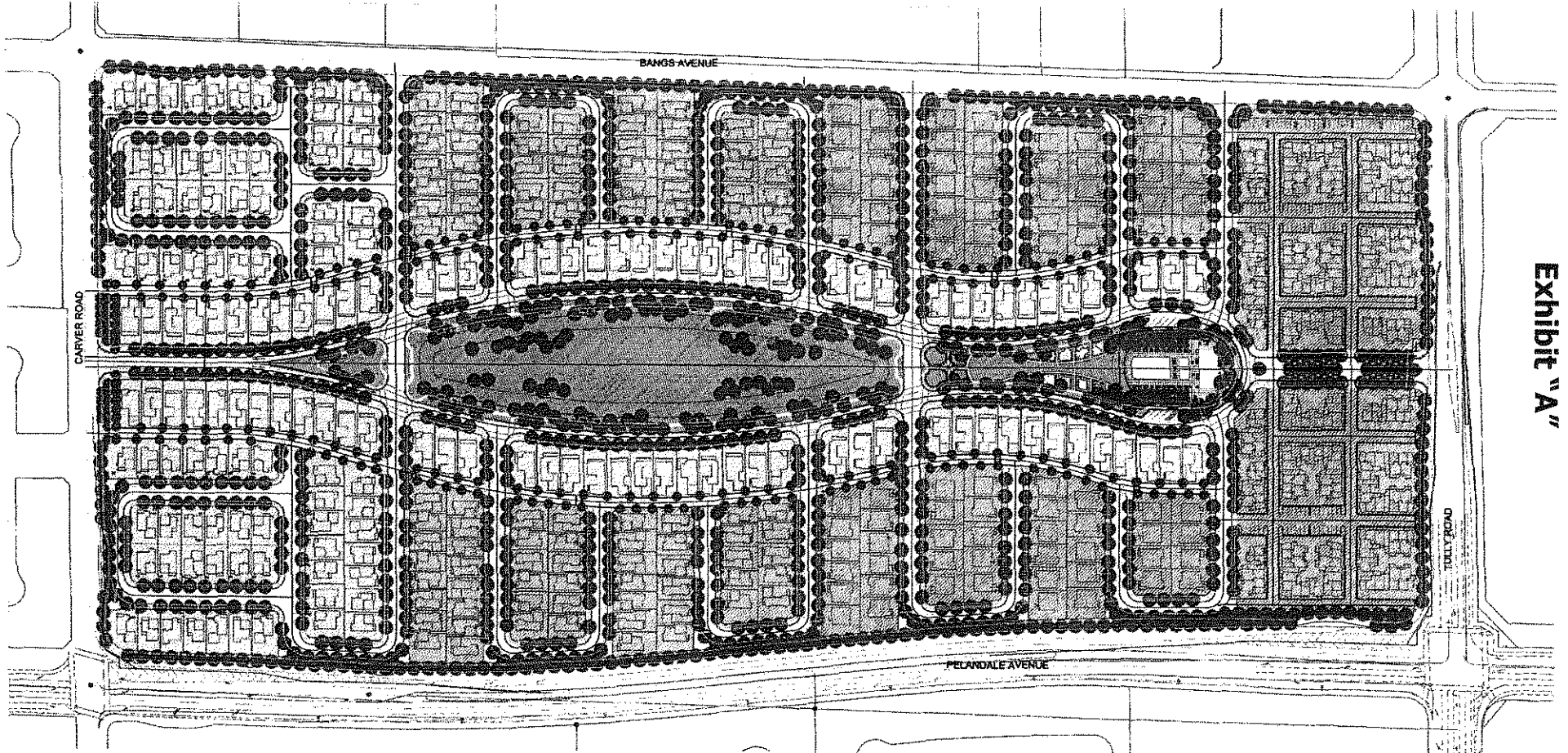
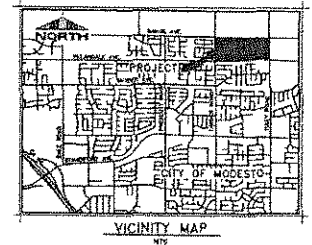
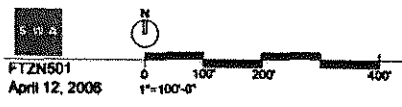


Exhibit "A"



RECEIVED  
 JUN 13 2006  
 C & ED PLANNING

Land Use Plan  
 Modesto, CA

**WOODGLEN**   
 Design Guidelines

## Exhibit "B"

City of Modesto  
TASK ORDER NO. 2  
for  
MuniFinancial

Master Professional Services Agreement for Consultant Services

**Woodglen Specific Plan Area FMP/IFP**

This Task Order No. 2 is made and entered into by and between the City of Modesto, a municipal corporation (hereinafter "CITY"), and MuniFinancial, a California corporation (hereinafter "CONSULTANT") and is effective as of \_\_\_\_\_.

### RECITALS

- A. CONSULTANT has entered into a Master Professional Services Agreement for Consultant Services, (hereinafter "Agreement"), dated October 24, 2006 ("AGREEMENT") with the CITY, by which the CONSULTANT has agreed to provide professional engineering and financial engineering services for various development projects, which is incorporated herein by reference.
- B. At the request of CITY and in compliance with the terms of the AGREEMENT, CONSULTANT has prepared the Task Order No. 2, a copy of which is attached hereto as Exhibit A.
- C. CITY and CONSULTANT desire that CONSULTANT perform the services as identified in the attached Task Order.

### NOW THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **INCORPORATION OF MASTER PROFESSIONAL SERVICES AGREEMENT FOR CONSULTANT SERVICES.** This Task Order hereby incorporates by reference all terms and conditions set forth in the Master Professional Services Agreement, unless expressly modified by this Task Order. The AGREEMENT and this Task Order shall, to the fullest extent possible, be read and considered as fully integrated documents and shall be interpreted so as to avoid inconsistencies, comply with all applicable laws and ensure that the objectives of the parties will be fully realized.

Nothing in this Task Order is intended to supersede, terminate, modify or otherwise affect any provision of the AGREEMENT, except to the extent that a provision of this AGREEMENT is in direct and irreconcilable conflict with a provision of the AGREEMENT. Then, and only in that event, the provisions of the AGREEMENT shall prevail over the contradictory provision of the Task Order.

2. **SCOPE OF SERVICES.** CONSULTANT shall perform the services described in Exhibit "A" attached hereto and incorporated herein by reference. CONSULTANT shall not replace its Authorized Representative, nor shall CONSULTANT use any subcontractors or subconsultants not listed in this Task Order, without the prior written consent of CITY.
3. **TIME OF PERFORMANCE.** CONSULTANT shall commence performance within five (5) working days after receipt of a Notice to Proceed from City.


4. **COMPENSATION.** For services performed by CONSULTANT in accordance with this Task Order, CONSULTANT agrees to accept a sum not to exceed \$437,100. CONSULTANT shall be paid at the times and in the manner set forth in Paragraph 3 of the Master Professional Services Agreement, unless expressly provided otherwise in the attached Task Order.
5. **SIGNATURES.** The individuals executing this Task Order represent and warrant that they have the right, power, legal capacity, and authority to enter into and to execute this Task Order on behalf of the respective legal entities of the CONSULTANT and CITY. This Task Order shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.


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-\_\_\_\_\_, adopted by the Council of the City of Modesto on the \_\_\_\_ day of \_\_\_\_\_, 2006, and MuniFinancial, a California corporation has caused this Agreement to be duly executed in duplicate as of the Effective Date set forth above.

CITY OF MODESTO,  
a municipal corporation

By \_\_\_\_\_  
GEORGE W. BRITTON,  
City Manager

CONSULTANT,  
MuniFinancial, a California corporation\*

By   
FRANK G. TRIPEPI  
President and CEO

By   
PAUL WHITELAW  
Senior Vice President

APPROVED AS TO FORM:  
SUSANA ALCALA WOOD, City Attorney

(Seal)

By \_\_\_\_\_  
ALISON A. BARRATT-GREEN,  
Senior Deputy City Attorney

Consultant's Federal ID # 33-0302345

ATTEST:

*\* Corporations - signature of two (2) officers required or one (1) officer plus corporate seal.*

By \_\_\_\_\_  
JEAN MORRIS, City Clerk

*Partnership - signature of a partner required*

Exhibit A  
MuniFinancial  
Task Order 2 Scope of Work  
Facilities Master Plan  
Infrastructure Financing Plan  
for the Woodglen Specific Plan

The objective of this project is to prepare a Facilities Master Plan (FMP) and an Infrastructure Financing Plan (IFP) for the Woodglen Specific Plan (WSP). The WSP provides development requirements for approximately 79 acres of land in the Kiernan-Carver Comprehensive Planning District of Modesto, California. The WSP anticipates build out of 541 single family and multi-family residential units arranged around a central open space. The central open space includes the project's storm water basin and recreational amenities. The open space elements include a 1.2-acre private recreation facility for resident's use, a 1.3-acre landscaped play area for informal public recreation, and a 3.9-acre storm water basin, comprised of a 1.1-acre grassy slope and the 1.9-acre bottom of the basin where the infiltration of storm water would occur. Existing development and uses on the site include agricultural use and a residence with a barn, and associated outbuildings. The site also has existing right-of-ways, which include Bangs to the north, Tully to the east, Pelandale to the south, and Carver to the west. The City of Modesto has been granted easements for expansion of these right-of-ways.

The scope for the FMP is presented first, followed by the IFP scope. The budget and schedule for the entire project follows the task plans. For this task order, MuniFinancial will be subconsulting with Willdan, West Yost and Associates, Carollo Engineers and Aerial Surveys.

## Facilities Master Plan

The primary objective of preparing the FMP for Specific Plan Areas is to provide a document that will describe the public infrastructure needed to support proposed development. Generally, the FMP provides preliminary engineering information to confirm the technical suitability and requirements of the plan's project area. Specifically, the FMP provides critical assumptions for use in the IFP that is prepared in conjunction with the FMP. The primary components of the FMP are as follows:

- ♦ **Project Description:** Limit the level of planning for the project, including the extent of existing improvements and infrastructure and the availability and limitations of those improvements to serve development. Develop project objectives and requirements.
- ♦ **Facilities Plan:** Use existing or new engineering studies and coordination with existing City modeling programs to prepare a plan for major public facilities (water, sewer, drainage, transportation, and others such as parks and public buildings). The types of facilities included in the IFP depend on the type, amount, and location of projected

development and city policy objectives. Identify major engineering constraints and proposed solutions.

- ♦ **Project Mapping:** If need, develop necessary land and infrastructure mapping information to evaluate public facility needs. (Typically, this will be provided by the applicant/developer.)
- ♦ **Prepare Engineering Drawings and Costs:** Prepare 30 percent engineering drawings and costs estimates to describe the facilities needed to serve the project.
- ♦ **Final Report:** Compile a final report including project description, facility plans, engineering drawings, cost estimates, and other needed information.

## **Task 2.1: Prepare Project Description**

*Objective:* Identify project characteristics that will determine public facility needs.

*Description:* Develop limits of the engineering effort for the studies and the plans. Based upon the land use scenarios proposed by the City, prepare a project description for the specific plan area. Include the following items:

- ♦ Limits of the plan area;
- ♦ Land use scenario (see IFP scope of work)
- ♦ Description of storm drainage, domestic water, recycled water, sanitary sewer and other existing infrastructure
- ♦ General infrastructure requirements; and
- ♦ Preliminary lot and roadway patterns.

Much of the work of this task has been developed in the Preliminary Draft Woodglen Specific Plan and the project description will be compatible with the Draft Plan. This effort will focus on identifying and complete the gaps in the plan that must be filled to complete this effort. In addition, in conjunction with preparation of the IFP, confirm the extent of financed facilities to be included in the plan.

*Meetings:* One meeting to kickoff project and develop initial information request.

*Deliverable:* Information requests.

## **Task 2.2: Develop Facility Plan**

*Objective:* Develop a facility plans and costs for sanitary sewer, domestic water, recycled water, storm drainage, streets and roadways and all other facilities or utilities to be included in the IFP.

*Description:* Coordinate with City infrastructure consultants, City staff, other public agencies, project proponent, and other stakeholders as appropriate. Prepare overall map and technical information describing the methodology and identifying the recommended public facility improvements for the project. Compile findings and exhibits for use in final report. For specific facility types, task to include:

**Domestic Water:** We will calculate the water demands for the project and develop a pipe layout that will deliver the required water to the development's users. We will

coordinate with the City's Master Water Modeler, West Yost Associates, to confirm onsite and offsite capacity and supply availability. This documentation will be left with West Yost Associates so that if the project is approved, the City's masterplan may be updated. If the City's existing water system cannot meet the City's minimum water system design criteria with the increased demands, then we will make recommendations for whatever new water supply sources and/or water system infrastructure facilities will be required to mitigate the water system impacts of the project. An estimate of the probable construction cost for the infrastructure required to provide adequate supply. A separate stand-alone report will be prepared to meet the regulatory requirements of SB610.

**Sanitary Sewer:** We will calculate the wastewater demands of the project and provide sufficient data to Carollo Engineers to update the hydraulic model to reflect changes created by the project. If the necessary capacity is not available probable construction cost estimates and a cost allocation report will be included. This documentation shall be left with Carolla so that if the project is approved, the City's mapsterplan may be updated.

**Storm Drainage:** The preliminary Storm drain management proposal envisions a zero discharge concept and no off-site capacity is currently contemplated. Willdan will prepare a refined design concept and facilities plan to implement the project concept.

**Roadway and Transportation:** Develop transportation demand models and evaluate future facility needs. Develop proposed improvements and confirm responsibility of the Specific Plan. Prepare street cross-sections, rights-of-way needs, traffic control system needs (traffic signals, etc.) and other related tasks. Develop alternative transportation systems (Bikeways, transit, etc.) as they relate to the project. Compile findings in a report and exhibit presenting this information for future use.

**Landscaping Plans:** Evaluate specific plan elements and develop general landscape standards in anticipation of preparing 30% drawings. Review proposed elements and identify any inconsistencies or conflicts that may exist.

**Additional infrastructure (Parks, Schools, other utilities):** Develop proposed improvement descriptions and exhibits. Confirm responsibility of the Specific Plan.

*Meetings:* Two meetings.

*Deliverables:* Reports with all of the analysis described above.

### **Task 2.3: Conduct Project Mapping**

*Objective:* Develop mapping for use in preparing facility designs.

*Description:* Develop base topographic mapping from aerial or ground data sufficient to prepare design. Prepare project boundary maps as needed from existing record drawings and documents. Locate and identify existing easements and encumbrances as needed to include such areas in the mapping documentation. Calculate and locate projected property lines, street centerlines, and rights-of-way as needed to prepare required plans. City obtains right of entry onto private property as needed.

*Meetings:* None.

*Deliverable:* None.

## **Task 2.4: Prepare 30 Percent Engineering Drawings and Cost Estimates**

*Objective:* Provide cost estimate of needed public facilities, and inform final design when the project proceeds to construction.

*Description:* Based upon the information from prior tasks, prepare 30 percent construction drawings. Prepare plan and profile sheets at 40 scale for all roadways and utilities. Prepare preliminary intersection designs, particularly major signalized intersections. Prepare preliminary design of major facilities; such as pump stations, wells, or detention/water quality ponds.

Plans will include pipe layouts, infrastructure requirements, street cross-sections, street and pipe profiles, and other related information. Plans will include an estimate of required equipment, equipment layout, signal phasing, intersection geometrics and other related information.

Plans will generally not include the following items:

- ◆ Construction notes;
- ◆ Construction details;
- ◆ Grading plans;
- ◆ Erosion Control and Storm Water Pollution Plans;
- ◆ Construction traffic control;
- ◆ Stripping plans; and
- ◆ Construction specifications

Revise plans and drawings as needed to address deficiencies in the facility plans developed in Task 2. Prepare cost estimates based on quantities identified in design drawings and reasonable unit cost assumptions.

Based on the preliminary Draft Woodglen Specific Plan, the 30% drawings will likely consist of Bangs Avenue, Tully Road, Pelandale Avenue, Carver Road and the central collector road through the project. In addition, on-site core utilities will be included as defined by the City.

*Meetings:* One meeting to review plans, drawings, and cost estimates.

*Deliverable:* Preliminary plans, drawings, and cost estimates.

## **Task 2.5: Final Report**

*Objective:* Communicate the assumptions, methodologies, and results of FMP.

*Description:* Develop recommendations for phasing requirements for backbone facilities needed in advance development. Recommend measures for accommodating future land use changes that vary from those assumed in the analysis.



Prepare administrative draft report for staff comment based on the results of prior tasks. Prepare a public draft for presentation the City Council. Conduct Council presentations.

*Meetings:* Two meetings, one to review administrative draft report and one for Council presentation.

*Deliverables:* Administrative draft report, public draft report, slide presentation.

## Infrastructure Financing Plan

The primary purpose of the IFP is to provide a strategy for the imposition of exactions through the development process to adequately provide for the public facilities and services needed to accommodate the proposed project. The IFP will be based on the FMP prepared for the same project. The primary components of the IFP are discussed below:

- ♦ **Policy Development:** Policies to guide selection of appropriate (1) funding sources and financing mechanisms for public facilities, and (2) levels of service and funding sources for public services.
- ♦ **Land Use Scenario:** A citywide development projection and related real estate market assumptions to estimate the amount and timing of growth.
- ♦ **Public Facility Needs, Costs, and Phasing:** Use the FMP to summarize the cost of public facilities with a focus on backbone infrastructure needs in advance of development.
- ♦ **Public Facility Funding and Financing:** Allocate to new development their fair share of public facility costs. Identify appropriate funding sources and financing mechanisms that enable development projects to fund public facilities.
- ♦ **Implementation:** Assist in formation of financing districts and preparation of impact fee nexus studies.

### Task 2.6: Provide Project Management & Policy Development

*Objective:* Identify and resolve policy issues; ensure the project is completed within budget and on schedule.

*Description:* Identify and resolve policy issues with City staff as they arise throughout the project, for example:

- ♦ Land use scenario assumptions such as:
  - Planning horizon;
  - Land use categories;
  - Project descriptions;
- ♦ Exactions policies related to the development approval process such as:
  - Use of development agreements to increase flexibility;

- Requirements for development projects to “build and dedicate” versus participate in broader funding programs;
- ◆ Funding and financing policies related to:
  - Development’s fair share of public facilities that also serve existing development;
  - Need for benefit zones that are less than citywide;
  - Development of funding sources other than those related to development;
- ◆ Implementation strategies such as:
  - Exemptions, waivers, credits, and reimbursements;
  - Phasing in funding programs to reduce negative economic impacts;
- ◆ The need for the IFP to consider other policy objectives such as affordable housing, job development, and retail attraction.

Includes coordination with city staff and consultants. Keep city staff informed on a regular basis (e.g. monthly conference call) regarding outstanding information needs, unresolved issues, and progress of the project to date.

*Meetings:* One meeting to kickoff project and develop initial information request.

*Deliverables:* Information requests.

## **Task 2.7: Develop Land Use Scenario**

*Objective:* Prepare project area development projection based on development projects under consideration and reasonable estimates of real estate market conditions.

*Description:* Identify existing levels of development for the base year. Develop a market-based land use scenario based on:

- ◆ Descriptions of potential, proposed, and approved development projects to be provided by city staff;
- ◆ Historical development trends and available land supply based on data to be provided by city staff;
- ◆ Regional projections prepared by planning agencies; and
- ◆ Real estate market factors and trends based on site visits, interviews with real estate professionals, and web-based research;

Quantify land use scenario in terms of housing units, building square feet, population, and employment by land use category. Estimate absorption rates based on (1) **short term** absorption associated with backbone infrastructure development; (2) annual average **long-term** absorption for debt financing (typically 20 to 30 years), and (3) **build out**.

Develop economic assumptions such as market property values by land use category, and sales tax generation from commercial projects, for use in subsequent tasks.

*Meetings:* None.

*Deliverable:* Technical memorandum describing land use scenario, methodology, and assumptions.

## **Task 2.8: Develop Financial Model**

*Objective:* Develop a funding and financing strategy for public facilities to ensure a financially feasible plan.

*Description:* Develop a financial model as a tool for development of the financing plan. Key model inputs to include (1) land use scenario developed in the prior task and (2) public facility costs and phasing summarized from the FMP.

Use model to identify appropriate (1) funding sources to fully fund facility costs, and (2) financing mechanisms for facilities needed in advance of available funding. Consider application of existing city impact fee and special district funding sources to development projects as well as implementation of new sources.

Potential **funding sources** include:

- ◆ Impact fees. Evaluate and incorporate as appropriate existing fee revenues and fund balances that are applicable to planned facilities. Develop project-specific fee programs based on a fair share cost allocation methodology as necessary. Incorporate debt financing costs if applicable.
- ◆ Special taxes and assessments. Consider whether annexation to existing special taxes or assessments districts is appropriate. Recommend new special taxes or assessments for the project area as appropriate.
- ◆ Private funding. Incorporate proposed funding from developers such as dedicated facilities and rights-of-way.
- ◆ Public funding. Work with city staff to identify any other available public funding for planned facilities such as property and sales tax increments, utility revenues, asset sales, and state and federal grants.

Potential **financing mechanisms** include:

- ◆ Community Facilities Districts;
- ◆ Special assessment districts;
- ◆ Revenue bonds (e.g. utility enterprise funds);
- ◆ Developer financing (e.g. credits and reimbursements);
- ◆ Lease-purchase (e.g. certificates of participation); and
- ◆ Tax increment bonds (redevelopment project areas).

Estimate the total cost burden on new development for facilities and services in terms of (1) value-to-lien ratios and (2) the rate of annual taxes, charges, and assessments. Use analysis to develop funding and financing strategies and to demonstrate that the proposed financing plan remains within acceptable real estate market and underwriting standards.

Prepare the following tables and charts to communicate the results of this task:

- ◆ Matrices of cost allocations by project and land use category;
- ◆ Matrices of revenue sources and capital projects for short term, long-term, and build out phases of the land use scenarios;
- ◆ Summary of debt issuance by phase;
- ◆ Pro forma cash flow projections; and
- ◆ Financial feasibility tables.

*Meetings:* Two meetings to review preliminary financing plan results.

*Deliverables:* Financing plan matrices and tables for staff review and comment.

## **Task 2.9: Prepare Infrastructure Financing Plan**

*Objective:* Communicate the assumptions, methodologies, and results of IFP.

*Description:* Develop recommendations for implementing the public facility and services funding and financing strategies developed in prior tasks, such as preparation of fee nexus studies, formation of special districts, and development of credit and reimbursement programs. Recommend measures for accommodating future land use changes that vary from those assumed in the analysis.

Prepare administrative draft report for staff comment based on the results of prior tasks. Prepare a public draft for presentation the City Council. Conduct Council presentations.

The IFP will include the following chapters:

1. Public Facility and Services Planning and Financing Policies.
2. Land Use and Market Analysis.
3. Public Facilities Funding and Financing Plan.
4. Fiscal Impact and Public Services Funding Plan.
5. Implementation Program.

*Meetings:* Two meetings, one to review administrative draft report and one for Council presentation.

*Deliverables:* Administrative draft report, public draft report, slide presentation.

## **Task 2.10: Support Community Facilities District Formation**

*Objective:* Provide special tax consulting services to support formation of community facilities district (CFD).

*Description:* This task will have the following subtasks:

1. **Rate and method of apportionment:** Develop debt financing assumptions and criteria, including adopted City financing policies, costs of issuance, and overlapping debt. Use results of prior tasks to develop special tax schedule based on pro forma cash flow analysis.
2. **Public hearing report:** Prepare public hearing report in compliance with statute, including: (a) description, costs, and estimated construction date of proposed

facilities, (b) estimates of bond issuance costs, (c) projected bonded indebtedness and issuance dates, and (d) explanation of special tax schedule and projected rates by parcel.

3. **Bond issuance support:** Conduct final calculations and prepare tables for (a) special tax coverage, (b) value-to-lien ratios, (c) overlapping debt, and (d) effective tax rate schedules by parcel to include in Preliminary Official Statement (POS) and Official Statement (OS). Provide signed Special Tax Consultant Certificate. Review and comment on draft POS and OS.

*Meetings:* Three meetings: one to discuss preliminary pro forma analysis and rate and method of apportionment, one for adoption of the resolution of intention, and one for the public hearing.

*Deliverable:* (1) Rate and method of apportionment (draft and final); (2) public hearing report (draft and final); and (3) tables for POS and OS.

## Budget

The following table provides the level of effort and budget by task for the scope of services described above. This budget includes up to 14 on-site meetings, six associated with the FMP and eight associated with the IFP. Conference calls are not considered meetings for the purposes of this budget.

## Modesto Woodglen Specific Plan FMP/IFP Budget

Task	Total Hours	Total Costs
<i><u>Facility Master Plan</u></i>		
2.1 Project Description	82	\$ 8,640
2.2 Facility Plan	1,052	121,180
2.3 Project Mapping	275	37,300
2.4 Drawings & Cost Estimates	1,040	110,400
2.5 FMP Report	190	19,000
Direct Expenses		5,580
Subconsultants		
West Yost & Associates		24,000
Carollo Engineers		35,000
Aerial Surveys		<u>10,000</u>
Subtotal FMP	2,639	\$ 371,100
<i><u>Infrastructure Financing Plan</u></i>		
2.6 Project Management & Policy Development	48	6,720
2.7 Land Use Scenario	36	3,600
2.8 Financial Model	184	21,200
2.9 IFP Report	128	16,000
2.10 CFD Formation	168	18,120
Direct Expenses		<u>360</u>
Subtotal IFP	564	\$ 76,000
<b>Total</b>		
Labor	3,203	\$ 362,160
Direct Expenses		5,940
Subconsultants		<u>69,000</u>
 Total Budget		 <u>\$ 437,100</u>

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 764**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007 OPERATING BUDGET TO CREATE A MULTI-YEAR ACCOUNT (2900-020-0264) AND APPROPRIATING \$568,230, FUNDED BY FITZPATRICK LAND DEVELOPMENT, A LIMITED LIABILITY COMPANY, FOR THE PREPARATION OF A FACILITIES MASTER PLAN, INFRASTRUCTURE FINANCE PLAN, AND FOR FORMATION OF A COMMUNITY FACILITIES DISTRICT FOR THE WOODGLEN SPECIFIC PLAN AREA**

WHEREAS, the Woodglen Specific Plan Area is in need of a Facilities Master Plan (“FMP”), and Infrastructure Finance Plan (“IFP”) to plan for necessary facilities and associated costs for buildout of that specific plan area, and

WHEREAS, on October 24, 2006 by Resolution No.2006-654, the Council of the City of Modesto approved a Master Professional Services Agreement for Consultant Services (“Agreement”) with MuniFinancial, a California corporation, for the preparation of FMPs, IFPs, technical studies and related on-call services as assigned by City, and

WHEREAS, on December 12, 2006 by Resolution No.2006-763, the Council of the City of Modesto approved Task Order No. 2 to the Agreement for the preparation of a FMP, IFP, and for formation of a Community Facilities District (“CFD”), and

WHEREAS, on December 12, 2006 by Resolution No.2006-762, the Council of the City of Modesto approved an Advanced Funding Agreement between the City and Fitzpatrick Land Development, a Limited Liability Company (“Applicant”), and

WHEREAS, Applicant has deposited with the City the amount of FIVE HUNDRED SIXTY-EIGHT THOUSAND TWO HUNDRED THIRTY AND 00/100 DOLLARS (\$568,230) to fund the costs for the Project and provide for reimbursement as appropriate, and

WHEREAS, additional deposits will be provided by Applicant, as required by the City and as necessary to fund Task Order No. 2, and

WHEREAS, the City will issue Notices to Proceed to the City's Consultant only for those subtasks for which the Applicant has deposited funds,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby amends the Fiscal Year 2006-2007 operating budget to create a multi-year account for the preparation of the Woodglen Specific Plan Area Facilities Master Plan and Infrastructure Finance Plan and appropriates \$437,100 to 2900-020-0264-0235 for professional services and \$131,130 to 2900-020-0264-0255 for city services.

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 12<sup>th</sup> day of December, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST   
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 765**

**A RESOLUTION APPROVING A STANDARD AGREEMENT FOR  
CONSULTANT SERVICES WITH PRECISION INSPECTION COMPANY, INC.  
FOR PLAN CHECK SERVICES AND BUILDING PERMIT INSPECTIONS, IN  
AMOUNT NOT TO EXCEED \$150,000; AND AUTHORIZING THE CITY  
MANAGER TO EXECUTE THE AGREEMENT.**

WHEREAS, the volume of plan checks and building inspections has continued to grow over the last several years, and

WHEREAS, staffing shortages exist in the plan review area, 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, the City had sent commercial plans to Harris & Associates for plan review, and

WHEREAS, the increase in the plan review workload could not be absorbed by Harris & Associates and meet the target time for plan reviews, and

WHEREAS, by Resolution No. 2006-016, the City entered into an Agreement with Precision Inspection Company, Inc. on January 10, 2006 in the amount of \$75,000, to assist in conducting plan check services and building permit inspections, and

WHEREAS, said Agreement includes a provision for building inspectors as may be required.

WHEREAS, by Resolution No. 2006-240, the original agreement was amended on April 25, 2006, to accommodate the needs of the Parks, Recreation and Neighborhoods Department, and

WHEREAS, the original agreement with the Community and Economic Development Department in the amount of \$75,000 has been reached, and

WHEREAS, the need for plan check services and building permit inspections by Precision Inspection Company, Inc. is on-going, and

WHEREAS, the Community and Economic Development Department desires to enter into a new Standard Agreement for future services in an amount not to exceed \$150,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the Standard Agreement for Consultant Services with Precision Inspection Company, Inc. for plan check services and in conducting building permit inspections in an amount not to exceed \$150,000.

BE IT FURTHER RESOLVED by the Council that the City Manager, or his designee, is hereby authorized to execute said Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12<sup>th</sup> day of December 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 766**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007  
COMMUNITY & ECONOMIC DEVELOPMENT  
DEPARTMENT POSITION ALLOCATION TO TRANSFER  
AND REALLOCATE ONE (1) OFFICE SUPERVISOR IN THE  
PLANNING DIVISION TO AN EXECUTIVE SECRETARY IN  
THE ADMINISTRATION DIVISION, AND ONE (1)  
ADMINISTRATIVE OFFICE ASSISTANT (CONFIDENTIAL)  
IN THE ADMINISTRATION DIVISION TO A SENIOR  
ADMINISTRATIVE OFFICE ASSISTANT (CONFIDENTIAL)  
IN THE PLANNING DIVISION.**

WHEREAS, the Community and Economic Development Department is the only department that does not have an Executive Secretary to support the Department Director, and

WHEREAS, the Department Director is currently supported by an Administrative Office Assistant III (Confidential), and

WHEREAS, the Acting Department Director identified the need for an Executive Secretary in order to provide the level of support required by the Director position, and

WHEREAS, the job description of an Administrative Office Assistant III (Confidential) limits the scope of work that can be performed, and

WHEREAS, the job description for an Executive Secretary allows for a much broader scope of work, which will allow for the greater level of support that is required at the Department Director level, and

WHEREAS, the department reviewed the organizational structure to evaluate how the department can accommodate the need for an Executive Secretary with minimal or no fiscal impact, which revealed the vacant Office Supervisor position in the Planning Division, and

WHEREAS, this position, which became vacant as a result of a retirement in September 2006, managed the clerical support staff for the Planning Division, and

WHEREAS, the department conducted an internal assessment of the functions of the Office Supervisor position and determined that with some revision of duties, the Senior Administrative Office Assistant (Confidential) classification would provide the necessary level of support while providing a salary savings to be used for the Executive Secretary position, and

WHEREAS, at the recommendation of the Deputy Personnel Director, the decision was made to transfer the two positions between divisions and then request the reallocation of each, and

WHEREAS, this approach required that the Clerical Review Committee review only one of the allocations, the Senior Administrative Office Assistant (Confidential), prior to Council approval and allows the allocation of the Executive Secretary upon Council approval alone,

NOW, THEREFORE, BE IT RESOLVED, by the Council of the City of Modesto that it hereby amends the Fiscal Year 2006-2007 Community and Economic Development Department position allocation to transfer one (1) Office Supervisor position from the Planning Division to the Administration Division and reallocate the position to an Executive Secretary, and to transfer one (1) Administrative Office Assistant (Confidential) position from the Administration Division to the Planning Division and reallocate the position to a Senior Administrative Office Assistant (Confidential).

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 12<sup>th</sup> day of December, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST   
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO: 2006 - 767**

**A RESOLUTION ACCEPTING THE ANNUAL REPORT FOR THE FISCAL  
YEAR ENDING JUNE 30, 2006 FOR THE REDEVELOPMENT AGENCY OF  
THE CITY OF MODESTO.**

WHEREAS, pursuant to Health & Safety Code Section 33080 et seq., the Redevelopment Agency is required to submit to the City Council an Annual Report for review and consideration and possible action, prior to December 31<sup>st</sup> of each calendar year, 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 then the report is forwarded to the State Controller, and

WHEREAS, pursuant to Health & Safety Code Section 33080 et seq., the Redevelopment Agency is required to present the Annual Report to its legislative body, and

WHEREAS, the legislative body is defined in Health & Safety Code Section 33007 as the City Council, and

WHEREAS, said Annual Report was approved by the City Council at its regular meeting on December 12, 2006,

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, 2006 is hereby accepted.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto, held on the 12<sup>th</sup> day of December, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following votes:

AYES:	Councilmember:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmember	None
ABSENT:	Councilmember	Olsen

ATTEST:   
JEAN MORRIS, City Clerk

(seal)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney



# #1 State Controller's Report

**General Information**

Fiscal Year

Member of the Governing Body			
	Last Name	First Name	Middle Initial
Chairperson	Ridenour	Jim	
Member	Dunbar	Bob	
Member	Hawn	Brad	
Member	Keating	Janice	
Member	Marsh	Garrad	
Member	O'Bryant	Will	
Member	Olsen	Kristin	
Member			
Member			
Member			

Agency Officers				
	Last Name	First Name	Middle Initial	Phone
Executive Director	Britton	George		(209) 577-5221
Fiscal Officer	Padilla	Wayne		(209) 571-5369
Secretary	Morris	Jean		(209) 577-5398

Report Prepared by		Independent Auditor
Firm Name	Fraser & Associates	Fraser & Associates
Last	Fraser	Fraser
First	Donald	Donald
Middle Initial	J	J
Street	225 Holmfirth Court	225 Holmfirth Court
City	Roseville	Roseville
State	CA	CA
Zip Code	95661-	95661-
Phone	(916) 791-8958	(916) 791-8958

**Mailing Address**

Street 1

Street 2

City  State  Zip

Phone   Is Address Changed?



**Achievement Information (Unaudited)**

Fiscal Year 2006

**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) are being updated and will provide policy guidelines and goals for land uses and project concepts. An administrative draft of the Master Plan has received great public input through a series of public meetings. The approval of the Master Plan and EIR update should be completed by Spring 2007.

**Downtown Signs:** Various downtown wayfinding signs were under construction by the end of the FY 04-05. The installation of the signs was complete by July 2006.

**Gallo Center for the Arts:** Construction is well underway on the center's 1,200 seat theatre, 400 seat theatre and art gallery. The project will receive RDA assistance by way of street, streetscape and traffic signal improvements. Completion is anticipated in late 2007.

**Kansas Woodland Business Park:** The environmental, traffic and water studies and assessments are ongoing for the 45 acre brownfield parcel. The subdivision map, and EIR are nearing completion and construction could begin in summer 2007.

**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 should be complete and available to the public by late 2008.

**10th & H Mixed-Use:** A mixed-use project including housing, parking, hotel and

**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	<input type="text"/>	<input type="text"/>
Industrial Buildings	<input type="text"/>	<input type="text"/>
Public Buildings	<input type="text"/>	<input type="text"/>
Other Buildings	<input type="text"/>	<input type="text"/>
<b>Total Square Footage</b>	<input type="text" value="0"/>	<input type="text" value="0"/>

Enter the Number of Jobs Created from the Activities of the Agency

Types Completed

A=Utilities B=Recreation C=Landscape D=Sewer/ Storm E=Streets/ Roads F=Bus/Transit

[Redacted]

[Redacted]

Achievement Information (Unaudited)

retail has an Exclusive Negotiating Agreement to construct the development on an RDA owned parking lot. Market studies and due diligence are under way. Construction should be complete by 2009.

Modesto Redevelopment Agency

Redevelopment Agency Financial Statement

Audit Information

Fiscal Year 2005

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.

Dec 05 2005 10:30 AM

Project Area Report  
Fiscal Year 2006  
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

RDA Master Plan & EIR: The Master Plan and Environmental Impact Report (EIR) are being updated and will provide policy guidelines and goals for land uses and project concepts. An administrative draft of the Master Plan has received great public input through a series of public meetings. The approval of the Master Plan and EIR update should be completed by Spring 2007.

Downtown Signs: Various downtown wayfinding signs were under construction by the end of the FY 04-05. The installation of the signs was complete by July 2006.

Gallo Center for the Arts: Construction is well underway on the center's 1,200 seat theatre, 400 seat theatre and art gallery. The project will receive RDA assistance by way of street, streetscape and traffic signal improvements. Completion is anticipated in late 2007.

Kansas Woodland Business Park:

Forwarded from Prior Year?

Enter Code for Type of Project Area Report

P = Standard Project Area Report

L = Low and Moderate Income Housing Fund

O = Other Miscellaneous Funds or Programs

A = Administrative Fund

M = Mortgage Revenue Bond Program

S = Proposed (Survey) Project Area

Does the Plan Include Tax Increment Provisions?

Date Project Area was Established (MM-DD-YY)

Most Recent Date Project Area was Amended

Did this Amendment Add New Territory?

Most Recent Date Project Area was Merged

Will this Project Area be Carried Forward to Next Year?

Established Time Limit:

Repayment of Indebtedness (Year Only)

Effectiveness of Plan (Year Only)

New Indebtedness (Year Only)

Size of Project Area in Acres

Percentage of Land Vacant at the Inception of the Project Area  
Health and Safety Code Section 33320.1 (xx.x%)

Percentage of Land Developed at the Inception of the Project Area  
Health and Safety Code Section 33320.1 (xx.x%)

Objectives of the Project Area as Set Forth in the Project Area Plan  
(Enter the Appropriate Code(s) in Sequence as Shown)

R = Residential I = Industrial C = Commercial P = Public O = Other

[ ]

[ ] P

[ ] Yes

[ ] 7/6/1982

[ ] 11/5/1991

[ ] Yes

[ ]

[ ] Yes

[ ] 2041

[ ] 2022

[ ] 2011

[ ] 2,000

[ ] 4.5

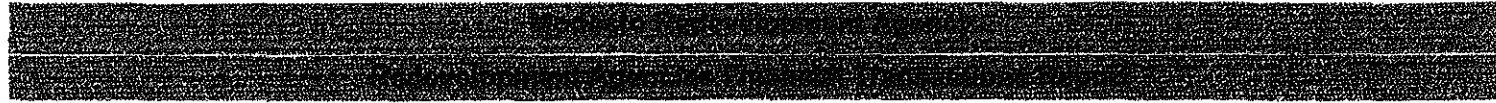
[ ] 95.5

[ ] RICPO

**Assessed Valuation Data**

**Fiscal Year**          **2006**

Project Area Name	Community Center Project Area
Frozen Base Assessed Valuation	561,273,363
Increment Assessed Valuation	434,747,867
Total Assessed Valuation	996,021,230



Pass Through / School District Assistance

**Fiscal Year** 2006

**Project Area Name** Community Center Project Area

Amounts Paid To Taxing Agencies Pursuant To:	Tax Increment Pass Through Detail			Total	Other Payments	
	H & S Code Section 33401	H & S Code Section 33676	H & S Code Section 33607		H & S Code Section 33445	H & S Code Section 33445.5
County				\$0		
Cities				\$0		
School Districts	468,779			\$468,779		
Community College District	68,754			\$68,754		
Special Districts				\$0		
<b>Total Paid to Taxing Agencies</b>	<b>\$537,533</b>	<b>\$0</b>	<b>\$0</b>	<b>\$537,533</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Amount to Agency</b>				<b>\$4,195,647</b>		
<b>Gross Tax Increment Generated</b>				<b>4,733,180</b>		



Agency Name:

Capital Improvement Detail				
2006	Description	Name of Funding Agency	Amount	Code Section

Summary of the Statement of Indebtedness - Project Area

Fiscal Year 2006

Project Area Name	
Tax Allocation Bond Debt	
Revenue Bonds	68,853,003
Other Long Term Debt	405,000
City/County Debt	59,930,596
Low and Moderate Income Housing Fund	59,966,350
Other	110,876,805
Total	\$299,831,754
Available Revenues	1,979,631
Net Tax Increment Requirements	\$297,852,123



**Agency Long-Term Debt**

**Fiscal Year**

**Project Area Name**

Forward from Prior Year	<input type="text" value=""/>
Bond Type	<input type="text" value="Certificates of Participation"/>
Year of Authorization	<input type="text" value="1993"/>
Principal Amount Authorized	<input type="text" value="27,225,000"/>
Principal Amount Issued	<input type="text" value="27,225,000"/>
Purpose of Issue	<input type="text" value="Community Center"/>
Maturity Date Beginning Year	<input type="text" value="1993"/>
Maturity Date Ending Year	<input type="text" value="2023"/>
<b>Principal Amount Unmatured Beginning of Fiscal Year</b>	<input type="text" value="\$22,455,000"/>
Adjustment Made During Year	<input type="text" value=""/>
Adjustment Explanation	<input type="text" value=""/>
Interest Added to Principal	<input type="text" value=""/>
Principal Amount Issued During Fiscal Year	<input type="text" value=""/>
Principal Amount Matured During Fiscal Year	<input type="text" value="800,000"/>
Principal Amount Defeased During Fiscal Year	<input type="text" value=""/>
<b>Principal Amount Unmatured End of Fiscal Year</b>	<input type="text" value="\$21,655,000"/>
Principal Amount In Default	<input type="text" value=""/>
Interest In Default	<input type="text" value=""/>

**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

Agency Long-Term Debt

Fiscal Year 2006

Project Area Name Community Center Project Area

Forward from Prior Year	
Bond Type	Loans
Year of Authorization	2003
Principal Amount Authorized	405,000
Principal Amount Issued	405,000
Purpose of Issue	Economic Development
Maturity Date Beginning Year	2008
Maturity Date Ending Year	2015
Principal Amount Unmatured Beginning of Fiscal Year	\$405,000
Adjustment Made During Year	
Adjustment Explanation	
Interest Added to Principal	
Principal Amount Issued During Fiscal Year	
Principal Amount Matured During Fiscal Year	
Principal Amount Defeased During Fiscal Year	
Principal Amount Unmatured End of Fiscal Year	\$405,000
Principal Amount In Default	
Interest In Default	

**Bond Types Allowed:**  
 Tax Allocation Bonds; Revenue Bonds; Certificates of Participation; Tax Allocation Notes; Financing Authority Bonds; City/County Debt; US;State;  
 Loans; Lease Obligations; Notes; Deferred Pass-Throughs; Deferred Compensation; Other

Agency Long-Term Debt

Fiscal Year 2006

Project Area Name Community Center Project Area

Forward from Prior Year	
Bond Type	Revenue Bonds
Year of Authorization	1998
Principal Amount Authorized	18,490,000
Principal Amount Issued	18,490,000
Purpose of Issue	10th Street Place Project
Maturity Date Beginning Year	1998
Maturity Date Ending Year	2033
Principal Amount Unmatured Beginning of Fiscal Year	\$18,445,000
Adjustment Made During Year	
Adjustment Explanation	
Interest Added to Principal	
Principal Amount Issued During Fiscal Year	
Principal Amount Matured During Fiscal Year	50,000
Principal Amount Defeased During Fiscal Year	
Principal Amount Unmatured End of Fiscal Year	\$18,395,000
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

Agency Name: \_\_\_\_\_

Non-Agency Long-Term Debt

Fiscal Year

Project Area Name

Forward from Prior Year	<input type="text"/>
Bond Type	<input type="text"/>
Year of Authorization	<input type="text"/>
Principal Amount Authorized	<input type="text"/>
Principal Amount Issued	<input type="text"/>
Purpose of Issue	<input type="text"/>
Maturity Date Beginning Year	<input type="text"/>
Maturity Date Ending Year	<input type="text"/>
Principal Amount Unmatured Beginning of Fiscal Year	<input type="text"/>
Adjustment Made During Year	<input type="text"/>
Adjustment Explanation	<input type="text"/>
Principal Amount Issued During Fiscal Year	<input type="text"/>
Principal Amount Matured During Fiscal Year	<input type="text"/>
Principal Amount Defeased During Fiscal Year	<input type="text"/>
Principal Amount Unmatured End of Fiscal Year	<input type="text"/>
Principal Amount in Default	<input type="text"/>
Interest in Default	<input type="text"/>

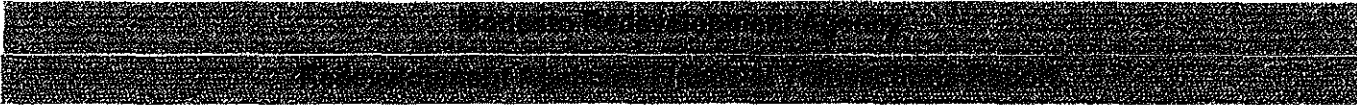
Bond Types Allowed:  
Mortgage Revenue; Industrial Development; Commercial Revenue Bond; Certificate of Participation

*No data*

**Statement of Income and Expenditures - Revenues**

**Fiscal Year** 2006  
**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 <i>(Include All Apportionments)</i>	1,321,751	2,464,793	946,836		\$4,733,180
Special Supplemental Subvention					\$0
Property Assessments					\$0
Sales and Use Tax					\$0
Transient Occupancy Tax					\$0
Interest Income	32,000	342,063	90,703		\$464,756
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		2,609,293			\$2,609,293
Bond Administrative Fees					\$0
Other Revenues	412	-280,217	2,264		(\$277,541)
<b>Total Revenues</b>	<b>\$1,354,163</b>	<b>\$5,135,922</b>	<b>\$1,039,603</b>	<b>\$0</b>	<b>\$7,529,688</b>



Statement of Income and Expenditures - Expenditures

Fiscal Year 2006

Project Area Name Community Center Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Administration Costs	685,600	70,324	6,973		\$762,897
Professional Services					\$0
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					\$0
Disposal Costs					\$0
Loss on Disposition of Land Held for Resale					\$0



Statement of Income and Expenditures - Expenditures

Fiscal Year 2006

Project Area Name Community Center Project Area

	Capital Project Funds	Debt Service Funds	Low/Moderate Income Housing	Special Revenue/Other	Total
Decline in Value of Land Held for Resale					\$0
Rehabilitation Costs					\$0
Rehabilitation Grants					\$0
Interest Expense		2,071,541			\$2,071,541
Fixed Asset Acquisitions					\$0
Subsidies to Low and Moderate Income Housing					\$0
Debt Issuance Costs					\$0
Other Expenditures Including Pass- Through Payment(s)	103,541	540,382	34,322		\$678,245
<b>Debt Principal Payments:</b>					
Tax Allocation Bonds and Notes					\$0
Revenue Bonds, Certificates of Participation, Financing Authority Bonds		850,000			\$850,000
City/County Advances and Loans					\$0
All Other Long-Term Debt					\$0
<b>Total Expenditures</b>	<b>\$789,141</b>	<b>\$3,532,247</b>	<b>\$41,295</b>	<b>\$0</b>	<b>\$4,362,683</b>
<b>Excess (Deficiency) Revenues over (under) Expenditures</b>	<b>\$565,022</b>	<b>\$949,492</b>	<b>\$998,308</b>	<b>\$0</b>	<b>\$2,512,822</b>



Statement of Income and Expenditures - Other Financing Sources

Fiscal Year **2006**

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)		-2,609,293			(\$2,609,293)
Operating Transfers In		1,399,212			\$1,399,212
Tax Increment Transfers In					\$0
Operating Transfers Out	1,399,212				\$1,399,212
Tax Increment Transfers Out					\$0
<i>(To the Low and Moderate Income Housing Fund)</i>					
<b>Total Other Financing Sources (Uses)</b>	<b>(\$1,399,212)</b>	<b>(\$1,210,081)</b>	<b>\$0</b>	<b>\$0</b>	<b>(\$2,609,293)</b>

Housing Development Agency

Housing Development Agency Financial Information Report

Statement of Income and Expenditures - Other Financing Sources

Fiscal Year

Project Area Name

	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	(\$834,190)	\$393,594	\$998,308	\$0	\$557,712
Equity, Beginning of Period	\$2,737,398	\$2,562,966	\$4,959,657	\$0	\$10,260,021
Prior Period Adjustments					\$0
Residual Equity Transfers					\$0
Other(Specify)	A	B	C	D	E
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Total	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Other Total	<input type="text"/>				
Equity, End of Period	\$1,903,208	\$2,956,580	\$5,957,965	\$0	\$10,817,733

Balance Sheet - Assets and Other Debts

Fiscal Year	2006	Capital Projects Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	General Long- Term Debt	General Fixed Assets	Total
<b>Assets and Other Debts</b>								
Cash and Imprest Cash		1,909,293	1,224,854	4,232,164				\$7,366,311
Cash with Fiscal Agent			1,979,630					\$1,979,630
Tax Increments Receivable			298,070					\$298,070
Accounts Receivable								\$0
Accrued Interest Receivable		2,429	61,863	13,328				\$77,620
Loans Receivable				932,483				\$932,483
Contracts Receivable								\$0
Lease Payments Receivable								\$0
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



Balance Sheet - Assets and Other Debits

Fiscal Year	2006	Capital Projects Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	General Long-Term Debt	General Fixed Assets	Total
Investments			34,106,694					\$34,106,694
Other Assets				780,000				\$780,000
Investments: Land Held for Resale								\$0
Allowance for Decline in Value of Land Held for Resale								\$0
Fixed Assets: Land, Structures, and Improvements							1,409,143	\$1,409,143
Equipment							6,536	\$6,536
Amount Available in Debt Service Fund						2,956,560		\$2,956,560
Amount to be Provided for Payment of Long-Term Debt						37,498,440		\$37,498,440
<b>Total Assets and Other Debits</b>		\$1,911,722	\$37,671,111	\$5,957,975	\$0	\$40,455,000	\$1,415,679	\$87,411,487

(Must Equal Total Liabilities, Other Credits, and Equities)

**Balance Sheet - Liabilities and Other Credits**

Fiscal Year	2006	Capital Projects Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	General Long- Term Debt	General Fixed Assets	Total
<b>Liabilities and Other Credits</b>								
Accounts Payable		7,514	607,857	10				\$615,381
Interest Payable								\$0
Tax Anticipation Notes Payable								\$0
Loans Payable								\$0
Other Liabilities		1,000	34,106,694					\$34,107,694
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						40,050,000		\$40,050,000
All Other Long-Term Debt						405,000		\$405,000
<b>Total Liabilities and Other Credits</b>		<b>\$8,514</b>	<b>\$34,714,551</b>	<b>\$10</b>	<b>\$0</b>	<b>\$40,455,000</b>		<b>\$76,178,076</b>

**Balance Sheet - Liabilities and Other Credits**

Fiscal Year	2006	Capital Projects Funds	Debt Service Funds	Low/Moderate Income Housing Funds	Special Revenue/Other Funds	General Long- Term Debt	General Fixed Assets	Total
<b>Equities</b>								
Investment In General Fixed Assets							1,415,679	\$1,415,679
Fund Balance Reserved			2,956,560	5,957,965				\$8,914,525
Fund Balance Unreserved-Designated		1,903,208						\$1,903,208
Fund Balance Unreserved-Undesignated								\$0
<b>Total Equities</b>		<b>\$1,903,208</b>	<b>\$2,956,560</b>	<b>\$5,957,965</b>	<b>\$0</b>		<b>\$1,415,679</b>	<b>\$12,233,412</b>
<b>Total Liabilities, Other Credits, and Equities</b>		<b>\$1,911,722</b>	<b>\$37,671,111</b>	<b>\$5,957,975</b>	<b>\$0</b>	<b>\$40,455,000</b>	<b>\$1,415,679</b>	<b>\$87,411,487</b>

**#2 Housing and Community Development**  
**Report**



California Redevelopment Agencies- Fiscal Year 2005/2006  
 Project Area Contributions to Low and Moderate Income Housing Fund  
 Sch A Project Area Financial Information

Agency      **MODESTO RDA**  
 Address     **1010 Tenth Street**  
               **PO Box 642**  
               **Modesto**

CA      **95353**



<b>Project Area   MODESTO PROJECT</b>							
<i>Type:   Inside Project Area</i>		<i>Status:   Active</i>					
<i>Plan Adoption:   1987</i>		<i>Plan Expiration Year:   2031</i>					
<b>Gross Tax Increment</b>	<b>Calculated Deposit</b>	<b>Amount Allocated</b>	<b>Amount Exempted</b>	<b>Amount Deferred</b>	<b>Total Deposited</b>	<b>%</b>	<b>Cumulative Def.</b>
\$4,733,180	\$946,636	\$946,636	\$0	\$0	\$946,636	20%	\$0
				<i>Repayment</i>	\$0		
				<i>Category</i>			
				<i>Interest Income</i>	\$92,967		
				<i>Total Additional Revenue</i>	\$92,967		
				<b>Total Housing Fund Deposits for Project Area</b>	\$1,039,603		

**Agency Totals For All Project Areas:**

<b>Gross Tax Increment</b>	<b>Calculated Deposit</b>	<b>Amount Allocated</b>	<b>Amount Exempted</b>	<b>Amount Deferred</b>	<b>Total Deposited</b>	<b>%</b>	<b>Cumulative Def.</b>
\$4,733,180	\$946,636	\$946,636	\$0	\$0	\$946,636	20%	\$0
					<b>Total Additional Revenue from Project Areas</b>		\$92,967
					<b>Total Deferral Repayments.</b>		\$0
					<b>Total Deposit to Housing Fund from Project Areas.</b>		\$1,039,603

California Redevelopment Agencies-Fiscal Year 2005/2006  
 Project Area Contributions to Low and Moderate Income Housing Funds  
 Sch A Project Area Summary Report  
 MODESTO RDA

Project Area	100% of Tax Increment	20% Set Aside Requirement	Tax Increment Allocated	Amount Exempted	Deferral	Tax Incr. Deposited to Hsng Fund	Percent of Tax Incr Dep	Repayment Deferrals	Other Income	Total Deposited to Housing
MODESTO PROJECT	\$4,733,180	\$946,636	\$946,636	\$0	\$0	\$946,636	20%	\$0	\$92,967	\$1,039,603
Agency Totals:	\$4,733,180	\$946,636	\$946,636	\$0	\$0	\$946,636	20%	\$0	\$92,967	\$1,039,603

**DRAFT**

Note: Print this report in Landscape Orientation (Use the Print Icon just above, then Properties then Landscape)

**California Redevelopment Agencies - Fiscal Year 2005/2006**  
**Status of Low and Moderate Income Housing Funds**  
**Sch C Agency Financial Summary**  
**MODESTO RDA**

<i>Adjusted Beginning Balance</i>	<i>Project Area Receipts</i>	<i>Agency Other Revenue</i>	<i>Total Expenses</i>	<i>Net Resources Available</i>	<i>Other Housing Fund Assets</i>	<i>Total Housing Fund Assets</i>	<i>Encum- brances</i>	<i>* Unen- cumbered Balance</i>	<i>Unen- cumbered Designated</i>	<i>Unen- cumbered Not Dsgntd</i>
\$4,959,657	\$1,039,603	\$0	\$41,295	\$5,957,965	\$0	\$5,957,965	\$780,000	\$5,177,965	\$10	\$5,177,955

<i>Expenses</i>	<i>Planning and Administration Costs</i>	<i>Property Acquisition</i>	<i>Total</i>
2005/2006	\$6,973	\$34,322	\$41,295

**DRAFT**

*\*The Unencumbered Balance is equal to Net Resources Available minus Encumbrances*

*Note: Print this report in Landscape Orientation (Use the Print Icon just above, then Properties then Landscape)*

California Redevelopment Agencies - Fiscal Year 2005/2006  
 Status of Low and Moderate Income Housing Funds  
 Sch C Agency Financial and Program Detail  
 MODESTO RDA

**DRAFT**

	<i>Beginning Balance</i>	\$4,959,657
	<i>Adjustment to Beginning Balance</i>	\$0
	<i>Adjusted Beginning Balance</i>	\$4,959,657
<i>Total Tax Increment From PA(s)</i>	\$946,636	<i>Total Receipts from PA(s)</i> align="right">\$1,039,603
	<i>Other Revenues not reported on Schedule A</i>	\$0
	<i>Sum of Beginning Balance and Revenues</i>	\$5,999,260

<i>Expenditure</i>	<i>Item</i>	<i>Subitem</i>	<i>Amount</i>	<i>Remark</i>
<i>Planning and Administration Costs</i>				
	Administration Costs		\$6,973	
		<i>Subtotal of Planning and Administration Costs</i>	\$6,973	
<i>Property Acquisition</i>				
	Acquisition Expense		\$34,322	
		<i>Subtotal of Property Acquisition</i>	\$34,322	
		<i>Total Expenditures</i>	\$41,295	

*Net Resources Available* align="right">\$5,957,965

*Indebtedness For Setasides Deferred* align="right">\$0

<i>Other Housing Fund Assets</i>	<i>Category</i>	<i>Amount</i>	<i>Remark</i>
	<i>Total Other Housing Fund Assets</i>		

*Total Fund Equity* align="right">\$5,957,965

2001/2002	\$433336			
2002/2003	\$539706			
2003/2004	\$661003			
2004/2005	\$832875	\$2466920	\$4,959,657	\$2,492,737
		<i>sum of 4 Previous Years' Tax Increment for 2005/2006</i>	<i>Prior Year Ending Unencum</i>	<i>Excess Surplus for 2005/2006</i>

*Sum of Current and 3 Previous Years' Tax Increments* align="right">\$2,980,220

California Redevelopment Agencies - Fiscal Year 2005/2006  
 Status of Low and Moderate Income Housing Funds  
 Sch C Agency Financial and Program Detail  
 MODESTO RDA

**DRAFT**

Adjusted Balance	\$5,177,965
Excess Surplus for next year	\$2,197,745
Net Resources Available	\$5,957,965
Unencumbered Designated	\$10
Unencumbered Undesignated	\$5,177,955
Total Encumbrances	\$780,000
Unencumbered Balance	\$5,177,965
Unencumbered Balance Adjusted for Debt Proceeds	\$0
Unencumbered Balance Adjusted for Land Sales	\$0
Excess Surplus Expenditure Plan	No
Excess Surplus Plan Adoption Date	

Site Improvement Activities Benefiting Households				
Income Level	Low	Very Low	Moderate	Total
Construction	0	0	0	0
Rehabilitation	0	0	0	0
Health and Safety Hazard	0	0	0	0

Land Held for Future Development					
Site Name	Num Of Acres	Zoning	Purchase Date	Estimated Start Date	Remark

Use of the Housing Fund to Assist Mortgageors

Income Adjustment Factors	<input type="text"/>	Requirements Completed	<input type="text"/>
Home	\$ <input type="text"/>	Hope	\$ <input type="text"/>

Non Housing Redevelopment Funds Usage

Resource Needs

LMIHF Deposits/Withdrawals				
Document Name	Document Date	Custodian Name	Custodian Phone	Copy Source
Fund 9060 OLGL	30-JUN-06	Barret R. Newlin	(209) 577-5373	P.O. Box 642 Modesto, CA 95353

California Redevelopment Agencies - Fiscal Year 2005/2006  
Status of Low and Moderate Income Housing Funds  
Sch C Agency Financial and Program Detail  
MODESTO RDA

<b>LMIHF Deposits/Withdrawals</b>				
<b>Document Name</b>	<b>Document Date</b>	<b>Custodian Name</b>	<b>Custodian Phone</b>	<b>Copy Source</b>
Fund 9060 OLGL	30-JUN-06	Barret R. Newlin	(209) 577-5373	P.O. Box 642 Modesto, CA 95353

<b>Achievements</b>
<b>Description</b>

 **DRAFT**

**# 3 - # 5 Blight Progress Report, Loan Report  
and Property Report**

***FY 2006***  
***MODESTO REDEVELOPMENT AGENCY***

***HEALTH AND SAFETY CODE §33080.1***

- ***ALLEVIATION OF BLIGHT***
- ***LOAN DEFAULT REPORT***
- ***PROPERTY LISTING***



I. HEALTH AND SAFETY CODE §33080.1(d)

**ALLEVIATION OF BLIGHT**

The Modesto Redevelopment Agency's goal is to stimulate new public and private investment in order to overcome the problems that have been created in past decades. Through new investment, both the physical and social environment of the project area will be improved. Private investment, with the assistance of the Agency, will help to:

- Overcome blight created by deteriorated and obsolete buildings
- Stabilize land uses
- Provide needed public parking
- Create new parcels amenable to modern development.

Employment opportunities, both in the short and long term, will help to overcome problems of poverty not only in the Project Area, but also in the City as a whole. Increased employment opportunities, appropriate project design and, most importantly, higher levels of activity in the Project Area --- especially in the evenings --- will decrease the crime rates.

During FY 2006, the Redevelopment Agency of the City of Modesto completed the following actions to implement the objectives of the Implementation Plan in alleviating blight within the Project Area. (Note: The Agency's Implementation Plan was approved in December 2005 for the period of 2005-2009.)

Vision

- Modesto's parks, plazas, and greenways contribute to a public realm that provides an attractive, inviting "Oasis in the Valley."
- Modesto's unique history and character are preserved to make the city a pleasant place to live, and are actively promoted to attract new investment.
- The downtown is a vibrant mixed-use area with an established residential element.
- Transportation opportunities are multi-modal and well-connected throughout the Redevelopment Area, city, and region

Goals

**Goal 1**

Create a unique and recognizable image for Modesto and use it to strenuously promote the City.

**Agency Actions:**

**Project: Update to the Agency Master Plan and Environmental Impact Report**

**Agency Expenditure: \$425,000**

**Status: Final Administrative Draft Completed: July 2006**

**Environmental Impact Report – Spring 2007**

In November 1991, the Redevelopment Agency (RDA) adopted the Amended Project Area and the Redevelopment Plan for a Project Area of approximately 2000 acres. As a part of this Project Area adoption, an Environmental Impact Report (EIR) was approved in accordance with the State law. Subsequent to these actions, in 1994, a RDA Master Plan was also adopted to implement the

2. Agency has paid an option payment of \$50,000 concurrent with the completion of the Property Option Agreement in consideration for the exclusive right to purchase the property
3. When the Agency elects to exercise the Property Option, the Agency will pay an Exercise Option payment of \$50,000. Both option payments (Total of \$100,000) will be applied to the purchase price.

Since January 2000, the Agency has expended a total of \$1,000,000 in staff costs to complete this priority project. Staff is working concurrently on the following critical path items:

- Developer Agreement (DA) and revisions to the Property Option Agreement to develop the business park adjacent to State Route 99
- Completion of the Comprehensive Remedial Action Plan for soils and groundwater for remediation of the brownfield
- Completion of the Specific Plan for development of the Business Park
- Completion of the Tentative Subdivision Map for the Business Park
- Completion of the Programmatic Environmental Impact Report for the Specific Plan

**Project: Renaissance Office Project - 12<sup>th</sup> Street & I Street**  
**Agency Expenditure: \$132,000 Tax Increment rebate over 15 years**  
**Status: Completed – June 2006**

The Agency entered into an Owner Participation Agreement (OPA) with Westland Development in September 2002. The OPA included the following conditions:

1. The City sold a 44-space City parking lot to Stanislaus County for \$245,000
2. Westland entered into an agreement with Stanislaus County wherein the County will construct a 90,000 square foot building and the ownership will be divided between three entities: (1) County – 50%; (2) StanCERA – 17% (3) Westland – 33%
3. There is an adjoining parking garage, constructed and owned by the County, wherein approximately 50 public spaces are replacing the 44-space public parking lot
4. Over 15 years, the Agency will rebate tax increment received from the private sector portion of the building for a total of \$132,000 over 15 years. This rebate will be used to offset the parking payments to the County for the public spaces.

### **Goal 3**

Implement higher density, mixed-use development to create a balanced, vibrant downtown and active neighborhood centers.

### **Agency Actions:**

**Project: Gallo Center for the Arts**  
**Agency Expenditure: \$602,000**  
**Status: Estimated Completion - Fall 2007**

The Gallo Center for the Arts is a \$31 Million project under construction in the block between 10th and 11th Streets and H and I Streets in downtown Modesto. The center will feature a 1,200-seat theater, a 400-seat theater and art gallery. Though construction will be primarily funded by contributions from the community and Stanislaus County, the Agency approved using \$602,000 in tax increment revenue for construction/replacement of such public improvements as deteriorated curb, sidewalks and streetlights, new street trees and street reconstruction.

**Goal 5**

Develop a variety of housing types in the Redevelopment Area, including affordable housing, particularly in the downtown, to act as a catalyst for other types of development.

**Agency Actions:**

**Project: Affordable Housing Project – 17<sup>th</sup> & G Streets**

**Agency Expenditure: \$4,470,190**

**Status: Agency to purchase City of Modesto park site for project**

**Current Fiscal Status of Housing Set-aside Funding: \$4,470,190 (as of July 1, 2006)**

Downtown housing is the final link in the Agency's redevelopment chain of success. The Agency is required to allocate 20% of our annual tax increment revenues for Housing Set-aside funds to provide affordable housing within the Agency Target Area and throughout Modesto. Knowing that affordable downtown housing is a major objective of the Agency, the Agency staff has been exploring several housing development opportunities. At the direction of the Agency, the Housing Set-aside funds have been accumulating over the past three years with the goal of assisting with a downtown affordable housing project.

The Agency staff has worked closely with the staff from the Parks, Recreation and Neighborhoods Department to identify joint affordable housing projects. On May 10, 2005, the City Council declared the "Tower Park" parcel as surplus to the City's needs and directed staff to offer the parcel for sale in accordance with the Government Code. Tower Park is located at the northwest corner of 17<sup>th</sup> & G Streets in Modesto. The Agency was notified of the parcel sale on May 16, 2005. The Agency completed negotiations with the City to acquire the Park site for affordable housing.

Escrow is expected to close by December 1, 2006. The Agency staff will partner with the City to combine Community Development Block Grant (CDBG) funding and other affordable housing funding for this proposed project. In addition to Agency and CDBG funding, there will be private sector funding from the developer selected to construct the project. The Agency will be distributing a Request for Proposal to select a private sector developer to construct and take ownership of this housing project. Estimated Housing Units: 40

**Goal 6**

Enhance the visual appeal of Modesto's public spaces by upgrading existing parks, plazas, and streets, and by creating new parks and plazas that offer public access.

**Agency Actions:**

**Project: Tuolumne River Regional Park**

**Agency Expenditure: Expense Paid By Private Developers**

The Tuolumne River is the foremost natural asset bordering in the Redevelopment Project Area. The City of Modesto has adopted a Master Plan for the development of this valuable open space. Bluff property overlooking the park should be investigated as a site for a regional educational and recreational facility oriented primarily to children and families.

**II. HEALTH AND SAFETY CODE §33080.1(e)**

**REPORT ON ALL LOANS IN DEFAULT**

The Modesto Redevelopment Agency has no loans in excess of \$50,000 that are in default from the previous fiscal year or that are not in compliance with the terms of the loan approved by the Agency.

**III. HEALTH AND SAFETY CODE §33080.1(f)**

**PROPERTY LISTING**

**No Acquisitions or Dispositions completed in 2006**

The Modesto Redevelopment Agency did not acquire or sell any property in FY 2006.

**Property List:**

	APN	Address	Street	City, State	Current use
1	105-37-32	11TH STREET	11TH ST	MODESTO, CA 95354-0000	Parking garage
2	105-37-33	1010 TENTH ST 1st FLOOR	1010 10TH ST	MODESTO, CA 95354	Retail parcel
3	105-37-34	1010 TENTH ST 1st FLOOR	10TH ST	MODESTO, CA 95354	Retail parcel
4	105-41-21	9TH STREET	9TH ST	MODESTO, CA 95354-0000	Parking garage
5	105-48-06	1125 9TH STREET	1125 9TH ST	MODESTO, CA 95354-0000	Parking garage
6	105-48-08	9TH STREET	9TH ST	MODESTO, CA 95354-0000	Centre Plaza Bridge
7	105-48-11	1150 9TH ST	1125 11TH ST	MODESTO, CA 95354-0000	Centre Plaza
8	106-42-01	10 <sup>th</sup> Street & H Street	10 <sup>TH</sup> Street	MODESTO, CA 95354-0000	Parking Lot
9	106-42-02	10 <sup>th</sup> Street & H Street	10 <sup>th</sup> Street	MODESTO, CA 95354-0000	Parking Lot
10	106-42-03	10 <sup>th</sup> Street & H Street	10 <sup>th</sup> Street	MODESTO, CA 95354-0000	Parking Lot
11	106-42-04	10 <sup>th</sup> Street & H Street	10 <sup>th</sup> Street	MODESTO, CA 95354-0000	Parking Lot

## **# 6 Statement of Indebtedness**

**STATEMENT OF INDEBTEDNESS - CONSOLIDATED  
FILED FOR THE 2006-07 TAX YEAR**

Cover Page

Name of Redevelopment Agency

MODESTO REDEVELOPMENT AGENCY

Name of Project Area

MODESTO REDEVELOPMENT PROJECT - ORIGINAL AREA

Balances Carried Forward From:			Current	
			Total Outstanding Debt	Principal/Interest Due During Tax Year
	Line			
Fiscal Period - Totals (Optional) Post Fiscal Period - Totals	(From Form A, Page 1 Totals) (From Form B Totals)	(1) (2)	\$ 90,161,610.00 0.00	\$ 2,001,365.00 0.00
Grand Totals		(3)	\$ 90,161,610.00	\$ 2,001,365.00
Available Revenues From Calculation of Available Revenues, Line 7		(4)	\$ 1,979,631.00	
Net Requirement		(5)	\$ 88,181,979.00	

Consolidate on this form all of the data contained on Form A and B (including supplemental pages). Form A is to include all indebtedness entered into as of June 30 of the Fiscal Year. Form B may be filed at the option of the agency, and is to include indebtedness entered into post June 30 of the Fiscal Year, pursuant to Health and Safety Code Section 33675(c)(2). This is optional for each agency and is not a requirement for filing the Statement of indebtedness. The Reconciliation Statement is to include indebtedness from Form A only.

Certification of Chief Financial Officer:

Pursuant to Section 336775 (b) of the Health and Safety Code, I hereby certify that the above is a true and accurate Statement of Indebtedness for the above named agency.

M. Wayne Padilla

Finance Director

Name

Title

Signature

Date

September 30, 2006

**STATEMENT OF INDEBTEDNESS  
FILED FOR THE 2006-07 TAX YEAR**

Name of Redevelopment Agency  
Name of Project Area

**MODESTO REDEVELOPMENT AGENCY  
MODESTO REDEVELOPMENT PROJECT - ORIGINAL AREA**

For Indebtedness Entered into as of June 30, 2006

Debt Identification	Original Data					Current	
	Date	Principal	Term	Interest Rate	Total Interest	Total Outstanding Debt	Principal/Interest Due During Tax Year
(A) Low-Mod Housing Set-aside	11/05/91	-	40 yrs.	n/a	n/a	18,032,322.00	55,000.00
(B)							
(C)							
(D)							
(E)							
(F)							
(G)							
(H)							
(I)							
(J)							
(K)							
(L)							
<b>Total This Page</b>						\$ 18,032,322.00	\$ 55,000.00

**Purpose of Indebtedness:**

(A) 20% Low-Mod Income Housing set-aside (new est.)  
 (B) \_\_\_\_\_  
 (C) \_\_\_\_\_  
 (D) \_\_\_\_\_  
 (E) \_\_\_\_\_  
 (F) \_\_\_\_\_

(G) \_\_\_\_\_  
 (H) \_\_\_\_\_  
 (I) \_\_\_\_\_  
 (J) \_\_\_\_\_  
 (K) \_\_\_\_\_  
 (L) \_\_\_\_\_

**RECONCILIATION STATEMENT - CHANGES IN INDEBTEDNESS**

Name of Agency MODESTO REDEVELOPMENT AGENCY

Name of Project Area MODESTO REDEVELOPMENT PROJECT - ORIGINAL AREA

Tax Year 2006-07

Reconciliation Dates: From July 1, 2005 To June 30, 2006

Debt Identification:			A	B	C	D	E	E
SOI, page and line:		Brief Description	Outstanding Debt All Beginning Indebtedness	Adjustments		Amounts Paid Against Indebtedness, from:		Remaining Balance (A+B-C-D-E)
Prior Yr	Current Yr			Increases (Attach Explanation)	Decreases (Attach Explanation)	Tax Increment	Other Funds	
Pg 1 Line 1	Pg 1 Line 1	Certificates of Participation	34,565,750.00			214,895.05	1,740,214.95	32,610,640.00
Pg 1 Line J	Pg 1 Line J	Transfer/loans from City	4,464,441.00	Interest added 317,980.00				4,782,421.00
Pg 2 Line A	Pg 2 Line A	Low-Mod Housing Set-aside	17,369,462.55	Adj. to total debt 716,583.21		53,723.76		18,032,322.00
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
Pg Line	Pg Line							
<b>TOTAL - THIS PAGE</b>			56,399,653.55	1,034,563.21		268,618.81	1,740,214.95	55,425,383.00

**NOTE:** Column A must equal the previous year Statement of Indebtedness Outstanding Debt. Column F must equal this year's SOI Outstanding Debt Column.



**STATEMENT OF INDEBTEDNESS - CONSOLIDATED  
FILED FOR THE 2006-07 TAX YEAR**

Cover Page

Name of Redevelopment Agency

MODESTO REDEVELOPMENT AGENCY

Name of Project Area

MODESTO REDEVELOPMENT PROJECT - AMENDED AREA

Balances Carried Forward From:		Current	
		Total Outstanding Debt	Principal/Interest Due During Tax Year
	Line		
Fiscal Period - Totals (From Form A, Page 1 Totals)	(1)	\$ 209,670,143.81	\$ 2,433,766.00
(Optional) Post Fiscal Period - Totals (From Form B Totals)	(2)	\$ 0.00	\$ 0.00
Grand Totals	(3)	\$ 209,670,143.81	\$ 2,433,766.00
Available Revenues From Calculation of Available Revenues, Line 7	(4)	\$ 0.00	
Net Requirement	(5)	\$ 209,670,143.81	

Consolidate on this form all of the data contained on Form A and B (including supplemental pages). Form A is to include all indebtedness entered into as of June 30 of the Fiscal Year. Form B may be filed at the option of the agency, and is to include indebtedness entered into post June 30 of the Fiscal Year, pursuant to Health and Safety Code Section 33675(c)(2). This is optional for each agency and is not a requirement for filing the Statement of indebtedness. The Reconciliation Statement is to include indebtedness from Form A only.

Certification of Chief Financial Officer:

Pursuant to Section 336775 (b) of the Health and Safety Code, I hereby certify that the above is a true and accurate Statement of Indebtedness for the above named agency.

M. Wayne Padilla

Finance Director

Name

Title

Signature

Date

September 30, 2006

**RECONCILIATION STATEMENT - CHANGES IN INDEBTEDNESS**

Name of Agency MODESTO REDEVELOPMENT AGENCY  
 Name of Project Area MODESTO REDEVELOPMENT PROJECT - AMENDED AREA

Tax Year 2006-07

Reconciliation Dates: From July 1, 2005 To June 30, 2006

Debt Identification:			A	B	C	D	E	F
			Outstanding Debt All Beginning Indebtedness	Adjustments		Amounts Paid Against Indebtedness, from:		Remaining Balance (A+B-C-D-E)
SOI, page and line:	Brief Description			Increases (Attach Explanation)	Decreases (Attach Explanation)	Tax Increment	Other Funds	
Prior Yr	Current Yr							
Pg 1 Line A	Pg 1 Line A	Pass through: Y.C.C.D.	7,371,925.74			68,754.26		7,303,171.48
Pg 1 Line B	Pg 1 Line B	Pass through: Modesto City Schools	44,014,464.50			408,953.93		43,605,510.57
Pg 1 Line C	Pg 1 Line C	Pass through: County Office of Education	6,403,918.72			59,825.14		6,344,093.58
Pg 1 Line D	Pg 1 Line D	Pass through: Stanislaus County	53,424,028.79					53,424,028.79
Pg 1 Line E	Pg 1 Line E	Low-Mod Housing Set-aside	41,972,853.07	Adj: to total debt 854,088.22		892,912.53		41,934,028.76
Pg 1 Line F	Pg 1 Line F	Reimbursement Agreement - MPF 1998 Lease Revenue Bonds	37,208,793.63			893,152.00	73,279.00	36,242,362.63
Pg 1 Line G	Pg 1 Line G	Stanislaus Co. Economic Develop- ment "Bank" - Kansas Ave BP	405,000.00					405,000.00
Pg 1 Line H	Pg 1 Line H	City of Modesto All prior transfers now loans	19,054,772.00	interest added 1,357,176.00				20,411,948.00
TOTAL - THIS PAGE			209,855,756.45	2,211,264.22		2,323,597.86	73,279.00	209,670,143.81
TOTALS FORWARD				2,140,964.78		2,140,964.78		
GRAND TOTALS			\$ 209,855,756.45	\$ 4,352,229.00	\$ -	\$ 4,464,562.64	\$ 73,279.00	\$ 209,670,143.81

**NOTE:** Column A must equal the previous year Statement of Indebtedness Outstanding Debt. Column F must equal this year's SOI Outstanding Debt column. Use the page and line number that the indebtedness is listed on in each year as appropriate, and a brief description. Ignore any indebtedness fully repaid in the previous year, as it had a zero ending balance. All new indebtedness entered into since the previous SOI is to be listed below the previous indebtedness. Enter "new" in the "Prior Yr" page and line column for each new indebtedness.

# CALCULATION OF AVAILABLE REVENUES

AGENCY NAME MODESTO REDEVELOPMENT AGENCY

PROJECT AREA MODESTO REDEVELOPMENT PROJECT - AMENDED AREA

TAX YEAR 2006-07

RECONCILIATION DATES: JULY 1, 2004 TO JUNE 30, 2005

1. Beginning Balance, Available Revenues (See Instructions)	\$	-
2. Tax Increment Received - Gross All Tax Increment Revenues, including any Tax Increment passed through to other local taxing agencies	\$	<u>4,464,562.64</u>
3. All other Available Revenues Received (See Instructions)	\$	<u>-</u>
4. Revenues from any other source, included in Column E of the Reconciliation Statement, but not included in (1 - 3) above	\$	<u>73,279.00</u>
5. Sum of Lines 1 through 4	\$	<u>4,537,841.64</u>
6. Total amounts paid against indebtedness in previous year. (D + E on Reconciliation Statement)	\$	<u>4,537,841.64</u>
7. Available Revenues, End of Year (5 - 6)	\$	<u><u>-</u></u>

FORWARD THIS AMOUNT TO STATEMENT OF INDEBTEDNESS

## NOTES

### Tax Increment Revenues:

The only amount(s) to be excluded as Tax Increment Revenue are any amounts passed through to other local taxing agencies pursuant to Health and Safety Code Section 33676. Tax Increment Revenue set-aside in the Low and Moderate Income Housing Fund will be washed in the above calculation, and therefore omitted from Available Revenues at year end.

### Item 4. above:

This represents any payments from any source other than Tax Increment OR available revenues. For instance, an agency funds a project with a bond issue. The previous SOI included a Disposition Development Agreement (DDA) which was fully satisfied with these bond proceeds. The DDA would be shown on the Reconciliation Statement as fully repaid under the "other" column (Col E), but with funds that were neither Tax Increment, nor "Available Revenues" as defined. The amounts used to satisfy this DDA would be included on line 4 above in order to accurately determine ending "Available Revenues".

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 768**

**A RESOLUTION APPROVING AN AGREEMENT BETWEEN THE CITY OF  
MODESTO AND PACIFIC MUNICIPAL CONSULTANTS FOR PLANNING  
SERVICES IN AN AMOUNT NOT TO EXCEED \$180,000 AND AUTHORIZING  
THE CITY MANAGER TO EXECUTE THE AGREEMENT**

WHEREAS, the City has determined that there exists an increase in workload associated with various complex applications and technical reviews in the City's current and advanced planning work programs for the Community and Economic Development Department, and

WHEREAS, these applications and technical reviews should be conducted in a well-coordinated, thorough and timely manner, and

WHEREAS, to assist with this workload, the City desires that Pacific Municipal Consultants perform a range of services required of current planning staff including, but not limited to, the processing of development applications and tentative maps, interpreting and applying environmental quality laws and regulations, preparing environmental assessments, preparing technical studies, writing and presenting staff reports and responding to public inquiries, and

WHEREAS, City staff recommends that Pacific Municipal Consultants be hired to provide municipal planning services associated with processing of complex applications and technical reviews because of their extensive experience on similar projects in other jurisdictions, and

WHEREAS, City staff anticipates the work will be ongoing and will involve an amount not to exceed \$180,000,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the agreement between the Pacific Municipal Consultants to provide planning services in an amount not to exceed \$180,000.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12<sup>th</sup> day of December, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST   
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

BY:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 769**

**A RESOLUTION AUTHORIZING THE ISSUANCE OF A REQUEST FOR BIDS  
FOR PERSONAL PROTECTIVE EQUIPMENT, FOR A TWO (2) YEAR  
AGREEMENT, AT AN ESTIMATED ANNUAL COST OF \$100,000.00.**

WHEREAS, personal protective equipment is paramount to the well being of line personnel, and

WHEREAS, this equipment includes turnout pants and jackets, structure boots, hoods, helmets, gloves, self-contained breather equipment, EMS gloves, etc., and

WHEREAS, the City provides personal protective equipment to line personnel at the time of hire, and

WHEREAS, that equipment is then replaced when it no longer meets standards for said equipment,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that issuance of a request for bids for personal protective equipment is hereby approved.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of December, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST:

  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:

  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 770**

**A RESOLUTION TO SUPPLEMENT MILITARY PAY AND CONTINUE HEALTH INSURANCE FOR UP TO TWENTY-FOUR (24) MONTHS FOR EMPLOYEES CALLED TO ACTIVE DUTY FOR NATIONAL DEFENSE BEFORE JANUARY 1, 2009.**

WHEREAS, in the wake of the September 11<sup>th</sup> terrorist attack on America, four (4) City employees have already been called into active duty, and

WHEREAS, on November 20, 2001, the City Council adopted Resolution 2001-592 extending pay and benefits for twelve (12) months for Reservists called into active military duty, and

WHEREAS, on January 7, 2003, the City Council adopted Resolution 2003-03 extending pay and benefits for months two (2) through twenty-four (24) for Reservists called into active military duty, to sunset on January 1, 2005, and

WHEREAS, on December 7, 2004, the City Council adopted Resolution 2004-636 extending pay and benefits for months two (2) through twenty-four (24) for Reservists called into active military duty, to sunset on January 1, 2007,

WHEREAS, the City now desires to extend the benefit of supplementing military pay and continuing health insurance for employees called to active duty for up to twenty-four (24) months, and

WHEREAS, the City has identified ten (10) regular City employees who are Reservists and who could be called into active duty.

NOW, THEREFORE, BE IT RESOLVED by the City Council that the City will pay the difference between an employee's base City salary and the employee's military pay including all military allowances and/or premiums (if the base City salary exceeds the military pay).

BE IT FURTHER RESOLVED, that the City will pay the same contribution towards an employee's health, dental and vision premiums for an employee called into active duty that it was paying at the time the employee was called up, excluding in-lieu deferred compensation payments.

BE IT FURTHER RESOLVED, the City will continue the benefits outlined in this Resolution for up to twenty-four (24) months for employees remaining in active duty and called into such duty before January 1, 2009.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12<sup>th</sup> day of December, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Olsen

ATTEST: Stephanie By for  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 771**

**A RESOLUTION APPROVING AN AGREEMENT WITH HARRIS & ASSOCIATES FOR CONSTRUCTION MANAGEMENT SERVICES FOR CONSTRUCTION OF THE SYLVAN AVENUE PEDESTRIAN OVERCROSSING IN THE AMOUNT OF \$210,620, AND AUTHORIZING THE DISTRICT ADMINISTRATOR, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, on October 24, 2006, by Resolution 2006-678, the City Council awarded a construction contract in the amount of \$1,556,375.00 to MCM Construction, Inc., to construct the Sylvan Avenue Pedestrian Overcrossing, and

WHEREAS, the Village One Facilities Master Plan was updated in May 2003 and contains a prioritization list for construction projects which contains all of the infrastructure projects that remain to be built in Village One, including the Pedestrian Overcrossing, and

WHEREAS, the Pedestrian Overcrossing will serve the James C. Enochs High School, and is among the improvement projects in the Village One Priority 1 list, and

WHEREAS, the Sylvan Avenue Pedestrian Overcrossing is a specialized project that will require augmentation of the City's capacity to provide construction management and inspection, and

WHEREAS, a construction management firm specializing in bridge construction has been selected to assist staff with this project, and

WHEREAS, the selection for construction management services specifically for the Sylvan Avenue Pedestrian Overcrossing project followed the City's selection procedures for professional consultants as outlined in Administrative Directive 3.1 of which three firms responded with a proposal for services, and

WHEREAS, the Selection Committee reviewed the proposals submitted and held interviews with each of the three firms, and recommended that negotiations begin with Harris & Associates, and

WHEREAS, Harris & Associates includes a staff of specialists experienced in all aspects of public works' project management, design, and construction management for federal, state, county, municipal, and special district agencies, and

WHEREAS, construction management services to be provided by Harris & Associates include 1) Implementation of Management Information System, 2) Conduct Weekly Meetings, 3) Issues Management, 4) Schedule Compliance, 5) Cost Control, 6) Change Orders, 7) Dispute Resolution, 8) Quality Control/Inspection, 9) Public Relations, 10) Progress Payments, 11) Site Safety, 12) Records Maintenance, 13) Final Inspection, and 14) Project Completion Report, and

WHEREAS, Harris & Associates was deemed the most qualified to assist the District in providing construction management services, and

WHEREAS, City staff recommends the District execute an Agreement with Harris & Associates in the amount of \$210,620 for construction management services of the Sylvan Avenue Pedestrian Overcrossing project, and

WHEREAS, the current budgeted amount of \$210,620 for the Agreement is available in the CIP Account 2691-020-Q310 "Pedestrian Overcrossing" to cover the cost for these services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between City of Modesto Communities Facilities District and Harris & Associates for construction management services of the Sylvan Avenue Pedestrian Overcrossing project in the amount of \$210,620.

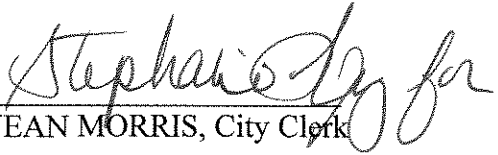
BE IT FURTHER RESOLVED that the District Administrator, or his designee, is hereby authorized to execute said Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of December, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST   
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 -772**

**A RESOLUTION APPROVING A UTILITY POLE RELOCATION AGREEMENT WITH MODESTO IRRIGATION DISTRICT (MID) FOR THE RELOCATION OF ELECTRIC UTILITY POLES LOCATED AT FLOYD AVENUE AND ROSELLE AVENUE IN THE AMOUNT OF \$146,472, AND AUTHORIZING THE DISTRICT ADMINISTRATOR, OR HIS DESIGNEE, TO EXECUTE THE AGREEMENT**

WHEREAS, on October 12, 2004, by Resolution 2004-541, the City Council approved CIP Project #A114 “Roselle and Floyd Intersection Control Road Widening” as part of the City’s Capital Improvement Program, which included ROW acquisition, design, construction, construction administration, and contingency for the roadway improvements on Roselle Avenue between Belharbour and Floyd, and

WHEREAS, there are poles carrying high voltage that require relocation for the road-widening project, and

WHEREAS, in order for the contractor to complete the improvements, the electric utility poles at the intersection of Floyd Avenue and Roselle Avenue must be relocated, and

WHEREAS, the Modesto Irrigation District is only able to accomplish this work during the winter months due to lower electrical demands, and

WHEREAS, once the poles are relocated, the City roadway contractor will be able to begin construction, and

WHEREAS, bidding and award of contract for roadway improvements are scheduled for this winter, and

WHEREAS, utility pole relocation is necessary in order to construct the intersection at Floyd Avenue and Roselle Avenue per the approved Village One Facilities Master Plan, and

WHEREAS, the current budgeted amount of \$146,472 for the Agreement is available in the CIP Account 2691-020-A114 "Roselle and Floyd Intersection Control Road Widening" to cover the cost for these services,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement between City of Modesto Communities Facilities District and Modesto Irrigation District (MID), for the relocation of electric utility poles located at Floyd Avenue and Roselle Avenue in the amount of \$146,472.

BE IT FURTHER RESOLVED that the District Administrator, 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 12th day of December, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST   
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 773**

**A RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO ISSUE FORMAL REQUEST FOR BIDS (RFB) FOR THE “REPAINTING OF STREET LIGHT STANDARDS, BASES, AND MAST ARMS,” PROJECT FOR THE PUBLIC WORKS DEPARTMENT-TRAFFIC ENGINEERING & OPERATIONS SECTION FOR A TWO-YEAR AGREEMENT WITH THREE ONE-YEAR EXTENSION OPTIONS AT THE SOLE DISCRETION OF THE CITY, FOR AN ESTIMATED ANNUAL COST OF \$20,000**

WHEREAS, the Public Works Department-Traffic Engineering & Operations Section requests the repainting of street light standards, bases, and mast arms, and

WHEREAS, the City Electrical Unit currently maintains approximately 1,500 painted street light standards within five areas of Modesto, and

WHEREAS, approximately 300 street light standards are painted each year, and

WHEREAS, this routine maintenance is required to treat the faded paint and to maintain the integrity of the street light standards, and

WHEREAS, repainting services shall be contracted, since there is no staff available to provide this type of work, and

WHEREAS, by issuing a formal Request For Bids (RFB), the City will achieve the best value for the repainting of street light standards, bases, and mast arms, and

WHEREAS, Modesto Municipal Code MMC Section 8-3.203 generally requires all purchases, which meet or exceed \$50,000 for material, equipment, or contractual services to be formally bid, and

WHEREAS, the issuance of a formal RFB for the repainting of street light standards, bases, and mast arms conforms to this code, and

WHEREAS, funds are budgeted and available in Account Number 0700-160-1612-0235, and

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 competitive sealed bids for the “Repainting of Street Light Standards, Bases, and Mast Arms,” project to be opened in the Office of the City Clerk, 1010 10<sup>th</sup> 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 bids are opened, they shall be tabulated and analyzed by the Purchasing Division, along with representatives from the Public Works Department-Traffic Engineering & Operations Section, and a report submitted to the Council.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12<sup>th</sup> day of December, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

Attest:   
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 774**

**A RESOLUTION APPROVING THE PLANS AND SPECIFICATIONS, AWARDING THE BID, AND APPROVING A \$154,021 CONSTRUCTION CONTRACT FOR LIGHTED CROSSWALKS AT FOUR LOCATIONS WITH APPLGATE JOHNSTON, INC., FOR THE PROJECT ENTITLED "INSTALLATION OF LIGHTED CROSSWALKS: ORANGEBURG AVENUE AT NELSON AVENUE, COFFEE ROAD AT ATHENS AVENUE, PRESCOTT ROAD AT HETCH HETCHY, AND TULLY ROAD AT HETCH HETCHY," AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT**

WHEREAS, City staff has reviewed the plans and specifications for the project entitled, "Installation of Lighted Crosswalks: Orangeburg Avenue at Nelson Avenue, Coffee Road at Athens Avenue, Prescott Road at Hetch Hetchy, and Tully Road at Hetch Hetchy," and recommends approval to the City Council, and

WHEREAS, this project will install lighted crosswalks at the following four locations:

1. Orangeburg Avenue at Nelson Avenue
2. Coffee Road at Athens Avenue
3. Prescott Road at Hetch Hetchy
4. Tully Road at Hetch Hetchy, and

WHEREAS, the bids received for the "Installation of Lighted Crosswalks: Orangeburg Avenue at Nelson Avenue, Coffee Road at Athens Avenue, Prescott Road at Hetch Hetchy, and Tully Road at Hetch Hetchy" project were opened at 11:00 a.m. on October 31, 2006, 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 \$154,021, received from Applegate Johnston, Inc., be accepted as the lowest responsible bid, and the contract be awarded to Applegate Johnston, Inc.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves the plans and specifications for the “Installation of Lighted Crosswalks: Orangeburg Avenue at Nelson Avenue, Coffee Road at Athens Avenue, Prescott Road at Hetch Hetchy, and Tully Road at Hetch Hetchy” project.

BE IT FURTHER RESOLVED that the Council accepts the bid of Applegate Johnston Inc., in the amount of \$154,021, and hereby awards Applegate Johnston, Inc., the contract for “Installation of Lighted Crosswalks: Orangeburg Avenue at Nelson Avenue, Coffee Road at Athens Avenue, Prescott Road at Hetch Hetchy, and Tully Road at Hetch Hetchy.”

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 12<sup>th</sup> day of December, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

Attest:

  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:

  
SUSAN ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 775**

**A RESOLUTION APPROVING AN AGREEMENT CONSENTING TO  
COMMON USE BETWEEN THE MODESTO IRRIGATION DISTRICT (MID)  
AND THE CITY OF MODESTO REGARDING THE EXTENSION OF A  
WESTBOUND LEFT-TURN LANE ON BRIGGSMORE AVENUE AT  
MCHENRY AVENUE, AND AUTHORIZING THE CITY MANAGER OR HIS  
DESIGNEE TO EXECUTE THE AGREEMENT**

WHEREAS, in fiscal year 2004 Congestion Mitigation and Air Quality (CMAQ) grants became available to reduce pollution and improve air quality, and

WHEREAS, on May 3, 2005, by Resolution No. 2005-233, the City Council authorized staff to take this opportunity to capture federal dollars for our local projects, and

WHEREAS, the “Westbound Left-turn Lane Extension on Briggsmore Avenue at McHenry Avenue” project along with other projects were eligible for the CMAQ funds, and

WHEREAS, the westbound left-turn lane extension on Briggsmore Avenue at McHenry Avenue will occupy a portion of MID’s right of way requiring consent of MID,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby approves an Agreement Consenting to Common Use between the Modesto Irrigation District and the City of Modesto regarding the extension of a westbound left-turn lane on Briggsmore Avenue at McHenry Avenue.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute said Agreement.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12<sup>th</sup> day of December, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

Attest: Stephanie Dyer for  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susan Alcala Wood  
SUSAN ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 776**

**A RESOLUTION AUTHORIZING STAFF TO SOLICIT REQUEST FOR PROPOSALS (RFP) FOR THE PROJECT TITLED, "TRAFFIC SIGNAL SYNCHRONIZATION PROJECT OUTSIDE DOWNTOWN MODESTO," AND APPOINTING A MEMBER OF THE CITY COUNCIL TO OBSERVE THE PROPOSAL EVALUATION PANEL PROCEEDINGS.**

WHEREAS, in July 2003, staff applied for and was successful in securing federal funding from the Congestion Mitigation Air Quality (CMAQ) grant program for the project titled "Traffic Signal Synchronization Project Outside Downtown Modesto," in the amount of \$309,855, and

WHEREAS, the City's budget will provide \$40,145 in matching funds for the grant, and

WHEREAS, the total project cost is estimated to be \$350,000 and funds are budgeted in "Synchronize Signals Outside Downtown," Account Number 2370-160-E687, and

WHEREAS, a coordinated traffic signal system must be maintained with new baseline data collected every three to four years and the last major signal coordination project was done in 2001, and

WHEREAS, the project involves collecting traffic volume data and retiming 140 existing traffic signals outside downtown Modesto, and

WHEREAS, the Economic Development Committee at their November 13, 2006, meeting concurs with staff's recommendation to consider authorizing staff to solicit Request For Proposals (RFP) for the project titled, "Traffic Signal Synchronization Project Outside Downtown Modesto," and appointing a member of the City Council to observe the proposal evaluation panel proceedings, and

WHEREAS, a staff selection panel appointed by the Public Works Director will review the proposals and recommend negotiations with the best qualified consulting firm, and

WHEREAS, the Mayor will be requested to appoint one Councilmember to serve on the selection panel.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that it hereby authorizes staff to solicit Request For Proposals (RFP) for the project titled, "Traffic Signal Synchronization Project Outside Downtown Modesto," and appointing a member of the City Council to observe the proposal evaluation panel proceedings.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12<sup>th</sup> day of December, 2006, by Councilmember Hawn, who moved its adoption, which motion being duly seconded by Councilmember Dunbar, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

Attest: Stephanie Toppy for  
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 777**

**A RESOLUTION APPROVING AN AMENDMENT TO THE CITY OF  
MODESTO 2006-2007 HUD ANNUAL ACTION PLAN AND  
AUTHORIZING, AND AUTHORIZING THE CITY MANAGER TO  
EXECUTE RELATED DOCUMENTS.**

WHEREAS, the City of Modesto receives several Federal grants from the United States Department of Housing and Urban Development (HUD), and

WHEREAS, the Modesto City Council, at its May 9, 2006, meeting, by Resolution No. 2006-294, approved the adoption of the 2006-2007 HUD Annual Action Plan, and

WHEREAS, City staff has proposed amendments to the Annual Action Plan, and said proposed amendments are as set forth in **Exhibit "1"** attached hereto and incorporated herein by reference, and

WHEREAS, notice has been duly given to notify the community of proposed amendments to the Annual Action Plan, and to provide a 30-day comment period, which began November 11, 2006, and ended on December 12, 2006, and

WHEREAS, the Citizens Housing and Community Development Committee (CH&CDC) considered the proposed changes to the HUD Annual Action Plan at its November 9, 2006, 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 December 12, 2006, 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 2006-2007 HUD Annual Action Plan,



NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Amendment to the 2006-2007 HUD Annual Action Plan as presented to the Council is hereby approved, and a copy of said Amendment to the 2006-2007 HUD Annual Action Plan 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 any documents with respect to the Amendment to be submitted to the Regional HUD office.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12<sup>th</sup> day of December, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

Attest:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

## Amendment to the Annual Action Plan

<u>CDBG Funding</u>	<u>Annual Action Plan</u>	<u>Amendment</u>	<u>Total</u>
Entitlement	3,081,721	259,805	3,341,526
Revolving Loan Fund (RLF)	1,760,454	150,000	1,910,454
<b>CDBG Funding Total</b>	<b>4,842,175</b>	<b>409,805</b>	<b>5,251,980</b>
<b><u>CDBG Budget</u></b>			
<b>Housing Development, Preservation &amp; Home Ownership</b>	<b>2,172,570</b>	<b>80,000.00</b>	<b>2,252,570</b>
Down Payment Assistance Program	203,000	(20,000.00)	183,000
Housing Rehabilitation Program Loans	288,060		288,060
Property Enhancement Program	2,000		2,000
Paint and Insulation Rebate Program	5,000		5,000
Tool Bank Program	3,000		3,000
Minor Home Repair Grant Program (MHRGP)	8,000		8,000
Emergency Home Repair Program (EHRP) / Disabled Access Assistance Program (DAAP)	225,000	100,000	325,000
Property Enhancement Program	2,500		2,500
Paint and Insulation Rebate Program	2,500		2,500
Lead-Based Paint Services	10,000		10,000
Housing Demolition	6,000		6,000
Temporary Relocation	10,000		10,000
Housing Rehabilitation Administration	690,591		690,591
Acquisition for Land	716,919		716,919
<b>Public Facility &amp; Improvement</b>	<b>746,411</b>	<b>329,805</b>	<b>1,076,216</b>
KKMCC Roofing Upgrade	93,535		93,535
KKMCC Interior Upgrade	380,000	279,805	659,805
1230 12th Street Retrofit		50,000	50,000
Neighborhood-Based Project	40,000		40,000
Sidewalk Improvements - Curb Ramps	182,876		182,876
Playground Equipment - Pike Park	50,000		50,000
<b>Neighborhood Preservation &amp; Stabilization</b>	<b>353,950</b>		<b>353,950</b>
Code Enforcement - Building Codes	44,380		44,380
Code Enforcement - Neighborhoods	309,570		309,570
<b>Economic Development Technical Assistance</b>	<b>100,000</b>		<b>100,000</b>
<b>Program Administration &amp; Planning</b>	<b>595,769</b>		<b>595,769</b>
General Administration	477,121		477,121
Indirect Administration	83,648		83,648
Fair Housing Services	35,000		35,000
<b>Section 108 Loan Repayments (Principal &amp; Interest)</b>	<b>372,400</b>		<b>372,400</b>
<b>Revolving Loan Fund (RLF) Interest Payment (not an IDIS Act)</b>	<b>50,000</b>		<b>50,000</b>
<b>Public Services</b>	<b>451,076</b>		<b>451,076</b>
CHSS "Housing Services - Case Management"	16,797		16,797
CHSS "Supportive Services for Housing"	21,809		21,809
City of Modesto - "Homeless Service Center - Direct Services"	30,000		30,000
Interfaith Ministries			
"Santa Fe - Homeless Winter Shelter"	68,821		68,821
The Salvation Army "Day Services Center"	40,845		40,845
Second Harvest Food Bank "Food Assistance Program"	37,957		37,957

## Amendment to the Annual Action Plan

CDBG Budget

Stanislaus Community Assistance Project	30,899	30,899
"Nutritional Supplement & Education Program (NSEP)"		
The Salvation Army "Senior Meals Program"	12,282	12,282
Disability Resource Agency for Independent Living (DRAIL)		
"Assistive Technology Program"	12,070	12,070
Center for Human Services		
"Hutton House - Runaway & Homeless Youth Shelter"	21,675	21,675
Center for Human Services		
"Pathways - Transitional Living Program"	19,158	19,158
CHSS "Laura's House - Families in Recovery, Family Support Coordinator"	23,321	23,321
Fair Housing and Supportive Services	25,000	25,000
Children's Crisis Center "Cricket's House - Respite Childcare"	16,514	16,514
Children's Crisis Center "Sawyer's House - Respite Childcare"	16,932	16,932
Parent Resource Center "ABC's of Childcare"	14,682	14,682
Stanislaus Multicultural West Modesto King Kennedy Collaborative "Here's to Your Health"	31,690	31,690
Children's Crisis Center "Sawyer's House - Children's Homeless Shelter"	10,624	10,624
<b>CDBG Grand Total</b>	<b>4,842,175</b>	<b>409,805 5,251,980</b>

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 778**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007 ANNUAL OPERATING BUDGET 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 Council, at its May 9, 2006, meeting, by Resolution No. 2006-294, approved the adoption of the 2006-2007 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, these program changes require reallocation of operating budget funds, and

WHEREAS, reallocation of these funds is more fully described on **Exhibit "1"**, and **Attachments B-1 and B-2** 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 November 9, 2006, 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 December 12, 2006, 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 2006-2007 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2006-2007 Annual Operating Budget is hereby amended to reallocate the Community Development Block Grant (CDBG) as indicated on Exhibit "1" and Attachments B-1 and B-2, 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 12<sup>th</sup> day of December, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

Attest:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

## Amendment to the Annual Action Plan

<u>CDBG Funding</u>	<u>Annual Action Plan</u>	<u>Amendment</u>	<u>Total</u>
Entitlement	3,081,721	259,805	3,341,526
Revolving Loan Fund (RLF)	1,760,454	150,000	1,910,454
<b>CDBG Funding Total</b>	<b>4,842,175</b>	<b>409,805</b>	<b>5,251,980</b>
<b><u>CDBG Budget</u></b>			
<b>Housing Development, Preservation &amp; Home Ownership</b>	<b>2,172,570</b>	<b>80,000.00</b>	<b>2,252,570</b>
Down Payment Assistance Program	203,000	(20,000.00)	183,000
Housing Rehabilitation Program Loans	288,060		288,060
Property Enhancement Program	2,000		2,000
Paint and Insulation Rebate Program	5,000		5,000
Tool Bank Program	3,000		3,000
Minor Home Repair Grant Program (MHRGP)	8,000		8,000
Emergency Home Repair Program (EHRP) / Disabled Access Assistance Program (DAAP)	225,000	100,000	325,000
Property Enhancement Program	2,500		2,500
Paint and Insulation Rebate Program	2,500		2,500
Lead-Based Paint Services	10,000		10,000
Housing Demolition	6,000		6,000
Temporary Relocation	10,000		10,000
Housing Rehabilitation Administration	690,591		690,591
Acquisition for Land	716,919		716,919
<b>Public Facility &amp; Improvement</b>	<b>746,411</b>	<b>329,805</b>	<b>1,076,216</b>
KKMCC Roofing Upgrade	93,535		93,535
KKMCC Interior Upgrade	380,000	279,805	659,805
1230 12th Street Retrofit		50,000	50,000
Neighborhood-Based Project	40,000		40,000
Sidewalk Improvements - Curb Ramps	182,876		182,876
Playground Equipment - Pike Park	50,000		50,000
<b>Neighborhood Preservation &amp; Stabilization</b>	<b>353,950</b>		<b>353,950</b>
Code Enforcement - Building Codes	44,380		44,380
Code Enforcement - Neighborhoods	309,570		309,570
<b>Economic Development Technical Assistance</b>	<b>100,000</b>		<b>100,000</b>
<b>Program Administration &amp; Planning</b>	<b>595,769</b>		<b>595,769</b>
General Administration	477,121		477,121
Indirect Administration	83,648		83,648
Fair Housing Services	35,000		35,000
<b>Section 108 Loan Repayments (Principal &amp; Interest)</b>	<b>372,400</b>		<b>372,400</b>
<b>Revolving Loan Fund (RLF) Interest Payment (not an IDIS Act)</b>	<b>50,000</b>		<b>50,000</b>
<b>Public Services</b>	<b>451,076</b>		<b>451,076</b>
CHSS "Housing Services - Case Management"	16,797		16,797
CHSS "Supportive Services for Housing"	21,809		21,809
City of Modesto - "Homeless Service Center - Direct Services"	30,000		30,000
Interfaith Ministries			
"Santa Fe - Homeless Winter Shelter"	68,821		68,821
The Salvation Army "Day Services Center"	40,845		40,845
Second Harvest Food Bank "Food Assistance Program"	37,957		37,957

**FY 2006-2007  
Amendment to the Annual Action Plan**

Exhibit 1

**CDBG Budget**

Stanislaus Community Assistance Project	30,899	30,899
"Nutritional Supplement & Education Program (NSEP)"		
The Salvation Army "Senior Meals Program"	12,282	12,282
Disability Resource Agency for Independent Living (DRAIL)		
"Assistive Technology Program"	12,070	12,070
Center for Human Services		
"Hutton House - Runaway & Homeless Youth Shelter"	21,675	21,675
Center for Human Services		
"Pathways - Transitional Living Program"	19,158	19,158
CHSS "Laura's House - Families in Recovery, Family Support Coordinator"	23,321	23,321
Fair Housing and Supportive Services	25,000	25,000
Children's Crisis Center "Cricket's House - Respite Childcare"	16,514	16,514
Children's Crisis Center "Sawyer's House - Respite Childcare"	16,932	16,932
Parent Resource Center "ABC's of Childcare"	14,682	14,682
Stanislaus Multicultural West Modesto King Kennedy Collaborative		
"Here's to Your Health"	31,690	31,690
Children's Crisis Center "Sawyer's House - Children's Homeless Shelter"	10,624	10,624
<b>CDBG Grand Total</b>	<b>4,842,175</b>	<b>409,805</b>
		<b>5,251,980</b>

# REQUEST FOR BUDGET ADJUSTMENT

Attachment B-1

Contact Person: Cheryl Davis  
 Telephone No.: 75311  
 Department: Parks, Recreation and Neighborhoods

Council Action Date: December 12, 2006  
 Resolution Number: \_\_\_\_\_

Fund Title: Housing Loans

Adjustment to FY: 06-07

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES/INCLUDES TRANSFERS IN**

<u>FROM</u>					
<u>TO</u>					

**APPROPRIATIONS/INCLUDES TRANSFERS OUT**

<u>FROM</u> 1150-800-8000-8003	1150R	(\$311,000)	(\$100,000)	(\$411,000)	RLF Reserve
<u>TO</u> 1150-320-3266-0495	3266C	\$225,000	\$100,000	\$325,000	EHRP/DAAP

**COMMENTS/JUSTIFICATION (USE ADDITIONAL PAGES AS NECESSARY)**

This action will appropriate unspent funds from the Revolving Loan Fund reserve to fund ongoing activities for housing rehabilitation loans.

AUTHORIZATION	SIGNATURE	DATE
<b>(Authority levels reflected on back)</b>		
DEPARTMENT DIRECTOR or AUTHORIZED DESIGNEE (Attach Delegation Authorization)		
DEPUTY DIRECTOR (If needed)		
ADMINISTRATIVE SERVICES OFFICER (If needed)		
FINANCE DIRECTOR		
CITY MANAGER		

TRANSFER NUMBER \_\_\_\_\_ BY \_\_\_\_\_ DATE \_\_\_\_\_



# REQUEST FOR BUDGET ADJUSTMENT

Attachment B-2

Contact Person: Cheryl Davis  
 Telephone No.: 577-5311  
 Department: Parks, Recreation and Neighborhoods  
 Fund Title: CDBG Operating

Council Action Date: December 12, 2006  
 Resolution Number: \_\_\_\_\_  
 Adjustment to FY: 06-07

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES/INCLUDES TRAFERS IN**

<b>FROM</b>					
1130-320-3254-6301		\$200,000	(\$20,000)	\$180,000	Direct Loan Principal
<b>TO</b>					

**APPROPRIATIONS/INCLUDES TRANSFERS OUT**

<b>FROM</b>					
1130-320-3254-0497	3250C	\$203,000	(\$20,000)	\$183,000	Direct Loans
<b>TO</b>					

**COMMENTS/JUSTIFICATION (USE ADDITIONAL PAGES AS NECESSARY)**

This adjustment is needed to decrease the anticipated CDBG Program Income for this fiscal year, and adjust the corresponding budget line for loans done under the Down Payment Assistance Program.

AUTHORIZATION	SIGNATURE	DATE
<b>(Authority levels reflected on back)</b>		
DEPARTMENT DIRECTOR or AUTHORIZED DESIGNEE (Attach Delegation Authorization)		
DEPUTY DIRECTOR (If needed)		
ADMINISTRATIVE SERVICES OFFICER (If needed)		
FINANCE DIRECTOR		
CITY MANAGER		

TRANSFER NUMBER \_\_\_\_\_ BY \_\_\_\_\_ DATE \_\_\_\_\_

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 779**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007  
FUNDING FOR THE CAPITAL IMPROVEMENT BUDGET 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 Council, at its May 9, 2006, meeting, by Resolution No. 2006-294 approved the adoption of the 2006-2007 HUD Annual Action Plan, and

WHEREAS, since adoption of the HUD Annual Action Plan, staff has determined that additional revenue from prior years' carryover Community Development Block Grant (CDBG) program funds will be available for capital improvement projects, and

WHEREAS, staff recommends that the available funding be programmed for new and existing projects, and

WHEREAS, programming of these funds is more fully described on **Exhibit "1"**, and **Attachments C-1 and C-2**, 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 November 9, 2006, meeting, and the Committee recommended that the City Council approve the amendments to the HUD Annual Action Plan as proposed by staff as well as budgetary adjustments as recommended by staff, and

WHEREAS, a duly noticed public hearing was held by the City Council on December 12, 2006, 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 2006-2007 HUD Annual Action Plan,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2006-2007 funding for the Capital Improvement Plan Budget is hereby amended to estimate new revenue, appropriate new expenses and reallocate HUD Funds as indicated on Exhibit "1" and Attachments C-1 and C-2, 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 12<sup>th</sup> day of December, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES:	Councilmembers:	Dunbar, Hawn, Keating, Marsh, O'Bryant, Mayor Ridenour
NOES:	Councilmembers:	None
ABSENT:	Councilmembers:	Olsen

Attest: Stephanie By for  
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By: Susana Alcala Wood  
SUSANA ALCALA WOOD, City Attorney

**FY 2006-2007  
Amendment to the Annual Action Plan**

<u>CDBG Funding</u>	<u>Annual Action Plan</u>	<u>Amendment</u>	<u>Total</u>
Entitlement	3,081,721	259,805	3,341,526
Revolving Loan Fund (RLF)	1,760,454	150,000	1,910,454
<b>CDBG Funding Total</b>	<b>4,842,175</b>	<b>409,805</b>	<b>5,251,980</b>
 <b><u>CDBG Budget</u></b>			
<b>Housing Development, Preservation &amp; Home Ownership</b>	<b>2,172,570</b>	<b>80,000.00</b>	<b>2,252,570</b>
Down Payment Assistance Program	203,000	(20,000.00)	183,000
Housing Rehabilitation Program Loans	288,060		288,060
Property Enhancement Program	2,000		2,000
Paint and Insulation Rebate Program	5,000		5,000
Tool Bank Program	3,000		3,000
Minor Home Repair Grant Program (MHRGP)	8,000		8,000
Emergency Home Repair Program (EHRP) / Disabled Access Assistance Program (DAAP)	225,000	100,000	325,000
Property Enhancement Program	2,500		2,500
Paint and Insulation Rebate Program	2,500		2,500
Lead-Based Paint Services	10,000		10,000
Housing Demolition	6,000		6,000
Temporary Relocation	10,000		10,000
Housing Rehabilitation Administration	690,591		690,591
Acquisition for Land	716,919		716,919
<b>Public Facility &amp; Improvement</b>	<b>746,411</b>	<b>329,805</b>	<b>1,076,216</b>
KKMCC Roofing Upgrade	93,535		93,535
KKMCC Interior Upgrade	380,000	279,805	659,805
1230 12th Street Retrofit		50,000	50,000
Neighborhood-Based Project	40,000		40,000
Sidewalk Improvements - Curb Ramps	182,876		182,876
Playground Equipment - Pike Park	50,000		50,000
<b>Neighborhood Preservation &amp; Stabilization</b>	<b>353,950</b>		<b>353,950</b>
Code Enforcement - Building Codes	44,380		44,380
Code Enforcement - Neighborhoods	309,570		309,570
<b>Economic Development Technical Assistance</b>	<b>100,000</b>		<b>100,000</b>
<b>Program Administration &amp; Planning</b>	<b>595,769</b>		<b>595,769</b>
General Administration	477,121		477,121
Indirect Administration	83,648		83,648
Fair Housing Services	35,000		35,000
<b>Section 108 Loan Repayments (Principal &amp; Interest)</b>	<b>372,400</b>		<b>372,400</b>
<b>Revolving Loan Fund (RLF) Interest Payment (not an IDIS Act)</b>	<b>50,000</b>		<b>50,000</b>
<b>Public Services</b>	<b>451,076</b>		<b>451,076</b>
CHSS "Housing Services - Case Management"	16,797		16,797
CHSS "Supportive Services for Housing"	21,809		21,809
City of Modesto - "Homeless Service Center - Direct Services"	30,000		30,000
Interfaith Ministries			
"Santa Fe - Homeless Winter Shelter"	68,821		68,821
The Salvation Army "Day Services Center"	40,845		40,845
Second Harvest Food Bank "Food Assistance Program"	37,957		37,957

## Amendment to the Annual Action Plan

CDBG Budget

Stanislaus Community Assistance Project	30,899	30,899
"Nutritional Supplement & Education Program (NSEP)"		
The Salvation Army "Senior Meals Program"	12,282	12,282
Disability Resource Agency for Independent Living (DRAIL)	12,070	12,070
"Assistive Technology Program"		
Center for Human Services	21,675	21,675
"Hutton House - Runaway & Homeless Youth Shelter"		
Center for Human Services	19,158	19,158
"Pathways - Transitional Living Program"		
CHSS "Laura's House - Families in Recovery, Family Support Coordinator"	23,321	23,321
Fair Housing and Supportive Services	25,000	25,000
Children's Crisis Center "Cricket's House - Respite Childcare"	16,514	16,514
Children's Crisis Center "Sawyer's House - Respite Childcare"	16,932	16,932
Parent Resource Center "ABC's of Childcare"	14,682	14,682
Stanislaus Multicultural West Modesto King Kennedy Collaborative	31,690	31,690
"Here's to Your Health"		
Children's Crisis Center "Sawyer's House - Children's Homeless Shelter"	10,624	10,624
<b>CDBG Grand Total</b>	<b>4,842,175</b>	<b>409,805 5,251,980</b>

# REQUEST FOR BUDGET ADJUSTMENT

Attachment C-1

Contact Person: Cheryl Davis Council Action Date: \_\_\_\_\_  
 Telephone No.: 75311 Resolution Number: \_\_\_\_\_  
 Department: Parks, Recreation and Neighborhoods  
 Adjustment to FY: 06-07  
 Fund Title: CDBG-CIP

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

***DEPARTMENTAL REVENUES/INCLUDES TRANFERS IN***

<b><u>FROM</u></b>					
<b><u>TO</u></b>					

***APPROPRIATIONS/INCLUDES TRANSFERS OUT***

<b><u>FROM</u></b>					
1150-800-8000-8003	1150R	(\$411,000)	(\$50,000)	(\$461,000)	RLF Reserve
<b><u>TO</u></b>					
2300-310-A012-6040		\$450,000	\$50,000	\$500,000	Construction

***APPROPRIATIONS/INCLUDES TRANSFERS OUT***

<b><u>FROM</u></b>					
1150-700-A012-7230		\$251,498	\$50,000	\$301,498	Transfer to Fund 2300
<b><u>TO</u></b>					
2300-700-A012-9115		\$251,498	\$50,000	\$301,498	Transfer from Fund 1150

**COMMENTS/JUSTIFICATION (USE ADDITIONAL PAGES AS NECESSARY)**

This action will appropriate unspent funds from the Revolving Loan Fund reserve to provide additional funding for the retrofit of 1230 12th Street, the former Social Security building.

AUTHORIZATION	SIGNATURE	DATE
<b>(Authority levels reflected on back)</b>		
DEPARTMENT DIRECTOR or AUTHORIZED DESIGNEE (Attach Delegation Authorization)		
DEPUTY DIRECTOR (If needed)		
ADMINISTRATIVE SERVICES OFFICER (If needed)		
FINANCE DIRECTOR		
CITY MANAGER		

TRANSFER NUMBER \_\_\_\_\_ BY \_\_\_\_\_ DATE \_\_\_\_\_

## REQUEST FOR BUDGET ADJUSTMENT

Attachment C-2

Contact Person: Carolyn Eubank  
 Telephone No.: 577-5349  
 Department: Parks, Recreation and Neighborhoods

Council Action Date: December 12, 2006  
 Resolution Number: \_\_\_\_\_

Fund Title: Various

FY: 06-07  
 Transfer No. \_\_\_\_\_

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES**

<b>FROM</b>					
<b>TO</b>					

**APPROPRIATIONS**

<b>FROM</b>					
2330-310-P500-xxxx	P500		(\$30,000)	(\$30,000)	KKMC Kitch/Auditorium
2300-310-Q240-xxxx	Q240		(\$81,939)	(\$81,939)	Conant/Rumble Sidewalk Improv
1130-320-3254-0496	3250C	\$704,637	(\$100,000)	\$604,637	Direct Grants
1130-800-8000-8003	1130R	(\$369,000)	(\$144,805)	(\$513,805)	CDBG Reserve
<b>TO</b>					
2330-320-P849-xxxx	P849		\$279,805	\$279,805	KKMC Kitch/Aud Phase II
1130-800-8000-8003	1130R	(\$513,805)	\$76,939	(\$436,866)	CDBG Reserve

**APPROPRIATIONS/INCLUDES TRANSFERS OUT**

<b>FROM</b>					
1130-700-P849-7233	P849G	\$369,000	\$279,805	\$648,805	Transfer to Fund 2330
<b>TO</b>					
2330-700-P849-9113	n/a	\$369,000	\$279,805	\$648,805	Transfer from Fund 1130

**COMMENTS/JUSTIFICATION**

These actions will provide funding for the King-Kennedy Memorial Center Phase II capital project P849. Specifically, funding will come from excess funding in 2 capital projects (King-Kennedy Kitchen/Auditorium and Conant/Rumble Sidewalk Improvements), from a reduction in funding for direct grants originally set aside for economic development, and from the CDBG carryover reserve.

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)		

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 780**

**A RESOLUTION AMENDING THE FISCAL YEAR 2006-2007  
ANNUAL OPERATING BUDGET AND CAPITAL  
IMPROVEMENT BUDGET TO REFLECT REVENUES AND  
APPROPRIATIONS AS ADOPTED, AND CARRYOVER  
AMOUNTS FROM PRIOR YEAR 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 Council, at its May 9, 2006, meeting, by Resolution No. 2006-294, approved the adoption of the 2006-2007 HUD Annual Action Plan, and

WHEREAS, since adoption of the HUD Annual Action Plan, staff has determined that some adjustments need to be made in order to align the City's budget to the HUD financial system, and

WHEREAS, these changes are shown on **Exhibit "1"** and **Attachments D-1 and D-2**, 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 November 9, 2006, meeting, and the Committee recommended that the City Council approve amendments to the Annual Action Plan as proposed by staff as well as to make the budgetary adjustments as recommended by staff,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Fiscal Year 2006-2007 Annual Operating Budget and Capital Improvement Budget are hereby amended to reflect adjustments to the HUD fund as indicated on



Exhibit "1" and Attachments D-1 and D-2, 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 12<sup>th</sup> day of December, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Keating, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

Attest:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**FY 2006-2007  
Amendment to the Annual Action Plan**

<u>CDBG Funding</u>	<u>Annual Action Plan</u>	<u>Amendment</u>	<u>Total</u>
Entitlement	3,081,721	259,805	3,341,526
Revolving Loan Fund (RLF)	1,760,454	150,000	1,910,454
<b>CDBG Funding Total</b>	<b>4,842,175</b>	<b>409,805</b>	<b>5,251,980</b>
 <b>CDBG Budget</b>			
<b>Housing Development, Preservation &amp; Home Ownership</b>	<b>2,172,570</b>	<b>80,000.00</b>	<b>2,252,570</b>
Down Payment Assistance Program	203,000	(20,000.00)	183,000
Housing Rehabilitation Program Loans	288,060		288,060
Property Enhancement Program	2,000		2,000
Paint and Insulation Rebate Program	5,000		5,000
Tool Bank Program	3,000		3,000
Minor Home Repair Grant Program (MHRGP)	8,000		8,000
Emergency Home Repair Program (EHRP) / Disabled Access Assistance Program (DAAP)	225,000	100,000	325,000
Property Enhancement Program	2,500		2,500
Paint and Insulation Rebate Program	2,500		2,500
Lead-Based Paint Services	10,000		10,000
Housing Demolition	6,000		6,000
Temporary Relocation	10,000		10,000
Housing Rehabilitation Administration	690,591		690,591
Acquisition for Land	716,919		716,919
<b>Public Facility &amp; Improvement</b>	<b>746,411</b>	<b>329,805</b>	<b>1,076,216</b>
KKMCC Roofing Upgrade	93,535		93,535
KKMCC Interior Upgrade	380,000	279,805	659,805
1230 12th Street Retrofit		50,000	50,000
Neighborhood-Based Project	40,000		40,000
Sidewalk Improvements - Curb Ramps	182,876		182,876
Playground Equipment - Pike Park	50,000		50,000
<b>Neighborhood Preservation &amp; Stabilization</b>	<b>353,950</b>		<b>353,950</b>
Code Enforcement - Building Codes	44,380		44,380
Code Enforcement - Neighborhoods	309,570		309,570
<b>Economic Development Technical Assistance</b>	<b>100,000</b>		<b>100,000</b>
<b>Program Administration &amp; Planning</b>	<b>595,769</b>		<b>595,769</b>
General Administration	477,121		477,121
Indirect Administration	83,648		83,648
Fair Housing Services	35,000		35,000
<b>Section 108 Loan Repayments (Principal &amp; Interest)</b>	<b>372,400</b>		<b>372,400</b>
<b>Revolving Loan Fund (RLF) Interest Payment (not an IDIS Act)</b>	<b>50,000</b>		<b>50,000</b>
<b>Public Services</b>	<b>451,076</b>		<b>451,076</b>
CHSS "Housing Services - Case Management"	16,797		16,797
CHSS "Supportive Services for Housing"	21,809		21,809
City of Modesto - "Homeless Service Center - Direct Services"	30,000		30,000
Interfaith Ministries			
"Santa Fe - Homeless Winter Shelter"	68,821		68,821
The Salvation Army "Day Services Center"	40,845		40,845
Second Harvest Food Bank "Food Assistance Program"	37,957		37,957

## Amendment to the Annual Action Plan

CDBG Budget

Stanislaus Community Assistance Project	30,899	30,899
"Nutritional Supplement & Education Program (NSEP)"		
The Salvation Army "Senior Meals Program"	12,282	12,282
Disability Resource Agency for Independent Living (DRAIL)		
"Assistive Technology Program"	12,070	12,070
Center for Human Services		
"Hutton House - Runaway & Homeless Youth Shelter"	21,675	21,675
Center for Human Services		
"Pathways - Transitional Living Program"	19,158	19,158
CHSS "Laura's House - Families in Recovery, Family Support Coordinator"	23,321	23,321
Fair Housing and Supportive Services	25,000	25,000
Children's Crisis Center "Cricket's House - Respite Childcare"	16,514	16,514
Children's Crisis Center "Sawyer's House - Respite Childcare"	16,932	16,932
Parent Resource Center "ABC's of Childcare"	14,682	14,682
Stanislaus Multicultural West Modesto King Kennedy Collaborative "Here's to Your Health"	31,690	31,690
Children's Crisis Center "Sawyer's House - Children's Homeless Shelter"	10,624	10,624
<b>CDBG Grand Total</b>	<b>4,842,175</b>	<b>409,805 5,251,980</b>

# REQUEST FOR BUDGET ADJUSTMENT

Attachment D-1

Contact Person: Cheryl Davis Council Action Date: December 12, 2006  
 Telephone No.: 75311 Resolution Number: \_\_\_\_\_  
 Department: Parks, Recreation and Neighborhoods  
 Adjustment to FY: 06-07  
 Fund Title: Housing Loans

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES/INCLUDES TRANFERS IN**

<u>FROM</u>					
<u>TO</u>					
1170-320-3259-3512		\$262,149	\$1,059,353	\$1,321,502	HOME Entitlement Carryover

**APPROPRIATIONS/INCLUDES TRANSFERS OUT**

<u>FROM</u>					
<u>TO</u>					
1170-320-3260-0497	3260C		\$116,550	\$116,550	Direct Loans-ADDI
1170-320-3259-0497	3259C	\$1,041,802	\$942,803	\$1,984,605	Direct Loans
			\$1,059,353		

**COMMENTS/JUSTIFICATION (USE ADDITIONAL PAGES AS NECESSARY)**

This action will re-appropriate unspent funds from prior years for the American Dream Down Payment Initiative and for the HOME loan commitment to the Housing Authority for the Town Center project in Village One.

AUTHORIZATION	SIGNATURE	DATE
<b>(Authority levels reflected on back)</b>		
DEPARTMENT DIRECTOR or AUTHORIZED DESIGNEE (Attach Delegation Authorization)		
DEPUTY DIRECTOR (If needed)		
ADMINISTRATIVE SERVICES OFFICER (If needed)		
FINANCE DIRECTOR		
CITY MANAGER		

TRANSFER NUMBER \_\_\_\_\_ BY \_\_\_\_\_ DATE \_\_\_\_\_

# REQUEST FOR BUDGET ADJUSTMENT

Attachment D-2

Contact Person: Cheryl Davis  
 Telephone No.: 577-5311  
 Department: Parks, Recreation and Neighborhoods

Council Action Date: December 12, 2006  
 Resolution Number: \_\_\_\_\_

Adjustment to FY: 06-07

Fund Title: Ec Dev Fund (CDBG)

Fund-Agcy-Org-Object	Appr Unit	Current Budget	Increase/ (Decrease)	Revised Budget	Description of Object
----------------------	-----------	----------------	----------------------	----------------	-----------------------

**DEPARTMENTAL REVENUES/INCLUDES TRASFERS IN**

<b>FROM</b>					
<b>TO</b>					

**APPROPRIATIONS/INCLUDES TRANSFERS OUT**

<b>FROM</b>					
1160-800-8000-8003			(\$100,000)	(\$100,000)	Ec Development Fund
<b>TO</b>					
1130-320-3254-0496	3250C	\$604,327	\$100,000	\$704,327	Direct Grants

**APPROPRIATIONS/INCLUDES TRANSFERS OUT**

<b>FROM:</b>					
1160-700-3254-7113			\$100,000	\$100,000	Transfer to Fund 1130
<b>TO</b>					
1130-700-3254-9116			\$100,000	\$100,000	Tranfer from 1160

This action will appropriate unspent funds from the Economic Development Fund for an Economic Development activity.

AUTHORIZATION	SIGNATURE	DATE
<b>(Authority levels reflected on back)</b>		
DEPARTMENT DIRECTOR or AUTHORIZED DESIGNEE (Attach Delegation Authorization)		
DEPUTY DIRECTOR (If needed)		
ADMINISTRATIVE SERVICES OFFICER (If needed)		
FINANCE DIRECTOR		
CITY MANAGER		

TRANSFER NUMBER \_\_\_\_\_ BY \_\_\_\_\_ DATE \_\_\_\_\_

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 781**

**A RESOLUTION GRANTING PROTRANSPORT-1 MEDICAL TRANSPORT SPECIALISTS A PERMIT TO OPERATE A NON-EMERGENCY TRANSPORT SERVICE IN THE CITY OF MODESTO; AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO EXECUTE THE NECESSARY DOCUMENTS.**

WHEREAS, ProTransport-1 Medical Transport Specialists has made application to operate in the city of Modesto for non-emergency medical transport, and

WHEREAS, ProTransport-1 Medical Transport Specialists has paid the \$1,000.00 filing fee to cover administrative, investigative and other costs incident to this application and has provided all necessary information as outlined in section 3-9.03 of the Modesto Municipal Code, and

WHEREAS, currently there are three ambulance companies in Modesto that provide non-emergency transport, and

WHEREAS, with the increasing population, it is necessary to provide Modesto citizens more options in this area, especially due to the importance of medical necessity, and

WHEREAS, non-emergency medical transportation is important to the elderly and physical incapacitated citizens of the community, and

WHEREAS, the Modesto Police Department has completed a background investigation regarding ProTransport-1 Medical Transport Specialists, per Modesto Municipal Code Section 3-9.03, and recommends a permit be granted, and

WHEREAS, Pro-Transport-1 Medical Transport Specialists was found to be reputable, maintained excellent equipment, and employed licensed paramedics and emergency medical technicians, and

WHEREAS, ProTransport-1 Medical Transport Specialists will be required to obtain a City of Modesto Business License and pay mil tax on their gross receipts while operating in the city of Modesto, and

WHEREAS, said matter was set for a public hearing of the City Council to be held at 5:30 p.m. on December 12, 2006, in the Tenth Street Place Chambers, located at 1010 Tenth Street, Modesto, California, and

WHEREAS, 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 that the City Council hereby grants ProTransport-1 Medical Transport Specialists a permit to operate a non-emergency transport service in the city of Modesto.

BE IT FURTHER RESOLVED that the City Manager, or his designee, is hereby authorized to execute the necessary documents.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12<sup>th</sup> day of December, 2006, by Councilmember Dunbar, who moved its adoption, which motion being duly seconded by Councilmember Marsh, was upon roll call carried and the resolution adopted by the following vote:

AYES: Councilmembers: Dunbar, Hawn, Keating, Marsh, O'Bryant,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen

ATTEST:   
JEAN MORRIS, City Clerk

(SEAL)

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney



**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 782**

**A RESOLUTION APPROVING THE FUNDING OF NON-GENERAL  
FUND SUPPLEMENTAL BUDGET REQUESTS FOR FISCAL YEAR  
2006-07**

WHEREAS, during the FY2006-07 budget process, the City Council decided to defer the consideration of supplemental budget requests until the year-end information was finalized, and

WHEREAS, on November 20, 2006, the Finance Committee reviewed the City Manager's recommendations for non-General Fund supplemental funding of ongoing and one-time requests, as well as requests that were not recommended to move forward, and

WHEREAS, the Finance Committee recommended that the supplemental funding requests be referred to the City Council for approval, and

WHEREAS, on December 12, 2006, the City Council reviewed the requests for supplemental funding

WHEREAS, the City Council excluded and deferred the Airport Fund requests to January 2007, and

WHEREAS, any requests for supplemental funding related to clerical positions, as identified in Attachment A, will need to go through the Clerical Audit Team before the final classification for each position is determined, and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Modesto that it hereby approves the funding of non-General Fund supplemental budget requests as set forth in Attachment A, and directs that the necessary budgetary adjustments be made for FY2006-07 as designated in said **Attachment "A"** as ongoing

and one-time requests.

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 December 2006, 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: Dunbar, Hawn, Keating, Marsh, O'Bryant, Olsen,  
Mayor Ridenour

NOES: Councilmembers: None

ABSENT: Councilmembers: Olsen


ATTEST:

  
JEAN MORRIS, City Clerk

(seal)

APPROVED AS TO FORM:

By:

  
Susana Alcalá-Wood, City Attorney

**Supplemental Budget Recommendations  
(by Funding Source)**

**ATTACHMENT A**

<b>Dept.</b>	<b>Budget Request</b>	<b>06-07 Cost</b>	<b>Cost by Fund</b>
PW	City Engineer	63,275	147,084
PW	CIP - Sr. Construction Inspector (Hourly)	17,330	
PW	CIP- Senior Civil Engineer	66,479	
<b>Dept.</b>	<b>Budget Request</b>	<b>06-07 Cost</b>	<b>Cost by Fund</b>
PRN	Administrative Office Assistant III (Compost)	25,449	90,449
PRN	Compost Water Truck - One Time Only	65,000	
<b>Dept.</b>	<b>Budget Request</b>	<b>06-07 Cost</b>	<b>Cost by Fund</b>
CEDD	Senior Planner	52,196	96,628
PRN	Associate Planner for Parks, Planning & Development	44,432	
<b>Dept.</b>	<b>Budget Request</b>	<b>06-07 Cost</b>	<b>Cost by Fund</b>
PRN	Administrative Analyst II for Parking Services	44,097	128,152
PRN	Maint. Worker I (replaces part-time garage attendant)	34,471	
PRN	Parking Supervisor	49,584	
<b>Dept.</b>	<b>Budget Request</b>	<b>06-07 Cost</b>	<b>Cost by Fund</b>
PW	Custodian for Transit Center	23,848	71,345
FIN	Administrative Analyst II (Transit/Traffic)	47,497	
<b>Dept.</b>	<b>Budget Request</b>	<b>06-07 Cost</b>	<b>Cost by Fund</b>
PW	Waste Discharge Req. for Wastewater Collections - One Time Only	250,000	335,786
PW	WWTP Relief Operator	64,220	
IT	Software System Analyst I (1/2 of HTE position)	21,566	
<b>Dept.</b>	<b>Budget Request</b>	<b>06-07 Cost</b>	<b>Cost by Fund</b>
PW	Administrative Analyst II	50,033	312,414
PW	Increases to Workers Comp; Utilities; etc.	208,315	
PW	Large Water Meter Replacement	32,500	
IT	Software System Analyst I (1/2 of HTE position)	21,566	
<b>Total Cost All Funds</b>			<b>\$ 1,181,858</b>

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 783**

**A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING (MOU) BETWEEN THE CITY OF MODESTO AND THE MODESTO CITY FIRE FIGHTERS ASSOCIATION (MCFFA) FOR A TERM OF DECEMBER 26, 2006 THROUGH DECEMBER 20, 2010.**

WHEREAS, the current Memorandum of Understanding (MOU) between the City of Modesto (CITY) and the Modesto City Fire Fighters Association (MCFFA) expires on December 25, 2006, and

WHEREAS, representatives of the CITY and the MCFFA have met and conferred in good faith concerning wages, hours, terms and conditions of employment for employees in said bargaining unit, and

WHEREAS, pursuant to an Agenda Report dated November 27, 2006, a copy of which report is on file in the office of the City Clerk, the CITY and MCFFA 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. Across-the-board salary increases shall be effective as follows:

6% effective December 26, 2006  
5% effective December 25, 2007  
3% effective December 23, 2008  
2.5% effective June 23, 2009  
3% effective December 22, 2009  
3% effective June 22, 2010

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) – Health &amp; Cafeteria Plan

	<u>1/07</u>	<u>1/08</u>	<u>1/09</u>	<u>1/10</u>
Employee	\$500	\$550	\$600	\$650
Employee + 1	\$850	\$875	\$920	\$970
Family	\$930	\$1035	\$1140	\$1250
Opt Out	\$415	\$435	\$455	\$475

The MOU provides that the CITY'S contribution for Employee coverage shall be equal to 100% of the premium for the lowest priced plan or the amounts as listed above, whichever is greater. The CITY'S contributions shall be processed for payment to CalPERS two (2) payperiods in advance of the effective dates listed above.

SECTION 3. EDUCATIONAL INCENTIVES. Beginning December 26, 2006, various educational incentives will be phased in over a 12-month period. Incentive pays ranging from 1% - 2% shall be granted for Fire Fighter I/II certifications, and from 1% - 4% for Fire Science certification and Fire Officer certifications. Incentive pays ranging from 1% - 5.5% shall be granted for Associates or Bachelor's degrees in Fire Science, Fire Technology, Fire Management or a related field.

SECTION 4. UNIFORM ALLOWANCE. Effective January 1, 2007, uniform allowance shall increase to \$900/year. Effective January 1, 2008, uniform allowance shall increase to \$1020/year.

SECTION 5. FIRE INVESTIGATOR ON-CALL. Effective December 26, 2006, personnel assigned to be on call after work hours and subject to call back for the purpose of conducting fire investigations, shall receive compensation as follows:

	<b>12/26/06</b>	<b>12/25/07</b>	<b>12/23/08</b>	<b>12/22/09</b>
<b>Weekday</b>	\$50.00	\$55.00	\$60.00	\$65.00
<b>Weekend/Holiday</b>	\$75.00	\$82.50	\$90.00	\$97.50

SECTION 6. HOLIDAY CASHOUT. Effective January 1, 2007, employees working in long-term non-shift assignments shall be permitted to cash out their holiday time at time and one-half.

SECTION 7. FIREFIGHTER ALTERNATE DEATH BENEFIT. The CITY shall amend its contract with the California Public Employees' Retirement System (CalPERS) to provide for the Alternate Death Benefit for Local Fire Members Credited with 20 or More Years of Service.

SECTION 8. ADDITIONAL CHANGES. The CITY and MCFFA have reached agreement on a number of additional items including, but are not limited to, compensation for training, experience and educational requirement for Fire Captain, increments of sick leave use, compensatory time off for non-shift schedules, specialty hire obligations, specialty relief assignments, Hazardous Materials and Advanced Life Support program changes and Bid System. The parties have agreed to implement physical fitness standards based on the International Association of Fire Fighters criteria and to implement a 401 (a) Deferred Compensation plan for deposit of employees' leave pay outs upon retirement from City service.

WHEREAS, the Council considered this matter at its meeting of December 12, 2006,

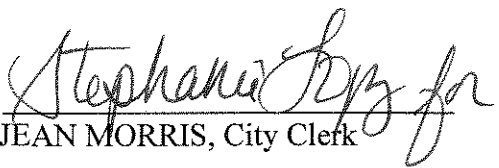
NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Memorandum of Understanding (MOU) between the City of Modesto and the Modesto City Fire Fighters Association (MCFFA), which covers a term from December 26, 2006 through December 20, 2010, and upon execution of same, a copy of the MOU will be on file in the office of the City Clerk.

The foregoing resolution was introduced at a regular meeting of the Council of the City of Modesto held on the 12th day of December, 2006, 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, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: Dunbar, Keating

ABSENT: Councilmembers: Olsen

Attest:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

**MODESTO CITY COUNCIL  
RESOLUTION NO. 2006 - 784**

**A RESOLUTION APPROVING THE CLASS RANGE TABLES FOR GENERAL FIRE CLASSES AS SET FORTH IN EXHIBIT "A" ATTACHED HERETO EFFECTIVE DECEMBER 26, 2006, AND ADOPTED CONCURRENTLY WITH RESOLUTION NO. 2006-783 APPROVING THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MODESTO AND THE MODESTO CITY FIRE FIGHERS ASSOCIATION ADOPTING SALARY AND BENEFIT CHANGES AND SETTING FORTH SALARY SCHEDULES FOR GENERAL FIRE CLASSES.**

WHEREAS, on December 12, 2006, the City Council adopted Resolution No. 2006-783, approving a Memorandum of Understanding (MOU) between the City of Modesto and the Modesto City Fire Fighters Association adopting salary and benefit changes for General Fire Classes including salary schedules, and

WHEREAS, Council desires to establish Class Range Tables for said classes,

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Modesto that the Council hereby approves the Class Range Tables for General Fire Classes, entitled "City of Modesto Class Range Table General Fire Classes Effective December 26, 2006" 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 12<sup>th</sup> day of December, 2006, 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, Marsh, O'Bryant, Mayor Ridenour

NOES: Councilmembers: Dunbar, Keating

ABSENT: Councilmembers: Olsen

Attest:   
JEAN MORRIS, City Clerk

APPROVED AS TO FORM:

By:   
SUSANA ALCALA WOOD, City Attorney

CITY OF MODESTO  
CLASS RANGE TABLE  
GENERAL FIRE CLASSES  
Effective **December 26, 2006**

---

RANGE	TITLE
203	903 Firefighter Trainee (80 hour)
204	
205	
206	
207	Firefighter
208	
209	
210	
211	Fire Engineer
212	
213	
214	
215	
216	
217	Fire Captain

Exhibit "A"

CITY OF MODESTO  
CLASS RANGE TABLE  
GENERAL FIRE CLASSES  
Effective **DECEMBER 26, 2006**

---

RANGE	TITLE
717	Fire Captain (80 hour) Fire Captain-Special Assignment

---

Exhibit "A"